

HB0196S02 compared with HB0196S01

~~deleted text~~ shows text that was in HB0196S01 but was deleted in HB0196S02.

inserted text shows text that was not in HB0196S01 but was inserted into HB0196S02.

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Representative Ken Ivory proposes the following substitute bill:

SEXUAL ABUSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses certain sexual crimes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the crime of ritual abuse of a minor;
- ▶ amends the crimes of rape of a child, object rape of a child, and sodomy on a child;
- ▶ addresses civil statutes of limitation for certain sex crimes; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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~~{ None }~~ This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

76-1-301, as last amended by Laws of Utah 2022, Chapter 181

76-3-406, as last amended by Laws of Utah 2023, Chapter 184

76-5-402.1, as last amended by Laws of Utah 2022, Chapter 181

76-5-402.3, as last amended by Laws of Utah 2022, Chapter 181

76-5-403.1, as last amended by Laws of Utah 2022, Chapter 181

76-5-404.3, as enacted by Laws of Utah 2022, Chapter 181

ENACTS:

76-5-109.4, Utah Code Annotated 1953

78B-2-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-2-401, (Renumbered from 78B-2-119, as enacted by Laws of Utah 2022, Chapter 474)

REPEALS:

78B-2-308, as last amended by Laws of Utah 2022, Chapter 430

Utah Code Sections Affected By Coordination Clause:

76-3-406, as last amended by Laws of Utah 2023, Chapter 184

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

Section 1. Section **76-1-301** is amended to read:

76-1-301. Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following

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offenses may be commenced at any time:

- (a) an offense classified as a capital felony ~~as described in~~ under Section 76-3-103;
- (b) ritual abuse of a minor ~~as described in~~ under Section 76-5-109.4;
- ~~(b)~~ (c) aggravated murder ~~as described in~~ under Section 76-5-202;
- ~~(c)~~ (d) murder ~~as described in~~ under Section 76-5-203;
- ~~(d)~~ (e) manslaughter ~~as described in~~ under Section 76-5-205;
- ~~(e)~~ (f) child abuse homicide ~~as described in~~ under Section 76-5-208;
- ~~(f)~~ (g) aggravated kidnapping ~~as described in~~ under Section 76-5-302;
- ~~(g)~~ (h) child kidnapping ~~as described in~~ under Section 76-5-301.1;
- ~~(h)~~ (i) rape ~~as described in~~ under Section 76-5-402;
- ~~(i)~~ (j) rape of a child ~~as described in~~ under Section 76-5-402.1;
- ~~(j)~~ (k) object rape ~~as described in~~ under Section 76-5-402.2;
- ~~(k)~~ (l) object rape of a child ~~as described in~~ under Section 76-5-402.3;
- ~~(l)~~ (m) forcible sodomy ~~as described in~~ under Section 76-5-403;
- ~~(m)~~ (n) sodomy on a child ~~as described in~~ under Section 76-5-403.1;
- ~~(n)~~ (o) sexual abuse of a child ~~as described in~~ under Section 76-5-404.1;
- ~~(o)~~ (p) aggravated sexual abuse of a child ~~as described in~~ under Section 76-5-404.3;
- ~~(p)~~ (q) aggravated sexual assault ~~as described in~~ under Section 76-5-405;
- ~~(q)~~ (r) any predicate offense to a murder or aggravating offense to an aggravated murder;
- ~~(r)~~ (s) aggravated human trafficking [or aggravated human smuggling in violation of] ~~as described in~~ under Section 76-5-310;
- (t) aggravated human smuggling ~~as described in~~ under Section 76-5-310.1;
- ~~(s)~~ (u) aggravated exploitation of prostitution involving a child[;] under ~~as~~ described in Section 76-10-1306; or
- ~~(t)~~ (v) human trafficking of a child[;] under ~~as~~ described in Section 76-5-308.5.

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

Section 2. Section **76-3-406** is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

- (1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a,

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Commitment and Treatment of Individuals with a Mental Condition, and except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), a court may not grant probation [~~may not be granted~~], suspend the execution or imposition of a sentence [~~may not be suspended, the court may not~~], enter a judgment for a lower category of offense, [~~and~~] or order hospitalization [~~may not be ordered~~], if the effect of which would in any way shorten the prison sentence for an [~~individual~~] actor who commits:

(a) a capital felony or a first degree felony involving:

~~[(a)] (i) [Section 76-5-202,]~~ aggravated murder as described in Section 76-5-202;

~~[(b)] (ii) [Section 76-5-203,]~~ murder as described in Section 76-5-203;

~~[(c)] (iii) [Section 76-5-301.1, child kidnaping]~~ child kidnapping as described in Section 76-5-301.1;

~~[(d)] (iv) [Section 76-5-302, aggravated kidnaping]~~ aggravated kidnapping as described in Subsection 76-5-302(3)(b);

~~[(e)] (v) [Section 76-5-402, rape, if the individual is sentenced under]~~ rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

~~[(f)] (vi) [Section 76-5-402.1,]~~ rape of a child as described in Section 76-5-402.1;

~~[(g)] (vii) [Section 76-5-402.2, object rape, if the individual is sentenced under]~~ object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

~~[(h)] (viii) [Section 76-5-402.3,]~~ object rape of a child as described in Section 76-5-402.3;

~~[(i)] (ix) [Section 76-5-403, forcible sodomy, if the individual is sentenced under]~~ forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

~~[(j)] (x) [Section 76-5-403.1,]~~ sodomy on a child as described in Section 76-5-403.1;

~~[(k)] (xi) [Section 76-5-404, forcible sexual abuse, if the individual is sentenced under]~~ forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

~~[(l)] (xii) [Section 76-5-404.3,]~~ aggravated sexual abuse of a child as described in Section 76-5-404.3; ~~or~~

~~[(m)] (xiii) [Section 76-5-405,]~~ aggravated sexual assault~~;~~ ~~or~~ as described in Section 76-5-405 ~~;~~ ~~or~~

~~[(n)] (xiv)~~ any attempt to commit a felony listed in Subsection [(1)(f), (h), or (j)] (1)(a)(vi), (viii), or (x); or

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(b) a second degree felony involving ritual abuse of a minor as described in Section 76-5-109.4.

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the [defendant] actor:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 3. Section **76-5-109.4** is enacted to read:

76-5-109.4. Ritual abuse of a child.

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

(i) "Child" means an individual who is younger than 18 years old.

(ii) "Organic substance or material" means:

(A) human bones, blood, or flesh; or

(B) human or animal vomit, saliva, urine, semen, fecal material, or other bodily secretion.

(iii) "Ritual" means an event or act or a series of events or acts marked by specific actions, gestures, or words, designed to commemorate, celebrate, or solemnize a particular occasion or significance in a religious, cultural, social, institutional, or other context.

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

(2) An actor commits ritual abuse of a child if the actor, as part of a ritual, intentionally or knowingly:

(a) (i) causes a child to participate in or witness:

(A) the torture, mutilation, or sacrifice of an animal;

(B) the dissection, mutilation, or incineration of a human corpse;

(C) the causing of serious bodily injury to an individual;

(D) bestiality;

(E) sadistic or masochistic activities;

(F) the ingestion or external application of an organic substance or material; or

(G) an activity that would constitute a criminal offense;

(ii) causes a child to:

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(A) enter a coffin or open grave containing a human corpse or remains;

(B) participate in a mock, unauthorized, or unlawful marriage ceremony as an individual being married to another individual or a fictional representation; or

(C) ingest, inject, or otherwise intake a chemical compound, narcotic, drug, hallucinogen, or anesthetic;

(iii) threatens a child, or the child's parents, family, pets, or friends with death, serious bodily injury, or other criminal activity;

(iv) deprives a child of sleep, food, or water;

(v) binds or confines a child; or

(vi) otherwise acts to cause to arouse or gratify the sexual desire of any individual; and

(b) causes substantial psychological distress or bodily injury to a child through the actions described in Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) An actor is not guilty of an offense under this section for conduct that constitutes:

(a) ~~the lawful medical practice of circumcision or other~~ legitimate medical care and any related ritual to the ~~circumcision or other~~ legitimate medical care;

(b) reasonable discipline or management of a child, including withholding privileges;

(c) conduct described in Section 76-2-401; or

(d) the use of reasonable and necessary physical restraint or force on a child:

(i) in self-defense;

(ii) in defense of others;

(iii) to protect the child; or

(iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(d)(i) through (iii).

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 4. Section 76-5-402.1 is amended to read:

76-5-402.1. Rape of a child -- Penalties.

(1) (a) ~~As used in this section, "Ritual;ritual"~~ means the same as that term is defined in Section 76-5-109.4.

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

(2) (a) An actor commits rape of a child if the actor has sexual intercourse with an

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individual who is younger than 14 years old.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the rape of a child, the [defendant] actor caused serious bodily injury to the victim;

(ii) the actor committed the rape of a child as part of a ritual or a training or practice to perform a ritual; or

~~(iii)~~ (iii) at the time of the commission of the rape of a child the [defendant] actor was previously convicted of a grievous sexual offense.

(4) Subsection (3)(b) does not apply if the [defendant] actor was younger than 18 years old at the time of the offense.

(5) (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:

(i) it is a first time offense for the [defendant] actor under this section;

(ii) the [defendant] actor was younger than 21 years old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406. Section 5. Section **76-5-402.3** is amended to read:

76-5-402.3. Object rape of a child -- Penalty.

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(1) (a) As used in this section, "~~Ritual~~; ritual" means the same as that term is defined in Section 76-5-109.4.

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

(2) (a) An actor commits object rape of a child if:

(i) the actor causes the penetration or touching, however slight, of the genital or anal opening of the individual by, except as provided in Subsection (2)(b):

(A) a foreign object;

(B) a substance;

(C) an instrument; or

(D) a device;

(ii) the actor:

(A) intends to cause substantial emotional or bodily pain to the individual; or

(B) intends to arouse or gratify the sexual desire of any individual; and

(iii) the individual described in Subsection (2)(a)(i) is younger than 14 years old.

(b) Subsection (2)(a) does not include penetration or touching by a part of the human body.

(3) (a) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(i) except as provided in Subsections (3)(a)(ii) and (4), not less than 25 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that:

(A) during the course of the commission of the object rape of a child the [~~defendant~~] actor caused serious bodily injury to the victim;

(B) the actor committed the object rape of a child as part of a ritual or a training or practice to perform a ritual; or

~~[(B)] (C)~~ at the time of the commission of the object rape of a child the [~~defendant~~] actor was previously convicted of a grievous sexual offense.

(b) Subsection (3)(a)(ii) does not apply if the [~~defendant~~] actor was younger than 18 years old at the time of the offense.

(4) (a) When imposing a sentence under Subsections (3)(a)(i) and (4)(b), a court may impose a term of imprisonment under Subsection (4)(b) if:

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(i) it is a first time offense for the [defendant] actor under this section;

(ii) the [defendant] actor was younger than 21 years old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection (3)(a)(i) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (4)(a) are met, the court may impose a term of imprisonment of not less than:

- (i) 15 years and which may be for life;
- (ii) 10 years and which may be for life; or
- (iii) six years and which may be for life.

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406. Section 6. Section **76-5-403.1** is amended to read:

76-5-403.1. Sodomy on a child -- Penalties.

(1) (a) As used in this section, "~~Ritual~~ritual" means the same as that term is defined in Section 76-5-109.4.

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

(2) (a) An actor commits sodomy on a child if:

- (i) the actor engages in any sexual act upon or with another individual;
- (ii) the individual is younger than 14 years old; and
- (iii) the sexual act involves the genitals or anus of the actor or the individual and the mouth or anus of either the actor or individual.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the sodomy on a child the [defendant] actor caused serious bodily injury to the victim;

(ii) the actor committed the act as part of a ritual or a training or practice to perform a

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ritual; or

~~(ii)~~ (iii) at the time of the commission of the sodomy on a child, the ~~[defendant]~~ actor was previously convicted of a grievous sexual offense.

(4) Subsection (3)(b) does not apply if the ~~[defendant]~~ actor was younger than 18 years old at the time of the offense.

(5) (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:

(i) it is a first time offense for the ~~[defendant]~~ actor under this section;

(ii) the ~~[defendant]~~ actor was younger than 21 years old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:

- (i) 15 years and which may be for life;
- (ii) 10 years and which may be for life; or
- (iii) six years and which may be for life.

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406. Section 7. Section **76-5-404.3** is amended to read:

76-5-404.3. Aggravated sexual abuse of a child -- Penalties.

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

- (i) "Adult" means the same as that term is defined in Section 76-5-404.1.
- (ii) "Child" means the same as that term is defined in Section 76-5-404.1.
- (iii) "Position of special trust" means the same as that term is defined in Section

76-5-404.1.

(iv) "Ritual" means the same as that term is defined in Section 76-5-109.4.

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

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

- (i) the actor committed the offense:

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- (A) by the use of a dangerous weapon;
- (B) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or
- (C) during the course of a kidnaping;
- (ii) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;
- (iii) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;
- (iv) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;
- (v) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;
- (vi) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;
- (vii) the actor 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;
- (viii) the actor occupied a position of special trust in relation to the child;
- (ix) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling;
- (x) the actor committed the act as part of a ritual or of a training or practice to perform a ritual; or
- ~~[(x)]~~ (xi) the actor 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.
- (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
 - (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;
 - (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact

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finds that during the course of the commission of the aggravated sexual abuse of a child the [~~defendant~~] actor caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the [~~defendant~~] actor was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply if [~~a defendant~~] an actor is sentenced under Subsection (3)(c).

(6) Subsection (3)(b) or (3)(c) does not apply if the [~~defendant~~] actor was younger than 18 years old at the time of the offense.

(7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 8. Section **78B-2-401**, which is renumbered from Section 78B-2-119 is renumbered and amended to read:

Part 4. Civil Actions Arising Out of Criminal Conduct

~~[78B-2-119].~~ 78B-2-401. Statute of limitations for civil actions after criminal proceeding.

(1) As used in this section:

(a) "Cause of action" means [~~any~~] a civil claim that a victim [~~could~~] may bring against a defendant for criminal conduct committed against the victim.

(b) "Criminal conduct" means [~~any~~] an act that is charged as a felony under:

(i) Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in Subsection 78B-2-402(1)(f); or

(ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct under Title 76, Chapter 5, Offenses Against the Individual, except for conduct described in

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Subsection 78B-2-402(1)(f).

(c) "Victim" means an individual directly harmed by criminal conduct or the individual's representative.

(2) (a) Notwithstanding any statute of limitations, a victim may bring a cause of action arising out of criminal conduct if:

(i) the defendant to the cause of action was charged by a criminal complaint, indictment, or information for that criminal conduct;

(ii) the cause of action is brought within one year [~~from~~ after] the day on which a final disposition for the criminal proceeding is issued;

(iii) the cause of action is brought to address any harm resulting from the criminal conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

(iv) the applicable statute of limitations that would apply to the conduct at issue in the cause of action did not expire before May 4, 2022.

(b) A defendant does not need to be convicted of the criminal conduct for an individual to bring a cause of action under Subsection (2)(a).

(3) Subsection (2)(a) does not:

(a) shorten an applicable statute of limitations or an applicable tolling provision;

(b) toll or extend an applicable statute of limitations for an action that is brought against an employer or former employer of a defendant described in Subsection (2)(a)(i); or

(c) require an insurer to defend or indemnify a defendant for a cause of action that would otherwise be barred if not for Subsection (2)(a).

Section 9. Section **78B-2-402** is enacted to read:

78B-2-402. Statute of limitations for civil actions arising out of sexual abuse.

(1) As used in this section:

(a) "Cause of action" means a civil claim that a victim may bring against an individual for sexual abuse committed against the victim.

(b) "Child" means an individual who is under 18 years old.

(c) "Discovers" means when an individual knows or should know that sexual abuse occurred.

(d) (i) "Negligent sexual abuse" means when an individual fails to prevent the sexual abuse of a child from occurring, or to report the sexual abuse of a child, when the individual

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discovers the sexual abuse.

(ii) "Negligent sexual abuse" does not include the non reporting of sexual abuse of a child by a member of the clergy or an attorney who is acting in accordance with Subsection 80-2-602(3).

(e) "Perpetrator" means an individual who commits sexual abuse.

(f) "Sexual abuse" means:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) sexual abuse of a child under Section 76-5-404.1;

(viii) aggravated sexual abuse of a child under Section 76-5-404.3; or

(ix) aggravated sexual assault under Section 76-5-405.

(g) (i) "Victim" means an individual against whom sexual abuse is committed or allegedly committed.

(ii) "Victim" does not include an individual whose claims are derived through another individual against whom sexual abuse is committed or allegedly committed.

(2) (a) Notwithstanding other provisions of this code, a victim has a right of action at any time against:

(i) a perpetrator of sexual abuse committed or allegedly committed against the victim;

or

(ii) an individual who would be criminally responsible under Section 76-2-202 for sexual abuse committed or allegedly committed against the victim.

(b) A victim may only bring an action described in Subsection (2)(a) against an individual for negligent sexual abuse within the later of four years after the day on which:

(i) the victim turns 18 years old; or

(ii) the victim discovers the sexual abuse.

(3) A victim may bring an action described in Subsection (2) regardless of whether criminal charges are filed or the perpetrator is convicted of sexual abuse.

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(4) For purposes of establishing the discovery of sexual abuse under Subsection (2)(b)(ii):

(a) if there is more than one alleged act of sexual abuse in an action, the date of discovery is computed from the day on which the victim discovers the last alleged act of sexual abuse by the perpetrator; and

(b) the discovery by a parent or guardian of sexual abuse may not be imputed to a victim who is a child at the time of the sexual abuse.

(5) (a) This section extends the statute of limitations for an action described in Subsection (2) that is not time barred on or before May 1, 2024.

(b) This section does not revive an action that is time barred on or before May 1, 2024.

Section 10. **Repealer.**

This bill repeals:

Section **78B-2-308, Legislative findings -- Civil actions for sexual abuse of a child --**

Window for revival of time barred claims.

Section 11. **Effective date.**

This bill takes effect on May 1, 2024.

Section 12. **Coordinating H.B. 196 with H.B. 181.**

If H.B. 196, Sexual Abuse Amendments, and H.B. 181, Criminal Offenses

Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Section 76-3-406 be repealed and reenacted to read:

"76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) As used in this section, "attempted child rape offense" means an attempt to commit a felony that is:

(a) rape of a child as described in Section 76-5-402.1;

(b) object rape of a child as described in Section 76-5-402.3; or

(c) sodomy on a child as described in Section 76-5-403.1.

(2) Except as provided in Subsection (3), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense, or order hospitalization, if the effect of which would in any way shorten the prison sentence for an actor who commits:

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(a) a capitol felony or a first degree felony, or attempts to commit a felony, that is:

(i) aggravated murder as described in Section 76-5-202;

(ii) murder as described in Section 76-5-203;

(iii) child kidnapping as described in Section 76-5-301.1;

(iv) aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(v) rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

(vi) rape of a child as described in Section 76-5-402.1;

(vii) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(viii) object rape of a child as described in Section 76-5-402.3;

(ix) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

(x) sodomy on a child as described in Section 76-5-403.1;

(xi) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(xii) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

(xiii) aggravated sexual assault as described in Section 76-5-405; or

(b) a second degree felony involving ritual abuse of a minor as described in Section 76-5-109.4.

(3) Except for an attempted child rape offense, a court may suspend the execution or imposition of a prison sentence for an actor that is convicted of an attempt to commit a felony described in Subsection (2) if the court:

(a) makes a finding on the record that:

(i) details why it is in the interests of justice not to execute or impose the prison sentence; and

(ii) the individual does not pose a significant safety risk to:

(A) the victim of the attempted crime; or

(B) the general public; and

(b) orders the individual to complete the terms and conditions of probation that is supervised by the Department of Corrections.

(4) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

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(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

(5) Except as provided in Subsection 77-16a-103(6) or (7), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense, or order hospitalization under Section 76-3-201 or 77-18-105 or Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, if the court is prohibited by this section."