

1 **Sexual Abuse of a Child Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This bill amends provisions relating to sexual abuse of a child.

5 **Highlighted Provisions:**

6 This bill:

7 ▶ amends the definition of "position of special trust" for the offense of aggravated sexual
8 abuse of a child;

9 ▶ updates cross references to the definition of "position of special trust" in other sections;
10 and

11 ▶ makes technical and conforming changes.

12 **Money Appropriated in this Bill:**

13 None

14 **Other Special Clauses:**

15 None

16 **Utah Code Sections Affected:**

17 AMENDS:

18 **53-22-106**, as last amended by Laws of Utah 2025, Chapter 388

19 **63G-7-301**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9

20 **76-3-203.13**, as last amended by Laws of Utah 2025, Chapters 223, 320

21 **76-5-404.1**, as last amended by Laws of Utah 2025, Chapters 223, 320

22 **76-5-404.3**, as last amended by Laws of Utah 2025, Chapter 277

23 **76-5-406**, as last amended by Laws of Utah 2020, Chapter 92

24 **76-5b-204**, as last amended by Laws of Utah 2025, Chapter 178

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

26 Section 1. Section **53-22-106** is amended to read:

27 **53-22-106 . Substantial threats against a school reporting requirements --**

28 **Exceptions.**

- 31 (1) As used in this section[~~,"substantial"~~] :
- 32 (a) "Position of special trust" means the same as that term is defined in Section
- 33 76-5-404.3.
- 34 (b) "Substantial threat" means a threat made with serious intent to cause harm.
- 35 (2) Except as provided in Subsection (3), if a state employee or person in a position of
- 36 special trust[~~as defined in Section 76-5-404.1~~], including an individual licensed under
- 37 Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical
- 38 Practice Act, has reason to believe a substantial threat against a school, school
- 39 employee, or student attending a school or is aware of circumstances that would
- 40 reasonably result in a substantial threat against a school, school employee, or student
- 41 attending a school, the state employee or person in a position of special trust shall
- 42 immediately report the suspected substantial threat to:
- 43 (a) the local education agency that the substantial threat would impact;
- 44 (b) the nearest peace officer or law enforcement agency; and
- 45 (c) the state security chief.
- 46 (3)(a)(i) If the state security chief, a peace officer, or law enforcement agency
- 47 receives a report under Subsection (2), the state security chief, peace officer, or
- 48 law enforcement agency shall immediately notify the local education agency that
- 49 the substantial threat would impact.
- 50 (ii) If the local education agency that the substantial threat would impact receives a
- 51 report under Subsection (2), the local education agency that the substantial threat
- 52 would impact shall immediately notify the appropriate local law enforcement
- 53 agency and the state security chief.
- 54 (b)(i) A local education agency that the substantial threat would impact shall
- 55 coordinate with the law enforcement agency on the law enforcement agency's
- 56 investigation of the report described in Subsection (1).
- 57 (ii) If a law enforcement agency undertakes an investigation of a report under
- 58 Subsection (2), the law enforcement agency shall provide a final investigatory
- 59 report to the local education agency that the substantial threat would impact upon
- 60 request.
- 61 (4) Subject to Subsection (5), the reporting requirement described in Subsection (2) does
- 62 not apply to:
- 63 (a) a member of the clergy with regard to any confession an individual makes to the
- 64 member of the clergy while functioning in the ministerial capacity of the member of

- 65 the clergy if:
- 66 (i) the individual made the confession directly to the member of the clergy;
- 67 (ii) the member of the clergy is, under canon law or church doctrine or practice,
- 68 bound to maintain the confidentiality of the confession; and
- 69 (iii) the member of the clergy does not have the consent of the individual making the
- 70 confession to disclose the content of the confession; or
- 71 (b) an attorney, or an individual whom the attorney employs, if:
- 72 (i) the knowledge or belief of the substantial threat arises from the representation of a
- 73 client; and
- 74 (ii) if disclosure of the substantial threat would not reveal the substantial threat to
- 75 prevent reasonably certain death or substantial bodily harm in accordance with
- 76 Utah Rules of Professional Conduct, Rule 1.6.
- 77 (5)(a) When a member of the clergy receives information about the substantial threat
- 78 from any source other than a confession, the member of the clergy shall report the
- 79 information even if the member of the clergy also received information about the
- 80 substantial threat from the confession of the perpetrator.
- 81 (b) Exemption of the reporting requirement for an individual described in Subsection (4)
- 82 does not exempt the individual from any other actions required by law to prevent
- 83 further substantial threats or actual harm related to the substantial threat.
- 84 (6) The physician-patient privilege does not:
- 85 (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical
- 86 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from
- 87 reporting under this section; or
- 88 (b) constitute grounds for excluding evidence in a judicial or administrative proceeding
- 89 resulting from a report under this section.
- 90 Section 2. Section **63G-7-301** is amended to read:
- 91 **63G-7-301 . Waivers of immunity.**
- 92 (1)(a) Immunity from suit of each governmental entity is waived as to any contractual
- 93 obligation.
- 94 (b) Actions arising out of contractual rights or obligations are not subject to the
- 95 requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- 96 (c) The Division of Water Resources is not liable for failure to deliver water from a
- 97 reservoir or associated facility authorized by Title 73, Chapter 26, Bear River
- 98 Development Act, if the failure to deliver the contractual amount of water is due to

- 99 drought, other natural condition, or safety condition that causes a deficiency in the
100 amount of available water.
- 101 (2) Immunity from suit of each governmental entity is waived:
- 102 (a) as to any action brought to recover, obtain possession of, or quiet title to real or
103 personal property;
- 104 (b) as to any action brought to foreclose mortgages or other liens on real or personal
105 property, to determine any adverse claim on real or personal property, or to obtain an
106 adjudication about any mortgage or other lien that the governmental entity may have
107 or claim on real or personal property;
- 108 (c) as to any action based on the negligent destruction, damage, or loss of goods,
109 merchandise, or other property while it is in the possession of any governmental
110 entity or employee, if the property was seized for the purpose of forfeiture under any
111 provision of state law;
- 112 (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah
113 Constitution, Article I, Section 22, for the recovery of compensation from the
114 governmental entity when the governmental entity has taken or damaged private
115 property for public uses without just compensation;
- 116 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or
117 63G-2-802;
- 118 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees
119 Act;
- 120 (g) as to any action brought to obtain relief from a land use regulation that imposes a
121 substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah
122 Religious Land Use Act;
- 123 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 124 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
125 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
126 them; or
- 127 (ii) any defective or dangerous condition of a public building, structure, dam,
128 reservoir, or other public improvement;
- 129 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
130 caused by a negligent act or omission of an employee committed within the scope of
131 employment;
- 132 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a

- 133 sexual battery, as provided in Section 76-5-418, committed:
- 134 (i) against a student of a public elementary or secondary school, including a charter
135 school; and
- 136 (ii) by an employee of a public elementary or secondary school or charter school who:
- 137 (A) at the time of the sexual battery, held a position of special trust, as defined in
138 Section ~~[76-5-404.1]~~ 76-5-404.3, with respect to the student;
- 139 (B) is criminally charged in connection with the sexual battery; and
- 140 (C) the public elementary or secondary school or charter school knew or in the
141 exercise of reasonable care should have known, at the time of the employee's
142 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as
143 described in Section 53-29-202, required to register under Title 53, Chapter 29,
144 Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex
145 offender, kidnap offender, or child abuse offender would have been revealed in
146 a background check under Section 53G-11-402;
- 147 (k) as to any action brought under Section 78B-6-2303;
- 148 (l) as to any action brought to obtain relief under Title 53H, Chapter 7, Part 7, Student
149 Legal Representation;
- 150 (m) as to any action brought under Section 53-30-301; and
- 151 (n) as to any action or suit brought under Section 20A-19-301 and as to any
152 compensation or expenses awarded under Subsection 20A-19-301(5).
- 153 (3)(a) As used in this Subsection (3):
- 154 (i) "Code of conduct" means a code of conduct that:
- 155 (A) is not less stringent than a model code of conduct, created by the State Board
156 of Education, establishing a professional standard of care for preventing the
157 conduct described in Subsection (3)(a)(i)(D);
- 158 (B) is adopted by the applicable local education governing body;
- 159 (C) regulates behavior of a school employee toward a student; and
- 160 (D) includes a prohibition against any sexual conduct between an employee and a
161 student and against the employee and student sharing any sexually explicit or
162 lewd communication, image, or photograph.
- 163 (ii) "Local education agency" means:
- 164 (A) a school district;
- 165 (B) a charter school; or
- 166 (C) the Utah Schools for the Deaf and the Blind.

- 167 (iii) "Local education governing board" means:
- 168 (A) for a school district, the local school board;
- 169 (B) for a charter school, the charter school governing board; or
- 170 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 171 (iv) "Public school" means a public elementary or secondary school.
- 172 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 173 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering
- 174 the term "child" in that section to include an individual under 18 years old.
- 175 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 176 claim against a local education agency for an injury resulting from a sexual battery or
- 177 sexual abuse committed against a student of a public school by a paid employee of
- 178 the public school who is criminally charged in connection with the sexual battery or
- 179 sexual abuse, unless:
- 180 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 181 code of conduct; and
- 182 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 183 (A) provided training on the code of conduct to the employee; and
- 184 (B) required the employee to sign a statement acknowledging that the employee
- 185 has read and understands the code of conduct.
- 186 (4)(a) As used in this Subsection (4):
- 187 (i) "Institution of higher education" means the same as that term is defined in Section
- 188 53H-1-101.
- 189 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 190 institution or the Utah Board of Higher Education that:
- 191 (A) establishes a professional standard of care for preventing the conduct
- 192 described in Subsections (4)(a)(ii)(C) and (D);
- 193 (B) regulates behavior of a special trust employee toward a subordinate student;
- 194 (C) includes a prohibition against any sexual conduct between a special trust
- 195 employee and a subordinate student; and
- 196 (D) includes a prohibition against a special trust employee and subordinate student
- 197 sharing any sexually explicit or lewd communication, image, or photograph.
- 198 (iii) "Sexual battery" means the offense described in Section 76-5-418.
- 199 (iv) "Special trust employee" means an employee of an institution of higher education
- 200 who is in a position of special trust, as defined in Section [76-5-404.1] 76-5-404.3,

- 201 with a higher education student.
- 202 (v) "Subordinate student" means a student:
- 203 (A) of an institution of higher education; and
- 204 (B) whose educational opportunities could be adversely impacted by a special
- 205 trust employee.
- 206 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 207 claim for an injury resulting from a sexual battery committed against a subordinate
- 208 student by a special trust employee, unless:
- 209 (i) the institution of higher education proves that the special trust employee's
- 210 behavior that otherwise would constitute a sexual battery was:
- 211 (A) with a subordinate student who was at least 18 years old at the time of the
- 212 behavior; and
- 213 (B) with the student's consent; or
- 214 (ii)(A) at the time of the sexual battery, the institution of higher education was
- 215 subject to a policy governing behavior; and
- 216 (B) before the sexual battery occurred, the higher education institution had taken
- 217 steps to implement and enforce the policy governing behavior.

218 Section 3. Section **76-3-203.13** is amended to read:

219 **76-3-203.13 . Enhanced penalty for unlawful sexual contact with a student.**

- 220 (1) An actor convicted of a sexual offense described in Section 76-5-401.1 or 76-5-401.2
- 221 may be subject to an enhanced penalty if, at the time of the commission of the sexual
- 222 offense, the actor:
- 223 (a) was 18 years old or older;
- 224 (b) held a position of special trust as a teacher, employee, or volunteer at a school, as
- 225 that position is defined in Subsection [~~76-5-404.1(1)(a)(v)(S)~~] 76-5-404.3(1)(a)(vii)(R);
- 226 and
- 227 (c) committed the offense against an individual who at the time of the offense was
- 228 enrolled as a student at the school where the actor was employed or was acting as a
- 229 volunteer.
- 230 (2) The enhancement of a penalty described in Subsection (1) shall be an enhancement of
- 231 one classification higher than the offense of which the actor was convicted.

232 Section 4. Section **76-5-404.1** is amended to read:

233 **76-5-404.1 . Sexual abuse of a child.**

- 234 (1)(a) As used in this section:

- 235 (i) "Adult" means an individual 18 years old or older.]
- 236 (ii) (i) "Child" means an individual younger than 14 years old.
- 237 (ii) (ii) "Female breast" means the same as that term is defined in Section
- 238 76-5-401.1.
- 239 (iii) (iii) "Indecent liberties" means the same as that term is defined in Section
- 240 76-5-401.1.
- 241 (iv) "Position of special trust" means:]
- 242 (A) an adoptive parent;]
- 243 (B) an athletic manager who is an adult;]
- 244 (C) an aunt;]
- 245 (D) a babysitter;]
- 246 (E) a coach;]
- 247 (F) a cohabitant of a parent if the cohabitant is an adult;]
- 248 (G) a counselor;]
- 249 (H) a doctor or physician;]
- 250 (I) an employer;]
- 251 (J) a foster parent;]
- 252 (K) a grandparent;]
- 253 (L) a legal guardian;]
- 254 (M) a natural parent;]
- 255 (N) a recreational leader who is an adult;]
- 256 (O) a religious leader;]
- 257 (P) a sibling or a stepsibling who is an adult;]
- 258 (Q) a scout leader who is an adult;]
- 259 (R) a stepparent;]
- 260 (S) a teacher or any other individual employed by or volunteering at a public or
- 261 private elementary school or secondary school, and who is 18 years old or
- 262 older;]
- 263 (T) an instructor, professor, or teaching assistant at a public or private institution
- 264 of higher education;]
- 265 (U) an uncle;]
- 266 (V) a youth leader who is an adult; or]
- 267 (W) any individual in a position of authority, other than those individuals listed in
- 268 Subsections (1)(a)(v)(A) through (V), which enables the individual to exercise

- 269 ~~undue influence over the child.]~~
- 270 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 271 (2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor
- 272 commits sexual abuse of a child if the actor:
- 273 (i)(A) touches, whether over or under the clothing, the buttocks or pubic area of a
- 274 child;
- 275 (B) touches, whether over or under the clothing, the female breast of a child;
- 276 (C) touches the anus or genitals of a child over the clothing; or
- 277 (D) otherwise takes indecent liberties with a child whether over or under the
- 278 clothing; and
- 279 (ii) the actor's conduct is with intent to:
- 280 (A) cause substantial emotional or bodily pain to any individual; or
- 281 (B) arouse or gratify the sexual desire of any individual.
- 282 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
- 283 violation of Subsection (2)(a).
- 284 (3) A violation of Subsection (2) is a second degree felony.
- 285 (4) The offenses referred to in Subsection (2)(a) are:
- 286 (a) rape of a child, in violation of Section 76-5-402.1;
- 287 (b) object rape of a child, in violation of Section 76-5-402.3;
- 288 (c) sodomy on a child, in violation of Section 76-5-403.1; or
- 289 (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).
- 290 Section 5. Section **76-5-404.3** is amended to read:
- 291 **76-5-404.3 . Aggravated sexual abuse of a child.**
- 292 (1)(a) As used in this section:
- 293 (i) "Adult" means ~~[the same as that term is defined in Section 76-5-404.1.]~~ an
- 294 individual 18 years old or older.
- 295 (ii) "Child" means the same as that term is defined in Section 76-5-404.1.
- 296 (iii) "Coresident" means an individual who:
- 297 (A) resides or has resided in the same residence as another individual; and
- 298 (B) is not the other individual's family relation, partner, or relative.
- 299 (iv) "Family relation" means an individual who is related by blood or marriage to
- 300 another individual:
- 301 (A) as the other individual's relative; or
- 302 (B) through another type of familial relationship defined by consanguinity or

- 303 affinity to the second degree.
- 304 (v) "Parent" means an individual who:
- 305 (A) has a parent-child relationship, as defined in Section 81-5-102, with a child;
- 306 (B) is a foster parent of a child; or
- 307 (C) is a stepparent of a child.
- 308 (vi) "Partner" means an individual who:
- 309 (A) is or was a spouse of another individual;
- 310 (B) is or was living as if a spouse of another individual;
- 311 (C) has or had one or more children in common with another individual;
- 312 (D) is the biological parent of another individual's unborn minor child; or
- 313 (E) is or was in a consensual sexual relationship with another individual.
- 314 [(iii)] (vii) "Position of special trust" means~~[the same as that term is defined in~~
- 315 Section 76-5-404.1.] :
- 316 (A) an adult who resides or has resided in the same residence as a child;
- 317 (B) an adult athletic manager;
- 318 (C) a babysitter;
- 319 (D) a coach;
- 320 (E) an adult coresident of a child's parent or legal guardian;
- 321 (F) a counselor;
- 322 (G) a doctor or physician;
- 323 (H) an employer;
- 324 (I) an adult family relation of a child's parent or legal guardian;
- 325 (J) an instructor, professor, or teaching assistant at a public or private institution of
- 326 higher education;
- 327 (K) a legal guardian;
- 328 (L) a parent;
- 329 (M) an adult partner of a child's parent or legal guardian;
- 330 (N) an adult recreational leader;
- 331 (O) a relative;
- 332 (P) a religious leader;
- 333 (Q) an adult scout leader;
- 334 (R) an adult teacher or any adult who is employed by or volunteering at a public
- 335 or private elementary school or secondary school;
- 336 (S) an adult youth leader; or

337 (T) any individual in a position of authority, other than those individuals listed in
338 Subsections (1)(a)(vii)(A) through (S), that enables the individual to exercise
339 undue influence over the child.

340 (viii) "Relative" means a biological, adoptive, legal, half, foster, or step:

341 (A) aunt;

342 (B) grandparent;

343 (C) sibling who is an adult; or

344 (D) uncle.

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

346 (2) An actor commits aggravated sexual abuse of a child if, in conjunction with the offense
347 described in Subsection 76-5-404.1(2)(a), any of the following circumstances have been
348 charged and admitted or found true in the action for the offense:

349 (a) the actor committed the offense:

350 (i) by the use of a dangerous weapon;

351 (ii) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or

352 (iii) during the course of a kidnapping;

353 (b) the actor caused bodily injury or severe psychological injury to the child during or as
354 a result of the offense;

355 (c) the actor was a stranger to the child or made friends with the child for the purpose of
356 committing the offense;

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

359 (e) the actor, prior to sentencing for this offense, was previously convicted of any sexual
360 offense;

361 (f) the actor committed the same or similar sexual act upon two or more individuals at
362 the same time or during the same course of conduct;

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

367 (h) the actor occupied a position of special trust in relation to the child; or

368 (i) the actor encouraged, aided, allowed, or benefited from acts of prostitution or sexual
369 acts by the child with any other individual, sexual performance by the child before
370 any other individual, human trafficking, or human smuggling.

- 371 (3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree
372 felony punishable by a term of imprisonment of:
- 373 (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and
374 which may be for life;
- 375 (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact
376 finds that during the course of the commission of the aggravated sexual abuse of a
377 child the defendant caused serious bodily injury to another; or
- 378 (c) life without parole, if the trier of fact finds that at the time of the commission of the
379 aggravated sexual abuse of a child, the defendant was previously convicted of a
380 grievous sexual offense.
- 381 (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser
382 term than the term described in Subsection (3)(a) or (b) is in the interests of justice and
383 states the reasons for this finding on the record, the court may impose a term of
384 imprisonment of not less than:
- 385 (a) for purposes of Subsection (3)(b), 15 years and which may be for life; or
386 (b) for purposes of Subsection (3)(a) or (b):
- 387 (i) 10 years and which may be for life; or
388 (ii) six years and which may be for life.
- 389 (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under
390 Subsection (3)(c).
- 391 (6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years
392 old at the time of the offense.
- 393 (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.
- 394 Section 6. Section **76-5-406** is amended to read:
- 395 **76-5-406 . Sexual offenses against the victim without consent of victim --**
396 **Circumstances.**
- 397 (1) As used in this section:
- 398 (a) "Health professional" means an individual who is licensed or who holds the
399 individual out to be licensed, or who otherwise provides professional physical or
400 mental health services, diagnosis, treatment, or counseling, including an athletic
401 trainer, physician, osteopathic physician, physician assistant, nurse, dentist, physical
402 therapist, chiropractor, mental health therapist, social service worker, clinical social
403 worker, certified social worker, marriage and family therapist, professional
404 counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or

- 405 substance abuse counselor.
- 406 (b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized
407 member of the clergy.
- 408 (c) "To retaliate" includes threats of physical force, kidnapping, or extortion.
- 409 (2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a
410 child, object rape, attempted object rape, object rape of a child, attempted object rape of
411 a child, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted
412 sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse
413 of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child,
414 attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent
415 of the victim under any of the following circumstances:
- 416 (a) the victim expresses lack of consent through words or conduct;
- 417 (b) the actor overcomes the victim through the actual application of physical force or
418 violence;
- 419 (c) the actor is able to overcome the victim through concealment or by the element of
420 surprise;
- 421 (d)(i) the actor coerces the victim to submit by threatening to retaliate in the
422 immediate future against the victim or any other person, and the victim perceives
423 at the time that the actor has the ability to execute this threat; or
- 424 (ii) the actor coerces the victim to submit by threatening to retaliate in the future
425 against the victim or any other person, and the victim believes at the time that the
426 actor has the ability to execute this threat;
- 427 (e) the actor knows the victim is unconscious, unaware that the act is occurring, or is
428 physically unable to resist;
- 429 (f) the actor knows or reasonably should know that the victim has a mental disease or
430 defect, which renders the victim unable to:
- 431 (i) appraise the nature of the act;
- 432 (ii) resist the act;
- 433 (iii) understand the possible consequences to the victim's health or safety; or
- 434 (iv) appraise the nature of the relationship between the actor and the victim;
- 435 (g) the actor knows that the victim participates because the victim erroneously believes
436 that the actor is someone else;
- 437 (h) the actor intentionally impaired the power of the victim to appraise or control his or
438 her conduct by administering any substance without the victim's knowledge;

- 439 (i) the victim is younger than 14 years [~~of age~~] old;
- 440 (j) the victim is younger than 18 years [~~of age~~] old and at the time of the offense the actor
- 441 was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a
- 442 position of special trust in relation to the victim as defined in Section [~~76-5-404.1~~]
- 443 76-5-404.3;
- 444 (k) the victim is 14 years [~~of age~~] old or older, but younger than 18 years [~~of age~~] old, and
- 445 the actor is more than three years older than the victim and entices or coerces the
- 446 victim to submit or participate, under circumstances not amounting to the force or
- 447 threat required under Subsection (2)(b) or (d); or
- 448 (l) the actor is a health professional or religious counselor, the act is committed under
- 449 the guise of providing professional diagnosis, counseling, or treatment, and at the
- 450 time of the act the victim reasonably believed that the act was for medically or
- 451 professionally appropriate diagnosis, counseling, or treatment to the extent that
- 452 resistance by the victim could not reasonably be expected to have been manifested.
- 453 (3) Consent to any sexual act or prior consensual activity between or with any party does
- 454 not necessarily constitute consent to any other sexual act. Consent may be initially given
- 455 but may be withdrawn through words or conduct at any time prior to or during sexual
- 456 activity.

457 Section 7. Section **76-5b-204** is amended to read:

458 **76-5b-204 . Sexual extortion.**

- 459 (1)(a) As used in this section:
- 460 (i) "Adult" means an individual 18 years old or older.
- 461 (ii) "Child" means any individual under 18 years old.
- 462 (iii) "Counterfeit intimate image" means the same as that term is defined in Section
- 463 76-5b-205.
- 464 (iv) "Intimate image" means the same as that term is defined in Section 76-5b-203.
- 465 (v) "Position of special trust" means the same as that term is defined in Section [
- 466 ~~76-5-404.1~~] 76-5-404.3.
- 467 (vi) "Sexually explicit conduct" means the same as that term is defined in Section
- 468 76-5b-203.
- 469 (vii) "Simulated sexually explicit conduct" means the same as that term is defined in
- 470 Section 76-5b-203.
- 471 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 472 (2)(a) An actor commits the offense of sexual extortion if the actor:

- 473 (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
474 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
475 distribute an image, video, or other recording of any individual naked or engaged
476 in sexually explicit conduct, communicates by any means a threat:
477 (A) to the victim's person, property, or reputation; or
478 (B) to distribute an intimate image, counterfeit intimate image, or video of the
479 victim;
- 480 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
481 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
482 distribute any image, video, or other recording of any individual naked or engaged
483 in sexually explicit conduct by means of a threat:
484 (A) to the victim's person, property, or reputation; or
485 (B) to distribute an intimate image, counterfeit intimate image, or video of the
486 victim; or
- 487 (iii) with intent to obtain a thing of value from a victim communicates, by any means,
488 a threat to distribute an intimate image, counterfeit intimate image, or video of the
489 victim.
- 490 (b) An actor commits aggravated sexual extortion when, in conjunction with the offense
491 described in Subsection (2)(a), any of the following circumstances have been charged
492 and admitted or found true in the action for the offense:
- 493 (i) the victim is a child or vulnerable adult;
- 494 (ii) the offense was committed by the use of a dangerous weapon or by violence,
495 intimidation, menace, fraud, or threat of physical harm, or was committed during
496 the course of a kidnapping;
- 497 (iii) the victim suffered bodily injury or severe psychological injury during, or as a
498 result of, the offense;
- 499 (iv) the actor was a stranger to the victim, or became a friend of the victim, for the
500 purpose of committing the offense;
- 501 (v) the actor, before sentencing for the offense, was previously convicted of any
502 sexual offense;
- 503 (vi) the actor occupied a position of special trust in relation to the victim;
- 504 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
505 sexual acts by the victim with any other individual, or sexual performance by the
506 victim before any other individual, human trafficking, or human smuggling; or

507 (viii) the actor caused the penetration, however slight, of the genital or anal opening
508 of the victim by any part or parts of the human body, or by any other object.

509 (3)(a) If the actor is an adult:

510 (i) a violation of Subsection (2)(a) is a third degree felony;

511 (ii) a violation of Subsection (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in which the
512 victim is an adult is a second degree felony;

513 (iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first
514 degree felony; or

515 (iv) a violation of Subsection (2)(b) in which the victim is a child or a vulnerable
516 adult is a first degree felony.

517 (b) If the actor is a child:

518 (i) a violation of Subsection (2)(a) is a class A misdemeanor; or

519 (ii) a violation of Subsection (2)(b) is a third degree felony if there is more than a
520 two-year age gap between the actor and the victim.

521 (c) An actor commits a separate offense under this section:

522 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and

523 (ii) for each separate time the actor subjects a victim to the offense outlined
524 Subsection (2)(a).

525 (d) This section does not preclude an actor from being charged and convicted of a
526 separate criminal act if the actor commits the separate criminal act while the
527 individual violates or attempts to violate this section.

528 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
529 liability under this section related to content provided by a user of the interactive
530 computer service.

531 **Section 8. Effective Date.**

532 This bill takes effect on May 6, 2026.