

CRIMINAL CODE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

LONG TITLE

Committee Note:

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 7 absent

General Description:

This bill makes changes to criminal offenses in Title 76, Utah Criminal Code.

Highlighted Provisions:

This bill:

- ▶ amends the penalty for attempted murder;
- ▶ amends the crime of interference with a public servant;
- ▶ makes it a crime for an individual occupying a position of special trust in a high school to engage in certain sexual conduct with an adult high school student;
- ▶ makes it a crime for an individual to remove the clothing of another individual without the individual's consent in certain circumstances;
- ▶ repeals Title 76, Chapter 8, Part 8, Sabotage Prevention; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 76-4-102, as last amended by Laws of Utah 2013, Chapter 93

30 76-5-203, as last amended by Laws of Utah 2022, Chapter 181

31 76-8-301, as last amended by Laws of Utah 2020, Chapter 165

32 ENACTS:

33 76-5-417, Utah Code Annotated 1953

34 76-9-702.9, Utah Code Annotated 1953

35 REPEALS:

36 76-8-801, as enacted by Laws of Utah 1973, Chapter 196

37 76-8-802, as enacted by Laws of Utah 1973, Chapter 196

38 76-8-803, as enacted by Laws of Utah 1973, Chapter 196

39 76-8-804, as enacted by Laws of Utah 1973, Chapter 196

40 76-8-805, as enacted by Laws of Utah 1973, Chapter 196

41 76-8-806, as last amended by Laws of Utah 1997, Chapter 296

42 76-8-807, as enacted by Laws of Utah 1973, Chapter 196

43 76-8-808, as enacted by Laws of Utah 1973, Chapter 196

44 76-8-809, as last amended by Laws of Utah 2023, Chapter 435

45 76-8-810, as enacted by Laws of Utah 1973, Chapter 196

46 76-8-811, as last amended by Laws of Utah 1995, Chapter 20



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

49 Section 1. Section 76-4-102 is amended to read:

50 **76-4-102. Attempt -- Classification of offenses.**

51 (1) [~~Criminal attempt~~] A violation of Section 76-4-101 where the actor attempts to
52 commit:

53 (a) (i) a capital felony, or a felony punishable by imprisonment for life without parole,
54 is a first degree felony;

55 (ii) except as provided in Subsection (2), [~~an attempt to commit~~] aggravated murder[~~;~~]
56 under Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment
57 for an indeterminate term of not fewer than 15 years and which may be for life;

58 (b) except as provided in Subsection (1)(c) [~~or~~], (d), or (e), a first degree felony is a

59 second degree felony;

60 (c) murder under Subsection 76-5-203(2)(a) is a first degree felony punishable by
61 imprisonment for an indeterminate term of not fewer than five years and which may be for life;

62 ~~[(c)]~~ (d) ~~[any of]~~ one of the the following offenses is a first degree felony that is
63 punishable by imprisonment for an indeterminate term of not fewer than three years and which
64 may be for life:

65 ~~[(i) murder, Subsection 76-5-203(2)(a);]~~

66 ~~[(ii)]~~ (i) child kidnapping[;] under Section 76-5-301.1; or

67 ~~[(iii)]~~ (ii) except as provided in Subsection ~~[(1)(d), any of the felonies]~~ (1)(e), a felony
68 described in Title 76, Chapter 5, Part 4, Sexual Offenses, that ~~[are first degree felonies]~~ is a
69 first degree felony;

70 ~~[(4)]~~ (e) except as provided in Subsection (3), ~~[any]~~ one of the following offenses is a
71 first degree felony[;] that is punishable by ~~[a term of]~~ imprisonment for an indeterminate term
72 of not ~~[less]~~ fewer than 15 years and which may be for life:

73 (i) rape of a child[;] under Section 76-5-402.1;

74 (ii) object rape of a child[;] under Section 76-5-402.3; or

75 (iii) sodomy on a child[;] under Section 76-5-403.1;

76 ~~[(e)]~~ (f) a second degree felony is a third degree felony;

77 ~~[(f)]~~ (g) a third degree felony is a class A misdemeanor;

78 ~~[(g)]~~ (h) a class A misdemeanor is a class B misdemeanor;

79 ~~[(h)]~~ (i) a class B misdemeanor is a class C misdemeanor; and

80 ~~[(i)]~~ (j) a class C misdemeanor is punishable by a penalty not exceeding one half the
81 penalty for a class C misdemeanor.

82 (2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser
83 term than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court
84 states the reasons for this finding on the record, the court may impose a term of imprisonment
85 of not less than:

86 (a) 10 years and which may be for life; or

87 (b) six years and which may be for life.

88 (3) If, when imposing a sentence under Subsection ~~[(1)(d)]~~ (1)(e), a court finds that a
89 lesser term than the term described in Subsection ~~[(1)(d)]~~ (1)(e) is in the interests of justice and

90 states the reasons for this finding on the record, the court may impose a term of imprisonment
91 of not less than:

- 92 (a) 10 years and which may be for life;
- 93 (b) six years and which may be for life; or
- 94 (c) three years and which may be for life.

95 Section 2. Section **76-5-203** is amended to read:

96 **76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation --**
97 **Separate offenses.**

98 (1) (a) As used in this section, "predicate offense" means:

- 99 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 100 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
101 individual is younger than 18 years old;
- 102 (iii) kidnapping under Section 76-5-301;
- 103 (iv) child kidnapping under Section 76-5-301.1;
- 104 (v) aggravated kidnapping under Section 76-5-302;
- 105 (vi) rape under Section 76-5-402;
- 106 (vii) rape of a child under Section 76-5-402.1;
- 107 (viii) object rape under Section 76-5-402.2;
- 108 (ix) object rape of a child under Section 76-5-402.3;
- 109 (x) forcible sodomy under Section 76-5-403;
- 110 (xi) sodomy upon a child under Section 76-5-403.1;
- 111 (xii) forcible sexual abuse under Section 76-5-404;
- 112 (xiii) sexual abuse of a child under Section 76-5-404.1;
- 113 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
- 114 (xv) aggravated sexual assault under Section 76-5-405;
- 115 (xvi) arson under Section 76-6-102;
- 116 (xvii) aggravated arson under Section 76-6-103;
- 117 (xviii) burglary under Section 76-6-202;
- 118 (xix) aggravated burglary under Section 76-6-203;
- 119 (xx) robbery under Section 76-6-301;
- 120 (xxi) aggravated robbery under Section 76-6-302;

- 121 (xxii) escape or aggravated escape under Section 76-8-309; or
122 (xxiii) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a
123 firearm or dangerous weapon.
- 124 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 125 (2) An actor commits murder if:
- 126 (a) the actor intentionally or knowingly causes the death of another individual;
127 (b) intending to cause serious bodily injury to another individual, the actor commits an
128 act clearly dangerous to human life that causes the death of the other individual;
129 (c) acting under circumstances evidencing a depraved indifference to human life, the
130 actor knowingly engages in conduct that creates a grave risk of death to another individual and
131 thereby causes the death of the other individual;
- 132 (d) (i) the actor is engaged in the commission, attempted commission, or immediate
133 flight from the commission or attempted commission of any predicate offense, or is a party to
134 the predicate offense;
- 135 (ii) an individual other than a party described in Section 76-2-202 is killed in the
136 course of the commission, attempted commission, or immediate flight from the commission or
137 attempted commission of any predicate offense; and
- 138 (iii) the actor acted with the intent required as an element of the predicate offense;
- 139 (e) the actor recklessly causes the death of a peace officer or military service member
140 in uniform while in the commission or attempted commission of:
- 141 (i) an assault against a peace officer under Section 76-5-102.4;
142 (ii) interference with a peace officer while making a lawful arrest under Section
143 76-8-305 if the actor uses force against the peace officer; or
144 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 145 or
- 146 (f) the actor commits a homicide that would be aggravated murder, but the offense is
147 reduced in accordance with Subsection 76-5-202(4).
- 148 (3) (a) (i) A violation of Subsection (2) is a first degree felony.
149 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an
150 indeterminate term of not less than 15 years and which may be for life.
- 151 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,

152 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
153 doubt, and also finds that the existence of special mitigation is established by a preponderance
154 of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of
155 conviction as follows:

156 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
157 judgment of conviction for manslaughter; or

158 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
159 notwithstanding Subsection 76-4-102(1)(b) or [~~76-4-102(1)(c)(i)~~] 76-4-102(1)(c), enter a
160 judgment of conviction for attempted manslaughter.

161 (4) (a) It is an affirmative defense to a charge of murder or attempted murder that the
162 defendant caused the death of another individual or attempted to cause the death of another
163 individual under a reasonable belief that the circumstances provided a legal justification or
164 excuse for the conduct although the conduct was not legally justifiable or excusable under the
165 existing circumstances.

166 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
167 the viewpoint of a reasonable person under the then existing circumstances.

168 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
169 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
170 doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven
171 beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

172 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
173 judgment of conviction for manslaughter; or

174 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
175 enter a judgment of conviction for attempted manslaughter.

176 (5) (a) Any predicate offense that constitutes a separate offense does not merge with
177 the crime of murder.

178 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a
179 separate offense, may also be convicted of, and punished for, the separate offense.

180 Section 3. Section 76-5-417 is enacted to read:

181 **76-5-417. Sexual relations with an adult high school student.**

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

- 183 (i) "Actor" means an individual who is 21 years old or older.
- 184 (ii) "Adult high school student" means an individual who is 18 to 21 years old and
185 enrolled at a high school.
- 186 (iii) "High school" means a district, charter, or private school that is comprised of
187 grade 9, 10, 11, or 12.
- 188 (iv) "Position of special trust" means the following positions in a high school:
- 189 (A) a teacher;
- 190 (B) an administrator;
- 191 (C) a coach;
- 192 (D) a counselor; or
- 193 (E) an individual other than an individual listed in Subsections (1)(a)(iii)(A) through
194 (1)(a)(iii)(D) who occupies a position of authority that enables the individual to exercise undue
195 influence over an adult high school student.
- 196 (v) "Sexual intercourse" means any penetration, however slight, of:
- 197 (A) the genitals or anus of an individual by another individual using any body part,
198 object, or substance; or
- 199 (B) the mouth of an individual by another individual's genitals.
- 200 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
- 201 (2) An actor commits sexual relations with an adult high school student if the actor:
- 202 (a) (i) has sexual intercourse with an adult high school student; or
- 203 (ii) with the intent to cause substantial emotional or bodily pain to any individual or
204 with the intent to arouse or gratify the sexual desire of any individual:
- 205 (A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high
206 school student;
- 207 (B) touches the breast of a female adult high school student; or
- 208 (C) otherwise takes indecent liberties with an adult high school student;
- 209 (b) occupies a position of special trust in relation to the adult high school student
210 described in Subsection (2)(a); and
- 211 (c) knows or should have known that the individual with which the actor committed
212 the acts described in Subsection (2)(a) was an adult high school student.
- 213 (3) A violation of Subsection (2) is a third degree felony.

214 (4) Subsection (2) does not apply to an actor who engages in conduct that constitutes a
215 violation of this section to the extent that the actor is chargeable, for the same conduct, under:

- 216 (a) Section 76-5-402, rape;
- 217 (b) Section 76-5-402.2, object rape;
- 218 (c) Section 76-5-403, forcible sodomy;
- 219 (d) Section 76-5-404, forcible sexual abuse; or
- 220 (e) Section 76-5-405, aggravated sexual assault.

221 (5) Any touching, even if accomplished through clothing, is sufficient to constitute the
222 relevant element of a violation of Subsection (2)(a)(ii).

223 (6) Consent of an adult high school student to an act described in Subsection (2) is not
224 a defense to prosecution under this section.

225 Section 4. Section **76-8-301** is amended to read:

226 **76-8-301. Interference with public servant.**

227 (1) An individual is guilty of interference with a public servant if the individual:

228 (a) uses force, violence, intimidation, or engages in any other unlawful act with a
229 purpose to interfere with a public servant performing or purporting to perform an official
230 function;

231 (b) obstructs, hinders, conceals, or prevents the lawful service of any legal process,
232 civil or criminal, by any sheriff, constable, deputy sheriff, deputy constable, peace officer,
233 private investigator, or any other person authorized to serve legal process; or

234 (c) on property that is owned, operated, or controlled by the state or a political
235 subdivision of the state, willfully denies to a public servant lawful:

- 236 (i) freedom of movement;
- 237 (ii) use of the property or facilities; or
- 238 (iii) entry into or exit from the facilities.

239 (2) Interference with a public servant:

- 240 (a) under Subsection (1)(a) or (b) is a class B misdemeanor; and
- 241 (b) under Subsection (1)(c) is a class C misdemeanor.

242 (3) For purposes of this section, "public servant" does not include jurors.

243 (4) Subsection (1)(c) does not apply to an actor who engages in conduct that constitutes
244 a violation of this section to the extent that the actor is chargeable, for the same conduct, under

245 Section 76-5-304, unlawful detention and unlawful detention of a minor.

246 Section 5. Section **76-9-702.9** is enacted to read:

247 **76-9-702.9. Indecent exposure of another individual.**

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

249 (i) "Health care professional" means the same as that term is defined in Section
250 53-3-207.

251 (ii) "First responder" means the same as that term is defined in Section 34A-2-102.

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

253 (2) An actor commits indecent exposure of another individual if the actor exposes in a
254 public place, without the individual's consent, the individual's:

255 (a) undergarments intended to cover the individual's genitals, breasts if the individual is
256 female, buttocks, anus, or pubic area; or

257 (b) genitals, breast below the top of the areola if the individual is female, buttocks,
258 anus, or pubic area.

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

260 (b) A violation of Subsection (2)(b) is a class A misdemeanor.

261 (4) Subsection (2) does not apply to an actor who engages in conduct that constitutes a
262 violation of this section to the extent that the actor's conduct is also chargeable for an offense
263 that carries a greater penalty under Chapter 5, Offenses Against the Individual.

264 (5) An actor under the age of 18 years old may not be referred to the juvenile court or
265 prosecuting attorney under this section unless the actor has previously received a written
266 warning from a law enforcement officer for conduct described in Subsection (2).

267 (6) This section does not apply to a first responder or health care professional who
268 removes the clothing of another individual during an emergency to provide medical care to that
269 individual resulting in the exposure of that individual described in Subsection (2).

270 Section 6. **Repealer.**

271 This bill repeals:

272 Section **76-8-801, Definitions.**

273 Section **76-8-802, Destruction of property to interfere with preparation for defense**
274 **or war.**

275 Section **76-8-803, Causing or omitting to note defects in articles used in**

276 **preparation for defense or war.**

277 Section **76-8-804**, Attempts to commit crimes of sabotage.

278 Section **76-8-805**, Conspiracy to commit crimes of sabotage.

279 Section **76-8-806**, Facts kept secret until complaint filed.

280 Section **76-8-807**, Posting of signs at war or defense facilities -- Entering posted
281 **premises without permission.**

282 Section **76-8-808**, Detention and arrest without warrant of unauthorized persons
283 **on posted premises.**

284 Section **76-8-809**, Closing or restricting use of highways abutting defense or war
285 **facilities -- Posting of notices.**

286 Section **76-8-810**, Violation of order relating to use of highways -- Classification of
287 **offense.**

288 Section **76-8-811**, Bargaining rights of employees not impaired by sabotage
289 **prevention laws.**

290 Section 7. **Effective date.**

291 This bill takes effect on May 1, 2024.