

Representative Ken Ivory proposes the following substitute bill:

SEXUAL ABUSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses certain sexual crimes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the crime of ritual abuse of a minor;
- ▶ amends the crimes of rape of a child, object rape of a child, and sodomy on a child;
- ▶ addresses civil statutes of limitation for certain sex crimes; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

76-1-301, as last amended by Laws of Utah 2022, Chapter 181

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

76-5-402.1, as last amended by Laws of Utah 2022, Chapter 181



26 [76-5-402.3](#), as last amended by Laws of Utah 2022, Chapter 181

27 [76-5-403.1](#), as last amended by Laws of Utah 2022, Chapter 181

28 [76-5-404.3](#), as enacted by Laws of Utah 2022, Chapter 181

29 ENACTS:

30 [76-5-109.4](#), Utah Code Annotated 1953

31 [78B-2-402](#), Utah Code Annotated 1953

32 RENUMBERS AND AMENDS:

33 [78B-2-401](#), (Renumbered from 78B-2-119, as enacted by Laws of Utah 2022, Chapter
34 474)

35 REPEALS:

36 [78B-2-308](#), as last amended by Laws of Utah 2022, Chapter 430

37 **Utah Code Sections Affected By Coordination Clause:**

38 [76-3-406](#), as last amended by Laws of Utah 2023, Chapter 184



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

41 Section 1. Section **76-1-301** is amended to read:

42 **76-1-301. Offenses for which prosecution may be commenced at any time.**

43 (1) As used in this section:

44 (a) "Aggravating offense" means any offense incident to which a homicide was
45 committed as described in Subsection [76-5-202\(2\)\(a\)\(iv\)](#) or (v) or Subsection [76-5-202\(2\)\(b\)](#).

46 (b) "Predicate offense" means an offense described in Subsection [76-5-203\(1\)\(a\)](#) if a
47 person other than a party as defined in Section [76-2-202](#) was killed in the course of the
48 commission, attempted commission, or immediate flight from the commission or attempted
49 commission of the offense.

50 (2) Notwithstanding any other provisions of this code, prosecution for the following
51 offenses may be commenced at any time:

52 (a) an offense classified as a capital felony under Section [76-3-103](#);

53 ritual abuse of a minor under Section [76-5-109.4](#);

54 ~~[(b)]~~ (c) aggravated murder under Section [76-5-202](#);

55 ~~[(c)]~~ (d) murder under Section [76-5-203](#);

56 ~~[(d)]~~ (e) manslaughter under Section [76-5-205](#);

- 57 ~~[(e)]~~ (f) child abuse homicide under Section 76-5-208;
- 58 ~~[(f)]~~ (g) aggravated kidnapping under Section 76-5-302;
- 59 ~~[(g)]~~ (h) child kidnapping under Section 76-5-301.1;
- 60 ~~[(h)]~~ (i) rape under Section 76-5-402;
- 61 ~~[(i)]~~ (j) rape of a child under Section 76-5-402.1;
- 62 ~~[(j)]~~ (k) object rape under Section 76-5-402.2;
- 63 ~~[(k)]~~ (l) object rape of a child under Section 76-5-402.3;
- 64 ~~[(l)]~~ (m) forcible sodomy under Section 76-5-403;
- 65 ~~[(m)]~~ (n) sodomy on a child under Section 76-5-403.1;
- 66 ~~[(n)]~~ (o) sexual abuse of a child under Section 76-5-404.1;
- 67 ~~[(o)]~~ (p) aggravated sexual abuse of a child under Section 76-5-404.3;
- 68 ~~[(p)]~~ (q) aggravated sexual assault under Section 76-5-405;
- 69 ~~[(q)]~~ (r) any predicate offense to a murder or aggravating offense to an aggravated
- 70 murder;
- 71 ~~[(r)]~~ (s) aggravated human trafficking [~~or aggravated human smuggling in violation of~~]
- 72 under Section 76-5-310;
- 73 (t) aggravated human smuggling under Section 76-5-310.1;
- 74 ~~[(s)]~~ (u) aggravated exploitation of prostitution involving a child[;] under Section
- 75 76-10-1306; or
- 76 ~~[(t)]~~ (v) human trafficking of a child[;] under Section 76-5-308.5.

77 *The following section is affected by a coordination clause at the end of this bill.*

78 Section 2. Section **76-3-406** is amended to read:

79 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**

80 **offense, or hospitalization may not be granted.**

81 (1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a,

82 Commitment and Treatment of Individuals with a Mental Condition, and except as provided in

83 Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), a court may not grant probation [~~may~~

84 ~~not be granted~~], suspend the execution or imposition of a sentence [~~may not be suspended, the~~

85 ~~court may not~~], enter a judgment for a lower category of offense, [~~and~~] or order hospitalization

86 [~~may not be ordered~~], if the effect of which would in any way shorten the prison sentence for

87 an [~~individual~~] actor who commits:

- 88 (a) a capital felony or a first degree felony involving:
- 89 ~~[(a)]~~ (i) ~~[Section 76-5-202;]~~ aggravated murder as described in Section [76-5-202](#);
- 90 ~~[(b)]~~ (ii) ~~[Section 76-5-203;]~~ murder as described in Section [76-5-203](#);
- 91 ~~[(c)]~~ (iii) ~~[Section 76-5-301.1, child kidnaping]~~ child kidnapping as described in
- 92 Section [76-5-301.1](#);
- 93 ~~[(d)]~~ (iv) ~~[Section 76-5-302, aggravated kidnaping]~~ aggravated kidnapping as described
- 94 in Subsection [76-5-302\(3\)\(b\)](#);
- 95 ~~[(e)]~~ (v) ~~[Section 76-5-402, rape, if the individual is sentenced under]~~ rape as described
- 96 in Subsection [76-5-402\(3\)\(b\)](#), (3)(c), or (4);
- 97 ~~[(f)]~~ (vi) ~~[Section 76-5-402.1;]~~ rape of a child as described in Section [76-5-402.1](#);
- 98 ~~[(g)]~~ (vii) ~~[Section 76-5-402.2, object rape, if the individual is sentenced under]~~ object
- 99 rape as described in Subsection [76-5-402.2\(3\)\(b\)](#), (3)(c), or (4);
- 100 ~~[(h)]~~ (viii) ~~[Section 76-5-402.3;]~~ object rape of a child as described in Section
- 101 [76-5-402.3](#);
- 102 ~~[(i)]~~ (ix) ~~[Section 76-5-403, forcible sodomy, if the individual is sentenced under]~~
- 103 forcible sodomy as described in Subsection [76-5-403\(3\)\(b\)](#), (3)(c), or (4);
- 104 ~~[(j)]~~ (x) ~~[Section 76-5-403.1;]~~ sodomy on a child as described in Section [76-5-403.1](#);
- 105 ~~[(k)]~~ (xi) ~~[Section 76-5-404, forcible sexual abuse, if the individual is sentenced under]~~
- 106 forcible sexual abuse as described in Subsection [76-5-404\(3\)\(b\)\(i\)](#) or (ii);
- 107 ~~[(l)]~~ (xii) ~~[Section 76-5-404.3;]~~ aggravated sexual abuse of a child as described in
- 108 Section [76-5-404.3](#);
- 109 ~~[(m)]~~ (xiii) ~~[Section 76-5-405;]~~ aggravated sexual assault~~[-or]~~ as described in Section
- 110 [76-5-405](#); or
- 111 ~~[(n)]~~ (xiv) any attempt to commit a felony listed in Subsection ~~[(1)(f), (h), or (j)]~~
- 112 (1)(a)(vi), (viii), or (x); or
- 113 (b) a second degree felony involving ritual abuse of a minor as described in Section
- 114 [76-5-109.4](#).
- 115 (2) Except for an offense before the district court in accordance with Section [80-6-502](#)
- 116 or [80-6-504](#), the provisions of this section do not apply if the sentencing court finds that the
- 117 ~~[defendant]~~ actor:
- 118 (a) was under 18 years old at the time of the offense; and

119 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
120 delayed filing of the information.

121 Section 3. Section **76-5-109.4** is enacted to read:

122 **76-5-109.4. Ritual abuse of a child.**

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

124 (i) "Child" means an individual who is younger than 18 years old.

125 (ii) "Organic substance or material" means:

126 (A) human bones, blood, or flesh; or

127 (B) human or animal vomit, saliva, urine, semen, fecal material, or other bodily
128 secretion.

129 (iii) "Ritual" means an event or act or a series of events or acts marked by specific
130 actions, gestures, or words, designed to commemorate, celebrate, or solemnize a particular
131 occasion or significance in a religious, cultural, social, institutional, or other context.

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

133 (2) An actor commits ritual abuse of a child if the actor, as part of a ritual, intentionally
134 or knowingly:

135 (a) (i) causes a child to participate in or witness:

136 (A) the torture, mutilation, or sacrifice of an animal;

137 (B) the dissection, mutilation, or incineration of a human corpse;

138 (C) the causing of serious bodily injury to an individual;

139 (D) bestiality;

140 (E) sadistic or masochistic activities;

141 (F) the ingestion or external application of an organic substance or material; or

142 (G) an activity that would constitute a criminal offense;

143 (ii) causes a child to:

144 (A) enter a coffin or open grave containing a human corpse or remains;

145 (B) participate in a mock, unauthorized, or unlawful marriage ceremony as an
146 individual being married to another individual or a fictional representation; or

147 (C) ingest, inject, or otherwise intake a chemical compound, narcotic, drug,
148 hallucinogen, or anesthetic;

149 (iii) threatens a child, or the child's parents, family, pets, or friends with death, serious

150 bodily injury, or other criminal activity;
151 (iv) deprives a child of sleep, food, or water;
152 (v) binds or confines a child; or
153 (vi) otherwise acts to cause to arouse or gratify the sexual desire of any individual; and
154 (b) causes substantial psychological distress or bodily injury to a child through the
155 actions described in Subsection (2)(a).
156 (3) A violation of Subsection (2) is a second degree felony.
157 (4) An actor is not guilty of an offense under this section for conduct that constitutes:
158 (a) the lawful medical practice of circumcision or other legitimate medical care and any
159 related ritual to the circumcision or other legitimate medical care;
160 (b) reasonable discipline or management of a child, including withholding privileges;
161 (c) conduct described in Section [76-2-401](#); or
162 (d) the use of reasonable and necessary physical restraint or force on a child:
163 (i) in self-defense;
164 (ii) in defense of others;
165 (iii) to protect the child; or
166 (iv) to remove a weapon in the possession of a child for any of the reasons described in
167 Subsections (4)(d)(i) through (iii).
168 (5) Imprisonment under this section is mandatory in accordance with Section [76-3-406](#).
169 Section 4. Section **76-5-402.1** is amended to read:
170 **76-5-402.1. Rape of a child -- Penalties.**
171 (1) (a) As used in this section, "ritual" means the same as that term is defined in
172 Section [76-5-109.4](#).
173 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
174 (2) (a) An actor commits rape of a child if the actor has sexual intercourse with an
175 individual who is younger than 14 years old.
176 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
177 violation of Subsection (2)(a).
178 (3) A violation of Subsection (2) is a first degree felony punishable by a term of
179 imprisonment of:
180 (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which

181 may be for life; or

182 (b) life without parole, if the trier of fact finds that:

183 (i) during the course of the commission of the rape of a child, the [defendant] actor
184 caused serious bodily injury to the victim;

185 (ii) the actor committed the rape of a child as part of a ritual or a training or practice to
186 perform a ritual; or

187 [(ii)] (iii) at the time of the commission of the rape of a child the [defendant] actor was
188 previously convicted of a grievous sexual offense.

189 (4) Subsection (3)(b) does not apply if the [defendant] actor was younger than 18 years
190 old at the time of the offense.

191 (5) (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may
192 impose a term of imprisonment under Subsection (5)(b) if:

193 (i) it is a first time offense for the [defendant] actor under this section;

194 (ii) the [defendant] actor was younger than 21 years old at the time of the offense; and

195 (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in
196 the interests of justice under the facts and circumstances of the case, including the age of the
197 victim, and states the reasons for this finding on the record.

198 (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of
199 imprisonment of not less than:

200 (i) 15 years and which may be for life;

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

202 (iii) six years and which may be for life.

203 (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

204 Section 5. Section 76-5-402.3 is amended to read:

205 **76-5-402.3. Object rape of a child -- Penalty.**

206 (1) (a) As used in this section, "ritual" means the same as that term is defined in
207 Section 76-5-109.4.

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

209 (2) (a) An actor commits object rape of a child if:

210 (i) the actor causes the penetration or touching, however slight, of the genital or anal
211 opening of the individual by, except as provided in Subsection (2)(b):

212 (A) a foreign object;
213 (B) a substance;
214 (C) an instrument; or
215 (D) a device;
216 (ii) the actor:
217 (A) intends to cause substantial emotional or bodily pain to the individual; or
218 (B) intends to arouse or gratify the sexual desire of any individual; and
219 (iii) the individual described in Subsection (2)(a)(i) is younger than 14 years old.
220 (b) Subsection (2)(a) does not include penetration or touching by a part of the human
221 body.
222 (3) (a) A violation of Subsection (2) is a first degree felony punishable by a term of
223 imprisonment of:
224 (i) except as provided in Subsections (3)(a)(ii) and (4), not less than 25 years and
225 which may be for life; or
226 (ii) life without parole, if the trier of fact finds that:
227 (A) during the course of the commission of the object rape of a child the [~~defendant~~]
228 actor caused serious bodily injury to the victim;
229 (B) the actor committed the object rape of a child as part of a ritual or a training or
230 practice to perform a ritual; or
231 [~~(B)~~] (C) at the time of the commission of the object rape of a child the [~~defendant~~]
232 actor was previously convicted of a grievous sexual offense.
233 (b) Subsection (3)(a)(ii) does not apply if the [~~defendant~~] actor was younger than 18
234 years old at the time of the offense.
235 (4) (a) When imposing a sentence under Subsections (3)(a)(i) and (4)(b), a court may
236 impose a term of imprisonment under Subsection (4)(b) if:
237 (i) it is a first time offense for the [~~defendant~~] actor under this section;
238 (ii) the [~~defendant~~] actor was younger than 21 years old at the time of the offense; and
239 (iii) the court finds that a lesser term than the term described in Subsection (3)(a)(i) is
240 in the interests of justice under the facts and circumstances of the case, including the age of the
241 victim, and states the reasons for this finding on the record.
242 (b) If the conditions of Subsection (4)(a) are met, the court may impose a term of

243 imprisonment of not less than:

244 (i) 15 years and which may be for life;

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

246 (iii) six years and which may be for life.

247 (5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

248 Section 6. Section 76-5-403.1 is amended to read:

249 **76-5-403.1. Sodomy on a child -- Penalties.**

250 (1) (a) As used in this section, "ritual" means the same as that term is defined in

251 Section 76-5-109.4.

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

253 (2) (a) An actor commits sodomy on a child if:

254 (i) the actor engages in any sexual act upon or with another individual;

255 (ii) the individual is younger than 14 years old; and

256 (iii) the sexual act involves the genitals or anus of the actor or the individual and the

257 mouth or anus of either the actor or individual.

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

260 (3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of
261 imprisonment of:

262 (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which
263 may be for life; or

264 (b) life without parole, if the trier of fact finds that:

265 (i) during the course of the commission of the sodomy on a child the [~~defendant~~] actor
266 caused serious bodily injury to the victim;

267 (ii) the actor committed the act as part of a ritual or a training or practice to perform a
268 ritual; or

269 [~~(ii)~~] (iii) at the time of the commission of the sodomy on a child, the [~~defendant~~] actor
270 was previously convicted of a grievous sexual offense.

271 (4) Subsection (3)(b) does not apply if the [~~defendant~~] actor was younger than 18 years
272 old at the time of the offense.

273 (5) (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may

274 impose a term of imprisonment under Subsection (5)(b) if:

- 275 (i) it is a first time offense for the [~~defendant~~] actor under this section;
- 276 (ii) the [~~defendant~~] actor was younger than 21 years old at the time of the offense; and
- 277 (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in
- 278 the interests of justice under the facts and circumstances of the case, including the age of the
- 279 victim, and states the reasons for this finding on the record.

280 (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of

281 imprisonment of not less than:

- 282 (i) 15 years and which may be for life;
 - 283 (ii) 10 years and which may be for life; or
 - 284 (iii) six years and which may be for life.
- 285 (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.
- 286 Section 7. Section 76-5-404.3 is amended to read:

287 **76-5-404.3. Aggravated sexual abuse of a child -- Penalties.**

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

- 289 (i) "Adult" means the same as that term is defined in Section 76-5-404.1.
- 290 (ii) "Child" means the same as that term is defined in Section 76-5-404.1.
- 291 (iii) "Position of special trust" means the same as that term is defined in Section
- 292 76-5-404.1.
- 293 (iv) "Ritual" means the same as that term is defined in Section 76-5-109.4.

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

295 (2) (a) An actor commits aggravated sexual abuse of a child if, in conjunction with the

296 offense described in Subsection 76-5-404.1(2)(a), any of the following circumstances have

297 been charged and admitted or found true in the action for the offense:

- 298 (i) the actor committed the offense:
 - 299 (A) by the use of a dangerous weapon;
 - 300 (B) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or
 - 301 (C) during the course of a kidnaping;
- 302 (ii) the actor caused bodily injury or severe psychological injury to the child during or
- 303 as a result of the offense;
- 304 (iii) the actor was a stranger to the child or made friends with the child for the purpose

305 of committing the offense;

306 (iv) the actor used, showed, or displayed pornography or caused the child to be
307 photographed in a lewd condition during the course of the offense;

308 (v) the actor, prior to sentencing for this offense, was previously convicted of any
309 sexual offense;

310 (vi) the actor committed the same or similar sexual act upon two or more individuals at
311 the same time or during the same course of conduct;

312 (vii) the actor committed, in Utah or elsewhere, more than five separate acts, which if
313 committed in Utah would constitute an offense described in this chapter, and were committed
314 at the same time, or during the same course of conduct, or before or after the instant offense;

315 (viii) the actor occupied a position of special trust in relation to the child;

316 (ix) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
317 sexual acts by the child with any other individual, sexual performance by the child before any
318 other individual, human trafficking, or human smuggling;

319 (x) the actor committed the act as part of a ritual or of a training or practice to perform
320 a ritual; or

321 [~~(x)~~] (xi) the actor caused the penetration, however slight, of the genital or anal
322 opening of the child by any part or parts of the human body other than the genitals or mouth.

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

325 (3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree
326 felony punishable by a term of imprisonment of:

327 (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and
328 which may be for life;

329 (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact
330 finds that during the course of the commission of the aggravated sexual abuse of a child the
331 [~~defendant~~] actor caused serious bodily injury to another; or

332 (c) life without parole, if the trier of fact finds that at the time of the commission of the
333 aggravated sexual abuse of a child, the [~~defendant~~] actor was previously convicted of a
334 grievous sexual offense.

335 (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a

336 lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and
337 states the reasons for this finding on the record, the court may impose a term of imprisonment
338 of not less than:

339 (a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

340 (b) for purposes of Subsection (3)(a) or (b):

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

342 (ii) six years and which may be for life.

343 (5) The provisions of Subsection (4) do not apply if [~~a defendant~~] an actor is sentenced
344 under Subsection (3)(c).

345 (6) Subsection (3)(b) or (3)(c) does not apply if the [~~defendant~~] actor was younger than
346 18 years old at the time of the offense.

347 (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

348 Section 8. Section **78B-2-401**, which is renumbered from Section 78B-2-119 is
349 renumbered and amended to read:

350 **Part 4. Civil Actions Arising Out of Criminal Conduct**

351 [~~78B-2-119~~]. **78B-2-401. Statute of limitations for civil actions after**
352 **criminal proceeding.**

353 (1) As used in this section:

354 (a) "Cause of action" means [~~any~~] a civil claim that a victim [~~could~~] may bring against
355 a defendant for criminal conduct committed against the victim.

356 (b) "Criminal conduct" means [~~any~~] an act that is charged as a felony under:

357 (i) Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in
358 Subsection 78B-2-402(1)(f); or

359 (ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct
360 under Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in
361 Subsection 78B-2-402(1)(f).

362 (c) "Victim" means an individual directly harmed by criminal conduct or the
363 individual's representative.

364 (2) (a) Notwithstanding any statute of limitations, a victim may bring a cause of action
365 arising out of criminal conduct if:

366 (i) the defendant to the cause of action was charged by a criminal complaint,

367 indictment, or information for that criminal conduct;

368 (ii) the cause of action is brought within one year [~~from~~] after the day on which a final
369 disposition for the criminal proceeding is issued;

370 (iii) the cause of action is brought to address any harm resulting from the criminal
371 conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

372 (iv) the applicable statute of limitations that would apply to the conduct at issue in the
373 cause of action did not expire before May 4, 2022.

374 (b) A defendant does not need to be convicted of the criminal conduct for an individual
375 to bring a cause of action under Subsection (2)(a).

376 (3) Subsection (2)(a) does not:

377 (a) shorten an applicable statute of limitations or an applicable tolling provision;

378 (b) toll or extend an applicable statute of limitations for an action that is brought
379 against an employer or former employer of a defendant described in Subsection (2)(a)(i); or

380 (c) require an insurer to defend or indemnify a defendant for a cause of action that
381 would otherwise be barred if not for Subsection (2)(a).

382 Section 9. Section **78B-2-402** is enacted to read:

383 **78B-2-402. Statute of limitations for civil actions arising out of sexual abuse.**

384 (1) As used in this section:

385 (a) "Cause of action" means a civil claim that a victim may bring against an individual
386 for sexual abuse committed against the victim.

387 (b) "Child" means an individual who is under 18 years old.

388 (c) "Discovers" means when an individual knows or should know that sexual abuse
389 occurred.

390 (d) (i) "Negligent sexual abuse" means when an individual fails to prevent the sexual
391 abuse of a child from occurring, or to report the sexual abuse of a child, when the individual
392 discovers the sexual abuse.

393 (ii) "Negligent sexual abuse" does not include the non reporting of sexual abuse of a
394 child by a member of the clergy or an attorney who is acting in accordance with Subsection
395 80-2-602(3).

396 (e) "Perpetrator" means an individual who commits sexual abuse.

397 (f) "Sexual abuse" means:

- 398 (i) rape under Section 76-5-402;
- 399 (ii) rape of a child under Section 76-5-402.1;
- 400 (iii) object rape under Section 76-5-402.2;
- 401 (iv) object rape of a child under Section 76-5-402.3;
- 402 (v) forcible sodomy under Section 76-5-403;
- 403 (vi) sodomy on a child under Section 76-5-403.1;
- 404 (vii) sexual abuse of a child under Section 76-5-404.1;
- 405 (viii) aggravated sexual abuse of a child under Section 76-5-404.3; or
- 406 (ix) aggravated sexual assault under Section 76-5-405.
- 407 (g) (i) "Victim" means an individual against whom sexual abuse is committed or
- 408 allegedly committed.
- 409 (ii) "Victim" does not include an individual whose claims are derived through another
- 410 individual against whom sexual abuse is committed or allegedly committed.
- 411 (2) (a) Notwithstanding other provisions of this code, a victim has a right of action at
- 412 any time against:
- 413 (i) a perpetrator of sexual abuse committed or allegedly committed against the victim;
- 414 or
- 415 (ii) an individual who would be criminally responsible under Section 76-2-202 for
- 416 sexual abuse committed or allegedly committed against the victim.
- 417 (b) A victim may only bring an action described in Subsection (2)(a) against an
- 418 individual for negligent sexual abuse within the later of four years after the day on which:
- 419 (i) the victim turns 18 years old; or
- 420 (ii) the victim discovers the sexual abuse.
- 421 (3) A victim may bring an action described in Subsection (2) regardless of whether
- 422 criminal charges are filed or the perpetrator is convicted of sexual abuse.
- 423 (4) For purposes of establishing the discovery of sexual abuse under Subsection
- 424 (2)(b)(ii):
- 425 (a) if there is more than one alleged act of sexual abuse in an action, the date of
- 426 discovery is computed from the day on which the victim discovers the last alleged act of sexual
- 427 abuse by the perpetrator; and
- 428 (b) the discovery by a parent or guardian of sexual abuse may not be imputed to a

429 victim who is a child at the time of the sexual abuse.

430 (5) (a) This section extends the statute of limitations for an action described in

431 Subsection (2) that is not time barred on or before May 1, 2024.

432 (b) This section does not revive an action that is time barred on or before May 1, 2024.

433 Section 10. **Repealer.**

434 This bill repeals:

435 Section **78B-2-308, Legislative findings -- Civil actions for sexual abuse of a child --**

436 **Window for revival of time barred claims.**

437 Section 11. **Effective date.**

438 This bill takes effect on May 1, 2024.

439 Section 12. **Coordinating H.B. 196 with H.B. 181.**

440 If H.B. 196, Sexual Abuse Amendments, and H.B. 181, Criminal Offenses

441 Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Section

442 76-3-406 be repealed and reenacted to read:

443 "76-3-406. Crimes for which probation, suspension of sentence, lower category of

444 offense, or hospitalization may not be granted.

445 (1) As used in this section, "attempted child rape offense" means an attempt to commit
446 a felony that is:

447 (a) rape of a child as described in Section 76-5-402.1;

448 (b) object rape of a child as described in Section 76-5-402.3; or

449 (c) sodomy on a child as described in Section 76-5-403.1.

450 (2) Except as provided in Subsection (3), a court may not grant probation, suspend the

451 execution or imposition of a sentence, enter a judgment for a lower category of offense, or

452 order hospitalization, if the effect of which would in any way shorten the prison sentence for an

453 actor who commits:

454 (a) a capitol felony or a first degree felony, or attempts to commit a felony, that is:

455 (i) aggravated murder as described in Section 76-5-202;

456 (ii) murder as described in Section 76-5-203;

457 (iii) child kidnapping as described in Section 76-5-301.1;

458 (iv) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

459 (v) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

460 (vi) rape of a child as described in Section [76-5-402.1](#);
461 (vii) object rape as described in Subsection [76-5-402.2\(3\)\(b\)](#), [\(3\)\(c\)](#), or [\(4\)](#);
462 (viii) object rape of a child as described in Section [76-5-402.3](#);
463 (ix) forcible sodomy as described in Subsection [76-5-403\(3\)\(b\)](#), [\(3\)\(c\)](#), or [\(4\)](#);
464 (x) sodomy on a child as described in Section [76-5-403.1](#);
465 (xi) forcible sexual abuse as described in Subsection [76-5-404\(3\)\(b\)\(i\)](#) or [\(ii\)](#);
466 (xii) aggravated sexual abuse of a child as described in Section [76-5-404.3](#); or
467 (xiii) aggravated sexual assault as described in Section [76-5-405](#); or
468 (b) a second degree felony involving ritual abuse of a minor as described in Section
469 [76-5-109.4](#).

470 (3) Except for an attempted child rape offense, a court may suspend the execution or
471 imposition of a prison sentence for an actor that is convicted of an attempt to commit a felony
472 described in Subsection (2) if the court:

473 (a) makes a finding on the record that:

474 (i) details why it is in the interests of justice not to execute or impose the prison
475 sentence; and

476 (ii) the individual does not pose a significant safety risk to:

477 (A) the victim of the attempted crime; or
478 (B) the general public; and

479 (b) orders the individual to complete the terms and conditions of probation that is
480 supervised by the Department of Corrections.

481 (4) Except for an offense before the district court in accordance with Section [80-6-502](#)
482 or [80-6-504](#), the provisions of this section do not apply if the sentencing court finds that the
483 defendant:

484 (a) was under 18 years old at the time of the offense; and
485 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
486 delayed filing of the information.

487 (5) Except as provided in Subsection [77-16a-103\(6\)](#) or [\(7\)](#), a court may not grant
488 probation, suspend the execution or imposition of a sentence, enter a judgment for a lower
489 category of offense, or order hospitalization under Section [76-3-201](#) or [77-18-105](#) or Title 77,
490 Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, if the court

491 is prohibited by this section."