

**LEWDNESS INVOLVING A CHILD AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Colin W. Jack**

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

**LONG TITLE**

**General Description:**

This bill concerns the offense of lewdness involving a child.

**Highlighted Provisions:**

This bill:

▶ modifies the offense of lewdness involving a child, including criminal penalties;

and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-9-702.5**, as last amended by Laws of Utah 2022, Chapter 185

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

Section 1. Section **76-9-702.5** is amended to read:

**76-9-702.5. Lewdness involving a child.**

(1) As used in this section, "in the presence of" includes within visual contact through an electronic device.



28 (2) ~~[A person is guilty of]~~ An actor commits lewdness involving a child if the ~~[person]~~  
29 actor, under circumstances not amounting to rape of a child, object rape of a child, sodomy  
30 upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to  
31 commit any of those offenses, intentionally or knowingly:

32 (a) does any of the following in the presence of a child who is under 14 years ~~[of age]~~  
33 old:

34 (i) performs an act of sexual intercourse or sodomy;

35 (ii) exposes ~~[his or her]~~ the actor's genitals, ~~[the]~~ female breast below the top of the  
36 areola, ~~[the]~~ buttocks, ~~[the]~~ anus, or ~~[the]~~ pubic area:

37 (A) in a public place; or

38 (B) in a private place under circumstances the ~~[person]~~ actor should know will likely  
39 cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the  
40 child;

41 (iii) masturbates;

42 (iv) simulates masturbation;

43 (v) performs an act of simulated intercourse or sodomy;

44 (vi) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid  
45 state, even if completely and opaquely covered;

46 (vii) engages in erotic touching of the actor's nude breast, regardless of the actor's sex  
47 or how the breast was developed or created;

48 (viii) involves a child in an act that would lead a reasonable person to conclude that the  
49 child is engaging in an act of:

50 (A) simulated intercourse or sodomy; or

51 (B) simulated masturbation; or

52 ~~[(iv)]~~ (ix) performs any other act of lewdness; or

53 (b) under circumstances not amounting to sexual exploitation of a child under Section  
54 [76-5b-201](#) or aggravated sexual exploitation of a child under Section [76-5b-201.1](#), causes a  
55 child under ~~[the age of]~~ 14 years old to expose ~~[his or her]~~ the child's genitals, anus, or breast,  
56 if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the  
57 child.

58 (3) (a) ~~[Lewdness involving a child is a class A misdemeanor, except under Subsection~~

59 ~~(3)(b)~~ Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A  
60 misdemeanor.

61 (b) [~~Lewdness involving a child is a third degree felony if at the time of the violation:~~]

62 A violation of Subsection (2) is a third degree felony if:

63 (i) [~~the person~~] at the time of the violation, the actor:

64 (A) is a sex offender as defined in Section [77-27-21.7](#); or

65 [(ii)] (B) [~~the person has~~] previously has been convicted of a violation of this  
66 section[-]; or

67 (ii) the actor's conduct was in violation of Subsection (2)(a)(i), (2)(a)(ii), (2)(a)(iii), or  
68 (2)(b).

69 Section 2. **Effective date.**

70 This bill takes effect on May 1, 2024.