

Nicholeen P. Peck proposes the following substitute bill:

**Sexual Abuse Material Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nicholeen P. Peck**

Senate Sponsor:

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3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions relating to liability for the distribution of pornography.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ defines terms;

9 ▶ prohibits a person from knowingly or intentionally publishing or distributing pornography

10 on the Internet within the state;

11 ▶ provides a cause of action for a person that views pornography within the state against a  
12 person that distributes or publishes pornography within the state;

13 ▶ provides the relief a court may grant if a person brings a cause of action against a person  
14 that distributes or publishes pornography;

15 ▶ provides that a commercial entity that provides access to the Internet is not liable for  
16 pornography on the commercial entity's services, if the commercial entity did not create  
17 the pornography; and

18 ▶ authorizes persons with claims under the provisions this bill enacts to combine the  
19 persons' claims.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **78B-3-1001**, as enacted by Laws of Utah 2023, Chapter 262

27 ENACTS:

28 **78B-3-1004**, Utah Code Annotated 1953

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

Section 1. Section **78B-3-1001** is amended to read:

**Part 10. Liability for Publishers and Distributors of Material Harmful to Minors and**

**Pornography**

**78B-3-1001 . Definitions.**

As used in this chapter:

- (1) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.
- (2) "Cloud service provider" means a commercial entity that offers data storage, computing power, or other digital infrastructure resources to a person through the Internet.
- ~~(2)~~ (3) "Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.
- ~~(3)~~ (4) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.
- ~~(4)~~ (5) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.
- (6) "Internet service provider" means a commercial entity that connects a person to the Internet by providing or installing technology including cable, wireless, and fiber-optic.
- ~~(5)~~ (7) "Material harmful to minors" is defined as all of the following:
  - (a) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;
  - (b) material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:
    - (i) pubic hair, anus, vulva, genitals, or nipple of the female breast;
    - (ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals;

- 61 or
- 62 (iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
- 63 flagellation, excretory functions, exhibitions, or any other sexual act; and
- 64 (c) the material taken as a whole lacks serious literary, artistic, political, or scientific
- 65 value for minors.
- 66 ~~[(6)]~~ (8) "Minor" means any person under 18 years old.
- 67 ~~[(7)]~~ (9) "News-gathering organization" means any of the following:
- 68 (a) an employee of a newspaper, news publication, or news source, printed or on an
- 69 online or mobile platform, of current news and public interest, while operating as an
- 70 employee as provided in this subsection, who can provide documentation of such
- 71 employment with the newspaper, news publication, or news source; or
- 72 (b) an employee of a radio broadcast station, television broadcast station, cable
- 73 television operator, or wire service while operating as an employee as provided in
- 74 this subsection, who can provide documentation of such employment.
- 75 (10) "Pornography" means any material that meets the standard of being pornographic
- 76 under Section 76-10-1203.
- 77 ~~[(8)]~~ (11) "Publish" means to communicate or make information available to another person
- 78 or entity on a publicly available Internet website.
- 79 ~~[(9)]~~ (12) "Reasonable age verification methods" means verifying that the person seeking to
- 80 access the material is 18 years old or older by using any of the following methods:
- 81 (a) use of a digitized information card as defined in this section;
- 82 (b) verification through an independent, third-party age verification service that
- 83 compares the personal information entered by the individual who is seeking access to
- 84 the material that is available from a commercially available database, or aggregate of
- 85 databases, that is regularly used by government agencies and businesses for the
- 86 purpose of age and identity verification; or
- 87 (c) any commercially reasonable method that relies on public or private transactional
- 88 data to verify the age of the person attempting to access the material.
- 89 (13) "Search engine" means an Internet service that enables an individual to search for
- 90 information on the Internet by entering search terms.
- 91 ~~[(10)]~~ (14) "Substantial portion" means more than 33-1/3% of total material on a website,
- 92 which meets the definition of "material harmful to minors" as defined in this section.
- 93 ~~[(11)]~~ (15)(a) "Transactional data" means a sequence of information that documents an
- 94 exchange, agreement, or transfer between an individual, commercial entity, or third

95 party used for the purpose of satisfying a request or event.

96 (b) "Transactional data" includes records from mortgage, education, and employment  
97 entities.

98 Section 2. Section **78B-3-1004** is enacted to read:

99 **78B-3-1004 . Liability for publishers and distributors of pornography.**

100 (1) A person may not knowingly or intentionally publish or distribute pornography on the  
101 Internet within the state.

102 (2) A person has a right of action against a person that violates Subsection (1) if the person  
103 that brings the action views the pornography in this state and the person that publishes or  
104 distributes the pornography publishes or distributes the pornography within the state.

105 (3) If a person brings an action against a person and a court finds that the person violated  
106 Subsection (1), a court may award:

107 (a) injunctive relief;

108 (b) nominal damages;

109 (c) actual damages; and

110 (d) reasonable attorney fees and court costs.

111 (4) An Internet service provider, affiliate or subsidiary of an Internet service provider,  
112 search engine, or cloud service provider does not violate Subsection (1) by providing  
113 access to or connection to or from a website or other content on the Internet that violates  
114 Subsection (1), if the Internet service provider, affiliate or subsidiary of an Internet  
115 service provider, search engine, or cloud service provider is not responsible for the  
116 creation of the content that violates Subsection (1).

117 (5) A person with a claim under this section that satisfies the applicable standards for  
118 joinder or class action may combine the claim with one or more persons with a claim  
119 under this section into one action.

120 Section 3. **Effective Date.**

121 This bill takes effect on May 7, 2025.