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SEXUAL EXPLOITATION OF A MINOR

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ron Bigelow

Senate Sponsor: D. Chris Buttar

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding sexual offenses against minors.

Highlighted Provisions:

This bill:

▶ amends the offense of sexual exploitation of a minor to include the act of viewing child pornography **↔**; **and**

▶ **provides that entities, their employees, and law enforcement officers who are acting in good faith to investigate, monitor for, or report child pornography are not considered to have violated any civil or criminal provision regarding sexual exploitation of a minor** **↔** .

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5a-3, as last amended by Laws of Utah 2001, Chapter 176

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

Section 1. Section **76-5a-3** is amended to read:

76-5a-3. Sexual exploitation of a minor -- Offenses.

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person **↔**;

(i) **↔** knowingly produces, **↔** [~~distributes, views,~~] **↔** possesses, or possesses with intent to distribute **↔** [;] **child pornography;** **or**

(ii) **intentionally distributes or views** **↔** child pornography; **or**

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28 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
29 permits that minor to be sexually exploited under Subsection (1)(a).

30 (2) Sexual exploitation of a minor is a felony of the second degree.

31 (3) It is a separate offense under this section:

32 (a) for each minor depicted, and if more than one minor is depicted in the child
33 pornography in violation of this section, the depiction of each individual minor in the child
34 pornography is a separate offense; and

35 (b) each time the same minor is depicted in different child pornography.

36 (4) It is an affirmative defense to a charge of violating this section that no person under
37 18 years of age was actually depicted in the visual depiction or used in producing or advertising
38 the visual depiction.

38a **H→ (5) This section may not be construed to impose criminal or civil liability on:**

38b **(a) any entity or an employee, director, officer, or agent of an entity when acting within**
38c **the scope of employment, for the good faith performance of:**

38d **(i) reporting or data preservation duties required under any federal or state law; or**

38e **(ii) implementing a policy of attempting to prevent the presence of child pornography**

38f **on any tangible or intangible property, or of detecting and reporting the presence of child**

38g **pornography on the property; or**

38h **(b) any law enforcement officer acting within the scope of a criminal investigation. ←H**

Legislative Review Note
as of 12-29-08 2:08 PM

Office of Legislative Research and General Counsel

H.B. 97 - Sexual Exploitation of a Minor

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill may require additional appropriations depending on the number of convictions in a given year. While the number of convictions in a given year cannot be determined at this time, the state cost of one additional offender to the criminal justice system as a result of enactment is \$30,200 of state funds in FY 2010 and \$29,700 in each year thereafter.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$29,700	\$29,700	\$0	\$0	\$0
General Fund, One-Time	\$0	\$500	\$0	\$0	\$500	\$0
General Fund Restricted	\$0	\$0	\$0	\$0	\$900	\$0
Total	\$0	\$30,200	\$29,700	\$0	\$1,400	\$0

Individual, Business and/or Local Impact

Enactment of this bill may impact local law enforcement agencies, however the amount is unquantifiable at this time.