

**CRIMES AGAINST HEALTH CARE PROVIDERS IN
CORRECTIONAL SYSTEM**

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding propelling a substance or object at a health care provider.

Highlighted Provisions:

This bill:

- ▶ defines a health care provider;
- ▶ includes health care providers as victims in the statutory section that currently defines the offense of propelling a substance or object, including a bodily fluid, at a peace officer or correctional officer; and
- ▶ applies the same penalties as currently apply to the offense when committed against a peace officer or correctional officer.

Money Appropriated in this Bill:

None

Other Special Clauses:

⌚→ ~~None~~ This bill provides a special effective date. ←⌚

Utah Code Sections Affected:

AMENDS:

53-10-403, as last amended by Laws of Utah 2014, Chapter 331

76-5-102.6, as last amended by Laws of Utah 2013, Chapter 306

H.B. 83



28 [76-5-102.7](#), as last amended by Laws of Utah 2008, Chapter 3

29

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

31 Section 1. Section **53-10-403** is amended to read:

32 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

33 (1) Sections [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to any person

34 who:

35 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

36 (2)(a) or (b) on or after July 1, 2002;

37 (b) has pled guilty to or has been convicted by any other state or by the United States
38 government of an offense which if committed in this state would be punishable as one or more
39 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

40 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
41 offense under Subsection (2)(c);

42 (d) has been booked:

43 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
44 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

45 (ii) on or after January 1, 2015, for any felony offense; or

46 (e) is a minor under Subsection (3).

47 (2) Offenses referred to in Subsection (1) are:

48 (a) any felony or class A misdemeanor under the Utah Code;

49 (b) any offense under Subsection (2)(a):

50 (i) for which the court enters a judgment for conviction to a lower degree of offense
51 under Section [76-3-402](#); or

52 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
53 defined in Section [77-2a-1](#); or

54 (c) (i) any violent felony as defined in Section [53-10-403.5](#);

55 (ii) sale or use of body parts, Section [26-28-116](#);

56 (iii) failure to stop at an accident that resulted in death, Section [41-6a-401.5](#);

57 (iv) driving with any amount of a controlled substance in a person's body and causing
58 serious bodily injury or death, Subsection [58-37-8\(2\)\(g\)](#);

- 59 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 60 (vi) a felony violation of propelling a substance or object at a correctional [or] officer,
61 a peace officer, or a health care provider, Section 76-5-102.6;
- 62 (vii) aggravated human trafficking and aggravated human smuggling, Section
63 76-5-310;
- 64 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 65 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 66 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 67 (xi) sale of a child, Section 76-7-203;
- 68 (xii) aggravated escape, Subsection 76-8-309(2);
- 69 (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- 70 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
71 Pardons and Parole, Section 76-8-316;
- 72 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 73 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 74 (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- 75 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 76 (xix) a felony violation of abuse or desecration of a dead human body, Section
77 76-9-704;
- 78 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section
79 76-10-402;
- 80 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
81 Section 76-10-403;
- 82 (xxii) possession of a concealed firearm in the commission of a violent felony,
83 Subsection 76-10-504(4);
- 84 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,
85 Subsection 76-10-1504(3);
- 86 (xxiv) commercial obstruction, Subsection 76-10-2402(2);
- 87 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section
88 77-41-107;
- 89 (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

90 (xxvii) violation of condition for release after arrest for domestic violence, Section
91 77-36-2.5.

92 (3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah
93 court has adjudicated to be within the jurisdiction of the juvenile court due to the commission
94 of any offense described in Subsection (2), and who is:

95 (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense
96 under Subsection (2); or

97 (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1,
98 2002 for an offense under Subsection (2).

99 Section 2. Section 76-5-102.6 is amended to read:

100 **76-5-102.6. Propelling substance or object at a correctional or peace officer --**
101 **Penalties.**

102 (1) As used in this section, "health care provider" means the same as that term is
103 defined in Section 78B-3-403, but does not include an athletic trainer.

104 ~~[(+)]~~ (2) Any prisoner or person detained pursuant to Section 77-7-15 who throws or
105 otherwise propels any substance or object at a peace ~~[or]~~ officer, a correctional officer, or a
106 health care provider, is guilty of a class A misdemeanor, except as provided under Subsection
107 (2).

108 ~~[(2)]~~ (3) A violation of Subsection ~~[(+)]~~ (2) is a third degree felony if:

109 (a) the object or substance is:

110 (i) blood, urine, or fecal material;

111 (ii) an infectious agent as defined in Section 26-6-2 or a material that carries an
112 infectious agent;

113 (iii) vomit or a material that carries vomit; or

114 (iv) the prisoner's or detained person's saliva, and the prisoner or detained person
115 knows he or she is infected with HIV, hepatitis B, or hepatitis C; and

116 (b) the object or substance comes into contact with any portion of the officer's or health
117 care provider's face, including the eyes or mouth, or comes into contact with any open wound
118 on the officer's or health care provider's body.

119 ~~[(3)]~~ (4) If an offense committed under this section amounts to an offense subject to a
120 greater penalty under another provision of state law than under this section, this section does

121 not prohibit prosecution and sentencing for the more serious offense.

122 Section 3. Section 76-5-102.7 is amended to read:

123 **76-5-102.7. Assault against health care provider and emergency medical service**
124 **worker -- Penalty.**

125 (1) A person who assaults a health care provider or emergency medical service worker
126 is guilty of a class A misdemeanor if:

127 (a) the person is not a prisoner or a person detained under Section 77-7-15;

128 ~~[(a)]~~ (b) the person knew that the victim was a health care provider or emergency
129 medical service worker; and

130 ~~[(b)]~~ (c) the health care provider or emergency medical service worker was performing
131 emergency or life saving duties within the scope of his or her authority at the time of the
132 assault.

133 (2) As used in this section:

134 (a) "Emergency medical service worker" means a person certified under Section
135 26-8a-302.

136 (b) "Health care provider" ~~[has the meaning as provided]~~ means the same as that term
137 is defined in Section 78B-3-403.

137a **H→ Section 4. Effective date.**

137b **If approved by two-thirds of all the members elected to each house, this bill takes effect upon**
137c **approval by the governor, or the day following the constitutional time limit of Utah**

137d **Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,**
137e **the date of veto override, except that the amendments to Sections 34A-2-102, 34A-2-104, and**
137f **34A-2-111 in this bill take effect on January 1, 2016.** ←H

Legislative Review Note
as of 12-2-14 1:42 PM

Office of Legislative Research and General Counsel