



2024 UTAH CHILD ABUSE STATUTES & CHILD ABUSE REPORTING LAW

17TH EDITION
Revised August 2024

DISCLAIMER: This is merely a summary of Utah laws and is not intended to be legal advice. Please review the specific code section and/or consult with an Attorney for specific legal advice.

Please email tjdressen@agutah.gov for any corrections or additions.

Contents

SEX CRIMES OF CHILDREN (UNDER 14).....	3
SEX CRIMES OF JUVENILES	7
“Minor” (14 years but less than 16 years)	7
“16 or 17 year old”	8
SEX CRIMES INVOLVING JUVENILES (14+) AND ADULTS.....	10
MARITAL VIOLATIONS	14
PHYSICAL ABUSE CRIMES OF CHILDREN & JUVENILES.....	15
KIDNAPPING & HUMAN TRAFFICKING CRIMES.....	20
CHILD SEXUAL ABUSE MATERIAL (CSAM) & INTERNET CRIMES	24
DOMESTIC VIOLENCE	27
OTHER CRIMES.....	28
SEX OFFENDER REGISTRATION	29
Lifetime * Registration (§§77-41-106; 77-41-105(3)(c)(i)).....	29
10* year Registration (§77-41-105(3)(a))	29
CHILD ABUSE OFFENDER REGISTRATION	30
Lifetime* Registration (§77-41-106)	30
10* year Registration (§77-41-1045(3)(a))	30
AGE OF CONSENT	31
STATUTE OF LIMITATIONS	33
CHILD ABUSE REPORTING LAW	36
CRIMINAL RESPONSIBILITY.....	37

Please note: RED TEXT denotes changes from the 2024 General Legislative Session.

SEX CRIMES OF CHILDREN (UNDER 14)

Crime/Statute	Elements/Level of Offense	Important Issues
<p>Rape of a Child §76-5-402.1</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➢ Sexual intercourse or Simulated intercourse <ul style="list-style-type: none"> • Felony 1 with 25 years to life sentence; LWOP if causes serious bodily injury or prior grievous sexual offense; • For first time offenders younger than 21 the court, considering the age of the victim & interests of justice, can impose 15, 10, or 6 to life; • Prison is not mandatory if the sentencing court finds the offender was under 18 at time of offense and could have been adjudicated in juvenile court but for delayed reporting/filing. §76-3-406(2) • Attempt is 15 to life. The court may reduce the minimum mandatory in an attempt to 10, 6, or 3 to life. 	<ul style="list-style-type: none"> ▪ Sexual intercourse means touching of genitals to genitals, skin to skin, however slight. § 76-5-402.1(1)(a)(ii) ▪ Simulated intercourse means rubbing, stimulating, or attempting to stimulate an individual's genitals or pubic area by another individual's genitals or pubic area whether over or under the clothing
<p>Object Rape of Child §76-5-402.3</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➢ Penetration or touching, however slight, or masturbatory contact over or under the clothing of Genital or anal opening By any foreign object, substance, instrument, or device <i>with (specific) intent to cause substantial emotional or bodily pain to the child, OR arouse or gratify the sexual desire of any person</i> <ul style="list-style-type: none"> ▪ Felony 1 with 25 years to life sentence; LWOP if serious bodily injury or prior grievous sexual offense; ▪ For first time offenders younger than 21 the court, considering the age of the victim & interests of justice, can impose 15, 10, or 6 to life; ▪ Prison is not mandatory if the sentencing court finds the offender was under 18 at time of offense and could have been adjudicated in juvenile court but for delayed reporting/filing. §76-3-406(2) ▪ Attempt is 15 to life. The court may reduce the minimum mandatory in an attempt to 10, 6, or 3 to life. 	<ul style="list-style-type: none"> ▪ Touching of genital or anal opening, however slight. §76-5-402.3 (2)(a)(i) ▪ Unlike Object Rape, a fingering of the genital or anal opening is not Object Rape of a Child (25 to Life), rather it falls under Aggravated Sexual Abuse of a Child (15 to Life). ▪ Masturbatory contact means the stimulation or attempted stimulation of an individual's genitals or pubic area by another individual
<p>Sodomy on a Child §76-5-403.1</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➢ Any sexual act Involving the genitals or anus of the actor or the child AND The mouth or anus of either person (regardless of the sex of either participant) <ul style="list-style-type: none"> ▪ Felony 1 with 25 years to life sentence; LWOP if causes serious bodily injury or prior grievous sexual offense; ▪ For first time offenders younger than 21 the court, considering the age of the victim & interests of justice, can impose 15, 10, or 6 to life; ▪ Prison is not mandatory if the sentencing court finds the offender was under 18 at time of offense and could have been adjudicated in juvenile court but for delayed reporting/filing. §76-3-406(2) ▪ Attempt is 15 to life. The court may reduce the minimum mandatory in an attempt to 10, 6, or 3 to life. 	<ul style="list-style-type: none"> ▪ Any touching, even if accomplished through clothing, is sufficient §76-5-403.1(2)(b) ▪ Law requires proof of touching of "the anus," rather than just "the buttocks," <i>State v. Pullman</i>, 2013 UT App 168, 306 P.3d 827

<p>Sexual Abuse of Child §76-5-404.1</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➤ Touching of the anus, buttocks, pubic area, genitals, female breast, OR ➤ Otherwise takes or causes child to take indecent liberties with <i>(specific) intent</i> <p>To cause substantial emotional or bodily pain to any person, OR To arouse or gratify the sexual desire (regardless of the sex of any participant)</p> <ul style="list-style-type: none"> ▪ Felony 2 with 1 to 15 years sentence Imprisonment is mandatory § 76-5-404.1(5) (However, see aggravating circumstances below) 	<ul style="list-style-type: none"> ▪ Any touching, even if accomplished through clothing, is sufficient. 76-5-404.1(2)(a)(i) ▪ <i>State v. Whitaker</i> 2016 UT App 104 ¶14 “Circumstantial evidence has routinely been used to prove specific intent.” ▪ (i) “Indecent liberties” means: (A) the actor touching another individual’s genitals, anus, buttocks, pubic area, or female breast; (B) causing any part of an individual’s body to touch the actor’s or another’s genitals, pubic area, anus, buttocks, or female breast; (C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or (D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.
<p>Aggravated Sexual Abuse of Child §76-5-404.3</p>	<ul style="list-style-type: none"> ➤ Offender commits Sexual Abuse of a Child (see above) under any one or more of ten circumstances: <ul style="list-style-type: none"> a) use of dangerous weapon, force, duress, violence, intimidation, coercion, menace, threat of harm, or in course of a kidnapping; b) bodily injury or severe psychological injury; c) stranger to the victim or made friends with victim for purpose of committing offense; d) displayed pornography during course of offense or photographed victim in a lewd condition; e) priors; f) 2+ victims at the same time; g) 5 separate acts; h) position of special trust; i) encouraged, aided, allowed, or benefited from acts of prostitution or trafficking; or j) penetration, however slight, of the genital or anal by any part or parts of the human body other than the genitals or mouth ▪ Felony 1 with 15 to life sentence; LWOP if causes serious bodily injury or prior grievous sexual offense; attempt is 3 to life ▪ Even so, court may impose 15, 10, or 6 to life if “in the interests of justice” except in cases with a prior grievous sexual offense. ▪ Prison is mandatory 	<ul style="list-style-type: none"> ▪ “Position of special trust” means: an adoptive parent; athletic manager who is an adult; aunt; babysitter; coach; cohabitant of a parent if the cohabitant is an adult; counselor; doctor or physician; employer; foster parent; grandparent; legal guardian; natural parent; recreational leader who is an adult; religious leader; sibling or a stepsibling who is an adult; scout leader who is an adult; stepparent; teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years of age or older; an instructor, professor, or teaching assistant at a public or private institution of higher education; uncle; youth leader who is an adult; or any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child. (§76-5-404.1(1)(a)(iv)) ▪ This section provides two ways by which a person may occupy a position of special trust: either by occupying a position specifically listed or by fitting the definition of a position of special trust. <i>State v. Tanner</i>, 2009 UT App 326; see also <i>State v. Rowley</i>, 2008 UT App 233 (victim’s best friend’s father and supervising adult in the home where she frequently spent the night).

<p>Lewdness Involving Child §76-9-702.5</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➤ Causes a child to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child. ➤ <i>Intentionally or knowingly</i> does any of the following in the presence of a child: <ul style="list-style-type: none"> a) Performs an act of sexual intercourse or sodomy b) Masturbates c) Exposes genitals, female breast below top of areola, buttocks, anus, or pubic area d) In a public place, or In a private place >> Under circumstances the person should know will likely cause affront or alarm, or With the intent to arouse or gratify the sexual desire of the actor or the child e) Or any other act of lewdness ➤ <i>Intentionally or knowingly</i> does any of the following in the presence of a child with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child <ul style="list-style-type: none"> a) Simulates masturbation b) Performs an act of simulated intercourse or sodomy; c) Displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered; d) Engages in erotic touching of the actor's nude breast, regardless of the actor's sex e) Involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of simulated intercourse, sodomy, or simulated masturbation <ul style="list-style-type: none"> ▪ Class A Misdemeanor with 0 to 1 year sentence 	<ul style="list-style-type: none"> ▪ Exposure of genitals refers to at least partial nudity. <i>State v. Serpente</i>, 768 P.2d 994 (Utah App. 1989). ▪ Any other act of lewdness means an act of equal magnitude and gravity as those acts specifically set forth in the statute, namely, the exposure of genitals or private parts, masturbation, or trespassory voyeurism. <i>State v. Serpente</i>, 768 P.2d 994 (Utah App. 1989); <i>State v. Vogt</i>, 824 P.2d 455 (Utah App. 1991); <i>State v. Perry</i>, 871 P.2d 576 (Utah App. 1994). ▪ "In the presence of" includes within visual contact through an electronic device.
<p>Unlawful Kissing of a Child §76-5-416.2</p>	<p>Victim is 13 years of age or younger</p> <ul style="list-style-type: none"> ➤ <i>Intentionally or knowingly</i> kisses a child on the child's mouth AND penetrates the child's mouth with the actor's tongue ➤ Class A misdemeanor with 0 to 1 year sentence 	<ul style="list-style-type: none"> ▪ Any penetration, however slight, of the mouth by the actor's tongue is sufficient to constitute a violation

<p>Unlawful adolescent sexual activity §76-5-401.3</p>	<p>Victim and Offender are between ages of 12 and 18 and still enrolled in high school</p> <ul style="list-style-type: none"> ➤ Sexual activity under circumstances not amounting to: rape (of a child), object rape (of a child), forcible sodomy, sodomy on a child, aggravated sexual assault, sexual abuse of a child, or incest. <ul style="list-style-type: none"> ▪ See chart for offense level <table border="1" data-bbox="415 284 1207 479"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> <th>18 and still enrolled in high school</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1 (Rape)</td> <td>F1 (Rape)</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table>	AGE	12	13	14	15	16	17	18 and still enrolled in high school	12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)	13	MC	MC	MC	MB	MA	F3	F3	14	—	—	—	—	—	MB	MB	15	—	—	—	—	—	—	MB	16	—	—	—	—	—	—	—	17	—	—	—	—	—	—	—	<ul style="list-style-type: none"> ▪ Sexual activity is defined by what offenses are excluded, which are most sexual offenses. For practical purposes, this section creates a legal fiction for prosecutors to file/offer when sexual activity between youth appears to be “mutually agreed to.” The amended statute lists several factors to consider in determining whether there was a lack of agreement to the sexual activity. §76-5-401.3(4)
AGE	12	13	14	15	16	17	18 and still enrolled in high school																																																			
12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)																																																			
13	MC	MC	MC	MB	MA	F3	F3																																																			
14	—	—	—	—	—	MB	MB																																																			
15	—	—	—	—	—	—	MB																																																			
16	—	—	—	—	—	—	—																																																			
17	—	—	—	—	—	—	—																																																			
<p>Mistake of Age is not a defense §76-2-304.5(1)</p>	<p>Not a defense that person believed the victim to be 14 years or older to any crime of:</p> <ul style="list-style-type: none"> ▪ Child Kidnapping, Rape of Child, Object Rape of Child, Sodomy upon Child, (Aggravated) Sexual Abuse of Child, Unlawful Kissing of a Child, Or the attempt to do such. 	<ul style="list-style-type: none"> ▪ Amended by Chapter 140, 2024 General Session 																																																								
<p>Lack of real child is not a defense</p>	<p>Not a defense that there was no real child involved in Defendant’s commission of any crime of:</p> <ul style="list-style-type: none"> ▪ Enticing a Minor Using the Internet §76-4-401(3); ▪ Dealing in Material Harmful to a Minor §76-10-1206; ▪ Any attempt to commit: Child Kidnapping, Rape of Child, Object Rape of Child, Sodomy upon Child, (Aggravated) Sexual Abuse of Child. 	<ul style="list-style-type: none"> ▪ State v. Smith, 2022 UT App 82. 																																																								
<p>Voluntary Intoxication §76-2-306(2)</p>	<p>Voluntary intoxication is no longer a defense to offenses found in Title 76, Chapter 5, Part 4.</p>	<ul style="list-style-type: none"> ▪ Effective May 9, 2017 																																																								
<p>HIV/Hepatitis enhancement §76-3-203.12</p>	<ul style="list-style-type: none"> ➤ Violation of a crime in Title 76, Chapter 5, Part 4; ➤ Not a first degree felony; ➤ Offender had HIV, hepatitis B, or hepatitis C at time of the offense; and ➤ Offender knew of his/her status. ▪ Offense is subject to a one-step enhancement. 																																																									

SEX CRIMES OF JUVENILES

“Minor” (14 years but less than 16 years)

<p>Unlawful Sexual Activity with Minor §76-5-401</p>	<p>Victim is 14 or 15 years old</p> <ul style="list-style-type: none"> ➤ Offender is 18 or older ➤ This statute prohibits (1) sexual intercourse, (2) sodomy, or (3) penetration with object, substance, instrument, or device, including a part of the human body however slight <ul style="list-style-type: none"> ▪ Age difference between the victim and perpetrator: <ul style="list-style-type: none"> ▪ Less than 4 years older than the victim = Class B Misdemeanor with 0 to 180 days sentence ▪ 4 years or more older than the victim = Felony 3 with 0 to 5 years sentence ▪ If perpetrator can establish by a preponderance of the evidence that he/she was younger than 21 years old at the time of the offense= Class A Misdemeanor, not subject to sex offender registration 	<ul style="list-style-type: none"> ▪ Touching/Penetration <ul style="list-style-type: none"> ▪ Any sexual penetration, however slight, is sufficient, involving intercourse. § 76-5-402(2)(b) ▪ Any touching however slight, is sufficient, involving sodomy. §76-5-403.1(2)(b) ▪ If offender is under 18, refer to Unlawful adolescent sexual activity § 76-5-401.3 																																																								
<p>Sex Abuse of Minor §76-5-401.1</p>	<p>Victim is 14 or 15 years old</p> <ul style="list-style-type: none"> ➤ Offender must be 4 or more years older than victim OR hold a relationship of special trust ➤ Engages in the same type of touching similar to sexual abuse of child or forcible sexual abuse of adult <ul style="list-style-type: none"> ▪ Class A Misdemeanor with 0 to 1 year sentence ▪ F3 (0-5 years) if offender is 18 or older, held a position of special trust, and committed the offense against a victim enrolled as a student at the school where offender works (see §76-3-203.13). 	<ul style="list-style-type: none"> ▪ The person committing the offense must be 4 years or more older than the minor. <ul style="list-style-type: none"> ▪ Any touching, even if accomplished through clothing is sufficient § 76-5-401.1(2)(b) 																																																								
<p>Unlawful adolescent sexual activity §76-5-401.3</p>	<p>Victim and Offender are between ages of 12 and 18 and still enrolled in high school</p> <ul style="list-style-type: none"> ➤ Sexual activity under circumstances not amounting to: rape (of a child), object rape (of a child), forcible sodomy, sodomy on a child, aggravated sexual assault, sexual abuse of a child, incest. <ul style="list-style-type: none"> ▪ See chart for offense level <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> <th>18 and still enrolled in high school</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1 (Rape)</td> <td>F1 (Rape)</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table>	AGE	12	13	14	15	16	17	18 and still enrolled in high school	12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)	13	MC	MC	MC	MB	MA	F3	F3	14	—	—	—	—	—	MB	MB	15	—	—	—	—	—	—	MB	16	—	—	—	—	—	—	—	17	—	—	—	—	—	—	—	<ul style="list-style-type: none"> ▪ Sexual activity is defined by what offenses are excluded, which are most sexual offenses. For practical purposes, this section creates a legal fiction for prosecutors to file/offer when sexual activity between youth appears to be mutually desired and non-coercive.
AGE	12	13	14	15	16	17	18 and still enrolled in high school																																																			
12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)																																																			
13	MC	MC	MC	MB	MA	F3	F3																																																			
14	—	—	—	—	—	MB	MB																																																			
15	—	—	—	—	—	—	MB																																																			
16	—	—	—	—	—	—	—																																																			
17	—	—	—	—	—	—	—																																																			
<p>Mistake of Age is not a defense §76-2-304.5(2)</p>	<p>It is not a defense that the actor mistakenly believed the victim to be 16 years of age or older at the time of the alleged offense or was unaware of the victim’s true age for unlawful sexual activity with a minor, sexual abuse of a minor. Or the attempt to do such.</p>	<ul style="list-style-type: none"> ▪ Amended by Chapter 181, 2022 General Session 																																																								
<p>Voluntary Intoxication §76-2-306(2)</p>	<p>Voluntary intoxication is no longer a defense to offenses found in Title 76, Chapter 5, Part 4.</p>	<ul style="list-style-type: none"> ▪ Effective May 9, 2017 																																																								
<p>HIV/Hepatitis enhancement §76-3-203.12</p>	<ul style="list-style-type: none"> ➤ Violation of a crime in 76-5 Part 4; ➤ Not a first degree felony; ➤ Offender had HIV, hepatitis B, or hepatitis C at time of the offense; and ➤ Offender knew of his/her status. <ul style="list-style-type: none"> ▪ Offense is subject to a one-step enhancement. 																																																									

“16 or 17 year old”

<p>Unlawful sexual conduct with a 16- or 17-year-old §76-5-401.2</p>	<p>Victim is 16 or 17 years old</p> <ul style="list-style-type: none"> ➤ Actor is <ul style="list-style-type: none"> 7 or more years older than the victim and the person knew or reasonably should have known the age of the minor; or 10 or more years older than the victim ➤ And engaged in sexual activity: (1) sexual intercourse, (2) sodomy, or (3) object penetration by a perpetrator upon the victim <ul style="list-style-type: none"> ▪ Felony 3 with 0 to 5 years sentence ▪ Enhanced penalty if offender is 18 or older, held a position of special trust, and committed the offense against a victim enrolled as a student at the school where offender works (see §76-3-203.13). 	<ul style="list-style-type: none"> ▪ This was updated in the 2022 session by SB 123. Effective 4 May 2022 																																																								
<p>Unlawful Sexual Conduct with 16 or 17 year old (touching) §76-5-401.2</p>	<p>Victim is 16 or 17 years old</p> <ul style="list-style-type: none"> ➤ Actor is <ul style="list-style-type: none"> 7 or more years older than the victim and the person knew or reasonably should have known the age of the minor; or 10 or more years older than the victim ➤ Engages in the same type of touching similar to sexual abuse of child or forcible sexual abuse of adult (anus, buttocks, pubic area, genitals, breast (female minor), indecent liberties) <ul style="list-style-type: none"> ▪ Class A misdemeanor with 0 to 1 year sentence ▪ Enhanced penalty if offender is 18 or older, held a position of special trust, and committed the offense against a victim enrolled as a student at the school where offender works (see §76-3-203.13). 	<ul style="list-style-type: none"> ▪ This was updated in the 2022 session by SB 123. Effective 4 May 2022 																																																								
<p>Unlawful adolescent sexual activity §76-5-401.3</p>	<p>Victim and Offender are between ages of 12 and 18 and still enrolled in high school</p> <ul style="list-style-type: none"> ➤ Sexual activity under circumstances not amounting to: rape (of a child), object rape (of a child), forcible sodomy, sodomy on a child, aggravated sexual assault sexual abuse of a child, or incest, or attempt. <ul style="list-style-type: none"> ▪ See chart for offense level <table border="1" data-bbox="451 909 1228 1104"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> <th>18 and still enrolled in high school</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1 (Rape)</td> <td>F1 (Rape)</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table>	AGE	12	13	14	15	16	17	18 and still enrolled in high school	12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)	13	MC	MC	MC	MB	MA	F3	F3	14	—	—	—	—	—	MB	MB	15	—	—	—	—	—	—	MB	16	—	—	—	—	—	—	—	17	—	—	—	—	—	—	—	<ul style="list-style-type: none"> ▪ Sexual activity is defined by what offenses are excluded, which are most sexual offenses. For practical purposes, this section creates a legal fiction for prosecutors to file/offer when sexual activity between youth appears to be mutually desired and non-coercive.
AGE	12	13	14	15	16	17	18 and still enrolled in high school																																																			
12	MC	MC	MA	MA	F3	F1 (Rape)	F1 (Rape)																																																			
13	MC	MC	MC	MB	MA	F3	F3																																																			
14	—	—	—	—	—	MB	MB																																																			
15	—	—	—	—	—	—	MB																																																			
16	—	—	—	—	—	—	—																																																			
17	—	—	—	—	—	—	—																																																			
<p>Mistake of Age is not a defense §76-2-304.5(3)(4)(5)(a)(b)(c)</p>	<p>It is not a defense that the actor mistakenly believed the victim to be 18 years of age or older at the time of the alleged offense or was unaware of the victim’s true age for aggravated human trafficking, aggravated human smuggling, human trafficking of a child, Unlawful Sexual Activity with a Minor, Patronizing a Prostitute, Aggravated Exploitation of a Prostitute, or Sexual Solicitation</p>	<ul style="list-style-type: none"> ▪ Affirmative defense prior to legislative change March 22, 2013. ▪ Amended by Chapter 181, 2022 General Session 																																																								

Voluntary Intoxication §76-2-306(2)	Voluntary intoxication is no longer a defense to offenses found in Title 76, Chapter 5, Part 4.	▪ Effective May 9, 2017
HIV/Hepatitis enhancement §76-3-203.12	<ul style="list-style-type: none"> ➤ Violation of a crime in 76-5 Part 4; ➤ Not a first degree felony; ➤ Offender had HIV, hepatitis B, or hepatitis C at time of the offense; and ➤ Offender knew of his/her status. <ul style="list-style-type: none"> ▪ Offense is subject to a one-step enhancement. 	

SEX CRIMES INVOLVING JUVENILES (14+) AND ADULTS

<p>Aggravated Sexual Assault §76-5-405</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ In the course of a rape, object rape, forcible sodomy, or forcible sexual abuse <ul style="list-style-type: none"> a) Uses or threatens victim with use of a dangerous weapon b) Compels or attempts to compel submission by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person c) Is aided or abetted by one or more person <ul style="list-style-type: none"> ▪ F1, 15 years to Life; LWOP (prior grievous sexual offense) ➤ In the course of an attempted rape, attempted object rape, or attempted forcible sodomy <ul style="list-style-type: none"> a) Causes serious bodily injury to any person b) Uses or threatens the victim with the use of a dangerous weapon c) Attempts to compel submission by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person d) Is aided or abetted by one or more persons <ul style="list-style-type: none"> ▪ F1, 10 years to Life; LWOP (prior grievous sexual offense) ➤ In the course of an <i>attempted</i> forcible sexual abuse <ul style="list-style-type: none"> a) Causes serious bodily injury to any person b) Uses or threatens the victim with the use of a dangerous weapon c) Attempts to compel submission by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person d) Is aided or abetted by one or more persons <ul style="list-style-type: none"> ▪ F1, 6 years to Life; LWOP (prior grievous sexual offense) 	
<p>Rape §76-5-402</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ sexual intercourse without the consent of the victim ➤ AND the Defendant “acted with intent, knowledge or recklessness that Victim did not consent (See MUJI 2nd CR 1605) ➤ any sexual penetration, however slight ➤ Whether or not they are married <ul style="list-style-type: none"> ▪ Felony 1 with 5 years to life sentence, 15 years serious bodily harm or defendant under 18 with a prior grievous sexual offense, LWOP prior grievous sex offense 	<ul style="list-style-type: none"> ▪ Whether or not the actor is married to the victim. ▪ See §76-5-406 for what constitutes “without the consent” of the victim ▪ Penetration however slight is sufficient § 76-5-402(2)(b)

<p>Object Rape §76-5-402.2</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ Penetration or touching, however slight, of Genital or anal opening By any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals <i>with (specific) intent to</i> cause substantial emotional or bodily pain to the child, OR arouse or gratify the sexual desire of any person ➤ Without the consent of the victim ➤ AND the Defendant "acted with intent, knowledge or recklessness that Victim did not consent (See MUJI 2nd CR 1607) ➤ Acted with intent, knowledge, or recklessness that victim did not consent. <ul style="list-style-type: none"> ▪ Felony 1 with 5 years to life sentence, 15 years serious bodily harm or defendant under 18 with a prior grievous sexual offense, LWOP prior grievous sex offense 	<ul style="list-style-type: none"> ▪ Penetration however slight is sufficient § 76-5-402.2(a)(ii)
<p>Forcible Sodomy §76-5-403</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ Any sexual act Involving the genitals or anus of the actor or the child, AND the mouth or anus of either person (regardless of the sex of either participant) ➤ Without the consent of the victim ➤ AND the Defendant "acted with intent, knowledge or recklessness that Victim did not consent (See MUJI 2nd CR 1609) <p>Felony 1 with 5 years to life sentence, 15 years serious bodily harm or defendant under 18 with a prior grievous sexual offense, LWOP prior grievous sex offense</p>	<ul style="list-style-type: none"> ▪ Any touching however slight is sufficient § 76-5-403(2)b ▪ Requires skin-to-skin touching
<p>Forcible Sexual Abuse §76-5-404</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ Touching anus, buttocks, pubic area, or any part of the genitals, female breast (over or under the clothing), OR ➤ Otherwise takes or causes child to take indecent liberties <i>with (specific) intent</i> To cause substantial emotional or bodily pain to any person, OR To arouse or gratify the sexual desire (regardless of the sex of any participant) ➤ Without the consent of the victim ➤ AND the Defendant "acted with intent, knowledge or recklessness that Victim did not consent (See MUJI 2nd CR 1611) <p>Felony 2 with 1 to 15 years sentence, 15 years to life for serious bodily injury</p>	<ul style="list-style-type: none"> ▪ Conduct not amounting to rape, object rape, forcible sodomy, or attempted rape or attempted forcible sodomy. ▪ Any touching, even if accomplished through the clothing, is sufficient § 76-5-404(2)(b) ▪ The Key difference between FSA and Sexual Battery is the intent element.

<p>Sexual Battery §76-9-702.1</p>	<p>Victim is any age</p> <ul style="list-style-type: none"> ➤ Touching of the anus, buttocks, any part of the genitals, or breast of a female Under circumstances the actor knows or should know will likely cause affront or alarm to the person touched, over or under clothing <p>Class A misdemeanor</p>	<ul style="list-style-type: none"> ▪
<p>Lewdness §76-9-702</p>	<p>Victim is 14 years of age or older</p> <ul style="list-style-type: none"> ➤ Intentionally or knowingly does any of the following: <ul style="list-style-type: none"> a) Performs an act of sexual intercourse or sodomy b) Masturbates c) Exposes genitals, female breast below top of areola, buttocks, anus, or pubic area d) Any other act of lewdness ➤ In a public place, or ➤ Under circumstances the person should know will likely cause affront or alarm, or ➤ In the presence of another who is 14 years old or older <ul style="list-style-type: none"> ▪ Class B misdemeanor for 1st or 2nd time <p>F3 for registered sex offenders, 2+ previous convictions, a previous conviction and a lewdness charge</p>	<ul style="list-style-type: none"> ▪ Exposure of genitals refers to at least partial nudity. State v. Serpente, 768 P.2d 994 (Utah App. 1989). ▪ Any other act of lewdness means an act of equal magnitude and gravity as those acts specifically set forth in the statute, namely, the exposure of genitals or private parts, masturbation, or trespassory voyeurism. State v. Serpente, 768 P.2d 994 (Utah App. 1989); State v. Vogt, 824 P.2d 455 (Utah App. 1991); State v. Perry, 871 P.2d 576 (Utah App.1994). ▪ “In the presence of” includes within visual contact through an electronic device.

<p>Voyeurism §76-9-702.7</p>	<p><u>Recording image</u></p> <ul style="list-style-type: none"> ➤ Intentionally uses any type of technology to secretly or surreptitiously record, by video, photograph, or other means, an individual; ➤ To view any portion of victim's body regarding which individual has a reasonable expectation of privacy, whether or not that portion of body is covered with clothing ➤ Without knowledge or consent of victim ➤ Under circumstances in which individual has reasonable expectation of privacy <ul style="list-style-type: none"> ▪ Class A Misdemeanor ▪ Felony 3, if victim under 14 years of age OR if committed while also committing the offense of criminal trespass, lewdness, lewdness involving a child, loitering in a privacy space, OR recording an image in a "sex designated privacy space that is not designated for individuals of the actor's sex. <p><u>"Peeping Tom"</u></p> <ul style="list-style-type: none"> ➤ Views or attempts to view individual ➤ With or without instrumentality ➤ Any portion of victim's body regarding which victim has reasonable expectation of privacy, whether or not clothed ➤ Without the knowledge or consent of the individual ➤ Under circumstances in which individual has a reasonable expectation of privacy <ul style="list-style-type: none"> ▪ Class B Misdemeanor ▪ Class A Misdemeanor, if victim under 14 years of age OR if committed while also committing the offense of criminal trespass, lewdness, lewdness involving a child, loitering in a privacy space, OR recording an image in a "sex designated privacy space that is not designated for individuals of the actor's sex. 	<ul style="list-style-type: none"> • Under this statute, an individual has a reasonable expectation of privacy within a public restroom
<p>Voluntary Intoxication §76-2-306(2)</p>	<p>Voluntary intoxication is no longer a defense to offenses found in Title 76, Chapter 5, Part 4.</p>	<ul style="list-style-type: none"> ▪ Effective May 9, 2017
<p>HIV/Hepatitis enhancement §76-3-203.12</p>	<ul style="list-style-type: none"> ➤ Violation of a crime in 76-5 Part 4; ➤ Not a first degree felony; ➤ Offender had HIV, hepatitis B, or hepatitis C at time of the offense; and ➤ Offender knew of his/her status. <ul style="list-style-type: none"> ▪ Offense is subject to a one-step enhancement. 	

MARITAL VIOLATIONS

<p>Bigamy §76-7-101</p>	<ul style="list-style-type: none"> ➤ Knows or reasonably should know person has a husband or wife, or knowing that the other person has a husband or wife ➤ Person purports to marry another person <ul style="list-style-type: none"> ▪ Infraction unless otherwise listed below ▪ Felony 3 with 0 to 5 years sentence if an individual induces bigamy under false or fraudulent pretenses or by threat or coercion ▪ Felony 2 if, the individual cohabitates with another individual with whom the individual is engaged in bigamy, and, in furtherance of the cohabitation, commits criminal homicide; kidnapping, trafficking, smuggling, any sexual offense; child abuse—abandonment; abuse, neglect, or exploitation of a vulnerable adult; child abuse homicide; sexual battery; criminal nonsupport; cohabitant abuse procedures act, or criminal protective orders. 	<p>Defense if</p> <ul style="list-style-type: none"> ▪ individual ceased the practice under reasonable fear of coercion or bodily harm; ▪ the individual was a minor at the time he or she entered into a bigamous relationship and left at any point after; ▪ law enforcement discovers the individual is practicing bigamy in order to protect the safety/welfare of another individual
<p>Child bigamy §76-7-101.5</p>	<ul style="list-style-type: none"> ➤ Person 18 years or older ➤ Knowing person has a wife or husband, or knowing the person under 18 has a wife or husband, ➤ Purports to marry the person under 18, or ➤ Cohabitates with the person under 18 <ul style="list-style-type: none"> ▪ Felony 2 with 1 to 15 years sentence 	
<p>Incest §76-7-102</p>	<ul style="list-style-type: none"> ➤ Sexual intercourse when actor has knowledge of kinship ➤ Providing or making seminal fluid or human egg available ➤ Allowing insertion of seminal fluid <ul style="list-style-type: none"> ▪ Felony 3 with 0 to 5 years sentence 	<p>“Related person”</p> <ul style="list-style-type: none"> ▪ Ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, first cousin ▪ Blood relationships of the whole or half ▪ Adoptive parents and children ▪ Stepparents and stepchildren while the marriage creating the relationship exists

PHYSICAL ABUSE CRIMES OF CHILDREN & JUVENILES

<p>Child Abuse "Physical injury" §76-5-109(1)(a)(ii)</p>	<ul style="list-style-type: none"> ➤ "Injury to or condition of a child which impairs the physical condition of the child, including: <ul style="list-style-type: none"> a) a bruise or other contusion of the skin; b) a minor laceration or abrasion; c) failure to thrive or malnutrition; or d) any other condition which imperils the child's health or welfare and which is not a serious physical injury ▪ Punishment is based on intent (subsection 3) ▪ Intentionally or knowingly = Class A Misdemeanor ▪ Recklessly = Class B Misdemeanor ▪ Criminal Negligence = Class C Misdemeanor 	<ul style="list-style-type: none"> ➤ <i>bruise</i> = blunt force injury resulting in superficial discoloration due to hemorrhage of ruptured blood vessels from beneath the skin; also known as a contusion; firm swollen, tender, maybe warm <ul style="list-style-type: none"> ▪ <i>hematoma</i> = collection of blood, palpable mass inside bruise or more commonly on deep tissue or organ, clot of blood ▪ <i>ecchymosis</i> (not a bruise) = hemorrhagic spot or blotch in the skin; blood leaking into and adjacent area (i.e., black eye from blow to bridge of nose); non-tender, non-distinct margins ▪ <i>petechia</i> = multiple hemorrhagic spots, non-blanching, pin-point, non-raised, round spots caused by intradermal or sub-mucous hemorrhage ▪ <i>punctuate</i> = marked with points or dots, separated from the surrounding area by color, elevation or texture ➤ <i>contusion</i> = an injury of a part without a break in the skin ➤ <i>laceration</i> = separation of skin or other tissue by a tremendous force, producing irregular edges; act of tearing or splitting <ul style="list-style-type: none"> ▪ <i>avulsion</i> = the tearing away, forceful separation or detachment of skin; skin layer is sometimes left as a flap ▪ <i>incision</i> = cut made by a sharp instrument, clean relatively smooth, equidistance in depth ▪ <i>puncture</i> = piercing or penetrating with a pointed object or instrument, a hole ➤ <i>abrasion</i> = wearing down or rubbing away or removal of the superficial layers of skin or mucous membrane in a limited area ➤ <i>thrive</i> = to grow vigorously (Webster's Dictionary) ➤ <i>malnutrition</i> = the condition that develops when the body does not get the right amount of the vitamins, minerals, and other nutrients it needs to maintain healthy tissues and organ function; malnourished children may be short for their age, thin, listless, and have weakened immune systems ➤ any other condition which imperils the child's health or welfare: <ul style="list-style-type: none"> ▪ <i>State v. Piep</i>, 2004 UT App 7, 84 P.3d 850 (filthy house with a very foul odor, rotten and moldy food in and out of the refrigerator, a green substance running out of the refrigerator onto the floor, garbage and food on the floor, clothes everywhere, brown stains on the wall, and what appeared to be human feces lying next to a pair of pants with a brown stain on the seat). ➤ "We do not read the statutory definition as requiring some physical impact in order to imperil the child's health or welfare." <i>Provo City v. Cannon</i>, 1999 UT App 344, ¶ 11, 994 P.2d 206 (defendant held a nine-month-old infant over the railing of a third-story apartment balcony; although the infant suffered no injury and there was no physical impact, the infant was imperiled or endangered when he was suspended by his arms, many feet above the ground, for several minutes).
--	--	--

<p>Aggravated Child Abuse "Serious Physical injury" §76-5-109.2</p>	<ul style="list-style-type: none"> ➤ Any physical injury or set of injuries that: <ul style="list-style-type: none"> a) seriously impairs the child's health; b) involves physical torture; c) causes serious emotional harm to the child; or d) involves a substantial risk of death to the child. ➤ Including but not limited to the following: <ul style="list-style-type: none"> a) fracture of any bone or bones; b) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface; c) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child; d) any injury caused by use of a dangerous weapon as defined in Section 76-1-601; e) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions; f) any damage to internal organs of the body; g) any conduct toward a child that results in severe emotional harm, severe developmental delay or retardation, or severe impairment of the child's ability to function; h) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ; i) any impediment of the breathing or circulation of blood by application of pressure to the neck, throat, or chest, or by obstruction of the nose or mouth, that is likely to produce a loss of consciousness; j) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life; or k) unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain. <ul style="list-style-type: none"> ▪ Punishment based upon intent ▪ Intentionally or knowingly = Felony 2 ▪ Recklessly = Felony 3 ▪ Criminal Negligence = Class A Misdemeanor 	<ul style="list-style-type: none"> ➤ <i>burn</i> = injury to tissues caused by the contact with heat, flame, chemicals, electricity, or radiation <ul style="list-style-type: none"> ▪ <i>First degree</i> (partial-thickness burn)—a burn that affects the epidermis causing erythema (redness of the skin due to congestion of the capillaries) without blistering ▪ <i>Second degree</i> (partial-thickness burn)—show vesication (process of blistering) affecting the epidermis and the dermis ▪ <i>Third degree</i> (full-thickness burn)—show necrosis (morphological changes indicative of cell death caused by progressive enzymatic degradation) that destroys both the epidermis and the dermis ▪ <i>Fourth-degree</i> (full-thickness burn)—a burn that extends deeply into the subcutaneous tissue; it may involve muscle, fascia, or bone. ➤ Section §76-5-109(1)(a)(ii) definition of "physical injury" rather than dictionary should be used. <i>State v. Jones</i>, 735 P.2d 399, 402 (Ut Ct. App. 1987) (multiple injuries which cumulatively result in impairment of child's physical condition would sustain second-degree felony conviction though no individual act of defendant, by itself, was shown to be life-threatening).
---	---	--

<p>"Care and Custody"</p>	<ul style="list-style-type: none"> ➤ Either the actor or a person having the care or custody of the child causes or permits another to inflict physical injury is criminally responsible 	<ul style="list-style-type: none"> ➤ Care or custody of such child, means accepting responsibility for child's well being; defendant assumed a parental role in child's life, lived in household during time child's injuries were inflicted, helped feed and bathe child, and helped care for child and babysat child, when mother left the home to run errands. <i>State v Widdison</i>, 2000 UT App 185, 4 P.3d 100. ➤ Child abuse statute, which makes it a crime to inflict serious physical injury upon a child or, if a person has care or custody of such child, to cause or permit another to inflict serious physical injury upon child, does not require that caregiver or custodian have ability to control person inflicting injury; purpose of statute is to prevent child abuse both by prohibiting direct infliction of injury on child and affirmatively requiring child's caregiver to take steps to prevent another person from abusing child. <i>State v. Bluff</i>, 2002 UT 66, 52 P.3d 1210.
<p>Aggravated Murder §76-5-202</p>	<ul style="list-style-type: none"> ➤ Intentionally or knowingly causes the death of another ➤ Under following aggravating circumstances ... <ul style="list-style-type: none"> ○ Homicide committed incident to felony sex offense involving a child or child kidnapping ▪ Capital Felony (death) or Felony 1 with 25 to life or LWOP ▪ Attempt is 5 to life sentence 	
<p>Murder §76-5-203</p>	<ul style="list-style-type: none"> ➤ Actor intentionally or knowingly causes the death of another Intending to cause serious bodily injury to another, the actor commits an act clearly dangerous to human life that causes the death of another With depraved indifference to human life, the actor knowingly engages in conduct which causes death of another, OR ➤ Actor is engaged in the commission, attempted commission, or immediate flight from [a specific listed felony, which includes child abuse], and ➤ The actor acted with the intent required for the predicate offense, and ➤ The person is killed in the course of the felony <ul style="list-style-type: none"> ▪ Punishment is Felony 1 with 15 to life sentence 	<ul style="list-style-type: none"> ▪ Child dies as result of intentional or knowing infliction of serious physical injury.
<p>Child Abuse Homicide §76-5-208</p>	<ul style="list-style-type: none"> ➤ Actor causes the death of someone under age 18 and ➤ Death is a result of child abuse <ul style="list-style-type: none"> ▪ F1 if abuse is done recklessly under Subsection 76-5-109.2(3)(b) ▪ F2 if abuse is done with criminal negligence OR under circumstances not amounting to the type of child abuse homicide described in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or (c). 	<ul style="list-style-type: none"> ▪ Intent is not to kill but to cause the child abuse and the result was death.

<p>Endangerment of a child or vulnerable adult §76-5-112.5</p>	<p>Victim is under 18 years of age (or a vulnerable adult)</p> <ul style="list-style-type: none"> ➤ Actor knowingly or intentionally ➤ Causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia <ul style="list-style-type: none"> ▪ Felony 3 ▪ Felony 2, if victim actually suffers bodily injury, substantial bodily injury, or serious bodily injury ▪ Felony 1, if victim dies 	<ul style="list-style-type: none"> ▪ Affirmative defense: if controlled substance was obtained by lawful prescription and is used or possessed by the person to whom it was lawfully prescribed or in Accordance with the Utah Medical Cannabis act where the controlled substance was lawfully prescribed or recommended to. (§76-5-112.5(3)). ▪ No delinquency proceedings for minors under this statute unless the child is 15 years or older, and the child who is exposed to, inhales, etc. the substance is under 12 years old.
<p>Reckless endangerment §76-5-112</p>	<ul style="list-style-type: none"> ➤ Person recklessly engages in conduct ➤ That creates a substantial risk of death or serious bodily injury ➤ To another person <ul style="list-style-type: none"> ▪ Class A Misdemeanor is 0 to 1 year sentence 	
<p>Abuse or neglect of disabled child §76-5-110</p>	<p>Victim is a disabled child</p> <ul style="list-style-type: none"> ➤ Actor is a caretaker ➤ Intentionally, knowingly, or recklessly ➤ Abuses or neglects a child with a disability <ul style="list-style-type: none"> ▪ Felony 3 with 0 to 5 years sentence 	<ul style="list-style-type: none"> ▪ Disabled child is a person under 18 years of age and is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care. ▪ Caretaker is either: <ul style="list-style-type: none"> (i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or (ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability. ▪ Affirmative defense: treatment by spiritual means

<p>Leaving Child Unattended in Motor Vehicle §76-10-2202</p>	<p>Child means a person who is younger than 9 years old</p> <ul style="list-style-type: none"> ➤ Person intentionally, recklessly, knowingly, or with criminal negligence ➤ leaves the child in an enclosed compartment of a motor vehicle ➤ The motor vehicle is on public property or private property that is open to the general public ➤ Child is not supervised by a person who is at least 9 years old ➤ The conditions present a risk to the child of: <ul style="list-style-type: none"> a) hyperthermia; b) hypothermia; or c) dehydration <ul style="list-style-type: none"> ▪ Class C misdemeanor with 0 to 90 day sentence 	<ul style="list-style-type: none"> ▪ Including the passenger compartment, regardless of whether a door, window, or hatch is left open
<p>Child Abandonment §76-5-109.3</p>	<ul style="list-style-type: none"> ➤ Parent or legal guardian intentionally ceases to maintain physical custody of the child ➤ Intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and ➤ Intentionally fails to provide the child with food shelter or clothing, manifests an intent to permanently not resume physical custody of the child; OR for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child OR ➤ An individual encourages or causes the parent or legal guardian to violate the above elements OR an enterprise encourages, commands, induces by misrepresentation to commit the above elements 	<ul style="list-style-type: none"> ▪ The following are a defense to prosecution: intimidation, isolation, harassment, coercion, the actor's reasonable fear of bodily harm, or the reasonable actions of the actor to protect the safety and welfare of the actor or another individual

KIDNAPPING & HUMAN TRAFFICKING CRIMES

<p>Child Kidnapping §76-5-301.1</p>	<ul style="list-style-type: none"> ➤ Actor <li style="padding-left: 20px;"><i>Intentionally or knowingly</i> ➤ Without authority of law ➤ By any means and in any manner, seizes, confines, detains, or transports ➤ A child under the age of 14. ➤ Without the consent of the victim's parent or guardian, or the consent of a person acting in loco parentis <ul style="list-style-type: none"> ▪ Felony 1 with 15 to life sentence; LWOP if causes serious bodily injury or prior grievous sexual offense 	<ul style="list-style-type: none"> ▪ Section §76-5-301.1(9) expressly states "violation of Section §76-5-303 (custodial interference) is not a violation of this section."
<p>Kidnapping §76-5-301</p>	<ul style="list-style-type: none"> ➤ Actor <li style="padding-left: 20px;"><i>Intentionally or knowingly</i> ➤ Without authority of law and against the will of the victim ➤ Either: <ul style="list-style-type: none"> a) Detains or restrains the victim for any substantial period of time, b) Detains or restrains the victim in circumstances exposing the victim to risk of bodily injury, c) Holds the victim in involuntary servitude, d) Detains or restrains a minor without the consent of the minor's parent or legal guardian or the consent of a person acting in loco parentis, if the minor is 14 years of age or older but younger than 18 years of age; or e) Moves the victim any substantial distance or across a state line. ▪ Felony 2 with 1 to 15 years sentence 	<ul style="list-style-type: none"> ▪ "Against the will of the victim" includes acting without the consent of the legal guardian, caretaker, or custodian of a Individual who is a dependent adult.
<p>Parental Kidnapping §76-5-301.2</p>	<ul style="list-style-type: none"> ➤ Actor is a parent ➤ Takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child ➤ Intends to interfere with the custody of the child, and: <ul style="list-style-type: none"> a) Has never had a right to physical custody of child b) Has never been granted parent-time with the child c) Has had all rights to physical custody of the child terminated by a court, OR d) Had parent-time with the child terminated or suspended by a court. ▪ Felony 3 ▪ Felony 2 if during the course of kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state. 	<ul style="list-style-type: none"> ▪ Effective May 3, 2023

<p>Aggravated Kidnapping §76-5-302</p>	<ul style="list-style-type: none"> ➤ While in the course of committing: <ul style="list-style-type: none"> a) Unlawful Detention b) Kidnapping ➤ Actor <i>Intentionally or knowingly</i> ➤ uses, or threatens to use a dangerous weapon ➤ Holds the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct; ➤ Facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony; ➤ Hinder or delay the discovery of or reporting of a felony; ➤ Inflict bodily injury on or to terrorize the victim or another; ➤ Interfere with the performance of any governmental or political function; or ➤ Commit a sexual offense as described in Title 76, Chapter 5, Part 4. <ul style="list-style-type: none"> ▪ Felony 1 with 15 to life sentence; LWOP ▪ Felony 3 if committed in the course of unlawful detention 	<ul style="list-style-type: none"> ▪ “In the course of committing unlawful detention or kidnapping” means in the course of committing, attempting to commit, or in the immediate flight after.
<p>Custodial Interference §76-5-303</p>	<ul style="list-style-type: none"> ➤ A person entitled to visitation ➤ During a period when they are not entitled to visitation takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody of the child <i>with the intent to interfere with custody</i> OR ➤ A person entitled to custody of a child ➤ During a period when another person is entitled to visitation Takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody of the child <i>with the intent to interfere with custody</i> <ul style="list-style-type: none"> ▪ Class B Misdemeanor ▪ Class A Misdemeanor for third offense within 2 years ▪ Felony 3 if actor removes, causes the removal, or directs the removal of the child from the state. 	<ul style="list-style-type: none"> ▪ Driver License suspension is no longer a penalty.
<p>Unlawful Detention §76-5-304</p>	<ul style="list-style-type: none"> ➤ Person intentionally or knowingly ➤ Without authority of law and against the will of the victim ➤ Either detains or restrains the victim OR ➤ Coerces or exerts influence over the victim with the intent to cause the victim to remain with the actor for an unreasonable period of time under the circumstances and ➤ The actor is at least four or more years older than the victim <ul style="list-style-type: none"> ▪ Class B Misdemeanor 	<ul style="list-style-type: none"> ▪ “Against the will of the victim” includes acting without the consent of the legal guardian or custodian of a victim who is: (a) a dependent adult; or (b) a minor who is 14 or 15 years of age.

<p>Human Trafficking §76-5-308(1)</p>	<ul style="list-style-type: none"> ➤ Actor recruits, harbors, transports, obtains, patronizes, or solicits an individual for labor through the use of force, fraud, or coercion, which may include: <ul style="list-style-type: none"> a) threatening serious harm to, or physical restraint against, that person or a third person; b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document; c) abusing or threatening abuse of the law or legal process against the person or a third person; d) using a condition of a person being a debtor due to a pledge of the debtor's personal services or the personal services of a person under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined; e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in a condition of servitude, that person or a third person would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or f) creating or exploiting a relationship where the person is dependent on the actor. ▪ Felony 2 with 1 to 15 years 	
<p>Human Smuggling §76-5-308.3</p>	<ul style="list-style-type: none"> ➤ Transporting or procuring the transportation for one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not: <ul style="list-style-type: none"> a) citizens of the United States; b) permanent resident aliens; or c) otherwise lawfully in this state or entitled to be in this state. ▪ Felony 2 with 0 to 5 years 	<ul style="list-style-type: none"> ▪ This offense is a separate offense from any other crime committed in relationship to the commission of this offense.
<p>Human Trafficking of a Child §76-5-308.5</p>	<ul style="list-style-type: none"> ➤ Recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor <ul style="list-style-type: none"> Human trafficking of a child for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308. Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display as described in Section 76-5-308.1. "Commercial sexual activity with a child" - any sexual act with a child, on account of which anything of value is given or received by any person ▪ Felony 1 with 15 to life sentence 	<ul style="list-style-type: none"> ➤ Human trafficking of a child for forced labor includes labor in industrial facilities, sweatshops, households, agricultural enterprises, or any other workplace.
<p>Aggravated Human Trafficking §76-5-310</p>	<ul style="list-style-type: none"> ➤ In the course of committing a human trafficking for forced labor or for forced sexual exploitation ➤ the offense: <ul style="list-style-type: none"> a) results in the death of the trafficked or smuggled person; b) results in serious bodily injury of the trafficked or smuggled person; c) involves rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy on a child, aggravated sexual abuse of a child, aggravated sexual assault; d) involves 10 or more victims; or e) involves a victim who is trafficked for longer than 30 consecutive days. ▪ Felony 1 with 15 to life sentence 	<ul style="list-style-type: none"> ▪ Aggravated human trafficking is a separate offense from any other crime committed in relationship to the commission of the offense.

<p>Aggravated Human Smuggling §76-5-310.1</p>	<ul style="list-style-type: none"> ➤ Commits agg. human smuggling and any human being whom the person engages in smuggling is <ul style="list-style-type: none"> a) a child; and not accompanied by a family member who is 18 years of age or older b) results in death c) results in serious bodily injury d) involves smuggling 10 or more e) involves rape/of child, object rape/of child, forcible sodomy/of child, aggravated sexual abuse (assault)/of child ▪ Felony 1 with 1 to 15 years 	<ul style="list-style-type: none"> ▪ Aggravated human smuggling is a separate offense from any other crime committed in relationship to the offense.
---	--	---

CHILD SEXUAL ABUSE MATERIAL (CSAM) & INTERNET CRIMES

<p>Sexual Exploitation of Minor (Child Sexual Abuse Material) §76-5b-201</p>	<p>Victim is under 18 years of age</p> <ul style="list-style-type: none"> ➤ Knowingly possess, or view child sexual abuse material; <ul style="list-style-type: none"> ▪ Felony 2 with 1 to 15 years sentence ▪ Separate offense for each minor depicted, and for each time the same minor is depicted in different material ▪ In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required. ➤ Affirmative Defenses: <ul style="list-style-type: none"> ▪ Defendant did not solicit the child sexual abuse material from the minor depicted: ▪ Defendant is not more than two years older than the minor, AND ▪ Defendant removes/destroys the child sexual abuse material at the request of law enforcement, AND ▪ The child sexual abuse material does not depict any sexual offense in 76-5-4. 	<p>“Child sexual abuse material” is defined as</p> <ul style="list-style-type: none"> ➤ Any visual depiction, including video ➤ Minor engaging in “sexually explicit conduct” OR ➤ Artificially generated and depicts an individual with substantial characteristics of a minor engaging in sexually explicit conduct ➤ Sexually explicit conduct is defined as: <ul style="list-style-type: none"> ▪ Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal ▪ Masturbation ▪ Bestiality ▪ Sadistic or masochistic activities ▪ Lascivious depiction of genitals, pubic region, buttock, or female breast ▪ Nudity or partial nudity for purpose of cause sexual arousal ▪ Fondling of genitals, pubic region, buttocks, or female breast ▪ Explicit representation of the defecation or urination functions <p>Practical Note: most child sexual abuse material prosecution is prepubescent children unless the pubescent minor is available to testify about his or her age at the time of the depiction</p> <p>CSAM restricts who and where these materials may be viewed, copied, duplicated, or distributed when in law enforcement possession. § 77-44-201</p>
<p>Aggravated Sexual Exploitation of Minor (Child Sexual Abuse Material) §76-5b-201.1</p>	<p>Victim is under 14 years of age or prepubescent;</p> <ul style="list-style-type: none"> ➤ Defendant is 18 years of age or older; ➤ Knowingly produces or distributes child sexual abuse material; or, ➤ Intentionally distributes child sexual abuse material ➤ Minor’s parent or guardian who knowingly consents to or permits minor to be sexually exploited <ul style="list-style-type: none"> ▪ Felony 1 ▪ If Defendant is under 18 years of age – Felony 2 ▪ If victim is older than 14 or is pubescent – Felony 2 ▪ If Defendant is under 18 years of age – Felony 2 ▪ Separate offense for each minor depicted, and for each time the same minor is depicted in different material ➤ Affirmative Defenses: <ul style="list-style-type: none"> ▪ No minor actually depicted (No longer a defense) 	

<p>Sexual extortion §76-5b-204(2)</p>	<ul style="list-style-type: none"> ➤ Actor is 18 or older ➤ Has intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, and ➤ communicates a threat to the victim's person, property, or reputation; or to distribute an intimate image or video of the victim; OR ➤ Knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat. <ul style="list-style-type: none"> ▪ Felony 3 with 0 to 5 years sentence (MA when Actor is a child) 	
<p>Aggravated sexual extortion §76-5b-204(2)(b)</p>	<ul style="list-style-type: none"> ➤ Actor commits sexual extortion (above) and any of the following circumstances occur: <ol style="list-style-type: none"> a) Victim is a child or vulnerable adult; b) Offense was committed by use of a dangerous weapon, or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed in course of a kidnapping; c) Caused bodily injury or severe psychological injury; d) Actor was a stranger to victim; e) Prior conviction; f) Position of special trust; g) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling, or; h) Penetration of the genital or anal opening <ul style="list-style-type: none"> ▪ Felony 2 with 1 to 15 years sentence when Victim is adult ▪ F1 if victim is a child or vulnerable adult ▪ F3 if Actor is a child and there is more than a 2-year age gap between them and the victim 	
<p>Distributing Pornographic Material §76-10-1204</p>	<ul style="list-style-type: none"> ➤ Person intentionally or knowingly ➤ Sends or brings any pornographic material into the state with intent to distribute or exhibit it to others; ➤ Prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others; ➤ Distributes or offers to distribute, or exhibits or offers to exhibit any pornographic material to others; ➤ Writes, creates, or solicits the publication or advertising of pornographic material; ➤ Promotes the distribution or exhibition of material the person represents to be pornographic; or ➤ Presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion of the performance which makes it pornographic. <ul style="list-style-type: none"> ▪ Felony 3 with 0 to 5 years sentence, mandatory minimum fine of \$1,000 plus \$10 for each article exhibited up to the maximum allowed by law, and; incarceration, without suspension of sentence in any way, for a term of not less than 30 days ▪ MA for Actor who is 16 or 17 ▪ MB for Actor who is 15 or younger 	<p>Definition of Pornography §76-10-1203(1) Materials which:</p> <ul style="list-style-type: none"> ▪ Average person, applying contemporary <i>community standards</i>, would find it <i>appeals to prurient interest in sex</i> ▪ <i>Patently offensive</i> in the description or depiction of nudity, sexual conduct, sexual excitement, sado-masochistic abuse, or excretion ▪ Taken as a whole does <i>not have serious</i> literary, artistic, political, or scientific <i>value</i>

<p>Dealing in material harmful to a minor §76-10-1206</p>	<ul style="list-style-type: none"> ➤ Knowing or believing that a person is a minor, or having failed to determine age intentionally ➤ Distributes/exhibits or offers to distribute/ exhibit to a minor any material harmful to minors ➤ Produces, performs, or directs any performance before a minor that is harmful to minors ➤ Participates in any performance before a minor that is harmful to minors <ul style="list-style-type: none"> ▪ Felony 3 if committed by a person 18 years of age or older, and mandatory fine of \$1,000 plus \$10 for each article exhibited and a minimum of 14 days jail ▪ Class A misdemeanor, if committed by a person 18 years of age or older committed against a minor 16 or 17 years of age if the person is less than seven years older than the minor at the time of defense. ▪ Class B misdemeanor if committed by a person younger than 16 years of age ▪ One level felony enhancement, fine and mandatory jail enhancement for each subsequent offense 	<p>Definition of Material Harmful to a Minor 76-10-1201(5)(a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:</p> <ul style="list-style-type: none"> ▪ Appeals to the <i>prurient interest in sex of minors</i> ▪ <i>Patently offensive</i> to prevailing standards in adult community with respect to what is suitable for minors ▪ Does not have <i>serious value for minors</i>
<p>Indecent Public Displays Prohibitions §76-10-1228</p>	<ul style="list-style-type: none"> ➤ Willfully or knowingly ➤ Sells, lends, gives, advertises, or distributes or possess with intent or to offer for sale or commercial distribution To a minor Any material with A "description or depiction of illicit sex or sexual immorality," or a "nude or partially denuded figure" ➤ Publicly displays at an establishment frequented by minors, or where minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, picket book, pamphlet, or magazine the cover or content of which: Exploits, is devoted to, or is principally made up of one or more descriptions or depictions of illicit sex or sexual immorality, or Consists of one or more pictures of nude or partially denuded figures. <ul style="list-style-type: none"> ▪ Class A misdemeanor with 0 to 1 year sentence, minimum mandatory fine not less than \$500 and without suspension of sentence in any way for a term of not less than 30 days 	<p>Definitions for Indecent Public Displays (§76-10-1227)</p> <p>"Description or depiction of illicit sex or sexual immorality"</p> <ul style="list-style-type: none"> ▪ Human genitals in a state of sexual arousal ▪ Acts of masturbation, sexual intercourse, sodomy ▪ Erotic touching of genitals or pubic region ▪ Erotic touching of buttocks or female breast <p>"Nude or partially denuded figure"</p> <ul style="list-style-type: none"> ▪ Less than completely and opaquely covered genitals, pubic region, buttock, female breast below top of areola ▪ Male genitals in turgid state, even if covered <p>Exceptions to nude or partially denuded figure definition</p> <ul style="list-style-type: none"> ▪ Any material which, when taken as a whole, has serious value for minors ▪ Serious value means having serious literary, artistic, political, or scientific value for minors
<p>Accessing Porn/Indecent Material on School Property §76-10-1235</p>	<ul style="list-style-type: none"> ➤ Willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property <ul style="list-style-type: none"> ▪ Class B misdemeanor ▪ Class A misdemeanor if person is 18 years or older 	<p>"Pornographic or indecent material" means:</p> <ul style="list-style-type: none"> ▪ Pornographic Material ▪ Material Harmful to Minor ▪ Description or depiction of illicit sex or sexual immorality, or a nude or partially denuded figure
<p>Enticing a Minor §76-4-401</p>	<p>Victim is under the age of 18</p> <ul style="list-style-type: none"> ➤ Actor knowingly uses the any electronic communication or electronic communication device To solicit, seduce, lure, or entice a minor, or the attempt to do so That the actor believes to be a minor To engage in any sexual activity which is a violation of state criminal law ➤ Develops a relationship of trust with the minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice, or attempt to do so, the minor to engage in sexual activity that is a violation of state criminal law. <ul style="list-style-type: none"> ▪ It is one degree less the sexual activity offense for which the actor is enticing the minor ▪ Enticement for a 1st degree offense becomes a 1st degree offense 3 years to life for a second or subsequent conviction of enticement. 	<ul style="list-style-type: none"> ▪ Developing relationship of trust prong was effective May 3, 2023.

DOMESTIC VIOLENCE

<p>Stalking §76-5-106.5</p>	<p>Violation of Stalking Injunction:</p> <ul style="list-style-type: none"> ➤ Person intentionally or knowingly ➤ Violates a prior stalking injunction ➤ That has been properly served <p>Stalking (conduct)</p> <ul style="list-style-type: none"> ➤ Person intentionally or knowingly ➤ Engages in a course of conduct ➤ Directed at a specific person ➤ Knows or is reckless as to whether the course of conduct would cause a reasonable person: <ul style="list-style-type: none"> ▪ To fear for the person's own safety or the safety of a third person OR ▪ To suffer other emotional distress <p>Violation of Stalking Injunction:</p> <ul style="list-style-type: none"> ➤ Person intentionally or knowingly ➤ Violates a prior stalking injunction ➤ That has been properly served <ul style="list-style-type: none"> ▪ Class A misdemeanor for 1st offense or violation of stalking injunction ▪ Felony 3, for 2nd offense, has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking, actor was previously convicted of a felony crime involving same victim or victim's immediate family, violated a permanent criminal stalking injunction, or has been or is at the time of the offense a cohabitant of the victim. ▪ Felony 2, for 3rd offense or other previous convictions, used dangerous weapon, or used means or force likely to produce death or serious bodily injury 	<ul style="list-style-type: none"> ▪ "Course of conduct" means two or more acts directed at or toward a specific person, including: <ul style="list-style-type: none"> (i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property: <ul style="list-style-type: none"> (A) directly, indirectly, or through any third party; and (B) by any action, method, device, or means; or (ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts: <ul style="list-style-type: none"> (A) approaches or confronts a person; (B) appears at the person's workplace or contacts the person's employer or coworkers; (C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person; (D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person; (E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or (F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.
<p>Protective Order Violation §76-5-108</p>	<ul style="list-style-type: none"> ➤ Valid protective order, child protective order, ex parte protective order, or ex parte child protective order, or foreign protection order ➤ Person intentionally or knowingly ➤ Violates that order after having been properly served <ul style="list-style-type: none"> ▪ Class A Misdemeanor with sentence of 0 to 1 year sentence 	
<p>Domestic violence in the presence of child 76-5-114</p>	<p>Victim is under 18 years old</p> <ul style="list-style-type: none"> ➤ Actor commits domestic violence ➤ In the presence of a child <ul style="list-style-type: none"> ▪ Class B Misdemeanor ▪ Felony 3 if domestic violence against cohabitant involves dangerous weapon, intentional serious bodily injury or death (or attempt to cause death) 	<ul style="list-style-type: none"> ▪ Domestic violence is defined under §77-36-1 ▪ "In the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. ▪ This crime is separate and distinct from underlying domestic violence crime. ▪ May charge counts for each child present where the victim is the cohabitant. Either or both charges may be filed by the prosecutor.

OTHER CRIMES

<p>Unlawful Sale or Supply of Alcohol to Minors §32B-4-403</p>	<ul style="list-style-type: none"> ➤ A person may not sell, offer for sale, or furnish an alcoholic product to a minor <ul style="list-style-type: none"> ▪ Punishment is based on intent ▪ Intentionally or knowingly = Class A Misdemeanor ▪ (Simple) negligently or recklessly = Class B Misdemeanor 	<ul style="list-style-type: none"> ▪ This section does not apply to the furnishing of an alcoholic product to a minor in accordance with this title: <ul style="list-style-type: none"> (a) for medicinal purposes by: <ul style="list-style-type: none"> (i) the parent or guardian of the minor; or (ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or (b) as part of a religious organization's religious services. (§32B-4-403(3))
<p>Providing Tobacco to Minors §76-10-104</p>	<ul style="list-style-type: none"> ➤ Person knowingly, intentionally, recklessly, or with criminal negligence ➤ Provides a tobacco product, an electronic cigarette product, or a nicotine product ➤ To any person under 21 years of age <ul style="list-style-type: none"> ▪ 1st offense = Class C Misdemeanor ▪ 2nd offense = Class B Misdemeanor ▪ 3rd + offense = Class A Misdemeanor 	
<p>Contributing to Delinquency of Minor §76-4-206</p>	<p>Victim is under the age of 18</p> <ul style="list-style-type: none"> ➤ Any adult who commits any act or engages in any conduct which he knows or should know would have the effect of causing or encouraging ➤ A minor to commit an act which would be a misdemeanor or infraction <ul style="list-style-type: none"> ▪ Class B Misdemeanor 	<ul style="list-style-type: none"> ▪ Does not require that the minor be found to be delinquent or to have committed a delinquent act.
<p>Criminal Solicitation of A Minor §76-4-205</p>	<ul style="list-style-type: none"> ➤ With the intent that a felony or class A misdemeanor offense be committed: ➤ The actor solicits (ask, command, encourage, importune, offer to hire, or request) ➤ a minor to engage in specific conduct that would cause the minor to be a party to the commission of a felony or class A misdemeanor offense ● Offense level is same as level of offense being solicited by the actor 	<ul style="list-style-type: none"> ▪ Does not require the minor to agree to the act, commit the act, or even take a substantial step toward committing the act
<p>Jail Release Orders § 78B-7-802</p>	<ul style="list-style-type: none"> ➤ An actor gets booked into jail for "domestic violence" or other "qualifying offense" ➤ The actor may not personally contact the victim. <ul style="list-style-type: none"> ▪ Class B Misdemeanor 	<ul style="list-style-type: none"> ▪ Expanded in 2017 to encompass any offenses against a child or vulnerable adult, as well as all sex offenses. ▪ Order expires on midnight on the day after the actor's initial court appearance.
<p>Human Trafficking Safe Harbor § 78B-9-104(g)</p>	<ul style="list-style-type: none"> ➤ A victim of human trafficking commits drug, (aiding in) prostitution, trespass, theft, forgery, retail theft, unlawful possession of another's identification documents, lewdness, or sexual solicitation crimes. ➤ The victim was subject to force, fraud, or coercion in committing these crimes. ➤ The Court may vacate any victim's convictions under these circumstances. 	<ul style="list-style-type: none"> ▪ This 2017 law change provides a safe harbor and defense for human trafficking victims charged with this potpourri of charges.

SEX OFFENDER REGISTRATION

Lifetime * Registration (§§77-41-106; 77-41-105(3)(c)(i))

Kidnapping Offenses (§77-41-102(11)):

- Child kidnapping (attempt/solicitation/conspiring to commit) (§76-5-301.1) after July 1, 2006 and except if the offender is a natural parent of the victim
- Aggravated kidnapping (§76-5-302) after May 5, 2008 and except if the offender is a natural parent of the victim or attempting, soliciting, or conspiring to commit

Sex Offenses (§77-41-102(19)):

- Rape (attempt/solicitation/conspiring to commit) (§76-5-402) after July 1, 2006
- Rape of Child* (attempt/solicitation/conspiring to commit) (§76-5-402.1) after July 1, 2006
- Object Rape (attempt/solicitation/conspiring to commit) (§76-5-402.2) after July 1, 2006
- Object Rape of Child* (attempt/solicitation/conspiring to commit) (§76-5-402.3) after May 1, 2001
- Forcible Sodomy (§76-5-403) after May 1, 2001
- Sodomy upon Child* (attempt/solicitation/conspiring to commit) (§76-5-403.1) after May 1, 2001
- Sexual Abuse of Child* (§76-5-404.1) after July 1, 2006
- Aggravated Sexual Abuse of Child (attempt/solicitation/conspiring to commit) (§76-5-404.1) after July 1, 2006
- Aggravated Sexual Assault (attempt/solicitation/conspiring to commit) (§76-5-405) after May 1, 2001 (Felony)
- (Felony) Enticement of Minor (§76-4-401) after July 1, 2007
- Sexual Exploitation of Minor (§76-5b-201) after July 1, 2006
- Aggravated Exploitation of Prostitution (§76-10-1306) after May 10, 2011
- Human trafficking for sexual exploitation (§76-5-308)
- Human trafficking of a child for sexual exploitation (§76-5-308.5)
- Aggravated human trafficking for sexual exploitation (§76-5-310)
- Human trafficking of a vulnerable adult for sexual exploitation (§76-5-311)
- Aggravated sexual exploitation of a minor (§76-5b-201.1)
- Aggravated sexual extortion (§76-5b-204(2)(b))
- A felony violation of enticing a minor under (§76-4-401) if the offender enticed a minor to engage in sexual activity that is one of the offenses listed above

*Person under 21 years of age in cases that do not involve force or coercion are subject to 10-

year registration, not lifetime (see §77-41-105)

10* year Registration (§77-41-105(3)(a))

Kidnapping Offenses (§77-41-102(11)):

- Kidnapping (§76-5-301) (2)(c) or (2)(d) after May 11, 2010* or attempting, soliciting, or conspiring to commit
- Human trafficking for labor (§76-5-308)
- Human smuggling (§76-5-308 and §76-5-308.3)
- Human trafficking of a child for labor (§76-5-308.5)
- Human trafficking of a vulnerable adult for labor (§76-5-311)
- Aggravated Human Trafficking (§76-5-310)
- Aggravated human smuggling (§76-5-310.1)

Or attempting, soliciting, or conspiring to commit:

Sex Offenses (§77-41-102(19)):

- Aggravated Human Trafficking (§76-5-310)
- (Class A) Enticement of Minor (§76-4-401)
- Sexual Exploitation of Vulnerable Adult (§76-5b-202) after May 10, 2011
- Unlawful Sexual Activity with a Minor (§76-5-401)*
- Sexual Abuse of a Minor (§76-5-401.1)
- Unlawful Sexual conduct with 16 or 17 year old (§76-5-401.2)*
- Forcible Sexual Abuse (§76-5-404)
- Custodial Sexual Relations—only with a person under 18 (§76-5-412) after May 10, 2011
- Incest (§76-7-102) (lifetime if convicted between 7/1/06 and 5/5/08)
- Lewdness (4th conviction) (§76-9-702) after May 12, 2009
- Sexual Battery (4th conviction) (§76-9-702.1) after May 12, 2009
- Lewdness Involving a Child (§76-9-702.5)
- Voyeurism (felony or Class A) (§76-9-702.7)
- Custodial sexual relations (§76-5-412)
- Sexual extortion (§76-5b-204)

Or attempting, soliciting, or conspiring to commit:

Any 2 separate offences from above = lifetime registration

* Person may seek for early removal from registry after 5 years under certain conditions (see §77-44-112)

CHILD ABUSE OFFENDER REGISTRATION

Lifetime* Registration (§77-41-106)

Child Abuse Offenses:

- Committing, OR attempting, soliciting, or conspiring to commit aggravated child abuse under 76-5-109.2(3)(a) or (b) IF:
- at the time of conviction the offender has previously been convicted of a registerable offense or has previously been required to register as a sex offender, kidnap offender or child abuse offender for an offense committed as a juvenile

10* year Registration (§77-41-102(1))

Child Abuse Offenses:

- Committing, OR attempting, soliciting, or conspiring to commit aggravated child abuse under 76-5-109.2(3)(a) or (b)

AGE OF CONSENT

In the state of Utah *children under the age of 14 cannot consent to any sexual activity under any circumstance, except for Unlawful Adolescent Sexual Activity (§76-5-401.3)*

Juveniles 14 and 15 years old cannot consent to sexual intercourse, oral/anal sex or penetration *under any circumstances*, and sexual touching with a *person 7 or more years older*.

Juveniles 16 and 17 years old cannot consent to any sexual activity with a *person 10 years or more older (and a person 7 years to 9 years older if the person knew or should have known the victim's age)*.

Utah Code Section 76-5-406, outlines what constitution "without the consent" of the victim as follows:

- (1) the victim expresses lack of consent through words or conduct;
- (2) the actor overcomes the victim through the actual application of physical force or violence;
- (3) the actor is able to overcome the victim through concealment or by the element of surprise;
- (4) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;
- (5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;
- (6) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to: appraise the nature of the act; resist the act; understand the possible consequences to the victim's health or safety; or appraise the nature of the relationship between the actor and the victim.
- (7) the actor knows that the victim participates because the victim erroneously believes that the actor is someone else;
- (8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;
- (9) the victim is younger than 14 years of age;
- (10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;
- (11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or
- (12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):
 - (a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and
 - (b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

UTAH AGE OF CONSENT LAWS

Age	Sexual Intercourse	Oral/Anal Sexual Activity	Vaginal/Anal Penetration	Fondling/Sexual Touching																																																																																																																																																																																																				
16-17*	Cannot consent to person 10+ years older (7+ if knew victim's age) Penalty: 3 rd Degree Felony U.C.A. (§76-5-401.2(2)(b)(i))	Cannot consent to person 10+ years older (7+ if knew victim's age) Penalty: 3 rd Degree Felony U.C.A. (§76-5-401.2(2)(b)(ii))	Cannot consent to person 10+ years older (7+ if knew victim's age) Penalty: 3 rd Degree Felony U.C.A. (§76-5-401.2(2)(b)(iii))	Cannot consent to person 10+ years older (7+ if knew victim's age) Penalty: Class A Misdemeanor U.C.A. (§76-5-401.2(2)(b)(iv))																																																																																																																																																																																																				
14-15*	Never can consent to adult Penalty: 3 rd Degree Felony (unless <4 yrs age difference, then Class B Misdemeanor) U.C.A. (§76-5-401(2)(a)(i))	Never can consent to adult Penalty: 3 rd Degree Felony (unless <4 yrs age difference, then Class B Misdemeanor) U.C.A. (§76-5-401(2)(a)(ii))	Never can consent to adult Penalty: 3 rd Degree Felony (unless <4 yrs age difference, then Class B Misdemeanor) U.C.A. (§76-5-401(2)(a)(iii))	Cannot consent to person 4+ years older Penalty: Class A Misdemeanor U.C.A. (§76-5-401.1)																																																																																																																																																																																																				
<14*	Never can consent to adult Penalty: 1 st Degree Felony if non-consensual <table style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table> U.C.A. (§76-5-402.1)	AGE	12	13	14	15	16	17	12	MC	MC	MA	MA	F3	F1	13	MC	MC	MC	MB	MA	F3	14	—	—	—	—	—	MB	15	—	—	—	—	—	—	16	—	—	—	—	—	—	17	—	—	—	—	—	—	Never can consent to adult Penalty: 1 st Degree Felony if non-consensual <table style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table> U.C.A. (§76-5-403.1)	AGE	12	13	14	15	16	17	12	MC	MC	MA	MA	F3	F1	13	MC	MC	MC	MB	MA	F3	14	—	—	—	—	—	MB	15	—	—	—	—	—	—	16	—	—	—	—	—	—	17	—	—	—	—	—	—	Never can consent to adult Penalty: 1 st Degree Felony if non-consensual <table style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table> U.C.A. (§76-5-402.3) U.C.A. (§76-5-404.1)	AGE	12	13	14	15	16	17	12	MC	MC	MA	MA	F3	F1	13	MC	MC	MC	MB	MA	F3	14	—	—	—	—	—	MB	15	—	—	—	—	—	—	16	—	—	—	—	—	—	17	—	—	—	—	—	—	Never can consent to adult Penalty: 2 nd Degree Felony if non-consensual (1 st depending upon aggravating factors) <table style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>AGE</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17</th> </tr> </thead> <tbody> <tr> <td>12</td> <td>MC</td> <td>MC</td> <td>MA</td> <td>MA</td> <td>F3</td> <td>F1</td> </tr> <tr> <td>13</td> <td>MC</td> <td>MC</td> <td>MC</td> <td>MB</td> <td>MA</td> <td>F3</td> </tr> <tr> <td>14</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>MB</td> </tr> <tr> <td>15</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>16</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> <tr> <td>17</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> <td>—</td> </tr> </tbody> </table> U.C.A. (§76-5-404.1)	AGE	12	13	14	15	16	17	12	MC	MC	MA	MA	F3	F1	13	MC	MC	MC	MB	MA	F3	14	—	—	—	—	—	MB	15	—	—	—	—	—	—	16	—	—	—	—	—	—	17	—	—	—	—	—	—
AGE	12	13	14	15	16	17																																																																																																																																																																																																		
12	MC	MC	MA	MA	F3	F1																																																																																																																																																																																																		
13	MC	MC	MC	MB	MA	F3																																																																																																																																																																																																		
14	—	—	—	—	—	MB																																																																																																																																																																																																		
15	—	—	—	—	—	—																																																																																																																																																																																																		
16	—	—	—	—	—	—																																																																																																																																																																																																		
17	—	—	—	—	—	—																																																																																																																																																																																																		
AGE	12	13	14	15	16	17																																																																																																																																																																																																		
12	MC	MC	MA	MA	F3	F1																																																																																																																																																																																																		
13	MC	MC	MC	MB	MA	F3																																																																																																																																																																																																		
14	—	—	—	—	—	MB																																																																																																																																																																																																		
15	—	—	—	—	—	—																																																																																																																																																																																																		
16	—	—	—	—	—	—																																																																																																																																																																																																		
17	—	—	—	—	—	—																																																																																																																																																																																																		
AGE	12	13	14	15	16	17																																																																																																																																																																																																		
12	MC	MC	MA	MA	F3	F1																																																																																																																																																																																																		
13	MC	MC	MC	MB	MA	F3																																																																																																																																																																																																		
14	—	—	—	—	—	MB																																																																																																																																																																																																		
15	—	—	—	—	—	—																																																																																																																																																																																																		
16	—	—	—	—	—	—																																																																																																																																																																																																		
17	—	—	—	—	—	—																																																																																																																																																																																																		
AGE	12	13	14	15	16	17																																																																																																																																																																																																		
12	MC	MC	MA	MA	F3	F1																																																																																																																																																																																																		
13	MC	MC	MC	MB	MA	F3																																																																																																																																																																																																		
14	—	—	—	—	—	MB																																																																																																																																																																																																		
15	—	—	—	—	—	—																																																																																																																																																																																																		
16	—	—	—	—	—	—																																																																																																																																																																																																		
17	—	—	—	—	—	—																																																																																																																																																																																																		

* There is no lawful defense to that the person did not know or was mistaken about the victim being under the age of 16; partial defense under 16-17. See U.C.A. 76-2-304.5

WITHOUT CONSENT OF VICTIM**

Age	Sexual Intercourse	Oral/Anal Sexual Activity	Vaginal/Anal Penetration	Fondling/Sexual Touching
14+	Rape Penalty: 1 st Degree Felony U.C.A. (§76-5-402)	Forcible Sodomy Penalty: 1 st Degree Felony U.C.A. (§76-5-403)	Object Rape Penalty: 1 st Degree Felony U.C.A. (§76-5-402.2)	Forcible Sexual Abuse Penalty: 2 nd Degree Felony U.C.A. (§76-5-404)

* Regardless of the victim's age, sexual activity is without the consent of the victim under the circumstances listed in U. C. A. (§76-5-406)

* The victim need not resist any more than the victim's age and strength of body and mind make it reasonable for the victim to resist under the circumstances. It is not necessary that it be shown that the victim engaged in any heroics or that she otherwise risked the assailant's brutality or infliction of serious wounds or injuries. *State v. Lovato*, 702 P.2d 101, 109 (Utah 1985)

* It is not necessary to show that the victim physically resisted, attempted escape or suffered or risked serious wounds or injury. A verbal refusal to engage in intercourse, such as the victim saying "no" to the actor, is sufficient by itself to establish lack of consent. A person does not surrender the right to refuse sexual intimacy by accepting another's company, or by encouraging or accepting romantic overtures. *State v. Herzog*, 610 P.2d 1281, 1283 (Utah 1980)

STATUTE OF LIMITATIONS

U.C.A. §76-1-301 and §76-1-302

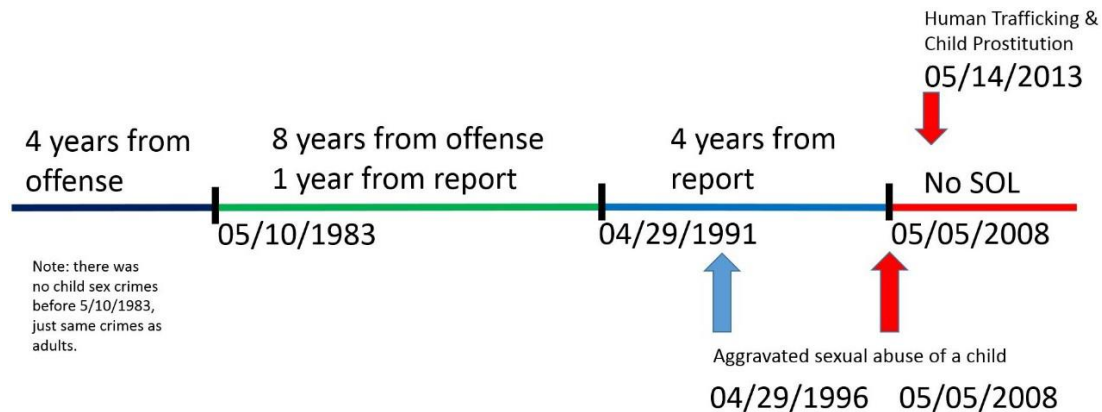
SOL For Adult Sex Crimes - Summary

Rape - Object rape - Forcible sodomy - Aggravated sexual assault



SOL For Child Sex Crimes - Summary

Rape of a child - Object rape of a child - Sodomy upon a child - Sexual abuse of a child



STATUTE OF LIMITATIONS, CONTINUED.

- “Because statutes of limitation are procedural in nature, a legislative amendment enlarging a limitations period may be applied retroactively to crimes committed before the amendment where the limitations defense has not accrued to the defendant before the amendment becomes effective.” *State v. Lusk*, 2001 UT 102, ¶28, 37 P.3d 110 (citations omitted). However, “once the statute of limitations has run on a crime committed, precluding prosecution of the crime, it is forever barred and a defendant’s vested right to rely on that limitations defense cannot be eliminated by subsequent legislative action.” 2001 UT 102 at ¶30.
- Before 1983, the Utah Criminal Code did not specifically proscribe any sexual acts against children. The (adult) rape and sodomy crimes were covered by the four-year catchall statute of limitations. See UCA § 76-1-302(1)(a) (1978).
- In 1983 created sexual crimes against children, including “sexual abuse of child” but not “aggravated sexual abuse of child.” “In conjunction with the enactment of that section, the legislature created a new statute of limitations to apply to the crime of sexual abuse of a child. This statute of limitations allowed prosecution of the crime within one year after the report of the offense to law enforcement, so long as the prosecution was commenced within eight years after the alleged commission of the offense.” *State v. Lusk*, 2001 UT 102, ¶14, 37 P.3d 1103.
- In 1991 the eight-year limitation period was changed on child sex crimes to anytime “within four years after the report of the offense to a law enforcement agency.” UCA § 76-1-303(3) (1991), HB 32, 1991 Utah Laws, ch. 175, §2 (Effective April 29, 1991). “This amendment removed the date of the offense as the landmark for calculating the rape of a child limitations period and replaced it with a date-of-report reference point. In this case, the amendment has the effect of rendering [the child’s] conception date irrelevant to the statute of limitations analysis.” *State v. Green*, 2005 UT 9, ¶18, 108 P.3d 710.
- Finally, in 1996, the Utah Legislature amended section 76-1-303.5 to specifically enumerate aggravated sexual abuse of a child in the list of crimes to which the four years after report statute of limitations was applicable. *Id.* § 76-1-303.5 (1996). HB 242, 1996 Utah Laws, ch. 137, §1 (Effective April 29, 1996).
- On May 5, 2008, Felony 1 sex crimes (adult and children) there is no bar for the statute of limitations. “The 2008 enactment enlarging the limitations period retroactively applied to the crimes [defendant] committed before 2008. Because that 2008 enactment, codified in section 301, permitted the State to commence a prosecution for rape of a child or aggravated sexual abuse of a child ‘at any time,’ the applicable statute of limitations did not bar the charges brought against [defendant] in 2010.” *Lucero v. State*, 2016 UT App 50, ¶12, 369 P.3d 46.
- As a general rule, the SOL in a criminal case begins to run when the offense is committed and is tolled by the filing of an indictment or criminal information. See UCA § 76-1-302(4). However, “[t]he period of limitation does not run against any defendant during any period of time in which the defendant is out of the state following the commission of an offense.” UCA § 76-1-304(1).
- SOL for Felony Unlawful Sexual Activity with a Minor is 10 years from the time the victim reaches the age of 18. (76-1-301.1)
- **Any infraction shall be commenced within one year after it is committed**
- **A misdemeanor other than negligent homicide shall be commenced within two years after it is committed.**
- **Unlawful sexual activity with a minor: 10 yrs from the time the victim reaches the age of 18**

- Notwithstanding any other provisions of this code, prosecution for the following offenses may be **commenced at any time**: child abuse homicide; aggravated kidnapping; child kidnapping; rape; rape of a child; object rape; object rape of a child; forcible sodomy; sodomy on a child; sexual abuse of a child; aggravated sexual abuse of a child; aggravated sexual assault; aggravated human trafficking or aggravated human smuggling in violation of Section 76-5-310; aggravated exploitation of prostitution involving a child, under Section 76-10-1306; or human trafficking of a child, under Section 76-5-308.5.
- **DNA at any time** when suspect is unknown for: Aggravated child abuse, DV in the presence of a child, abuse or neglect of a child with a disability, abuse or exploitation of a vulnerable adult, endangerment of a child or vulnerable adult, kidnapping, child kidnapping, and aggravated kidnapping, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy on a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated sexual assault, sexual exploitation of a minor, aggravated sexual exploitation of a minor, sexual exploitation of a vulnerable adult

CHILD ABUSE REPORTING LAW

U.C.A. §80-2-602

(1) Except as provided in Subsection (3), if a person including an individual licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been subjected to abuse or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately report the suspected abuse or neglect to the division or to nearest peace officer or law enforcement agency.

Cross reporting requirement between Law Enforcement and DCFS:

(2)(a)(i) If a peace officer or law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.

DCFS requirement to coordinate with Law Enforcement:

(2)(b)(i) The division shall, in addition to the division's own investigation in accordance with Section 80-2-701, coordinate with the law enforcement agency on an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect.

Law Enforcement requirement to provide final report to DCFS:

(2)(b)(ii) If a law enforcement agency undertakes an investigation of a report, they shall provide a final investigatory report to the division upon request.

Clergy reporting exemption by perpetrator to clergy:

(3) Subject to Subsection (4), the reporting requirement of Subsection (1) does not apply to a member of the clergy while functioning in the ministerial capacity and without the consent of the person making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

- **When a member of the clergy reasonably believes that a child is the subject of ongoing abuse or neglect, the member of the clergy may report the information even if the perpetrator made a confession to the member of the clergy regarding the abuse or neglect, but this has no effect on the application of privilege**

Clergy reporting requirement by victim or another to clergy:

(4)(a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report the information even if the member of the clergy also received information about the abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

Physician reporting requirement:

(5)(a) The physician-patient privilege does not excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting.

CRIMINAL RESPONSIBILITY

U.C.A. §76-2-301

A person is not criminally responsible for conduct performed before he reaches the age of 14 years. This section shall in no way limit the jurisdiction of or proceedings before the juvenile courts of this state. (§76-2-301)

The United States Supreme Court recently stated in *Miller v. Alabama*, 567 U.S.460 (2012), that mandatory sentences of life without the possibility of parole are unconstitutional for juvenile offenders. In the 2013 General Legislative Session, Senate Bill 228 provides that when a person commits a felony subject to a penalty of life without parole, the person may not be sentenced to life without parole if the person is younger than 18 years of age at the time of the offense.