

1 **ENTICING A MINOR AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: R. Curt Webb**

5 Senate Sponsor: Lyle W. Hillyard

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Criminal Code regarding the offense of enticing a minor.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ clarifies that the elements of the offense of enticing a minor do not include intent to
- 13 complete a sexual offense with a minor;
- 14 ▶ modifies the definition of "text messaging"; and
- 15 ▶ provides that the penalties for enticing a minor are based on the level of sexual
- 16 conduct the actor solicits, seduces, lures, or entices, or attempts to solicit, seduce,
- 17 lure, or entice a minor to engage in.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-4-401**, as last amended by Laws of Utah 2008, Chapter 342

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

27 Section 1. Section **76-4-401** is amended to read:

28 **76-4-401. Enticing a minor -- Elements -- Penalties.**

29 (1) As used in this section:

30 (a) "Minor" means a person who is under the age of 18.

31 (b) "Text messaging" means a communication in the form of electronic text or one or
32 more electronic images sent by the actor from a telephone [or], computer, or other electronic
33 communication device to another person's telephone [or], computer, or other electronic
34 communication device by addressing the communication to the person's telephone number or
35 other electronic communication access code or number.

36 (2) (a) A person commits enticement of a minor when the person knowingly uses [or
37 ~~attempts to use~~] the Internet or text messaging to solicit, seduce, lure, or entice a minor, or to
38 attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be
39 a minor, to engage in any sexual activity which is a violation of state criminal law.

40 (b) A person commits enticement of a minor when the person knowingly uses the
41 Internet or text messaging to:

42 (i) initiate contact with a minor or a person the actor believes to be a minor; and

43 (ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written
44 means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the
45 minor or a person the actor believes to be the minor to engage in any sexual activity which is a
46 violation of state criminal law.

47 (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an
48 attempt to commit this offense, that a law enforcement officer or an undercover operative who
49 is working with a law enforcement agency was involved in the detection or investigation of the
50 offense.

51 (4) [~~An enticement~~] Enticement of a minor under Subsection (2)(a) or (b) [~~with the~~
52 ~~intent to commit~~] is punishable as follows:

53 (a) enticement to engage in sexual activity which would be a first degree felony for the
54 actor is a:

55 (i) second degree felony upon the first conviction for violation of this Subsection

56 (4)(a); and

57 (ii) first degree felony punishable by imprisonment for an indeterminate term of not

58 fewer than three years and which may be for life, upon a second or any subsequent conviction
59 for a violation of this Subsection (4)(a);

60 (b) enticement to engage in sexual activity which would be a second degree felony for
61 the actor is a third degree felony;

62 (c) enticement to engage in sexual activity which would be a third degree felony for the
63 actor is a class A misdemeanor;

64 (d) enticement to engage in sexual activity which would be a class A misdemeanor for
65 the actor is a class B misdemeanor; and

66 (e) enticement to engage in sexual activity which would be a class B misdemeanor for
67 the actor is a class C misdemeanor.

68 (5) (a) When a person who commits a felony violation of this section has been
69 previously convicted of an offense under Subsection (5)(b), the court may not in any way
70 shorten the prison sentence, and the court may not:

- 71 (i) grant probation;
- 72 (ii) suspend the execution or imposition of the sentence;
- 73 (iii) enter a judgment for a lower category of offense; or
- 74 (iv) order hospitalization.

75 (b) The sections referred to in Subsection (5)(a) are:

- 76 (i) Section 76-4-401, enticing a minor;
- 77 (ii) Section 76-5-301.1, child kidnapping;
- 78 (iii) Section 76-5-402, rape;
- 79 (iv) Section 76-5-402.1, rape of a child;
- 80 (v) Section 76-5-402.2, object rape;
- 81 (vi) Section 76-5-402.3, object rape of a child;
- 82 (vii) Subsection 76-5-403(2), forcible sodomy;
- 83 (viii) Section 76-5-403.1, sodomy on a child;
- 84 (ix) Section 76-5-404, forcible sexual abuse;
- 85 (x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;

- 86 (xi) Section 76-5-405, aggravated sexual assault;
- 87 (xii) any offense in any other state or federal jurisdiction which constitutes or would
- 88 constitute a crime in Subsections [~~4~~] (5)(b)(i) through (xi); or
- 89 (xiii) the attempt, solicitation, or conspiracy to commit any of the offenses in
- 90 Subsections [~~4~~] (5)(b)(i) through (xii).