

Assault & Battery



Any accusation of criminal wrongdoing is serious, but when it involves hurting another person, the punishment is often much more severe. ***In Utah, assault charges vary from a Misdemeanor B to a 2nd Degree Felony.*** These charges can result in harsh consequences and a criminal record. If you are being accused of assaulting someone, Schmidt & Gladstone may be able to help.

Assault & Battery in Utah

In the state of Utah, there are numerous assault laws. Other than the charge of sexual battery, there isn't a "battery" crime according to Utah state statute. This change came about when the previous crimes that fell under the "battery" umbrella were wrapped into the crime of "assault."

As defined by Utah statutes, *Misdemeanor B* charges stem from any of the following actions occurring:

1. Uses force or violence in an attempt to do bodily injury against another person;
2. Uses force or violence to threaten another person with injury;
3. Uses force or violence to actually harm another person or create a substantial risk of injury.

A Misdemeanor B charge escalates to a ***Misdemeanor A*** charge if:

- the person assaulted is pregnant and the pregnancy is known by the assailant; or
- the person's actions result in substantial physical harm.

The charges escalate to a ***3rd Degree Felony*** if:

- the person uses a dangerous weapon; or
- the assault is apt to result in death or serious bodily injury.

If a person does inflict serious injury, the charges become a 2nd Degree Felony, which is much more dire. There are variations of these charges as well, such as "Assault by a Prisoner" and "Assault of a School Employee."

Potential Penalties for an Assault Conviction

Sentencing guidelines vary substantially between different charges; the maximum penalty for each charge is as follows:

- Misdemeanor B: 6 months in jail and \$1,000 fine
- Misdemeanor A: 1 year in jail and \$2,500 fine

- 3rd Degree Felony: 0-5 years in prison and \$5,000 fine
- 2nd Degree Felony: 1-15 years in prison and \$10,000 fine

Although it is unlikely that a judge will impose the maximum penalty for assault charges, it is a possibility. Commonly, a person receives **some combination of fines, probation, jail or prison time, community service and anger management classes.**

Frequently Asked Questions

What if we both chose to fight? Why am I getting in trouble when he punched me, too?

This is called mutual consent, and it pertains to situations where both parties knowingly and willingly enter into the fight. ***In the state of Utah, this is not a valid legal excuse.*** In other words, it doesn't matter what circumstances led to the fight or how willing the people were to enter into it, both people can be tried and convicted if their actions amount to assault according to the outlined statutes above.

I felt like I had to defend myself, so I did. Now I'm being charged with assault. Isn't self-defense a valid excuse?

In some circumstances, it is a legal excuse according to Utah laws. Through the courts, ***you must prove that you had a "reasonable" cause*** to believe that the other person was going to use unlawful force against you. Some factors that a judge and jury consider when making this decision include: both parties' history of violent acts; any patterns of abuse in the relationship; the cause of danger involved; the perceived likelihood of death or serious injury; and the immediacy of danger.

If you or someone you love is being charged with assault, please contact Schmidt & Gladstone [here](#), or call 801-895-3113 for a free consultation. We have over 20 years of experience representing the residents of Utah, and are conveniently located in downtown Salt Lake City.