

1 **SEXUAL EXPLOITATION OF A MINOR**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ron Bigelow**

5 Senate Sponsor: D. Chris Buttars

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7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends the offense of sexual exploitation of a minor to include the act of viewing  
13 child pornography; and  
14 ▶ provides that entities, their employees, and law enforcement officers who are acting  
15 in good faith to investigate, monitor for, or report child pornography are not  
16 considered to have violated any civil or criminal provision regarding sexual  
17 exploitation of a minor.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-5a-3**, as last amended by Laws of Utah 2001, Chapter 176

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

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

28 **76-5a-3. Sexual exploitation of a minor -- Offenses.**

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

- 30 (a) when the person:
- 31 (i) knowingly produces, [~~distributes,~~] possesses, or possesses with intent to
- 32 distribute[;] child pornography; or
- 33 (ii) intentionally distributes or views child pornography; or
- 34 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
- 35 permits that minor to be sexually exploited under Subsection (1)(a).
- 36 (2) Sexual exploitation of a minor is a felony of the second degree.
- 37 (3) It is a separate offense under this section:
- 38 (a) for each minor depicted, and if more than one minor is depicted in the child
- 39 pornography in violation of this section, the depiction of each individual minor in the child
- 40 pornography is a separate offense; and
- 41 (b) each time the same minor is depicted in different child pornography.
- 42 (4) It is an affirmative defense to a charge of violating this section that no person
- 43 under 18 years of age was actually depicted in the visual depiction or used in producing or
- 44 advertising the visual depiction.
- 45 (5) This section may not be construed to impose criminal or civil liability on:
- 46 (a) any entity or an employee, director, officer, or agent of an entity when acting
- 47 within the scope of employment, for the good faith performance of:
- 48 (i) reporting or data preservation duties required under any federal or state law; or
- 49 (ii) implementing a policy of attempting to prevent the presence of child pornography
- 50 on any tangible or intangible property, or of detecting and reporting the presence of child
- 51 pornography on the property; or
- 52 (b) any law enforcement officer acting within the scope of a criminal investigation.