



2008

UTAH CHILD ABUSE STATUTES

and

CHILD ABUSE REPORTING LAW

(5th edition)



children's
JUSTICE CENTER
SALT LAKE COUNTY

Compiled by the Salt Lake County Children's Justice Center

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for any corrections and/or additions.

TABLE OF CONTENTS

SECTION I: UTAH CHILD ABUSE STATUTES

A. SEXUAL ABUSE

First Degree Felonies:

Rape	Page 2
Rape of a Child	Page 2
Object Rape	Page 2
Object Rape of a Child	Page 2
Forcible Sodomy	Page 2
Sodomy on a Child	Page 3
Aggravated Sexual Abuse of a Child	Page 3
Aggravated Sexual Assault	Page 4

Second Degree Felonies:

Forcible Sexual Abuse	Page 4
Sexual Abuse of a Child	Page 5

Third Degree Felonies:

Unlawful Sexual Activity with a Minor	Page 5
Unlawful Sexual Conduct with a 16 or 17 Year Old	Page 5
Incest	Page 6

Class A Misdemeanors:

Sexual Abuse of a Minor	Page 6
Sexual Battery	Page 6
Lewdness Involving a Child	Page 7

Class B Misdemeanors:

Unlawful Sexual Activity with a Minor	Page 7
Lewdness	Page 8
Sodomy	Page 8

B. PHYSICAL CHILD ABUSE

First Degree Felonies:

Endangerment of a Child	Page 8
-------------------------	--------

Second Degree Felonies:

Endangerment of a Child	Page 9
Child Abuse Homicide	Page 10
Child Abuse	Page 10

Third degree Felonies:

Endangerment of a Child	Page 11
Child Abuse	Page 11
Child Abuse Homicide	Page 12

Class A Misdemeanors:

Child Abuse

Page 12

Class B Misdemeanors:

Child Abuse

Page 12

Class C Misdemeanors:

Child Abuse

Page 12

C. DOMESTIC VIOLENCE

Second Degree Felonies:

Stalking

Page 13

Third Degree Felonies:

Stalking

Page 13

Child Abuse (Commission of Domestic Violence
in the Presence of a Child)

Page 14

Class A Misdemeanors:

Stalking

Page 13

Child Abuse (Commission of Domestic Violence
in the Presence of a Child)

Page 14

Protective Orders Restraining Abuse of Another-
Violation

Page 14

D. PORNOGRAPHY AND INTERNET CRIMES

Second Degree Felony:

Enticement of a Minor

Page 15

Sexual Exploitation of a Minor

Page 16

Dealing in Material Harmful to a Minor

Page 16

Third Degree Felonies:

Dealing in Material Harmful to a Minor

Page 16

Class A Misdemeanors:

Enticement of a Minor

Page 15

Class B Misdemeanors:

Enticement of a Minor

Page 15

Class C Misdemeanors:

Enticement of a Minor

Page 15

E. OTHER CHILD RELATED OFFENSES

First Degree Felonies:

Child Kidnapping

Page 17

Aggravated Kidnapping

Page 17

Second Degree Felonies:

Kidnapping

Page 18

Third Degree Felonies:

Custodial Interference

Page 18

Class A Misdemeanors:

Custodial Interference

Page 18

Unlawful Sale or Supply (of alcohol) to Minors

Page 18

Providing Cigars, Cigarettes, or Tobacco to Minors

Page 19

Class B Misdemeanors:

Contributing to the Delinquency of a Minor

Page 19

Providing Cigars, Cigarettes, or Tobacco to Minors

Page 19

Class C Misdemeanors:

Providing Cigars, Cigarettes, or Tobacco to Minors

Page 19

SECTION II. AGE OF CONSENT

Page 20

SECTION III. STATUTE OF LIMITATIONS

Page 21

SECTION IV. CHILD ABUSE REPORTING LAW

Page 21

I. UTAH CHILD ABUSE STATUTES

A. Sexual Abuse:

Title of Offense	Degree of Offense	Utah Code Number	Description of Offense	*Minimum Mandatory Sentence
**Rape	1 ^o Felony	76-5-402.	(1) A person commits rape when the actor has sexual intercourse with another person without the victim's consent. (2) This applies whether or not the actor is married to the victim.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 5 years.
**Rape of a Child	1 ^o Felony	76-5-402.1.	A person commits rape of a child when the person has sexual intercourse with a child who is <u>under the age of 14.</u>	A person convicted of this offense: 1- May be sentenced to pay a fine not exceeding \$10,000 2- Punishable by a term of imprisonment of not less than 15 years and which may be for life.
**Object Rape	1 ^o Felony	76-5-402.2.	A person, who, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is <u>14 years of age or older,</u> by any foreign object, substance, instrument, or device, not including a part of the human body, with the intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 5 years.
**Object Rape of a Child	1 ^o Felony	76-5-402.3.	A person commits object rape of a child when the person causes the penetration, or touching, however slight, of the genital or anal opening of a child who is <u>under the age of 14</u> by any foreign object, substance, instrument, or device, not including a part of the human body, with intent to cause substantial emotional or bodily pain to the child or with the intent to arouse or gratify the sexual desire of any person.	A person convicted of this offense: 1- May be sentenced to pay a fine not exceeding \$10,000 2- Punishable by a term of imprisonment of not less than 15 years and which may be for life.
**Forcible Sodomy	1 ^o Felony	76-5-403.	A person commits forcible sodomy when the actor engages in any sexual act with a person who is <u>14 years of age or older</u> involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant, without the other's consent.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 5 years.
**Sodomy on a Child	1 ^o Felony	76-5-403.1.	A person commits sodomy upon a child if the actor engages in any sexual act upon	A person convicted of this offense:

			or with a child who is under the age of 14 , 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.	1- May be sentenced to pay a fine not exceeding \$10,000 2- Punishable by a term of imprisonment of not less than 15 years and which may be for life.
**Aggravated Sexual Abuse of a Child	1 ^o Felony	76-5-404.1.	<p>(1) A person commits aggravated sexual abuse of a child if (1) under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child younger than 14 years of age, or otherwise takes indecent liberties with a child or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant AND</p> <p>(2) any of the following circumstances have been charged and admitted or found true in the action for the offense:</p> <ul style="list-style-type: none"> (a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping; (b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense; (c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense; (d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense; (e) the accused, prior to sentencing for this offense, was previously convicted of any felony, or of a misdemeanor involving a sexual offense; (f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct; (g) the accused committed, in Utah, or elsewhere, more than five separate acts, which if committed in Utah, would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense; (h) the offense was committed by a person who occupied a position of special trust in relation to the victim; “position of special trust” means 	<p>A person convicted of this offense:</p> <p>1- May be sentenced to pay a fine not exceeding \$10,000</p> <p>2- Punishable by a term of imprisonment of not less than 15 years and which may be for life.</p>
Aggravated Sexual				

Abuse of a Child cont'd.			<p>that position occupied by a person in a position of authority, who, by reason of that position is able to exercise undue influence over the victim, and includes, but is not limited to, a youth leader or recreational leader who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, employer, foster parent, baby-sitter, adult scout leader, natural parent, stepparent, adoptive parent, legal guardian, grandparent, aunt, uncle, or adult cohabitant of a parent;</p> <p>(i) the accused encouraged, aided, allowed, or benefited from acts of prostitution or sexual acts by the victim with any other person, or sexual performance by the victim before any other person, or;</p> <p>(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.</p>	
**Aggravated Sexual Assault	1 ^o Felony	76-5-405.	<p>(1) A person commits aggravated sexual assault if in the course of a rape or attempted rape, object rape or attempted object rape, forcible sodomy or attempted forcible sodomy, or forcible sexual abuse or attempted forcible sexual abuse the actor:</p> <p>a) causes bodily injury to the victim;</p> <p>b) uses or threatens the victim with use of a dangerous weapon as defined in Section 76-1-601;</p> <p>c) compels, or attempts to compel, the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnapping, death, or serious bodily injury to be inflicted imminently on any person, or;</p> <p>d) is aided or abetted by one or more persons.</p>	<p>A person convicted of this offense:</p> <p>1- May be sentenced to pay a fine not exceeding \$10,000</p> <p>2- Punishable by a term of imprisonment of not less than 15 years and which may be for life.</p>
**Forcible Sexual Abuse	2 ^o Felony	76-5-404.	<p>A person commits forcible sexual abuse if the victim is <u>14 years of age or older</u> and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another, or causes another to take indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, without the consent of the other, regardless of the sex of any participant.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.</p>

<p>**Sexual Abuse of a Child</p>	<p>2^o Felony</p>	<p>76-5-404.1.</p>	<p>A person commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female child younger than 14 years of age, or otherwise takes indecent liberties with a child, or causes a child to take indecent liberties with the actor or another with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, without the consent of the other, regardless of the sex of any participant.</p>	<p>A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.</p>
<p>**Unlawful Sexual Activity with a Minor</p>	<p>3^o Felony</p>	<p>76-5-401.</p>	<p>(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time of the sexual activity described in this section occurred. (2) A person commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, object rape, forcible sodomy, or aggravated sexual assault the actor: a) has sexual intercourse with the minor; b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant. (3) A violation of Subsection (2) is a third degree felony unless The defendant is 4 or more years older than the minor at the time the sexual activity occurred, in which case it is a class B misdemeanor.</p>	<p>A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.</p>
<p>**Unlawful Sexual Conduct with a 16 or 17 Year old</p>	<p>3^o Felony</p>	<p>76-5-401.2.</p>	<p>1) For purposes of this section "minor" is a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual conduct described in this section occurred. (2) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to rape, object rape, forcible sodomy, aggravated sexual assault, the actor who is ten or more years older than the minor at the time of the sexual conduct: a) has sexual intercourse with the minor; b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or c) causes the penetration, however</p>	<p>A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.</p>

Unlawful Sexual Conduct with a 16 or 17 Year old Cont'd.			slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant.	
**Incest	3 ^o Felony	76-7-102.	A person is guilty of incest, when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, he has sexual intercourse with a person whom he knows to be an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin. The relationship referred to herein include blood relationships of the whole or half blood without regard to legitimacy, relationship of parent and child by adoption and relationship of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years
**Sexual Abuse of a Minor	Class A Mis-demeanor	76-5-401.1.	1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age , at the time of the sexual activity described in this section occurred. (2) A person commits sexual abuse of a minor if the person is seven years or more older than the minor and, under circumstances not amounting to rape, object rape, forcible sodomy, aggravated sexual assault, unlawful sexual activity with a minor, or an attempt to commit any of those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor, or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a minor to take indecent liberties with another, or causes another to take indecent liberties with the actor or another person, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.
Sexual Battery	Class A Mis-demeanor	76-9-702.	A person is guilty of sexual battery if the person under circumstances not amounting to rape, rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated sexual assault, or an attempt to commit any of these offenses intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.

<p>**Lewdness Involving a Child</p>	<p>Class A Mis-demeanor</p>	<p>76-9-702.5.</p>	<p>A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of these offenses intentionally or knowingly does any of the following to, or in the presence of, a child who is <u>under 14 years of age</u>:</p> <ul style="list-style-type: none"> a) performs an act of sexual intercourse or sodomy; b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area in a public place or 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); c) masturbates d) under circumstances not amounting to sexual exploitation of a child, Section 76-5a-3, causes a child <u>under the age of 14</u> 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, or; e) performs any other act of lewdness. 	<p>A person convicted of this offense may be sentenced to:</p> <ul style="list-style-type: none"> 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.
<p>**Unlawful Sexual Activity with a Minor</p>	<p>Class B Mis-demeanor</p>	<p>76-5-401.</p>	<p>1) For purposes of this section "minor" is a person who is <u>14 years of age or older, but younger than 16 years of age</u>, at the time of the sexual activity described in this section occurred. (2) A person commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, object rape, forcible sodomy, or aggravated sexual assault the actor:</p> <ul style="list-style-type: none"> a) has sexual intercourse with the minor; b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to arouse or gratify the sexual desire of any person regardless of the sex of any participant. <p>3) The defendant establishes by a preponderance of the evidence the mitigating factor that the <u>defendant is less than four years older than the minor</u> at the time the sexual activity occurred.</p>	<p>A person convicted of this offense may be sentenced to:</p> <ul style="list-style-type: none"> 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months.

Lewdness	Class B Mis-demeanor	76-9-702.	A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older: a) an act of sexual intercourse or sodomy; b) exposes his or genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area; c) masturbates; d) any other act of lewdness.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months.
Sodomy	Class B Mis-demeanor	76-5-403.	A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months.

B. Physical Child Abuse:

Title of Offense	Degree of Offense	Utah Code Number	Description of Offense	*Minimum Mandatory Sentence
Endangerment of a Child	1 ^o Felony	76-5-112.5	(1) For purposes of this section: a) "chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment. b) "Child" means the same as that term is defined in Subsection 76-5-109 (1)(a). c) "Controlled substance" means the same as that term is defined in Section 58-37-2. d) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3. (2) Unless a greater penalty is otherwise provided by law, any person who knowingly or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Subsection (1), and the exposure,	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 5 years.

Endangerment of a Child Cont'd.			<p>ingestion, inhalation, or contact results in the death of the child is guilty of a <u>felony of the first degree</u>.</p> <p>(3) (a) It is an affirmative defense to a violation of this section that a controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.</p> <p>(b) As used in this Subsection (3), "prescription" has the same definition as in Section 58-37-2.</p>	
Endangerment of a Child	2 ^o Felony	76-5-112.5	<p>(1) For purposes of this section:</p> <p>(a) "chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment.</p> <p>(b) "Child" means the same as that term is defined in Subsection 76-5-109 (1)(a).</p> <p>(c) "Controlled substance" means the same as that term is defined in Section 58-37-2.</p> <p>(d) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.</p> <p>(2) Unless a greater penalty is otherwise provided by law, any person who knowingly or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Subsection (1), and child actually suffers bodily injury, substantial bodily injury, or serious bodily injury by exposure to, ingestion of, inhalation of, or contact with a controlled substance, chemical substance, or drug paraphernalia is guilty of a <u>felony of the second degree</u>.</p> <p>(3) (a) It is an affirmative defense to a violation of this section that a controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.</p> <p>(b) As used in this Subsection (3), "prescription" has the same definition as in Section 58-37-2.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.</p>

Child Abuse Homicide	2 ^o Felony	76-5-208.	<p>(1) Criminal homicide constitutes child abuse homicide if the actor causes the death of a person under 18 years of age and the death results from child abuse, as defined in Subsection 76-5-109(1).</p> <p>(2) The act is done recklessly.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.</p>
Child Abuse	2 ^o Felony	76-5-109.	<p>(1) As used in this section:</p> <p>a) "Child" means a human being who is under 18 years of age.</p> <p>b) "Child abuse" means any offense involving serious physical injury or physical injury to a child, or any offense described in Subsection 76-5-109.1, Commission of Domestic Violence in the Presence of a Child.</p> <p>c) "Serious physical injury" means any injury or set of injuries which seriously impairs the child's health, or which involves physical torture or causes serious emotional harm to the child, or which involves a substantial risk of death to the child, including:</p> <p>i) fracture of any bone or bones;</p> <p>ii) 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;</p> <p>iii) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;</p> <p>iv) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;</p> <p>v) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;</p> <p>vi) any damage to internal organs of the body;</p> <p>vii) any conduct toward a child which results in severe emotional harm, severe developmental delay or retardation, or severe impairment of the child's ability to function;</p> <p>viii) any injury which creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;</p> <p>ix) any conduct which causes a child to cease breathing, even if resuscitation is successful following the conduct;</p> <p>x) any conduct which results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.</p>

Child Abuse Cont'd.			<p>(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child and it is done intentionally or knowingly is guilty of second degree felony child abuse.</p> <p>A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be deemed to have committed an offense under this section.</p> <p>A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guarding would believe to be in the best interest of the child.</p>	
Endangerment of a Child	3 ^o Felony	76-5-112.5	<p>(1) For purposes of this section:</p> <p>(a) "chemical substance" means a substance intended to be used as a precursor in the manufacture of a controlled substance, or any other chemical intended to be used in the manufacture of a controlled substance. Intent under this subsection may be demonstrated by the substance's use, quantity, manner of storage, or proximity to other precursors, or to manufacturing equipment.</p> <p>(b) "Child" means the same as that term is defined in Subsection 76-5-109 (1)(a).</p> <p>(c) "Controlled substance" means the same as that term is defined in Section 58-37-2.</p> <p>(d) "Drug paraphernalia" means the same as that term is defined in section 58-37a-3.</p> <p>(2) Unless a greater penalty is otherwise provided by law, any person who knowingly or intentionally causes or permits a child to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia as defined in Subsection (1), is guilty of a third degree felony.</p> <p>(3) (a) It is an affirmative defense to a violation of this section that a controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.</p> <p>(b) As used in this Subsection (3), "prescription" has the same definition as in Section 58-37-2.</p>	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.
Child Abuse	3 ^o Felony	76-5-109.	Any person who inflicts serious physical injury or, having the care or custody of such child, causes or permits another to	A person convicted may be sentenced

Child Abuse Cont'd			inflict serious physical injury upon a child, and if the act is done recklessly is guilty of <u>third degree felony</u> child abuse.	1- To pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.
Child Abuse Homicide	3 ^o Felony	76-5-208.	(1) Criminal homicide constitutes child abuse homicide if the actor is causes the death of a person under 18 years of age and the death results from child abuse, as defined in Subsection 76-5-109(1). (2) The act is done with criminal negligence , or (3) the act is done with the mental culpability as described in Subsection 76-5-109(3)(a), (b), or (c).	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.
Child Abuse	Class A Mis- demeanor	76-5-109.	Any person who inflicts upon a child serious physical injury or, if having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child and, if done with criminal negligence , is guilty of a <u>class A misdemeanor</u> .	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.
Child Abuse	Class A Mis- demeanor	76-5-109.	(1) As used in this section: a) “Physical injury” means an injury to or condition of a child which impairs the physical condition of the child, including: i) a bruise or contusion of the skin; ii) a minor laceration or abrasion; iii) failure to thrive or malnutrition; or iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(d). (2) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child, if done intentionally or knowingly is guilty of a <u>class A misdemeanor</u> .	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.
Child Abuse	Class B Mis- demeanor	76-5-109.	Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child, if done recklessly , is guilty of a <u>class B misdemeanor</u> .	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months.
Child Abuse	Class C Mis- demeanor	76-5-109.	Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child, if done with criminal negligence , is guilty of a <u>class C misdemeanor</u> .	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$750 2- Imprisonment for a term not exceeding 90 days.

C. Domestic Violence:

Title of Offense	Degree of Offense	Utah Code Number	Description of Offense	*Minimum Mandatory Sentence
Stalking	2 ^o Felony; 3 ^o Felony; or Class A Mis-demeanor	76-5-106.5.	<p>(1) A person is guilty of stalking who:</p> <p>(a) intentionally or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person:</p> <p>(i) to fear bodily injury to himself or a member of his immediate family; or</p> <p>(ii) to suffer emotional distress to himself or a member of his immediate family;</p> <p>(b) has knowledge or should have knowledge that the specific person:</p> <p>(i) will be placed in reasonable fear of bodily injury to himself or a member of his immediate family; or</p> <p>(ii) will suffer emotional distress or a member of his immediate family will suffer emotional distress; and</p> <p>(c) whose conduct:</p> <p>(i) induces fear in the specific person of bodily injury to himself or a member of his immediate family; or</p> <p>(ii) causes emotional distress in the specific person or a member of his immediate family.</p> <p>(2) A person is also guilty of stalking who intentionally or knowingly violates a stalking injunction issued pursuant to title 77, Chapter 3a, Stalking Injunctions, or intentionally or knowingly violates a permanent criminal stalking injunction issued pursuant to this section.</p> <p>(3) Stalking is a class A misdemeanor:</p> <p>(a) upon the offender's first violation of subsection (2); or</p> <p>(b) if the offender violated a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions.</p> <p>(4) Stalking is a third degree felony if the offender:</p> <p>(a) has been previously convicted of an offense of stalking;</p> <p>(b) has been convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;</p> <p>(c) has been previously convicted of a felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking or a member of the victim's immediate family was also a victim of the previous felony offense; or</p> <p>(d) violated a permanent criminal stalking injunction.</p> <p>(5) Stalking is a felony of the second</p>	<p>2^o Felony: A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years</p> <p>3^o Felony: A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$5,000</p> <p>2- Imprisonment for an indeterminate term not to exceed 5 years.</p> <p>Class A Misdemeanor: A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$2,500</p> <p>2- Imprisonment for a term not exceeding 1 year.</p>

Stalking Cont'd			<p>degree if the offender:</p> <ul style="list-style-type: none"> (a) used a dangerous weapon as defined in Section 76-1-601 or used other means of force likely to produce death or serious bodily injury, in the commission of the crime of stalking; (b) has been previously convicted two or more times of the offense of stalking; (c) has been convicted two or more times in another jurisdiction or jurisdiction of offenses that are substantially similar to the offense of stalking; (d) has been convicted two or more times, in any combination, of offenses under Subsection (4); or (e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses. 	
Child Abuse (Commission of Domestic Violence in the Presence of a Child)	3 ^o Felony	76-5-109.1.	<p>(1) As used in this section:</p> <ul style="list-style-type: none"> (a) "Cohabitant" has the same meaning as defined in Section 30-6-1. (b) "Domestic Violence" has the same meaning as in Section 77-36-1. (c) "In the presence of a child" means: <ul style="list-style-type: none"> (i) in the physical presence of a child; or, (ii) having knowledge that a child is present and may see or hear an act of domestic violence. <p>(2) A person is guilty of Child Abuse if he:</p> <ul style="list-style-type: none"> (a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a cohabitant in the presence of a child; or (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon, as defined in Section 76-1-601, or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or (see below) 	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years.
Child Abuse (Commission of Domestic Violence in the Presence of a Child)	Class B Misdemeanor	76-5-109.1.	<ul style="list-style-type: none"> (c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), (see above) commits an act of domestic violence in the presence of a child. <p>(3) A charge under this section is separate, and distinct from, and is in addition to, a charge of domestic violence where the victim is a cohabitant. Either or both charges may be filed by the prosecutor.</p>	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.
Protective orders restraining abuse of another – Violation	Class A Misdemeanor	76-5-108.	(1) Any person who is the respondent or defendant subject to a protective order or ex parte protective order issued under Title 30, Chapter 6, Cohabitant Abuse Act, or Title 78, Chapter 3a, Juvenile Court Act of 1996, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or a foreign protective order as described in	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year.

Protective Order Violation Cont'd			Section 30-6-12, who intentionally or knowingly violates that order after having been properly served, is guilty of a <u>class A misdemeanor</u> , except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act. (2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.	
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D. Pornography and Internet Crime:

Title of Offense	Degree of Offense	Utah Code Number	Description of Offense	*Minimum Mandatory Sentence
**Enticement of a Minor	2 ^o Felony; 3 ^o Felony; Class A; Class B; <u>or</u> Class C Mis-demeanor	76-4-401	(1) A person commits enticement of a minor over the Internet when the person knowingly uses a computer to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice a minor or a person the defendant believes to be a minor to engage in any sexual activity which is a violation of state criminal law. (2) It is not a defense to the crime of enticing a minor under Subsection (1), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is working with a law enforcement agency was involved in the detection or investigation of the offense. (3) An enticement of a minor under Subsection (1) with the intent to commit: (a) a first degree felony is a second degree felony; (b) a second degree felony is a third degree felony; (c) a third degree felony is a class A misdemeanor; (d) a class A misdemeanor is a class B misdemeanor; (e) a class B misdemeanor is a class C misdemeanor.	2^o Felony: A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years 3^o Felony: A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$5,000 2- Imprisonment for an indeterminate term not to exceed 5 years. Class A Misdemeanor: A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year. Class B Misdemeanor: A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months. Class C Misdemeanor: A person convicted of this offense may be sentenced to: 1- Pay a fine, not

				exceeding \$750 2- Imprisonment for a term not exceeding 90 days.
**Sexual Exploitation of a Minor	2 ^o Felony	76-5a-3.	<p>(1) A person is guilty of sexual exploitation of a minor:</p> <p>(a) when the person knowingly produces, distributes, possessed, or possesses with intent to distribute, child pornography; or,</p> <p>(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits that minor to be sexually exploited under Subsection (1)(a).</p> <p>(2) Sexual exploitation of a minor is a <u>felony of the second degree</u>.</p> <p>(3) It is a separate offense under this section:</p> <p>(a) for each minor depicted, and if more than one minor is depicted in the child pornography in violation of this section, the depiction of each individual minor in the child pornography is a separate offense; and</p> <p>(b) each time the same minor is depicted in different child pornography.</p> <p>(4) It is an affirmative defense to a charge of violating this section that no person under 18 years of age was actually depicted in the visual depiction or used in producing or advertising the visual depiction.</p>	A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$10,000 2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years.
Dealing in Material Harmful to a Minor	2 ^o Felony <u>or</u> 3 ^o Felony	76-10-1206.	<p>(1) A person is guilty of dealing in material harmful to minors when, knowing that a person is a minor, or having failed to exercise reasonable care in ascertaining the proper age of a minor, he:</p> <p>(a) intentionally distributes or offers to distribute, exhibits or offers to exhibit to a minor any material harmful to minors;</p> <p>(b) intentionally produces, presents, or directs any performance before a minor, that is harmful to minors; or</p> <p>(c) intentionally participates in any performance before a minor, that is harmful to minors.</p> <p>(2) Each separate offense under this section is a <u>third degree felony</u>. This section supersedes Section 77-18-1.</p> <p>(3) If a defendant has already been convicted once under this section, each separate further offense is a <u>second degree felony</u>. This section supersedes Section 77-18-1.</p>	<p>2^o Felony: Punishable by a minimum mandatory fine of not less than \$5,000 plus \$10 for each article exhibited up to the maximum allowed by law and by incarceration, without suspension of sentence in any way, for a term of not less than one year.</p> <p>3^o Felony Punishable by a minimum mandatory fine of not less than \$300 plus \$10 for each article exhibited up to the maximum allowed by law and by incarceration, without suspension of sentence in any way, for a term not less than 14 days.</p>

E. Other Child Related Offenses:

Title of Offense	Degree of Offense	Utah Code Number	Description of Offense	*Minimum Mandatory Sentence
**Child Kidnapping	1 ^o Felony	76-5-301.1.	<p>(1) An actor commits child kidnapping if the actor intentionally or knowingly, without authority of law and by any means and in any manner, seizes, confines, detains, or transports a child under the age of 14 without consent of the victim's parent or guardian, or the consent of a person acting in loco parentis.</p> <p>(2) Violation of Section 76-5-303 is not a violation of this section.</p>	<p>A person convicted of this offense:</p> <p>1- May be sentenced to pay a fine not exceeding \$10,000</p> <p>2- Mandatory imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life.</p>
Aggravated Kidnapping	1 ^o Felony	76-5-302.	<p>(1) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:</p> <ul style="list-style-type: none"> (a) possesses, uses or threatens to use a dangerous weapon as defined in Section 76-1-601; or (b) acts with intent: <ul style="list-style-type: none"> (i) to hold 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; (ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony; (iii) to hinder or delay the discovery of or reporting of a felony; (iv) to inflict bodily injury on or to terrorize the victim of another; (v) to interfere with the performance of any government or political function; or (vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses. <p>(2) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:</p> <ul style="list-style-type: none"> (a) Section 76-5-301, kidnapping; or (b) Section 76-5-304, unlawful detention. 	<p>A person convicted of this offense:</p> <p>1- May be sentenced to pay a fine not exceeding \$10,000</p> <p>2- Mandatory imprisonment for an indeterminate term of not less than 6, 10, or 15 years and which may be for life.</p>
Kidnapping	2 ^o Felony	76-5-301.	<p>(1) An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of the</p>	<p>A person convicted of this offense may be sentenced to:</p>

			<p>victim:</p> <p>(a) detains or restrains the victim for any substantial period of time;</p> <p>(b) detains or restrains the victim in circumstances exposing the victim to risk of bodily injury;</p> <p>(c) holds the victim in involuntary servitude;</p> <p>(d) detains or restrains a minor without the consent of a 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</p> <p>(e) moves the victim any substantial distance or across a state line.</p> <p>(2) As used in this section, acting "against the will of the victim" includes acting without the consent of the legal guardian or custodian of a victim who is a mentally incompetent person.</p>	<p>1- Pay a fine, not exceeding \$10,000</p> <p>2- Imprisonment for an indeterminate term of not less than 1 year nor more than 15 years</p>
Custodial Interference	3 ^o Felony	76-5-303.	<p>(1) A person, whether a parent or other, is guilty of custodial interference if, without good cause, the actor takes, entices, conceals, or detains a child under the age of 16 from its parent, guardian, or other lawful custodian:</p> <p>(a) knowing the actor has no legal right to do so; and</p> <p>(b) with intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.</p> <p>(2) A person, whether the parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of 16 pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause the actor conceals or detains the child with intent to deprive the other person of lawful visitation or custody rights.</p> <p>(3) The child is removed and taken from one state to another.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$5,000</p> <p>2- Imprisonment for an indeterminate term not to exceed 5 years.</p>
Custodial Interference	Class A Mis-demeanor	76-5-303.	<p>Same explanation as noted above with the exception that the child remains in the same state.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$2,500</p> <p>2- Imprisonment for a term not exceeding 1 year.</p>
Unlawful Sale or Supply (of alcohol) to Minors	Class A Mis-demeanor	32A-12-203.	<p>(1) A person may not sell, offer to sell, or otherwise furnish or supply any alcoholic beverage or product to any minor.</p> <p>(2) This section does not apply to the furnishing or supplying of an alcoholic beverage or product to a minor for medicinal purposes by the parent or guardian of the minor or by the minor's physician or dentist, or as part of a church's or religious organizations religious services.</p>	<p>A person convicted of this offense may be sentenced to:</p> <p>1- Pay a fine, not exceeding \$2,500</p> <p>2- Imprisonment for a term not exceeding 1 year.</p>
Contributing to the	Class B Mis-	76-10-2301.	<p>(1) For purposes of this part: "Adult" means a person 18 years of age or older and "Minor" means a person younger than</p>	<p>A person convicted of this offense may be sentenced to:</p>

Delinquency of a Minor	demeanor		18 years of age. (2) 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 criminal violation of any federal or state statute or any county or municipal ordinance if committed by an adult. (3) A violation of Subsection (2) does not require that the minor be found to be delinquent or to have committed a delinquent act. (4) An offense committed under Subsection (2) is in addition to any completed or inchoate offense which the actor may have committed personally or as a party.	1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months.
Providing Cigars, Cigarettes, or Tobacco to Minors	Class A; Class B; or Class C Mis-demeanor	76-10-104.	Any person who knowingly, intentionally, recklessly, or with criminal negligence provides any cigar, cigarette, or tobacco in any form, to any person under 19 years of age is guilty of a <u>Class C misdemeanor</u> on the first offense, a <u>Class B misdemeanor</u> on the second offense, and a <u>Class A misdemeanor</u> on subsequent offenses. (2) For purposes of this section "provides": a) includes selling, giving, furnishing, sending, or causing to be sent; and b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.	<u>Class A:</u> A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$2,500 2- Imprisonment for a term not exceeding 1 year. <u>Class B:</u> A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$1,000 2- Imprisonment for a term not exceeding 6 months. <u>Class C:</u> A person convicted of this offense may be sentenced to: 1- Pay a fine, not exceeding \$750 2- Imprisonment for a term not exceeding 90 days.

***Minimum Mandatory Sentence** can vary depending upon multiple factors. See Utah Criminal Code, Chapter 3, Part 1-5, Sections 76-3-301 through 76-3-501

**** Official State of Utah Sex Offender Registry:** Utah Code Ann. Section 77-27-21.5., Sex Offender Registration, requires the Utah Department of Corrections to develop, operate and maintain a registry of persons who have either been convicted of or entered a plea in abeyance to certain sex offenses. These offenses are listed in Subsection (1)(e)(i) of the statute.

II. AGE OF CONSENT

In the state of Utah children under the age of 14 cannot consent to any sexual activity.

Sexual activity is without the consent of the victim under the following circumstances*:

- if the victim expresses lack of consent through words or conduct;
- the victim is age 16 or 17 and the actor is 10 years or more older (see Unlawful Sexual Conduct with a 16 or 17 Year Old, Section 76-5-401.2.2);
- if the victim is age 14 or 15 the minor cannot consent to fondling if the actor is 7 years or more older (see Sexual Abuse of a Minor, Section 76-5-401.1.);
- if the victim is age 14 or 15 the minor cannot consent to intercourse, sodomy, or penetration (3^o Felony if suspect is 4 or more years older/ Class B misdemeanor if suspect is less than 4 years older [see Unlawful Sexual Activity with a Minor, Section 76-5-401.]);
- the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, step-parent, adoptive parent, or legal guardian or occupied a position of special trust;
- the victim has not consented and the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;
- the actor knows that as a result of a mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or resisting it;
- 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.
- the actor is a health professional or religious counselor; 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 additional circumstances leading to non-consent refer to Utah Criminal Code Section 76-5-401. through 76-5-406.

III. STATUTE OF LIMITATIONS

Prosecution Time Table for Child Sexual Abuse			
Time Period / Date of Acts Being Prosecuted	Statute of Limitations for Felonies	Statute of Limitations for Misdemeanors	Statute of Limitations if Reporting was Delayed
1973 to May 9, 1983	4 years after act	2 years after act	no difference
May 10, 1983 to April 28, 1991	4 years after act	2 years after act	1 year after report but within 8 years of the act
April 29, 1991 to 1996	4 years after act	2 years after act	Prosecution may nevertheless be commenced for rape of a child, object rape of a child, sodomy upon a child, or sexual abuse of a child <u>within four years after the report of the offense to a law enforcement agency.</u>
1996 to present	4 years after act	2 years after act	Prosecution may nevertheless be commenced for rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, or aggravated sexual abuse of a child <u>within four years after the report of the offense to a law enforcement agency.</u>

Refer to Utah Criminal Code Sections 76-1-302. and 76-1-303.5.

IV. CHILD ABUSE REPORTING LAW

62A-4a-403. Reporting Requirements.

- (1) Except as provided in Subsection (2), when **any person** including persons licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 31b, Nurse Practice Act, has reason to believe that a child has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in sexual abuse, physical abuse, or neglect, he shall immediately notify the nearest peace officer, law enforcement agency, or office of the division. **On receipt of this notice, the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of child abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency.** The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken pursuant to a report made under this section.

- (2) The notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs, if:
 - (a) the confession was made directly to the clergyman or priest by the perpetrator: and
 - (b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

- (3)
 - (a) When a clergyman or priest receives information about abuse or neglect from **any source other than confession of the perpetrator, he is required to give notification** on the basis of that information even though he may have also received a report of abuse or neglect from the confession of the perpetrator.
 - (b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator.