

CR1601 Definitions.

[“Bodily injury” means physical pain, illness, or any physical impairment.] See Utah Code § 76-1-601.

[“Dangerous weapon” means:
any item capable of causing death or serious bodily injury; or
a facsimile or representation of the item, if:
the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury;
or the actor represents to the victim verbally or in any other manner that he is in control of such an item.]
See Utah Code § 76-1-601.

[“Grievous sexual offense” means rape; rape of a child; object rape; object rape of a child; forcible sodomy; sodomy on a child; aggravated sexual abuse of a child; aggravated sexual assault; any felony attempt to commit one of the above offenses; or an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute one of the above offenses.] See Utah Code § 76-1-601.

[“Health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.] See Utah Code § 76-5-406(12)(b).

[“Indecent liberties” is defined as conduct that is as serious as touching [under clothing] the anus, buttocks, or genitals of a person or the breast of a female.]

In deciding whether conduct amounts to indecent liberties, use your judgment and common sense. You may consider such factors as: (1) the duration of the conduct, (2) the intrusiveness of the conduct against [(VICTIM'S NAME) (MINOR'S INITIALS)]'s person, (3) whether [(VICTIM'S NAME) (MINOR'S INITIALS)]'s requested that the conduct stop, (4) whether the conduct stopped upon request, (5) the relationship between [(VICTIM'S NAME) (MINOR'S INITIALS)]'s and the defendant, (6) [(VICTIM'S NAME) (MINOR'S INITIALS)]'s age, (7) whether [(VICTIM'S NAME) (MINOR'S INITIALS)]'s was forced or coerced to participate, and any other factors you consider relevant.

[The fact that touching may have occurred over clothing does not preclude a finding that the conduct amounted to indecent liberties.] See *State v. Lewis*, 2014 UT App 241, 337 P.3d 1053; *State v. Peters*, 796 P.2d 708 (Utah App. 1990).

[“Position of special trust” means an adoptive parent; an adult athletic manager; an aunt; a babysitter; a coach; an adult cohabitant of a parent; a counselor; a doctor or physician; an employer; a foster parent; a grandparent; a legal guardian; a natural parent; an adult recreational leader; a religious leader; an adult sibling or stepsibling; an adult scout leader; a stepparent; a teacher or any other person employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years of age or older; an uncle; an adult youth leader; any other person in a position of authority that enables the person to exercise undue influence over the child.] See Utah Code § 76-5-404.1(1).

[“Religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.] See Utah Code § 76-5-406(12)(b).

[“Serious bodily injury” means bodily injury that creates a substantial risk of death or creates or causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.] See Utah Code § 76-1-601.

References

Committee Notes

This instruction contains bracketed language which suggests optional language. Please review and edit before finalizing the instruction.

Based on the principle of *State v. Couch*, 635 P.2d 89 (Utah 1981), the committee has chosen to provide definitions only for words defined by statute or case law. If the jury requests a definition for a word not defined by statute or case law, practitioners and judges should work together to define this word using its ordinary and accepted meaning. *Id.*

For the definition of “grievous sexual offense,” see [CR1617, Sexual Offense Prior Conviction](#).

The definition of “position of special trust” applies to crimes committed on or after May 13, 2014. For crimes committed before May 13, 2014, see *State v. Watkins*, 2013 UT 28, 309 P.3d 209.

In regard to in subpart 2.a. and 2.b. of the definition of "dangerous weapon," the committee considered the use of the word "victim" in light of *State v. Vallejo*, 2019 UT 38, ¶¶ 99-102, but chose to preserve the language set forth in the statute. Any attempt to alter the instruction in an effort to avoid the use of the word "victim" appears to impermissibly change the meaning of the statute.

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