

**UNLAWFUL KISSING OF A CHILD OR MINOR**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Andrew Stoddard**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill concerns unlawful kissing of a child or minor.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that a mistake as to the victim's age is not a defense to the offense of ~~H→~~ [:  
~~→] ←H~~ unlawfully kissing a child; ~~H→~~ [or  
~~→] ←H~~ unlawfully kissing a minor;] ←H
- ▶ creates the offenses of unlawfully kissing a child and unlawfully kissing a minor;
- ▶ establishes criminal penalties; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**76-2-304.5**, as last amended by Laws of Utah 2022, Chapter 181

**76-10-1303**, as last amended by Laws of Utah 2022, Chapter 124

**ENACTS:**



59 ~~trafficking of a child, a violation of Section 76-5-308.5;]~~ following offenses that the actor  
 60 mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or  
 61 was unaware of the victim's true age[-];

62 (a) human trafficking of a child, Section 76-5-308.5;

63 (b) aggravated human trafficking, Section 76-5-310;

64 (c) aggravated human smuggling, Section 76-5-310.1;

65 (d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

66 ~~H→~~ [(e) unlawful kissing of a minor, Section 76-5-416.4;

67 ~~—~~ [(f) (e) ←H patronizing a prostitute, Section 76-10-1303;

68 ~~H→~~ [(g) (f) ←H aggravated exploitation of prostitution, Section 76-10-1306; or

69 ~~H→~~ [(h) (g) ←H sexual solicitation, Section 76-10-1313.

70 ~~[(4) It is not a defense to the crime of unlawful sexual activity with a minor, a violation~~  
 71 ~~of Subsection 76-5-401.2(2)(a)(ii), that the actor mistakenly believed the victim to be 18 years~~  
 72 ~~old or older at the time of the alleged offense or was unaware of the victim's true age.]~~

73 ~~[(5) It is not a defense to any of the following crimes that the actor mistakenly believed~~  
 74 ~~the victim to be 18 years old or older at the time of the alleged offense or was unaware of the~~  
 75 ~~victim's true age.]~~

76 ~~[(a) patronizing a prostitute, a violation of Section 76-10-1303;]~~

77 ~~[(b) aggravated exploitation of a prostitute, a violation of Section 76-10-1306; or]~~

78 ~~[(c) sexual solicitation, a violation of Section 76-10-1313;]~~

79 Section 2. Section **76-5-416.2** is enacted to read:

80 **76-5-416.2. Unlawful kissing of a child.**

81 (1) (a) As used in this section, "child" means an individual who is under 14 years old.

82 (b) Terms defined in Section 76-1-101.5 apply to this section.

83 (2) An actor commits unlawful kissing of a child if the actor:

84 (a) is 18 years old or older; and

85 (b) intentionally or knowingly:

86 (i) kisses a child on the child's mouth; and

87 (ii) penetrates the minor's mouth with the actor's tongue.

88 (3) A violation of Subsection (2) is a class A misdemeanor.

89 (4) Any penetration, however slight, of the mouth of the child by the actor's tongue is