

**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

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**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



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 ~~[(e)] (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 ~~[(d)] (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) Any touching, even if accomplished through clothing, is sufficient to constitute the  
215 relevant element of a violation of Subsection (2)(a)(ii).

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

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

219 **76-8-301. Interference with public servant.**

220 (1) An individual is guilty of interference with a public servant if, under circumstances  
221 not amounting to unlawful detention and unlawful detention of a minor as described in Section  
222 76-5-304, the individual:

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

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

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

231 (i) freedom of movement;

232 (ii) use of the property or facilities; or

233 (iii) entry into or exit from the facilities.

234 (2) Interference with a public servant:

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

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

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

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

239 **76-9-702.9. Indecent exposure of another individual.**

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

241 (i) "Health care professional" means the same as that term is defined in Section  
242 53-3-207.



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

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

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

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

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

251 (3) (a) A violation of Subsection (2)(a) is a class ~~H~~ **[B]** ~~C~~ ~~H~~ misdemeanor.

252 (b) ~~H~~ **[A]** Except as provided in Subsection (3)(c), a ~~H~~ violation of Subsection (2)(b)  
252a is a class ~~H~~ **[A]** ~~B~~ ~~H~~ misdemeanor.

252b ~~H~~ **(c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the**  
252c **violation in the presence of an individual who is younger than 14 years old. ~~H~~**

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

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

259 Section 6. **Repealer.**

260 This bill repeals:

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

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

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

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

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

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

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

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

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

274 facilities -- Posting of notices.

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

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

279 Section 7. **Effective date.**

280 This bill takes effect on May 1, 2024.

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

282 If this H.B. 27, Criminal Code Amendments, and H.B. 15, Criminal Code

283 Recodification and Cross References, both pass and become law, it is the intent of the

284 Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code

285 database for publication by:

286 (1) not making the changes in H.B. 27, Criminal Code Amendments, to Section

287 [76-8-301](#); and

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

289 References, to read:

290 **"76-8-301.2. Denial of public servant's use of public property.**

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

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

293 (2) An actor commits denial of public servant's use of public property if, under

294 circumstances not amounting to unlawful detention and unlawful detention of a minor as

295 described in Section [76-5-304](#), the actor, on property that is owned, operated, or controlled by

296 the state or a political subdivision of the state, willfully denies to a public servant lawful:

297 (a) freedom of movement;

298 (b) use of the property or facility; or

299 (c) entry into or exit from the facility.

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