

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**.



28 (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

29 (iii) "Serious physical injury" means the same as that term is defined in Section
30 76-5-109.

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

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

34 (i) is a parent or legal guardian of a child, and:

35 (A) intentionally ceases to maintain physical custody of the child;

36 (B) intentionally fails to make reasonable arrangements for the safety, care, and
37 physical custody of the child; and

38 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;

39 (II) manifests an intent to permanently not resume physical custody of the child; or

40 (III) for a period of at least 30 days, intentionally fails to resume physical custody of
41 the child and fails to manifest a genuine intent to resume physical custody of the child; or

42 (ii) encourages or causes the parent or legal guardian of a child to violate Subsection
43 (2)(a)(i).

44 (b) Except as provided in Subsection (4), an enterprise commits child abandonment if
45 the enterprise encourages, commands, induces by misrepresentation, or causes another to
46 violate Subsection (2)(a).

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

48 (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second
49 degree felony if, as a result of the child abandonment:

50 (A) the child suffers a serious physical injury; or

51 (B) the actor or enterprise receives, directly or indirectly, any benefit.

52 (b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order
53 the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and
54 prosecuting the offense and the costs of securing any forfeiture provided for under Subsection
55 (3)(b)(ii).

56 (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject
57 to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.

58 (4) (a) A parent or legal guardian who provides a child with treatment by spiritual

59 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and
60 practices of an established church or religious denomination of which the parent or legal
61 guardian is a member or adherent may not, for that reason alone, be considered to have
62 committed an offense under this section.

63 (b) An actor is not guilty of an offense under this section for conduct that constitutes:

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

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

66 (A) in a legal adoption proceeding; or

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

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

70 or

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

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

74 (i) intimidation;

75 (ii) isolation;

76 (iii) harassment;

77 (iv) coercion;

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

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

81 Section 2. **Effective date.**

82 This bill takes effect on May 1, 2024.