

***Superseded 5/10/2016***

**76-5b-201 Sexual exploitation of a minor -- Offenses.**

- (1) A person is guilty of sexual exploitation of a minor:
  - (a) when the person:
    - (i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or
    - (ii) intentionally distributes or views child pornography; or
  - (b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).
- (2) Sexual exploitation of a minor is a second degree felony.
- (3) It is a separate offense under this section:
  - (a) for each minor depicted in the child pornography; and
  - (b) for each time the same minor is depicted in different child pornography.
- (4) It is an affirmative defense to a charge of violating this section that no person under 18 years of age was actually depicted in the visual depiction or used in producing or advertising the visual depiction.
- (5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.
- (6) This section may not be construed to impose criminal or civil liability on:
  - (a) any entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:
    - (i) reporting or data preservation duties required under any federal or state law; or
    - (ii) implementing a policy of attempting to prevent the presence of child pornography on any tangible or intangible property, or of detecting and reporting the presence of child pornography on the property; or
  - (b) any law enforcement officer acting within the scope of a criminal investigation.