

1                                   **LEWDNESS INVOLVING A CHILD AMENDMENTS**  
2   2024 GENERAL SESSION  
3   STATE OF UTAH  
4   **Chief Sponsor: Colin W. Jack**  
5   Senate Sponsor: Evan J. Vickers

6  
7 **LONG TITLE**

8 **General Description:**

9       This bill concerns the offense of lewdness involving a child.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▸ modifies the offense of lewdness involving a child; and
- 13       ▸ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15       None

16 **Other Special Clauses:**

17       This bill provides a coordination clause.

18 **Utah Code Sections Affected:**

19 AMENDS:

20       **76-9-702.5**, as last amended by Laws of Utah 2022, Chapter 185

21 **Utah Code Sections affected by Coordination Clause:**

22       **76-9-702.5**, as last amended by Laws of Utah 2022, Chapter 185

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

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

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

26       **76-9-702.5 . Lewdness involving a child.**

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

29       (2) [~~A person is guilty of~~] An actor commits lewdness involving a child if[-] :

- 30       (a) the [~~person~~] actor, under circumstances not amounting to rape of a child, object rape  
31       of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a

- 29 child, or an attempt to commit any of those offenses, intentionally or knowingly[: (a)]  
 30 does any of the following in the presence of a child who is under 14 years [of age]  
 31 old:
- 32 (i) performs an act of sexual intercourse or sodomy;  
 33 (ii) exposes [~~his or her~~] the actor's genitals, [~~the~~]female breast below the top of the  
 34 areola, [~~the~~]buttocks, [~~the~~]anus, or [~~the~~]pubic area:  
 35 (A) in a public place; or  
 36 (B) in a private place under circumstances the [~~person~~] actor should know will  
 37 likely cause affront or alarm or with the intent to arouse or gratify the sexual  
 38 desire of the actor or the child; or
- 39 (iii) masturbates; [~~or~~]  
 40 [~~(iv) performs any other act of lewdness; or~~]
- 41 (b) the actor is 18 years old or older and, under circumstances not amounting to rape of a  
 42 child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated  
 43 sexual abuse of a child, or an attempt to commit any of those offenses, intentionally  
 44 or knowingly does any of the following in the presence of a child who is under 14  
 45 years old with the intent to cause affront or alarm to the child or with the intent to  
 46 arouse or gratify the sexual desire of the actor or the child:
- 47 (i) simulates masturbation;  
 48 (ii) performs an act of simulated intercourse or sodomy;  
 49 (iii) displays the actor's male genitals or prosthetic male genitals in a discernibly  
 50 turgid state, even if completely and opaquely covered;  
 51 (iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex  
 52 or how the breast was developed or created; or  
 53 (v) involves a child in an act that would lead a reasonable person to conclude that the  
 54 child is engaging in an act of:  
 55 (A) simulated intercourse or sodomy; or  
 56 (B) simulated masturbation;
- 57 [~~(b)~~] (c) the actor, under circumstances not amounting to sexual exploitation of a child  
 58 under Section 76-5b-201 or aggravated sexual exploitation of a child under Section  
 59 76-5b-201.1, intentionally or knowingly causes a child under [~~the age of~~]14 years old  
 60 to expose [~~his or her~~] the child's genitals, anus, or breast, if female, to the actor, with  
 61 the intent to arouse or gratify the sexual desire of the actor or the child; or  
 62 (d) the actor performs any other act of lewdness.

63 (3) (a) ~~[Lewdness involving a child is a class A misdemeanor, except under Subsection~~  
64 ~~(3)(b)]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
65 A misdemeanor.

66 (b) ~~[Lewdness involving a child is a third-degree felony if at the time of the violation:]~~ A  
67 violation of Subsection (2) is a third degree felony if at the time of the violation, the  
68 actor:

69 (i) ~~[the person]~~ is a sex offender as defined in Section 77-27-21.7; or

70 (ii) ~~[the person has]~~ previously has been convicted of a violation of this section.

71 **Section 2. Effective date.**

72 This bill takes effect on May 1, 2024.

73 **Section 3. Coordinating H.B. 424 with H.B. 257.**

74 If H.B. 424, Lewdness Involving a Child Amendments, and H.B. 257, Sex-based  
75 Designations for Privacy, Anti-bullying, and Women's Opportunities, both pass  
76 and become law, the Legislature intends that, on May 1, 2024, Subsection  
77 76-9-702.5(3) be amended to read:

78 "(3)(a) ~~[Lewdness involving a child is a class A misdemeanor, except under~~  
79 Subsection (3)(b)] Except as provided in Subsection (3)(b), a violation of  
80 Subsection (2) is a class A misdemeanor.

81 (b) ~~[Lewdness involving a child is a third-degree felony if at the time of the~~  
82 ~~violation:]~~ A violation of Subsection (2) is a third degree felony if, at the time of  
83 the violation, the actor:

84 (i) ~~[the person]~~ is a sex offender as defined in Section 77-27-21.7; ~~[or~~

85 ~~(ii) the person has]~~ (ii) ~~[-]~~ previously has been convicted of a violation of this  
86 section~~[-]~~ ;

87 (iii) commits the violation of Subsection (2) while also committing the offense  
88 of:

89 (A) criminal trespass in a sex-designated changing room under Subsection  
90 76-6-206(2)(d);

91 (B) lewdness under Section 76-9-702;

92 (C) voyeurism under Section 76-9-702.7; or

93 (D) loitering in a privacy space under Section 76-9-702.8; or

94 (iv) commits the violation of Subsection (2) in a sex-designated privacy space,  
95 as defined in Section 76-9-702.8, that is not designated for individuals of the  
96 actor's sex."