

JUVENILE OFFENDER PENALTY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to the sentencing of a juvenile offender.

Highlighted Provisions:

This bill:

- ▶ addresses the sentencing of a juvenile offender for the conviction of certain sexual offenses; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-209, as last amended by Laws of Utah 2021, Chapter 206

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

Section 1. Section **76-3-209** is amended to read:

76-3-209. Limitation on sentencing for crimes committed by juveniles.

(1) As used in this section, "qualifying sexual offense" means:

- (a) an offense described in Chapter 5, Part 4, Sexual Offenses;
- (b) Section **76-9-702**, lewdness;
- (c) Section **76-9-702.1**, sexual battery; or

(d) Section 76-9-702.5, lewdness involving a child.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole; and

(ii) at the time the individual committed the crime, the individual was [~~less than~~] under 18 years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

(a) the individual is not, based on the conviction, subject to the registration requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

(c) the district court may not impose incarceration unless the court enters specific written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older; [or]

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault[-]; or

(c) the conviction occurred in district court after the individual was:

(i) charged by criminal information in the juvenile court for the qualifying sexual offense in accordance with Section 80-6-503; and

(ii) bound over to the district court for the qualifying sexual offense in accordance with Section 80-6-504.

(5) If the district court imposes incarceration under Subsection (3)(c), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses; or

(c) the maximum sentence described in Section 76-3-204 for:

(i) a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses;

(ii) a violation of Section 76-9-702, lewdness;

(iii) a violation of Section 76-9-702.1, sexual battery; or

(iv) a violation of Section 76-9-702.5, lewdness involving a child.