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**ACCESSING PORNOGRAPHY ON SCHOOL
PROPERTY**

2007 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: DeMar Bud Bowman

Senate Sponsor: D. Chris Buttars

LONG TITLE

General Description:

This bill establishes penalties for accessing pornography on school property.

Highlighted Provisions:

This bill:

- ▶ allows a school to suspend or expel a student for accessing pornographic material at school; and
- ▶ makes it a crime to access pornographic material on school property.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53A-11-904, as last amended by Chapter 203, Laws of Utah 2003

ENACTS:

76-10-1234, Utah Code Annotated 1953

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

Section 1. Section **53A-11-904** is amended to read:



28 **53A-11-904. Grounds for suspension or expulsion from a public school.**

29 (1) A student may be suspended or expelled from a public school for any of the
30 following reasons:

31 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive
32 behavior, including the use of foul, profane, vulgar, or abusive language;

33 (b) willful destruction or defacing of school property;

34 (c) behavior or threatened behavior which poses an immediate and significant threat to
35 the welfare, safety, or morals of other students or school personnel or to the operation of the
36 school;

37 (d) possession, control, or use of an alcoholic beverage as defined in Section
38 32A-1-105; ~~or~~

39 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the
40 school or school property, to a person associated with the school, or property associated with
41 that person, regardless of where it occurs~~[-]; or~~

42 (f) possession or use of pornographic material on school property.

43 (2) (a) A student shall be suspended or expelled from a public school for any of the
44 following reasons:

45 (i) any serious violation affecting another student or a staff member, or any serious
46 violation occurring in a school building, in or on school property, or in conjunction with any
47 school activity, including:

48 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or
49 noxious or flammable material;

50 (B) the actual or threatened use of a look alike weapon with intent to intimidate another
51 person or to disrupt normal school activities; or

52 (C) the sale, control, or distribution of a drug or controlled substance as defined in
53 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug
54 paraphernalia as defined in Section 58-37a-3; or

55 (ii) the commission of an act involving the use of force or the threatened use of force
56 which if committed by an adult would be a felony or class A misdemeanor.

57 (b) A student who commits a violation of Subsection (2)(a) involving a real or look
58 alike weapon, explosive, or flammable material shall be expelled from school for a period of

59 not less than one year subject to the following:

60 (i) within 45 days after the expulsion the student shall appear before the student's local
61 school board superintendent or the superintendent's designee, accompanied by a parent or legal
62 guardian; and

63 (ii) the superintendent shall determine:

64 (A) what conditions must be met by the student and the student's parent for the student
65 to return to school;

66 (B) if the student should be placed on probation in a regular or alternative school
67 setting consistent with Section 53A-11-907, and what conditions must be met by the student in
68 order to ensure the safety of students and faculty at the school the student is placed in; and

69 (C) if it would be in the best interest of both the school district and the student to
70 modify the expulsion term to less than a year, conditioned on approval by the local school
71 board and giving highest priority to providing a safe school environment for all students.

72 (3) A student may be denied admission to a public school on the basis of having been
73 expelled from that or any other school during the preceding 12 months.

74 (4) A suspension or expulsion under this section is not subject to the age limitations
75 under Subsection 53A-11-102(1).

76 (5) Each local school board shall prepare an annual report for the State Board of
77 Education on:

78 (a) each violation committed under this section; and

79 (b) each action taken by the school district against a student who committed the
80 violation.

81 Section 2. Section **76-10-1234** is enacted to read:

82 **76-10-1234. Accessing pornographic or indecent material on school property.**

83 (1) As used in this section:

84 (a) "Pornographic or indecent material" means any material:

85 (i) defined as harmful to minors in Section 76-10-1201;

86 (ii) described as pornographic in Section 76-10-1203; or

87 (iii) described in Section 76-10-1227.

88 (b) "School property" means property, including land and improvements, that a school
89 district or charter school owns, leases, or occupies.

90 (2) Except as provided in Subsection (3), a person, including a minor, is guilty of
91 accessing pornographic or indecent material on school property when the person willfully or
92 knowingly creates, views, listens to, or otherwise gains access to pornographic or indecent
93 material while present on school property.

94 (3) This section does not apply to school or law enforcement personnel when the
95 access to pornographic or indecent material on school property is limited to:

96 (a) investigation of a violation of this section; or

97 (b) enforcement of this section.

98 (4) Each separate offense under this section is a class B misdemeanor.

99 (5) This section does not prohibit disciplinary action for actions that violate this
100 section.

Legislative Review Note
as of 1-4-07 10:49 AM

Office of Legislative Research and General Counsel

H.B. 100 - Accessing Pornography on School Property

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/22/2007, 9:07:09 AM, Lead Analyst: Schoenfeld, J.D.

Office of the Legislative Fiscal Analyst