

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

**CRIMINAL OFFENSES AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

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

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**LONG TITLE**

**General Description:**

This bill addresses the imposition of an indeterminate prison term for certain criminal offenses.

**Highlighted Provisions:**

This bill:

- ▶ requires an indeterminate prison term to be imposed for certain attempt convictions;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-3-406**, as last amended by Laws of Utah 2023, Chapter 184

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

Section 1. Section **76-3-406** is amended to read:



26           **76-3-406. Crimes for which probation, suspension of sentence, lower category of**  
27 **offense, or hospitalization may not be granted.**

28           (1) Notwithstanding Sections [76-3-201](#) and [77-18-105](#) and Title 77, Chapter 16a,  
29 Commitment and Treatment of Individuals with a Mental Condition, and except as provided in  
30 Section [76-5-406.5](#) or Subsection [77-16a-103](#)(6) or (7), a court may not grant probation [may  
31 not be granted], suspend the execution or imposition of a sentence [may not be suspended, the  
32 court may not], enter a judgment for a lower category of offense, [and] or order hospitalization  
33 [may not be ordered], if the effect of which would in any way shorten the prison sentence for  
34 an [individual] actor who commits [a capital felony or a first degree felony involving], or  
35 attempts to commit:

36           (a) [~~Section [76-5-202](#);~~] aggravated murder as described in Section [76-5-202](#);

37           (b) [~~Section [76-5-203](#);~~] murder as described in Section [76-5-203](#);

38           (c) [~~Section [76-5-301.1](#), child kidnaping]~~ child kidnaping as described in Section  
39 [76-5-301.1](#);

40           (d) [~~Section [76-5-302](#), aggravated kidnaping]~~ aggravated kidnaping as described in  
41 Subsection [76-5-302](#)(3)(b);

42           (e) [~~Section [76-5-402](#), rape, if the individual is sentenced under]~~ rape as described in  
43 Subsection [76-5-402](#)(3)(b), (3)(c), or (4);

44           (f) [~~Section [76-5-402.1](#);~~] rape of a child as described in Section [76-5-402.1](#);

45           (g) [~~Section [76-5-402.2](#), object rape, if the individual is sentenced under]~~ object rape as  
46 described in Subsection [76-5-402.2](#)(3)(b), (3)(c), or (4);

47           (h) [~~Section [76-5-402.3](#);~~] object rape of a child as described in Section [76-5-402.3](#);

48           (i) [~~Section [76-5-403](#), forcible sodomy, if the individual is sentenced under]~~ forcible  
49 sodomy as described in Subsection [76-5-403](#)(3)(b), (3)(c), or (4);

50           (j) [~~Section [76-5-403.1](#);~~] sodomy on a child as described in Section [76-5-403.1](#);

51           (k) [~~Section [76-5-404](#), forcible sexual abuse, if the individual is sentenced under]~~  
52 forcible sexual abuse as described in Subsection [76-5-404](#)(3)(b)(i) or (ii);

53           (l) [~~Section [76-5-404.3](#);~~] aggravated sexual abuse of a child as described in Section  
54 [76-5-404.3](#); or

55           (m) [~~Section [76-5-405](#);~~] aggravated sexual assault[~~;~~ or] as described in Section  
56 [76-5-405](#).

57            [~~(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).~~]

58            (2) Except for an offense before the district court in accordance with Section 80-6-502

59 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the

60 [~~defendant~~] actor:

61            (a) was under 18 years old at the time of the offense; and

62            (b) could have been adjudicated in the juvenile court but for the delayed reporting or

63 delayed filing of the information.

64            Section 2. **Effective date.**

65            This bill takes effect on May 1, 2024.