

CHILD ABANDONMENT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amends the child abandonment statute.

Highlighted Provisions:

This bill:

- adds inducement by misrepresentation as a statutory basis for a criminal charge of child abandonment against an enterprise; and
- codifies defenses to a criminal charge of child abandonment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-109.3, as last amended by Laws of Utah 2023, Chapter 448

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-5-109.3** is amended to read:

76-5-109.3 . Child abandonment.

(1) (a) As used in this section:

- (i) "Child" means the same as that term is defined in Section 76-5-109.
- (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.
- (iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

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

(2) (a) Except as provided in Subsection (4), an actor commits child abandonment if the

- 29 actor:
- 30 (i) is a parent or legal guardian of a child, and:
- 31 (A) intentionally ceases to maintain physical custody of the child;
- 32 (B) intentionally fails to make reasonable arrangements for the safety, care, and
- 33 physical custody of the child; and
- 34 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;
- 35 (II) manifests an intent to permanently not resume physical custody of the
- 36 child; or
- 37 (III) for a period of at least 30 days, intentionally fails to resume physical
- 38 custody of the child and fails to manifest a genuine intent to resume
- 39 physical custody of the child; or
- 40 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection
- 41 (2)(a)(i).
- 42 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
- 43 the enterprise encourages, commands, induces by misrepresentation, or causes
- 44 another to violate Subsection (2)(a).
- 45 (3) (a) (i) A violation of Subsection (2) is a third degree felony.
- 46 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
- 47 degree felony if, as a result of the child abandonment:
- 48 (A) the child suffers a serious physical injury; or
- 49 (B) the actor or enterprise receives, directly or indirectly, any benefit.
- 50 (b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may
- 51 order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs
- 52 of investigating and prosecuting the offense and the costs of securing any
- 53 forfeiture provided for under Subsection (3)(b)(ii).
- 54 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is
- 55 subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture
- 56 of Seized Property.
- 57 (4) (a) A parent or legal guardian who provides a child with treatment by spiritual means
- 58 alone through prayer, in lieu of medical treatment, in accordance with the tenets and
- 59 practices of an established church or religious denomination of which the parent or
- 60 legal guardian is a member or adherent may not, for that reason alone, be considered
- 61 to have committed an offense under this section.
- 62 (b) An actor is not guilty of an offense under this section for conduct that constitutes:

63 (i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;

64 (ii) giving legal consent to a court order for termination of parental rights:

65 (A) in a legal adoption proceeding; or

66 (B) in a case in which a petition for the termination of parental rights, or the
67 termination of a guardianship, has been filed;

68 (iii) reasonable discipline or management of a child, including withholding
69 privileges; or

70 (iv) conduct described in Section 76-2-401.

71 (c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed
72 child abandonment due to:

73 (i) intimidation;

74 (ii) isolation;

75 (iii) harassment;

76 (iv) coercion;

77 (v) the actor's reasonable fear of bodily harm; or

78 (vi) the reasonable actions of the actor to protect the safety and welfare of the actor or
79 another individual.

80 Section 2. **Effective date.**

81 This bill takes effect on May 1, 2024.