

Sex Crimes: Definitions and Penalties Utah

Last Updated: March 2020

Unlawful Sexual Activity with a Minor

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person 18 years or older who commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, object rape, forcible sodomy or aggravated sexual assault, the actor: <ul style="list-style-type: none"> • Has <u>sexual intercourse</u> with a minor, or • 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 • 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 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Third degree felony: <ul style="list-style-type: none"> • Imprisonment not exceeding 5 years. • Unless, defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, in which case it is a class B misdemeanor: <ul style="list-style-type: none"> • Imprisonment not exceeding 6 months.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Minor means: a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-401

Sexual Abuse of a Minor

Question	Answer
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How is it defined?	<ul style="list-style-type: none"> • A person commits sexual abuse of a minor if the person is 4 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: <ul style="list-style-type: none"> • 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 • 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Class A misdemeanor: <ul style="list-style-type: none"> • Imprisonment not exceeding 1 year. • Unless the actor at the time of the commission of the offense was 18 years of age or older, held a position of special trust as a teacher or a volunteer at a school, and committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer, in which case it is a third degree felony.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Minor means: a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-401.1

Unlawful Sexual Conduct with a 16-or-17-Year-Old

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits unlawful sexual conduct with a minor if, 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, if, the person engages in sexual conduct with a minor and: <ul style="list-style-type: none"> • The person is 7 or more years older but less than 10 years older than the minor at the time of the <u>sexual conduct</u>, and the person knew or reasonably should have known the age of the minor, or • 10 or more years older than the minor at the time of the <u>sexual conduct</u>. • Sexual conduct: <ul style="list-style-type: none"> • (i) Sexual intercourse with the minor, or • (ii) 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 • (iii) Penetration, however slight, of the genital or anal opening of the minor by a foreign object,

	<p>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, or</p> <ul style="list-style-type: none"> • (iv) Touching the anus, buttocks, or any part of the genitals of a minor or breast of a female minor, or otherwise taking indecent liberties with the minor, 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • If violation regarding sexual conduct definitions (i), (ii) or (iii), third degree felony: <ul style="list-style-type: none"> • Imprisonment not exceeding 5 years. • If violation regarding sexual conduct definition (iv), class A misdemeanor: <ul style="list-style-type: none"> • Imprisonment not exceeding 1 year. • Unless the actor at the time of the commission of the offense was 18 years of age or older, held a position of special trust as a teacher or a volunteer at a school, and committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer, in which case it shall be an enhancement of one classification higher than the offense of which the person was convicted.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Minor means: a person who is 16 years of age or older, but younger than 18 years of age, at the time the sexual activity described in this section occurred.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-401.2

Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • When the actor has sexual intercourse with another person without the victim's consent. • Without consent means (whether or not the victim is married to the actor): <ul style="list-style-type: none"> • The victim expresses lack of consent through words or conduct; or • The actor overcomes the victim through the actual application of physical force or violence; or • The actor is able to overcome the victim through concealment or by the element of surprise; or • The actor coerces the victim to submit by threatening to retaliate (including through threats of physical force, kidnapping or extortion) in the future or 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

	<ul style="list-style-type: none"> • The actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist; or • The actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it, understanding the possible consequences to the victim's health or safety; or appraising the nature of the relationship between the actor and the victim; or • the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse; or • 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; or • the victim is younger than 14 years of age; or • 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; or • 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 above; or • 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.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 5 years, may be for life. • If actor caused serious bodily injury to another, or was younger than 18 years of age and was previously convicted of a grievous sexual offense: <ul style="list-style-type: none"> • Imprisonment not less than 15 years, may be for life. • If actor was previously convicted of a grievous sexual offense (but was not younger than 18 years old at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-402.
<p>Anything else I should know?</p>	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Grievous sexual offense: 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, any felony attempt to commit the abovementioned offenses, or an offense in another state that if committed in Utah would constitute one of the abovementioned offenses. • Health Professional: 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

	<p>social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.</p> <ul style="list-style-type: none"> • Religious Counselor: A minister, priest, rabbi, bishop, or other recognized member of the clergy.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-402, 76-5-406

Rape of a Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits rape of a child when the person has sexual intercourse with a child who is under the age of 14.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 25 years, may be for life. • If actor caused serious bodily injury to another or was previously convicted of a sexual offense (unless actor was younger than 18 years old at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-402.1.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Child: Person under the age of 14.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. §76-5-402.1

Object Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person who, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with 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. • Without consent means (whether or not the victim is married to the actor):

	<ul style="list-style-type: none"> • The victim expresses lack of consent through words or conduct; or • The actor overcomes the victim through the actual application of physical force or violence; or • The actor is able to overcome the victim through concealment or by the element of surprise; or • The actor coerces the victim to submit by threatening to retaliate (including through threats of physical force, kidnapping or extortion) in the future or 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 knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist; or • The actor knows that as a result of mental disease or defect, the victim is at the time of the act incapable either of appraising the nature of the act or of resisting it, understanding the possible consequences to the victim's health or safety; or appraising the nature of the relationship between the actor and the victim; or • the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse; or • 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; or • the victim is younger than 14 years of age; or • 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; or • 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 above; or • 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. <p>• Other provisions apply. See § 76-5-406 (“Sexual offenses against the victim without consent of victim – Circumstances”).</p>
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 5 years, may be for life. • If actor caused serious bodily injury to another or was younger than 18 years of age and was previously convicted of a grievous sexual offense: <ul style="list-style-type: none"> • Imprisonment not less than 15 years, may be for life. • If previously convicted of a grievous sexual offense (and not less than 18 years of age at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-402.2

Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-402.2

Object Rape of a Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person who causes the penetration or touching, however slight, of the genital or anal opening of a child who is under 14, 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 sexual desire of any person
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 25 years, may be for life. • If actor caused serious bodily injury to another or was previously convicted of a grievous sexual offense (unless actor was younger than 18 years old at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-402.3.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Child: Person under the age of 14.
Statutory citation(s):	Utah Code Ann. § 76-5-402.3

Statutory Rape

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • “Statutory rape” is commonly used to refer to sexual penetration that is illegal because it involves a youth. • Utah has no specific statutory rape statute, but this sentiment is captured under § 76-5-401 (Unlawful Sexual Activity with a Minor), § 76-5-401.1 (Sexual abuse of a Minor), § 76-5-401.2 (Unlawful Sexual Conduct with a 16- or 17-Year-Old), and § 76-5-402.1 (Rape of a Child). § 76-5-402.3 (Object Rape

	of a Child) and § 76-5-403.1 (Sodomy of a Child).
What are the punishments for this crime?	• N/A
Anything else I should know?	• N/A
Statutory citation(s):	• N/A

Forcible Sodomy

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits sodomy when: <ul style="list-style-type: none"> • 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 commits forcible sodomy when: <ul style="list-style-type: none"> • The actor commits sodomy upon another without the other's consent.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Forcible sodomy is a first degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 5 years, may be for life. • If actor caused serious bodily injury to another or was younger than 18 years of age and was previously convicted of a grievous sexual offense: <ul style="list-style-type: none"> • Imprisonment not less than 15 years, may be for life. • If previously convicted of a grievous sexual offense (and not less than 18 years of age at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-403
Anything else I should know?	• N/A
Statutory citation(s):	• Utah Code Ann. § 76-5-403

Sodomy on a Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits sodomy upon a child when: <ul style="list-style-type: none"> • The actor engages in any sexual act upon 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Imprisonment not less than 25 years, may be for life. • If actor caused serious bodily injury to another or was previously convicted of a grievous sexual offense (and not less than 18 years of age at the time of the offense): <ul style="list-style-type: none"> • Imprisonment for life without parole. • Other details may affect this penalty. See § 76-5-403.1.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • Child: Person under the age of 14.
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. § 76-5-403.1

Forcible Sexual Abuse

Question	Answer
How is it defined?	<p>A person commits forcible sexual abuse if:</p> <ul style="list-style-type: none"> • The victim is 14 years of age or older and, • Under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy, the actor touches the anus, buttocks, pubic area, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with 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, and • Without the consent of the other, regardless of the sex of any participant.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Felony of the second degree: <ul style="list-style-type: none"> • Imprisonment not less than 1 year, not more than 15 years. • Felony of the first degree if actor caused serious bodily injury to another: <ul style="list-style-type: none"> • Imprisonment for 15 years, may be for life. • Lesser penalties may apply. See § 76-5-404

Anything else I should know?	• N/A
Statutory citation(s):	• Utah Code Ann. § 76-5-404

Sexual Abuse of a Child

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits sexual abuse of a child if: <ul style="list-style-type: none"> • Under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or attempt of any of the aforementioned offenses, the actor touches the anus, buttocks, or genitalia of any child, or touches the breast of a female child, or otherwise takes indecent liberties with a child, • 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 commits aggravated sexual abuse of a child when in conjunction with the offenses described above the actor: <ul style="list-style-type: none"> • Uses a dangerous weapon, force, duress or violence, intimidation, coercion, menace or threat of harm, or committed during a kidnapping; or • Caused bodily injury or severe psychological injury during or as a result of the offense; • Was a stranger to the victim and made friends with the victim for the purpose of committing the offense; • Used, showed or displayed pornography, photographed the victim in a lewd condition during the course of the offense; or • Actor was previously convicted of any sexual offense; or • 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; or • The accused committed more than five separate acts at the same time, during the same course of conduct or before or after the instant offense; or • The actor was in a position of special trust in relation to the victim; or • 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, human smuggling or human trafficking; or • The accused caused 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.

What are the punishments for this crime?	<ul style="list-style-type: none"> • Second degree felony for sexual abuse of a child: <ul style="list-style-type: none"> • Mandatory imprisonment of not less than 1 year nor more than 15 years; sentences vary based on numerous possible circumstances. • If aggravated sexual abuse, first degree felony: <ul style="list-style-type: none"> • Mandatory imprisonment of not less than 15 years, may be for life • If actor over 18 at time of offense and either caused serious bodily injury, or was previously convicted of a grievous sexual offense, life without parole. • Lesser penalties may apply. See § 76-5-404.1
Anything else I should know?	<ul style="list-style-type: none"> • Adult: <ul style="list-style-type: none"> • An individual 18 years of age or older • Child: <ul style="list-style-type: none"> • Person under the age of 14 • Position of special trust: <ul style="list-style-type: none"> • Adoptive parent, athletic manager who is an adult, aunt, babysitter, coach, cohabitant of parent who 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 stepsibling who is an adult, scout leader who is an adult, stepparent, teacher, employee or volunteer at a public or private school who is 18 years or older, adult, uncle, youth leader who is an adult, or any person in a position of authority, other than those listed above which enables the person to exercise undue influence over the child
Statutory citation(s):	<ul style="list-style-type: none"> • Utah Code Ann. §76-5-404.1

Aggravated Sexual Assault

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • A person commits aggravated sexual assault if: <ul style="list-style-type: none"> • In the course of rape, object rape, forcible sodomy, or forcible sexual abuse, the actor: <ul style="list-style-type: none"> • Uses or threatens the victim with the use of a dangerous weapon, or • Compels or attempts to compel the victim to submit to rape, object rape, forcible sodomy, or forcible sexual abuse by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person, or • Is aided or abetted by one or more persons. • In the course of attempted rape, attempted object rape, or attempted forcible sodomy, the actor: <ul style="list-style-type: none"> • Causes serious bodily injury, or • Uses or threatens the victim with the use of a dangerous weapon, or

	<ul style="list-style-type: none"> • Attempts to compel the victim to submit to rape, object rape, forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person or • Is aided or abetted by one or more persons. • In the course of attempted forcible sexual abuse, the actor: <ul style="list-style-type: none"> • Causes serious bodily injury, or • Uses or threatens the victim with the use of a dangerous weapon, or • Attempts to compel the victim to submit to forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any person or • Is aided or abetted by one or more persons.
<p>What are the punishments for this crime?</p>	<ul style="list-style-type: none"> • First degree felony: <ul style="list-style-type: none"> • Mandatory imprisonment; sentences vary based on numerous possible circumstances. • For aggravated sexual assault in the course of rape, object rape, forcible sodomy, or forcible sexual abuse: <ul style="list-style-type: none"> • Imprisonment for not less than 15 years, may be for life. • Life without parole if actor previously convicted of a grievous sexual offense (and not younger than 18 years old at the time of the offense). • For aggravated sexual assault in the course of attempted rape, attempted object rape, or attempted forcible sodomy: <ul style="list-style-type: none"> • Imprisonment for not less than 10 years, may be for life. • Life without parole if actor previously convicted of a grievous sexual offense (and not younger than 18 years old at the time of the offense). • For aggravated sexual assault in the course of attempted forcible sexual abuse: <ul style="list-style-type: none"> • Imprisonment for not less than 6 years, may be for life. • Life without parole if actor previously convicted of a grievous sexual offense (and not younger than 18 years old at the time of the offense). • Lesser penalties may apply. See § 76-5-405
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • Grievous sexual offense: <ul style="list-style-type: none"> • 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, any felony attempt to commit the abovementioned offenses, or an offense in another state that if committed in Utah would constitute one of the abovementioned offenses • Serious bodily injury: <ul style="list-style-type: none"> • Bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death. • Dangerous weapon: <ul style="list-style-type: none"> • Any item capable of causing death or serious bodily injury, or • A representation of the item if the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or • A representation to the victim verbally or in any other manner that he is in control of such an item.

Statutory citation(s):

- Utah Code Ann. § 76-5-405