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**UNLAWFUL SEXUAL CONDUCT WITH A  
MINOR**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code regarding sexual offenses against children who are 14 through 17 years of age.

**Highlighted Provisions:**

This bill:

- ▶ changes the offense of sexual abuse of a minor who is 14 or 15 years of age to provide that the offense applies to a defendant who is four or more years older than the victim, rather than the current provision of seven or more years older than the victim; and
- ▶ changes the offense of unlawful sexual conduct with a minor who is 16 or 17 years of age to provide that the offense applies to a defendant who is four or more years older than the victim, rather than the current provision of ten or more years older than the victim.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28 76-5-401.1, as enacted by Laws of Utah 1998, Chapter 82

29 76-5-401.2, as last amended by Laws of Utah 2008, Chapter 275



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

32 Section 1. Section 76-5-401.1 is amended to read:

33 **76-5-401.1. Sexual abuse of a minor.**

34 (1) For purposes of this section "minor" is a person who is 14 years of age or older, but  
35 younger than 16 years of age, at the time the sexual activity described in this section occurred.

36 (2) A person commits sexual abuse of a minor if the person is [~~seven~~] four years or  
37 more older than the minor and, under circumstances not amounting to rape, in violation of  
38 Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation  
39 of Section 76-5-403, aggravated sexual assault, in violation of Section 76-5-405, unlawful  
40 sexual activity with a minor, in violation of Section 76-5-401, or an attempt to commit any of  
41 those offenses, the person touches the anus, buttocks, or any part of the genitals of the minor,  
42 or touches the breast of a female minor, or otherwise takes indecent liberties with the minor, or  
43 causes a minor to take indecent liberties with the actor or another person, with the intent to  
44 cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify  
45 the sexual desire of any person regardless of the sex of any participant.

46 (3) A violation of this section is a class A misdemeanor.

47 Section 2. Section 76-5-401.2 is amended to read:

48 **76-5-401.2. Unlawful sexual conduct with a 16 or 17 year old.**

49 (1) As used in this section, "minor" means a person who is 16 years of age or older, but  
50 younger than 18 years of age, at the time the sexual conduct described in Subsection (2)  
51 occurred.

52 (2) A person commits unlawful sexual conduct with a minor if, under circumstances  
53 not amounting to an offense listed under Subsection (3), an actor who is [~~10~~] four or more  
54 years older than the minor at the time of the sexual conduct:

- 55 (a) has sexual intercourse with the minor;
- 56 (b) engages in any sexual act with the minor involving the genitals of one person and  
57 the mouth or anus of another person, regardless of the sex of either participant;
- 58 (c) causes the penetration, however slight, of the genital or anal opening of the minor

59 by any foreign object, substance, instrument, or device, including a part of the human body,  
60 with the intent to cause substantial emotional or bodily pain to any person or with the intent to  
61 arouse or gratify the sexual desire of any person, regardless of the sex of any participant; or

62 (d) touches the anus, buttocks, or any part of the genitals of the minor, or touches the  
63 breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a  
64 minor to take indecent liberties with the actor or another person, with the intent to cause  
65 substantial emotional or bodily pain to any person or with the intent to arouse or gratify the  
66 sexual desire of any person regardless of the sex of any participant.

67 (3) The offenses referred to in Subsection (2) are:

68 (a) (i) rape, in violation of Section 76-5-402;

69 (ii) object rape, in violation of Section 76-5-402.2;

70 (iii) forcible sodomy, in violation of Section 76-5-403;

71 (iv) forcible sexual abuse, in violation of Section 76-5-404; or

72 (v) aggravated sexual assault, in violation of Section 76-5-405; or

73 (b) an attempt to commit any offense under Subsection (3)(a).

74 (4) A violation of Subsection (2)(a), (b), or (c) is a third degree felony.

75 (5) A violation of Subsection (2)(d) is a class A misdemeanor.

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**Legislative Review Note**  
as of 12-28-09 9:07 AM

**Office of Legislative Research and General Counsel**

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**H.B. 162 - Unlawful Sexual Conduct with a Minor**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will require an appropriation from the General Fund of \$101,800 in FY 2011 and \$194,600 in FY 2012. It is expected that total ongoing costs will reach \$423,200 per year. The appropriations would go to the Department of Corrections for costs associated with additional incarcerations.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$423,200	\$423,200	\$0	\$0	\$0
General Fund, One-Time	\$0	(\$321,400)	(\$228,600)	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$101,800</b>	<b>\$194,600</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Local governments may incur jail costs of as much as \$100,000 per year.

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