

**Representative Matthew H. Gwynn** proposes the following substitute bill:

**CRIMINAL CODE AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

Senate Sponsor: Keith Grover

---

---

**LONG TITLE**

**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:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:



26        **76-4-102**, as last amended by Laws of Utah 2013, Chapter 93  
27        **76-5-203**, as last amended by Laws of Utah 2022, Chapter 181  
28        **76-8-301**, as last amended by Laws of Utah 2020, Chapter 165

## 29    ENACTS:

30        **76-5-417**, Utah Code Annotated 1953  
31        **76-9-702.9**, Utah Code Annotated 1953

## 32    REPEALS:

33        **76-8-801**, as enacted by Laws of Utah 1973, Chapter 196  
34        **76-8-802**, as enacted by Laws of Utah 1973, Chapter 196  
35        **76-8-803**, as enacted by Laws of Utah 1973, Chapter 196  
36        **76-8-804**, as enacted by Laws of Utah 1973, Chapter 196  
37        **76-8-805**, as enacted by Laws of Utah 1973, Chapter 196  
38        **76-8-806**, as last amended by Laws of Utah 1997, Chapter 296  
39        **76-8-807**, as enacted by Laws of Utah 1973, Chapter 196  
40        **76-8-808**, as enacted by Laws of Utah 1973, Chapter 196  
41        **76-8-809**, as last amended by Laws of Utah 2023, Chapter 435  
42        **76-8-810**, as enacted by Laws of Utah 1973, Chapter 196  
43        **76-8-811**, as last amended by Laws of Utah 1995, Chapter 20

44    **Utah Code Sections Affected by Coordination Clause:**

45        **76-8-301**, as last amended by Laws of Utah 2020, Chapter 165  
46        **76-8-301.2**, Utah Code Annotated 1953

47    

---

---

  
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

for an indeterminate term of not fewer than 15 years and which may be for life;

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

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

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

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

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

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

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

(i) rape of a child~~;~~ under Section 76-5-402.1;

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

(iii) sodomy on a child~~;~~ under Section 76-5-403.1;

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

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

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

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

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

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

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

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

(3) If, when imposing a sentence under Subsection ~~[(1)(d)]~~ (1)(e), a court finds that a lesser term than the term described in Subsection ~~[(1)(d)]~~ (1)(e) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

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

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

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

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

- (i) a clandestine drug lab violation under Section [58-37d-4](#) or [58-37d-5](#);
- (ii) aggravated child abuse, under Subsection [76-5-109.2\(3\)\(a\)](#), when the abused individual is younger than 18 years old;
- (iii) kidnapping under Section [76-5-301](#);
- (iv) child kidnapping under Section [76-5-301.1](#);
- (v) aggravated kidnapping under Section [76-5-302](#);
- (vi) rape under Section [76-5-402](#);
- (vii) rape of a child under Section [76-5-402.1](#);
- (viii) object rape under Section [76-5-402.2](#);
- (ix) object rape of a child under Section [76-5-402.3](#);
- (x) forcible sodomy under Section [76-5-403](#);
- (xi) sodomy upon a child under Section [76-5-403.1](#);
- (xii) forcible sexual abuse under Section [76-5-404](#);
- (xiii) sexual abuse of a child under Section [76-5-404.1](#);
- (xiv) aggravated sexual abuse of a child under Section [76-5-404.3](#);
- (xv) aggravated sexual assault under Section [76-5-405](#);
- (xvi) arson under Section [76-6-102](#);
- (xvii) aggravated arson under Section [76-6-103](#);
- (xviii) burglary under Section [76-6-202](#);
- (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

indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(i) "Actor" means an individual who is 21 years old or older.

(ii) "Adult high school student" means an individual who is 18 to 21 years old and enrolled at a high school.

(iii) "High school" means a district, charter, or private school that is comprised of grade 9, 10, 11, or 12.

(iv) "Position of special trust" means the following positions in a high school:

(A) a teacher;

(B) an administrator;

(C) a coach;

(D) a counselor; or

(E) an individual other than an individual listed in Subsections (1)(a)(iii)(A) through (1)(a)(iii)(D) who occupies a position of authority that enables the individual to exercise undue influence over an adult high school student.

(v) "Sexual intercourse" means any penetration, however slight, of:

(A) the genitals or anus of an individual by another individual using any body part, object, or substance; or

(B) the mouth of an individual by another individual's genitals.

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

(2) An actor commits sexual relations with an adult high school student if the actor:

(a) (i) has sexual intercourse with an adult high school student; or

(ii) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high school student;

(B) touches the breast of a female adult high school student; or

(C) otherwise takes indecent liberties with an adult high school student;

(b) occupies a position of special trust in relation to the adult high school student described in Subsection (2)(a); and

(c) knows or should have known that the individual with which the actor committed

the acts described in Subsection (2)(a) was an adult high school student.

(3) A violation of Subsection (2) is a third degree felony.

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

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

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

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

(1) An individual is guilty of interference with a public servant if, under circumstances not amounting to unlawful detention and unlawful detention of a minor as described in Section 76-5-304, the individual:

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

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

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

(i) freedom of movement;

(ii) use of the property or facilities; or

(iii) entry into or exit from the facilities.

(2) Interference with a public servant:

(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and

(b) under Subsection (1)(c) is a class C misdemeanor.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

Section 6. **Repealer.**

This bill repeals:

Section [76-8-801](#), **Definitions.**

Section [76-8-802](#), **Destruction of property to interfere with preparation for defense or war.**

Section [76-8-803](#), **Causing or omitting to note defects in articles used in preparation for defense or war.**

Section [76-8-804](#), **Attempts to commit crimes of sabotage.**

Section [76-8-805](#), **Conspiracy to commit crimes of sabotage.**

Section [76-8-806](#), **Facts kept secret until complaint filed.**

Section [76-8-807](#), **Posting of signs at war or defense facilities -- Entering posted premises without permission.**

Section [76-8-808](#), **Detention and arrest without warrant of unauthorized persons on posted premises.**

Section [76-8-809](#), **Closing or restricting use of highways abutting defense or war**

facilities -- Posting of notices.

Section [76-8-810](#), Violation of order relating to use of highways -- Classification of offense.

Section [76-8-811](#), Bargaining rights of employees not impaired by sabotage prevention laws.

Section 7. **Effective date.**

This bill takes effect on May 1, 2024.

Section 8. **Coordinating H.B. 27 with H.B. 15.**

If this H.B. 27, Criminal Code Amendments, and H.B. 15, Criminal Code Recodification and Cross References, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) not making the changes in H.B. 27, Criminal Code Amendments, to Section [76-8-301](#); and

(2) amending Section [76-8-301.2](#) in H.B. 15, Criminal Code Recodification and Cross References, to read:

**"76-8-301.2. Denial of public servant's use of public property.**

(1) (a) As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections [76-1-101.5](#) and [76-8-101](#) apply to this section.

(2) An actor commits denial of public servant's use of public property if, under circumstances not amounting to unlawful detention and unlawful detention of a minor as described in Section [76-5-304](#), the actor, on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(a) freedom of movement;

(b) use of the property or facility; or

(c) entry into or exit from the facility.

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