

Obscene Animal Abuse Material Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill addresses obscene animal abuse material.

Highlighted Provisions:

This bill:

- separates animal sexual abuse from the current definition of pornographic and creates a new definition of obscene animal abuse material;
- creates a standalone criminal offense of distributing obscene animal abuse material;
- adds animal crushing to the criminal offense of distributing obscene animal abuse material;
- ensures that obscene animal abuse material is treated the same throughout the code as pornographic materials; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 76-5c-101**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 76-5c-102**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 76-5c-103**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 76-5c-104**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 76-5c-106**, as renumbered and amended by Laws of Utah 2025, Chapter 173
- 76-5c-107**, as renumbered and amended by Laws of Utah 2025, Chapter 173

28 **76-5c-109**, as renumbered and amended by Laws of Utah 2025, Chapter 173
29 **76-5c-110**, as renumbered and amended by Laws of Utah 2025, Chapter 173
30 **76-5c-203**, as enacted by Laws of Utah 2025, Chapter 173
31 **76-5c-204**, as renumbered and amended by Laws of Utah 2025, Chapter 173
32 **76-5c-208**, as renumbered and amended by Laws of Utah 2025, Chapter 173
33 **76-5c-212**, as enacted by Laws of Utah 2025, Chapter 173
34 **76-5c-213**, as enacted by Laws of Utah 2025, Chapter 173
35 **76-5c-214**, as renumbered and amended by Laws of Utah 2025, Chapter 173
36 **76-17-401**, as renumbered and amended by Laws of Utah 2025, Chapter 173
37 **76-17-403**, as renumbered and amended by Laws of Utah 2025, Chapter 173
38 **78B-6-2101**, as enacted by Laws of Utah 2017, Chapter 464
39 **78B-6-2102**, as last amended by Laws of Utah 2025, Chapter 173
40 **78B-6-2103**, as last amended by Laws of Utah 2024, Chapter 168
41 **78B-6-2105**, as last amended by Laws of Utah 2025, Chapter 173

42 ENACTS:

43 **76-5c-215**, Utah Code Annotated 1953

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

46 Section 1. Section **76-5c-101** is amended to read:

47 **76-5c-101 . Definitions.**

48 As used in this chapter:

49 (1)(a) "Animal crushing" means actual conduct in which a living non-human mammal,
50 bird, reptile, or amphibian is intentionally crushed, burned, drowned, suffocated,
51 impaled, or otherwise subjected to serious bodily injury.

52 (b) "Animal crushing" does not include:

- 53 (i) normal veterinary, agricultural husbandry, or other animal management practice;
54 (ii) the slaughter of animals for food;
55 (iii) hunting, trapping, fishing, or a sporting activity not otherwise prohibited by state
56 or federal law;
57 (iv) medical or scientific research; or
58 (v) conduct necessary to protect the life or property of an individual.

59 [(1)] (2) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so
60 that the lower 2/3 of the material is concealed from view.

61 [(2)] (3) "Constructive awareness" means that:

- (a) a reasonable inspection or observation by an individual under the circumstances would have disclosed the nature of the subject matter; and
- (b) a failure to inspect or observe by the individual is either for the purpose of avoiding the disclosure or the individual is criminally negligent.

~~[(3)]~~ (4) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

~~[(4)]~~ (5) "Criminally negligent" means the same as that term is defined in Section 76-2-103.

~~[(5)]~~ (6) "Distribute" means to transfer possession of a material with or without consideration.

~~[(6)]~~ (7) "Exhibit" means to show.

~~[(7)]~~ (8)(a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, ~~[or]~~ sadomasochistic abuse, sexual conduct with an animal, or animal crushing when it:

- (i) taken as a whole, appeals to the prurient interest in sex of minors;
- (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- (iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political, or scientific value for minors.

~~[(8)]~~ (9) "Knowingly," regarding material or a performance, means an awareness, whether actual awareness or constructive awareness, of the character of the material or performance.

~~[(9)]~~ (10)(a) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication.

(b) "Material" includes undeveloped photographs, molds, printing plates, and other latent representational objects.

~~[(10)]~~ (11) "Minor" means an individual younger than 18 years old.

~~[(11)]~~ (12) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

~~[(12)]~~ (13) "Nudity" means:

- 96 (a) the showing of the human male or female genitals, pubic area, or buttocks, with less
97 than an opaque covering;
98 (b) the showing of a female breast with less than an opaque covering, or any portion of
99 the female breast below the top of the areola; or
100 (c) the depiction of covered male genitals in a discernibly turgid state.

101 (14) "Obscene animal abuse material" means material that:

102 (a)(i) depicts animal crushing; or

103 (ii) sexual conduct with an animal; and

104 (b)(i) the average individual, applying contemporary community standards, finds
105 that, taken as a whole, the depiction of animal crushing or sexual conduct with an
106 animal appeals to prurient interest in sex;

107 (ii) the depiction of animal crushing or sexual conduct with an animal is patently
108 offensive; and

109 (iii) taken as a whole, the depiction of animal crushing or sexual conduct with an
110 animal does not have serious literary, artistic, political, or scientific value.

111 [(13)] (15) "Performance" means any physical human bodily activity, whether engaged in
112 alone or with other individuals, including singing, speaking, dancing, acting, simulating,
113 or pantomiming.

114 [(14)] (16) "Pornographic" means:

115 (a) the average individual, applying contemporary community standards, finds that,
116 taken as a whole, the material or performance appeals to prurient interest in sex;

117 (b) the material or performance is patently offensive in the description or depiction of
118 nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

119 (c) taken as a whole the material or performance does not have serious literary, artistic,
120 political, or scientific value.

121 [(15)] (17) "Public place" includes a place to which admission is gained by payment of a
122 membership or admission fee, however designated, notwithstanding its being designated
123 a private club or by words of like import.

124 [(16)] (18) "Sadomasochistic abuse" means:

125 (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a
126 mask, or in a revealing or bizarre costume; or

127 (b) the condition of being fettered, bound, or otherwise physically restrained on the part
128 of an individual clothed as described in Subsection (14)(a).

129 [(17)] (19) "Sexual conduct" means acts of masturbation, sexual intercourse, or any

touching of an individual's clothed or unclothed genitals, pubic area, buttocks, or, if the individual is a female, breast, whether alone or between members of the same or opposite sex~~[-or between humans and animals]~~ in an act of apparent or actual sexual stimulation or gratification.

(20)(a) "Sexual conduct with an animal" means an act of sexual intercourse, or any touching of an individual's clothed or unclothed genitals, pubic area, buttocks, or, if the individual is a female, breast, between a human and an animal in an act of apparent or actual sexual stimulation or gratification.

(b) "Sexual conduct with an animal" includes a violation of bestiality as described in Section 76-13-213.

[(18)] (21) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Section 2. Section **76-5c-102** is amended to read:

76-5c-102 . Evidence related to a material's or performance's literary, artistic, political, or scientific value.

(1) In a prosecution under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the actor for the sake of the matter's prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which the matter is used, the matter has no serious literary, artistic, political, or scientific value.

(2) In a prosecution under this chapter neither the prosecution or the defense is required to introduce expert witness testimony to testify as to whether a material or performance is or is not harmful to adults or minors or is or is not pornographic or obscene animal abuse material, or as to any element of the definition of pornographic or obscene animal abuse material, including contemporary community standards.

Section 3. Section **76-5c-103** is amended to read:

76-5c-103 . Relation to other state and local laws.

(1)(a) A county, city, or other political subdivision has the right to regulate obscene animal abuse material, pornographic ~~[materials]~~ material, or ~~[materials]~~ material harmful to minors as this chapter does not proscribe or limit the regulation of obscene animal abuse material, pornographic ~~[materials]~~ material, or ~~[materials]~~ material harmful to minors by a county, city, or other political subdivision.

(b) Without limitation, a political subdivision may further regulate obscene animal abuse material, pornographic [~~materials~~] material, or [~~materials~~] material harmful to minors by ordinances relating to:

(i) zoning;

(ii) licensing;

(iii) public nuisances;

(iv) a specific type of business such as adult bookstores or drive-in movies; or

(v) use of blinder racks.

(2) This chapter does not preclude the application of other laws of this state to obscene animal abuse material, pornographic[~~materials~~] material, or [~~materials~~] material harmful to minors and, without limitation, this chapter is not in derogation of Subsection 76-9-1301(2) and Section 76-9-1306.

(3)(a) The commission of a crime under this chapter offends public decency under Subsection 76-9-1301(2).

(b) It is the intent of this chapter to give the broadest meaning permissible under the United States Constitution and the Utah Constitution to the words "offends public decency" in Subsection 76-9-1301(2).

Section 4. Section **76-5c-104** is amended to read:

76-5c-104 . Injunctive relief -- Jurisdiction -- Consent to be sued.

(1)(a) Subject to Subsections (1)(b), (c), (d), and (e), a district court has full power, authority, and jurisdiction, upon application by any county attorney or city attorney within the county attorney's or city attorney's respective jurisdictions or the attorney general, to issue any and all proper restraining orders, preliminary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this chapter.

(b) No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined.

(c) The person sought to be enjoined is entitled to a trial of the issues commencing within three days after the day on which the answer to the complaint is filed and a decision by the court is required to be rendered within two days after the conclusion of the trial.

(d) If a final order or judgment of injunction is entered against the person sought to be enjoined, this final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any

pornographic material in the person's possession which is subject to the injunction.
(e) The sheriff receiving the material described in Subsection (1)(d) shall be directed to seize and destroy the material.

- (2) Any person not qualified to do business in the state who sends or brings any obscene animal abuse material or pornographic material into the state with the intent to distribute or exhibit the obscene animal abuse material or pornographic material to others in this state consents that the person may be sued in any proceedings commenced under this section.

Section 5. Section **76-5c-106** is amended to read:

76-5c-106 . Corporate defendants -- Summons -- Subpoena duces tecum.

- (1)(a) The attendance in court by a corporation for purposes of commencing or prosecuting a criminal action against the corporation under this chapter may be accomplished by the issuance and service of a summons issued by a magistrate if the magistrate finds probable cause that material in the possession of the corporation is obscene animal abuse material, pornographic, or harmful to minors, which finding shall be upon affidavit describing with specificity the material alleged to be obscene animal abuse material, pornographic, or harmful to minors or by another manner or means the magistrate finds necessary.
- (b) Where practical, the material alleged to be obscene animal abuse material, pornographic, or harmful to minors shall be attached to the affidavit described in Subsection (1)(a) to provide the magistrate with the opportunity to examine the material.
- (c) The summons must be served upon the corporation by delivery of the summons to an officer, director, managing or general agent, or cashier, or assistant cashier of the corporation.
- (2) The production of material alleged to be obscene animal abuse material, pornographic, or harmful to minors in any proceedings under this chapter against a corporation may be compelled by the issuance and service of a subpoena duces tecum.
- (3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings against individuals under this chapter.

Section 6. Section **76-5c-107** is amended to read:

76-5c-107 . Search and seizure -- Affidavit -- Issuance of warrant -- Hearing upon claim that material seized not pornographic or harmful to minors -- Procedures cumulative.

(1)(a) An affidavit for a search warrant shall be filed with a magistrate describing with specificity the material sought to be seized.

(b) Where practical, the material alleged to be obscene animal abuse material, pornographic, or harmful to minors shall be attached to the affidavit for a search warrant described in Subsection (1)(a) to provide the magistrate with the opportunity to examine the material.

(2)(a) Upon the filing of an affidavit for a search warrant under Subsection (1), the magistrate shall determine, by examination of the material sought to be seized if attached, by examination of the affidavit describing the material, or by another manner or means that the magistrate finds necessary, whether probable cause exists to believe that the material is obscene animal abuse material, pornographic, or harmful to minors and whether probable cause exists for the immediate issuance of a search warrant.

(b) Upon making the determination that probable cause exists under Subsection (2)(a), the magistrate shall issue a search warrant ordering the seizure of the material described in the affidavit for a search warrant according to the provisions of the Utah Rules of Criminal Procedure.

(3)(a) If a search warrant is issued under Subsection (2) and the material alleged to be obscene animal abuse material, pornographic, or harmful to minors is seized under the provisions of this section, any person claiming to be in possession of this material or claiming ownership of the material at the time of the material's seizure may file a notice in writing with the magistrate within 10 days after the day on which the material was seized, to assert that the material is not obscene animal abuse material, pornographic, or harmful to minors.

(b) The magistrate shall set a hearing within seven days after the filing of the notice described in Subsection (3)(a), or at another time with the consent of the claimant, at which evidence may be presented regarding whether there is probable cause to believe that the material seized is obscene animal abuse material, pornographic, or harmful to minors.

(c)(i) At the conclusion of the hearing described in Subsection (3)(b), the magistrate shall make a further determination of whether probable cause exists to believe that the material is obscene animal abuse material, pornographic, or harmful to minors.

(ii) The magistrate's determination described in Subsection (3)(c)(i) shall be rendered by the court within two days after the day on which the hearing described in

Subsection (3)(b) concludes.

(d) If at the hearing described in Subsection (3)(b) the magistrate finds that no probable cause exists to believe that the material is obscene animal abuse material, pornographic, or harmful to minors, the material shall be returned to the person from whom it was seized.

(e) If the material seized is a film, and the claimant demonstrates that no other copy of the film is available to the claimant, the court shall allow the film to be copied at the claimant's expense pending the hearing described in Subsection (3)(b).

(4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure, the property shall be restored unless it is subject to confiscation as contraband, in which case the property may not be returned.

(5)(a) Procedures under this section for the seizure of allegedly obscene animal abuse material, pornographic material, or material harmful to minors are cumulative of all other lawful means of obtaining evidence as provided by the laws of this state.

(b) This section does not prevent the obtaining of allegedly obscene animal abuse material, pornographic material, or material harmful to minors by purchase, subpoena duces tecum, or under injunction proceedings as authorized by this act or by any other provision of law of the state.

Section 7. Section **76-5c-109** is amended to read:

76-5c-109 . Affirmative defenses.

- (1) It is an affirmative defense to a prosecution under this chapter that the distribution of obscene animal abuse material or pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing obscene animal abuse material or pornographic material.
- (2) It is not a defense to a prosecution under this chapter that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this chapter incident to the actor's employment.

Section 8. Section **76-5c-110** is amended to read:

76-5c-110 . Exemptions to chapter.

- (1) This chapter does not apply to the Department of Corrections or any treatment program by or under contract with the Department of Corrections when the use of material that is pornographic or obscene animal abuse material is limited to the assessment or treatment of an offender as defined in Section 64-13-1.
- (2) A woman breast feeding, including breast feeding in any location where the woman

otherwise may rightfully be, does not under any circumstance constitute a violation of this chapter, irrespective of whether the woman's breast is covered during or incidental to feeding.

Section 9. Section **76-5c-203** is amended to read:

76-5c-203 . Aiding or abetting a minor in distributing pornographic material or obscene animal abuse material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits aiding or abetting a minor in distributing pornographic material or obscene animal abuse material if the actor:

(a) is 18 years old or older; and

(b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:

(i) sending or bringing pornographic material or obscene animal abuse material into the state with intent to distribute or exhibit the [~~pornographic~~]material to another individual;

(ii) preparing, publishing, printing, or possessing pornographic material or obscene animal abuse material with intent to distribute or exhibit the [~~pornographic~~] material to another individual;

(iii) distributing or offering to distribute, or exhibiting or offering to exhibit, pornographic material or obscene animal abuse material to another individual;

(iv) writing, creating, or soliciting the publication or advertising of pornographic material or obscene animal abuse material;

(v) promoting the distribution or exhibition of obscene animal abuse material or material the minor represents to be pornographic or obscene animal abuse material; or

(vi) presenting or directing a pornographic performance in a public place or a place exposed to public view or participates in that portion of the performance which makes the performance pornographic.

(3) A violation of Subsection (2) is a third degree felony subject to:

(a) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited up to the maximum allowed by law; and

(b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(4)(a) Each act of distributing pornographic material or obscene animal abuse material described in Subsection (2) is a separate offense.

(b) It is a separate offense under this section for:

(i) each day's exhibition of any pornographic motion picture film or obscene animal abuse material motion picture film; and

(ii) each day in which any pornographic publication or obscene animal abuse material publication is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual.

(5)(a) This section does not apply to an [Internet] internet service provider if:

(i) the distribution of pornographic material or obscene animal abuse material by the [Internet] internet service provider occurs only incidentally through the [Internet] internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the [Internet] internet service provider does not intentionally aid or abet in the distribution of the pornographic material or obscene animal abuse material; and

(iii) the [Internet] internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material or obscene animal abuse material in exchange for permitting the person to distribute the pornographic material or obscene animal abuse material.

(b) This section does not apply to a hosting company if:

(i) the distribution of pornographic material or obscene animal abuse material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material or obscene animal abuse material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material or obscene animal abuse material in exchange for permitting the person to distribute, store, or cache the pornographic material or obscene animal abuse material.

(6) Subsection (3) supersedes Section 77-18-105.

Section 10. Section **76-5c-204** is amended to read:

76-5c-204 . Inducing acceptance of pornographic material or obscene animal abuse material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits [-]inducing acceptance of pornographic material or obscene animal

368 abuse material if the actor knowingly:

369 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery for
370 resale of any newspaper, magazine, periodical, book, publication, or other
371 merchandise that the purchaser or consignee receive any pornographic material or
372 obscene animal abuse material or material reasonably believed by the purchaser or
373 consignee to be pornographic or obscene animal abuse material; or

374 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty,
375 financial or otherwise, because of the failure or refusal to accept pornographic
376 material or obscene animal abuse material or material reasonably believed by the
377 purchaser or consignee to be pornographic or obscene animal abuse material.

378 (3) A violation of Subsection (2) is a third degree felony subject to:

379 (a) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article exhibited
380 up to the maximum allowed by law; and

381 (b) incarceration, without suspension of sentence in any way, for a term of not less than
382 30 days.

383 (4)(a) This section does not apply to an [Internet] internet service provider if:

384 (i) the distribution of pornographic material or obscene animal abuse material by the [
385 Internet] internet service provider occurs only incidentally through the [Internet-]
386 internet service provider's function of:

387 (A) transmitting or routing data from one person to another person; or

388 (B) providing a connection between one person and another person;

389 (ii) the [Internet] internet service provider does not intentionally aid or abet in the
390 distribution of the pornographic material or obscene animal abuse material; and

391 (iii) the [Internet] internet service provider does not knowingly receive funds from or
392 through a person who distributes the pornographic material or obscene animal
393 abuse material in exchange for permitting the person to distribute the
394 pornographic material or obscene animal abuse material.

395 (b) This section does not apply to a hosting company if:

396 (i) the distribution of pornographic material or obscene animal abuse material by the
397 hosting company occurs only incidentally through the hosting company's function
398 of providing data storage space or data caching to a person;

399 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution
400 of the pornographic material or obscene animal abuse material; and

401 (iii) the hosting company does not knowingly receive funds from or through a person

who distributes the pornographic material or obscene animal abuse material in exchange for permitting the person to distribute, store, or cache the pornographic material or obscene animal abuse material.

(5) Subsection (3) supersedes Section 77-18-105.

Section 11. Section **76-5c-208** is amended to read:

76-5c-208 . Pornographic or indecent material on school property.

(1)(a) As used in this section:

(i) "Description or depiction of illicit sex or sexual immorality" means the same as that term is defined in Section 76-5c-207.

(ii) "Nude or partially denuded figure" means the same as that term is defined in Section 76-5c-207.

(iii) "Pornographic or indecent material" means any material that:

(A) is harmful to minors;

(B) is pornographic;

(C) is a description of or depiction of illicit sex or sexual immorality;[~~or~~]

(D) contains a nude or partially denuded figure[~~.~~] ; or

(E) is obscene animal abuse material.

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

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits pornographic or indecent material on school property if:

(a) [~~creating, viewing, or accessing pornographic or indecent material on school property if the actor willfully or knowingly~~] the actor intentionally or knowingly creates, views, or otherwise gains access to pornographic or indecent material; and

(b) [~~while~~] the actor is present on school property when creating, viewing, or otherwise gaining access to the material described in Subsection (2)(a).

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor if the actor is 18 years old or older.

(b) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 18 years old.

(4) The offenses referred to in Subsection (2) are:

(a) distributing pornographic material as described in Section 76-5c-202;

- (b) aiding or abetting a minor in distributing pornographic material or obscene animal abuse material as described in Section 76-5c-203;
- (c) inducing acceptance of pornographic material or obscene animal abuse material as described in Section 76-5c-204;
- (d) distributing material harmful to minors as described in Section 76-5c-205;
- (e) aiding or abetting a minor in distributing material harmful to minors as described in Section 76-5c-206;[-or]
- (f) indecent public display in the presence of a minor as described in Section 76-5c-207[:];
or
- (g) distributing obscene animal abuse material as described in Section 76-5c-215.

(5) This section does not:

- (a) prohibit disciplinary action for actions that violate this section; or
- (b) apply to school or law enforcement personnel when the school or law enforcement personnel views or otherwise gains access to pornographic or indecent material while on school property for the limited purpose of:
 - (i) investigating a violation of this section; or
 - (ii) enforcing this section.

Section 12. Section **76-5c-212** is amended to read:

76-5c-212 . Fee owner or intermediate lessor allowing real property to be used for illicit pornographic purposes.

- (1)(a) As used in this section, "allow" means a failure to exercise the option to void the lease or other title described in Section 76-5c-105 within 10 days after the day on which the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited under this chapter.
- (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- (2) An actor commits fee owner or intermediate lessor allowing real property to be used for illicit pornographic purposes if:
 - (a) the actor is a fee owner or intermediate lessor of real property;
 - (b) the actor knowingly allows the real property described in Subsection (2)(a) to be used by a tenant or occupant, or a tenant's or occupant's employee, for the purpose of distributing or exhibiting pornographic materials or obscene animal abuse materials,

or for pornographic performances; and

(c) the tenant or occupant, or the tenant's or occupant's employee, has been convicted of a previous violation of this chapter for an offense that occurred on the property and all avenues of direct appeal from the conviction have been exhausted or abandoned.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Any fine assessed for a conviction under this section becomes a lien upon the real property described in Subsection (2)(a), if the fine is not paid within 30 days after the day on which the judgment is entered.

Section 13. Section **76-5c-213** is amended to read:

76-5c-213 . Tenant or occupant failing to exit real property after using the property for obscene animal abuse material or pornographic purposes.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits tenant or occupant failing to exit real property after using the property for obscene animal abuse material or pornographic purposes if the actor:

(a) is a tenant or occupant of real property;

(b) received notice in writing that the fee owner or intermediate lessor of the real property is exercising the option to void the lease or other title described in Section 76-5c-105; and

(c) does not permanently exit the premises within 10 days after the day on which the actor received the notice described in Subsection (2)(b).

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 14. Section **76-5c-214** is amended to read:

76-5c-214 . Conspiracy to commit an obscene animal abuse material or pornographic or harmful materials violation.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits conspiracy to commit a pornographic or harmful materials violation if the actor conspires with two or more persons to commit a violation of this chapter.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony subject to:

(i) a minimum mandatory fine of not less than \$1,000; and

(ii) incarceration, without suspension of the sentence in any way, for a term of not less than 60 days.

(b) A violation of Subsection (2) is a second degree felony if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

- (i) a minimum mandatory fine of not less than \$5,000; and
- (ii) incarceration, without suspension of the sentence in any way, for a term of not less than one year.

(4) Subsection (3) supersedes Section 77-18-105.

Section 15. Section **76-5c-215** is enacted to read:

76-5c-215 . Distributing obscene animal abuse material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits distributing obscene animal abuse material if the actor:

- (a) sends or brings obscene animal abuse material into the state with intent to distribute or exhibit the obscene animal abuse material to another individual;
- (b) prepares, publishes, prints, or possesses obscene animal abuse material with intent to distribute or exhibit the obscene animal abuse material to another individual;
- (c) distributes or offers to distribute, or exhibits or offers to exhibit, obscene animal abuse material to another individual;
- (d) writes, creates, or solicits the publication or advertising of obscene animal abuse material; or
- (e) promotes the distribution or exhibition of obscene animal abuse material or material that the actor represents to be obscene animal abuse material.

(3)(a) A violation of Subsection (2) is a third degree felony if the actor is 18 years old or older and is subject to:

- (i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited up to the maximum allowed by law; and
- (ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor is 16 or 17 years old.

(c) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old.

(4) It is a separate offense under this section for:

- (a) each day in which a publication containing obscene animal abuse material is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual; or
- (b) each act of distributing of obscene animal abuse material described in Subsection (2).

(5)(a) This section does not apply to an internet service provider if:

- (i) the distribution of obscene animal abuse material by the internet service provider occurs only incidentally through the internet service provider's function of:
(A) transmitting or routing data from one person to another person; or
(B) providing a connection between one person and another person;
(ii) the internet service provider does not intentionally aid or abet in the distribution of the obscene animal abuse material; and
(iii) the internet service provider does not knowingly receive funds from or through a person who distributes the obscene animal abuse material in exchange for permitting the person to distribute the obscene animal abuse material.
- (b) This section does not apply to a hosting company if:
(i) the distribution of obscene animal abuse material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;
(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the obscene animal abuse material; and
(iii) the hosting company does not knowingly receive funds from or through a person who distributes the obscene animal abuse material in exchange for permitting the person to distribute, store, or cache the obscene animal abuse material.

Section 16. Section **76-17-401** is amended to read:

76-17-401 . Definitions.

As used in this part:

- (1)(a) "Enterprise" means an individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and a union or group of individuals associated in fact although not a legal entity.
- (b) "Enterprise" includes illicit as well as licit entities.
- (2) "Pattern of unlawful activity" means engaging in conduct that constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of

the pattern.

(3) "Person" includes an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct that would constitute an offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act that would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by an authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) unlawful marking of pistol or revolver under Section 53-5a-105;

(g) alteration of number or mark on pistol or revolver under Section 53-5a-106;

(h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

(l) assault under Section 76-5-102;

(m) aggravated assault under Section 76-5-103;

- 606 (n) a threat of terrorism under Section 76-5-107.3;
- 607 (o) a criminal homicide offense under Section 76-5-201;
- 608 (p) kidnapping under Section 76-5-301;
- 609 (q) aggravated kidnapping under Section 76-5-302;
- 610 (r) human trafficking for labor under Section 76-5-308;
- 611 (s) human trafficking for sexual exploitation under Section 76-5-308.1;
- 612 (t) human smuggling under Section 76-5-308.3;
- 613 (u) human trafficking of a child under Section 76-5-308.5;
- 614 (v) benefiting from trafficking and human smuggling under Section 76-5-309;
- 615 (w) aggravated human trafficking under Section 76-5-310;
- 616 (x) sexual exploitation of a minor under Section 76-5b-201;
- 617 (y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 618 (z) sexual extortion under Section 76-5b-204;
- 619 (aa) arson under Section 76-6-102;
- 620 (bb) aggravated arson under Section 76-6-103;
- 621 (cc) causing a catastrophe under Section 76-6-105;
- 622 (dd) burglary under Section 76-6-202;
- 623 (ee) aggravated burglary under Section 76-6-203;
- 624 (ff) burglary of a vehicle under Section 76-6-204;
- 625 (gg) manufacture or possession of an instrument for burglary or theft under Section
- 626 76-6-205;
- 627 (hh) robbery under Section 76-6-301;
- 628 (ii) aggravated robbery under Section 76-6-302;
- 629 (jj) theft under Section 76-6-404;
- 630 (kk) theft by deception under Section 76-6-405;
- 631 (ll) theft by extortion under Section 76-6-406;
- 632 (mm) receiving stolen property under Section 76-6-408;
- 633 (nn) theft of services under Section 76-6-409;
- 634 (oo) forgery under Section 76-6-501;
- 635 (pp) unlawful use of financial transaction card under Section 76-6-506.2;
- 636 (qq) unlawful acquisition, possession, or transfer of financial transaction card under
- 637 Section 76-6-506.3;
- 638 (rr) financial transaction card offenses under Section 76-6-506.6;
- 639 (ss) deceptive business practices under Section 76-6-507;

640 (tt) bribery or receiving bribe by person in the business of selection, appraisal, or
641 criticism of goods under Section 76-6-508;
642 (uu) bribery of a labor official under Section 76-6-509;
643 (vv) defrauding creditors under Section 76-6-511;
644 (ww) acceptance of deposit by insolvent financial institution under Section 76-6-512;
645 (xx) unlawful dealing with property by fiduciary under Section 76-6-513;
646 (yy) unlawful influence of a contest under Section 76-6-514;
647 (zz) making a false credit report under Section 76-6-517;
648 (aaa) criminal simulation under Section 76-6-518;
649 (bbb) criminal usury under Section 76-6-520;
650 (ccc) insurance fraud under Section 76-6-521;
651 (ddd) retail theft under Section 76-6-602;
652 (eee) computer crimes under Section 76-6-703;
653 (fff) identity fraud under Section 76-6-1102;
654 (ggg) mortgage fraud under Section 76-6-1203;
655 (hhh) sale of a child under Section 76-7-203;
656 (iii) bribery or offering a bribe under Section 76-8-103;
657 (jjj) threat to influence official or political action under Section 76-8-104;
658 (kkk) receiving bribe or bribery by public servant under Section 76-8-105;
659 (lll) receiving bribe for endorsement of person as a public servant under Section
660 76-8-106;
661 (mmm) bribery for endorsement of person as public servant under Section 76-8-106.1;
662 (nnn) official misconduct based on unauthorized act or failure of duty under Section
663 76-8-201;
664 (ooo) official misconduct concerning inside information under Section 76-8-202;
665 (ppp) obstruction of justice in a criminal investigation or proceeding under Section
666 76-8-306;
667 (qqq) acceptance of bribe or bribery to prevent criminal prosecution under Section
668 76-8-308;
669 (rrr) harboring or concealing offender who has escaped from official custody under
670 Section 76-8-309.2;
671 (sss) making a false or inconsistent material statement under Section 76-8-502;
672 (ttt) making a false or inconsistent statement under Section 76-8-503;
673 (uuu) making a written false statement under Section 76-8-504;

674 (vvv) tampering with a witness under Section 76-8-508;
675 (www) retaliation against a witness, victim, or informant under Section 76-8-508.3;
676 (xxx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
677 (yyy) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
678 (zzz) tampering with evidence under Section 76-8-510.5;
679 (aaaa) falsification or alteration of a government record under Section 76-8-511, if the
680 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
681 Lobbyist Disclosure and Regulation Act;
682 (bbbb) public assistance fraud by an applicant for public assistance under Section
683 76-8-1203.1;
684 (cccc) public assistance fraud by a recipient of public assistance under Section
685 76-8-1203.3;
686 (dddd) public assistance fraud by a provider under Section 76-8-1203.5;
687 (eeee) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
688 (ffff) false statement to obtain or increase unemployment compensation under Section
689 76-8-1301;
690 (gggg) false statement to prevent or reduce unemployment compensation or liability
691 under Section 76-8-1302;
692 (hhhh) unlawful failure to comply with Employment Security Act requirements under
693 Section 76-8-1303;
694 (iiii) unlawful use or disclosure of employment information under Section 76-8-1304;
695 (jjjj) intentionally or knowingly causing one animal to fight with another under
696 Subsection 76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning
697 dog fighting;
698 (kkkk) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street
699 gang under Section 76-9-803;
700 (llll) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
701 street gang under Section 76-9-803.1;
702 (mmmm) intimidating a minor to remain in a criminal street gang under Section
703 76-9-803.2;
704 (nnnn) aggravated intimidating a minor to remain in a criminal street gang under Section
705 76-9-803.3;
706 (oooo) unlawful conduct involving an explosive, chemical, or incendiary device under
707 Section 76-15-210;

708 (pppp) unlawful conduct involving an explosive, chemical, or incendiary part under
 709 Section 76-15-211;
 710 (qqqq) unlawful delivery or mailing of an explosive, chemical, or incendiary device
 711 under Section 76-15-209;
 712 (rrrr) forging or counterfeiting trademarks, trade name, or trade device under Section
 713 76-16-302;
 714 (ssss) selling goods under counterfeited trademark, trade name, or trade devices under
 715 Section 76-16-303;
 716 (tttt) sales in containers bearing registered trademark of substituted articles under
 717 Section 76-16-304;
 718 (uuuu) selling or dealing with article bearing registered trademark or service mark with
 719 intent to defraud under Section 76-16-306;
 720 (vvvv) participating in gambling under Section 76-9-1402;
 721 (wwwv) permitting gambling under Section 76-9-1403;
 722 (xxxx) online gambling prohibition under Section 76-9-1404;
 723 (yyyy) gambling promotion under Section 76-9-1405;
 724 (zzzz) gambling fraud under Section 76-9-1406;
 725 (aaaaa) possessing a gambling device or record under Section 76-9-1407;
 726 (bbbbb) obtaining a benefit from a confidence game under Section 76-9-1410;
 727 (ccccc) distributing pornographic material under Section 76-5c-202;
 728 (dddd) aiding or abetting a minor in distributing pornographic material under Section
 729 76-5c-203;
 730 (eeee) inducing acceptance of pornographic material under Section 76-5c-204;
 731 (ffff) distributing material harmful to minors under Section 76-5c-205;
 732 (ggggg) aiding or abetting a minor in distributing material harmful to minors under
 733 Section 76-5c-206;
 734 (hhhhh) distributing obscene animal abuse material under Section 76-5c-215;
 735 [(hhhhh)] (iiii) distribution of a pornographic file for exhibition under Section 76-5c-305;
 736 [(iiii)] (jjjj) indecent public display in the presence of a minor under Section 76-5c-207;
 737 [(jjjj)] (kkkkk) engaging in prostitution under Section 76-5d-202;
 738 [(kkkkk)] (llll) aiding prostitution under Section 76-5d-206;
 739 [(llll)] (mmmmm) exploiting prostitution under Section 76-5d-207;
 740 [(mmmmm)] (nnnnn) aggravated exploitation of prostitution under Section 76-5d-208;
 741 [(nnnnn)] (ooooo) communications fraud under Section 76-6-525;

[(~~oooo~~)] (~~pppp~~) possession of a dangerous weapon with criminal intent under Section 76-11-208;

[(~~pppp~~)] (~~qqqq~~) an act prohibited by the criminal provisions of Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;

[(~~qqqq~~)] (~~rrrr~~) vehicle compartment for contraband under Section 76-9-1902 or 76-9-1903;

[(~~rrrr~~)] (~~ssss~~) an act prohibited by the criminal provisions of the laws governing taxation in this state; or

[(~~ssss~~)] (~~tttt~~) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Secs. 1961(1)(B), (C), and (D).

Section 17. Section **76-17-403** is amended to read:

76-17-403 . Remedies of person injured by a pattern of unlawful activity -- Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of limitations -- Authorized orders of a court.

(1)(a) A person injured in the person's person, business, or property by a person engaged in conduct forbidden by Section 76-17-407 may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:

(i) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

(ii) the conduct has been adjudged criminal by a court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section that are grounded in fraud are subject to arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4)(a) In all actions under this section, a principal is liable for actual damages for harm caused by an agent acting within the scope of either the agent's employment or apparent authority.

(b) A principal is liable for double damages only if the pattern of unlawful activity alleged and proven as part of the cause of action was authorized, solicited, requested, commanded, undertaken, performed, or recklessly tolerated by the board of directors

776 or a high managerial agent acting within the scope of the agent's employment.

777 (5) In all actions arising under this section, the burden of proof is clear and convincing
778 evidence.

779 (6) The attorney general, county attorney, or, if within a prosecution district, the district
780 attorney may maintain an action under this section on behalf of the state, the county, or
781 any person injured by a person engaged in conduct forbidden by Section 76-17-407, to
782 prevent, restrain, or remedy injury as defined in this section and may recover the
783 damages and costs allowed by this section.

784 (7) In all actions under this section, the elements of each claim or cause of action shall be
785 stated with particularity against each defendant.

786 (8) If an action, claim, or counterclaim brought or asserted by a private party under this
787 section is dismissed before trial or disposed of on summary judgment, or if it is
788 determined at trial that there is no liability, the prevailing party shall recover from the
789 party who brought the action or asserted the claim or counterclaim the amount of the
790 prevailing party's reasonable expenses incurred because of the defense against the
791 action, claim, or counterclaim, including a reasonable attorney fee.

792 (9)(a) An action or proceeding brought under this section shall be commenced within
793 three years after the conduct prohibited by Section 76-17-407 terminates or the cause
794 of action accrues, whichever is later.

795 (b) Subsection (9)(a) supersedes any limitation to the contrary.

796 (10)(a) In any action brought under this section, the court may prevent, restrain, or
797 remedy injury as defined by this section by issuing appropriate orders after making
798 provisions for the rights of innocent persons.

799 (b) Before liability is determined in any action brought under this section, the court may:

800 (i) issue restraining orders and injunctions;

801 (ii) require satisfactory performance bonds or any other bond the court considers
802 appropriate and necessary in connection with any property or requirement
803 imposed upon a party by the court; and

804 (iii) enter any other order the court considers necessary and proper.

805 (c) After a determination of liability, the court may, in addition to granting the relief
806 allowed in Subsection (1), do any one or all of the following:

807 (i) order a person to divest the person's self of any interest in or any control, direct or
808 indirect, of an enterprise;

809 (ii) impose reasonable restrictions on the future activities or investments of a person,

including prohibiting a person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of an enterprise.

(d)(i) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by Section 76-17-407 has for its pattern of unlawful activity acts or conduct illegal under Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, 76-5c-215, or 76-5c-305, the court may not enter an order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution.

(ii) The court shall, upon the request of an affected party, and upon the notice to all parties, before the issuance of an order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, 76-5c-215, or 76-5c-305.

(iii) In making the court's findings, the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, 76-5c-215, or 76-5c-305, including, but not limited to, the definitions in Sections 76-5c-101 and 76-5c-301, and the exemptions in Section 76-5c-302.

Section 18. Section **78B-6-2101** is amended to read:

78B-6-2101 . Definitions.

As used in this part:

(1) "Minor" means an individual less than 18 years [~~of age~~] old.

(2) "Obscene animal abuse material" means the same as that term is defined in Section 76-5c-101.

[(2)] (3) "Pornographic material" means material that:

(a) the average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;

(b) is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

(c) taken as a whole does not have serious literary, artistic, political, or scientific value.

Section 19. Section **78B-6-2102** is amended to read:

78B-6-2102 . Exemptions.

- (1) If the conditions of Subsection (2) are met, this part does not apply to:
- (a) the following, as defined in the Communications Act of 1934, as amended:
 - (i) an interactive computer service;
 - (ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or
 - (iii) a multichannel video programming distributor;
 - (b) an [~~Internet~~] internet service provider;
 - (c) a provider of an electronic communications service;
 - (d) a distributor of [~~Internet~~] internet-based video services;
 - (e) a hosting company as defined in Section 76-5c-401; or
 - (f) a distributor of electronic or computerized game software that users manipulate through interactive devices.
- (2) This part does not apply to an entity described in Subsection (1) if:
- (a) the distribution of obscene animal abuse material or pornographic material by the entity occurs only incidentally through the entity's function of:
 - (i) transmitting or routing data from one person to another person;
 - (ii) providing a connection between one person and another person; or
 - (iii) providing data storage space or data caching to a person; and
 - (b) the entity does not intentionally aid or abet in the distribution of the obscene animal abuse material or pornographic material.

Section 20. Section **78B-6-2103** is amended to read:

78B-6-2103 . Liability -- Safe harbor.

- (1) A person who is not exempt under Section 78B-6-2102, and who distributes or otherwise provides obscene animal abuse material or pornographic material to consumers is liable to a person if:
- (a) at the time the obscene animal abuse material or pornographic material is viewed by the person, the person is a minor; and
 - (b) the obscene animal abuse material or pornographic material is the proximate cause for the person being harmed physically or psychologically, or by emotional or medical illnesses as a result of [~~that~~] the obscene animal abuse material or pornographic material.
- (2) Nothing in this part affects any private right of action existing under other law,

878 including contract.

879 (3) Notwithstanding Subsection (1), a person who distributes or otherwise provides obscene
880 animal abuse material or pornographic material is not liable under this section if the
881 person who distributes or otherwise provides obscene animal abuse material or
882 pornographic material:

883 (a) provides a warning that:

884 (i) is conspicuous;

885 (ii) appears before the obscene animal abuse material or pornographic material can be
886 accessed; and

887 (iii) consists of a good faith effort to warn persons accessing the obscene animal
888 abuse material or pornographic material that the ~~[pornographic]~~ material may be
889 harmful to minors; and

890 (b) makes a good faith effort to verify the age of a person accessing the obscene animal
891 abuse material or pornographic material.

892 (4) Subsection (3) may not be interpreted as exempting a person from complying with Title
893 13, Chapter 39, Child Protection Registry.

894 (5)(a)(i) Notwithstanding Section 78B-6-2105, a person who is not exempt under
895 Section 78B-6-2102, and who distributes or otherwise provides ~~[obscene]~~ obscene
896 animal abuse material or pornographic material to consumers without a warning
897 label or without the metadata described in Subsection 78B-6-2105(3)(b) is not
898 liable if the person demonstrates reasonable efforts to determine the location of
899 recipients of ~~[obscene]~~ obscene animal abuse material or pornographic material
900 within the state and the placement of warning labels on material that enters the
901 state. Reasonable efforts shall result in a compliance rate that exceeds 75% of the
902 content believed to enter the state within the shorter of six months prior to any
903 claim, or from May 12, 2020, to the time of the claim.

904 (ii) ~~[-]~~ Proof of reasonable efforts to comply with Subsection (5)(a)(i) shall remove
905 liability only for the type of compliance for which reasonable efforts have been
906 proven.

907 (b) The use of virtual private networks or similar technology by the consumer to hide the
908 consumer's location may not be included in a compliance rate calculation.

909 (6) Notwithstanding Section 78B-6-2105, a video game without a warning label is not
910 liable if it has a rating of the Entertainment Software Rating Board or equivalent, as long
911 as it also explicitly provides notice of the content as part of the rating.

Section 21. Section **78B-6-2105** is amended to read:

78B-6-2105 . Civil action for enforcement -- Penalties.

- (1) A person who distributes or otherwise provides obscene animal abuse material or pornographic material to consumers may not distribute any obscene material or performance as defined in Section 76-5c-101 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance.
- (2) The warning of the harm shall be prominently displayed in the following form:
- STATE OF UTAH WARNING
- Exposing minors to obscene material may damage or negatively impact minors.
- (3)(a) For print publications created after May 12, 2020, the warning in Subsection (2) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section 76-5c-101.
- (b) For digital publications:
- (i) the warning in Subsection (2) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section 76-5c-101; or
- (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (2) prior to each video or image contained on the website.
- (4) A person who violates this section shall be liable for a civil penalty not to exceed \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations.
- (5) The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.
- (6) Each of the following violations shall create a separate liability per violation:
- (a) the sale or display of potentially harmful content without the warning required in Subsection (2), in accordance with Subsection (3); or
- (b) the absence of the following searchable text within the website's metadata -
utahobscenitywarning.
- (7) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.
- (8) The court, in ordering payment, shall specify each amount for the civil penalty, filing

946 fees, and attorney fees.

947 (9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall
948 consider all of the following:

949 (a) the nature and extent of the violation;

950 (b) the number and severity of the violations;

951 (c) the economic effect of the penalty on the violator;

952 (d) whether the violator took good faith measures to comply with this chapter and when
953 those measures were taken;

954 (e) the willfulness of the violator's misconduct;

955 (f) the deterrent effect that the imposition of the penalty would have on both the violator
956 and the regulated community as a whole; and

957 (g) any other factor that the court determines justice requires.

958 (10) Actions pursuant to this section may be brought by the attorney general's office in the
959 name of the people of the state or by a private person in accordance with Subsection (11).

960 (11) A private person may bring an action in the public interest pursuant to this section if:

961 (a) the person has served notice of an alleged violation of Section 78B-6-2103 on the
962 alleged violator and the attorney general's office;

963 (b) the attorney general's office has not provided a letter to the noticing party within 60
964 days of receipt of the notice of an alleged violation indicating that:

965 (i) an action is currently being pursued or will be pursued by the attorney general's
966 office regarding the violation; or

967 (ii) the attorney general believes that there is no merit to the action; and

968 (c) the alleged violator has not responded to the notice of alleged violation or returned
969 the proof of compliance form provided in Subsection (17).

970 (12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim
971 that are discovered through the discovery process.

972 (13) Notice of the alleged violation shall be executed by the attorney for the noticing party,
973 or by the noticing party, if the noticing party is not represented by an attorney, and
974 include a notice of alleged violation. The notice of alleged violation shall:

975 (a) state that the person executing the notice believes that there is a violation; and

976 (b) provide factual information sufficient to establish the basis for the alleged violation.

977 (14) A person who serves a notice of alleged violation identified in Subsection (13) shall
978 complete and provide to the alleged violator at the time the notice of alleged violation is
979 served, a notice of special compliance procedure and proof of compliance form pursuant

to Subsection (17). The person may file an action against the alleged violator, or recover from the alleged violator if:

- (a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and
- (b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:
 - (i) corrected the alleged violation and all similar violations known to the alleged violator;
 - (ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per violation; and
 - (iii) notified, in writing, the noticing party that the violation has been corrected.

(15) The written notice required in Subsection (14)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (17). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

(16) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

(17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

- (1) you have not actually taken the corrective steps that you have certified in this form;
- (2) the Noticing Party has not received this form at the address shown above, accurately

completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required \$500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of \$500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

☐ Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

☐ Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code Sections 76-5c-205 and 76-5c-206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

- (18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one time for a specific violation.
- (19) Notwithstanding Subsection (17), the attorney general may file an action pursuant to Subsection (10) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (17) for the same alleged violation.
- (20) Payments shall be made in accordance with this section.
- (a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.
- (b) A penalty paid in accordance with the special compliance procedure in Subsection (17) shall be made directly to the noticing party.
- (21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited into the Crime Victim Reparations Fund created in Section 63M-7-526. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.
- (a) If the penalty is paid to a noticing party in accordance with Subsection (17), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.
- (b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.
- (22) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (16).
- (23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.
- (24) The Utah Office for Victims of Crime shall:
- (a) maintain a record of documents and payments submitted pursuant to Subsections (21), (22), and (23);
- (b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:
- (i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(25) This section does not apply to:

(a) a person portrayed in [~~obscene or~~] obscene animal abuse material or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing [~~obscene or~~] obscene animal abuse material or pornographic material.

(26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (4) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Section 22. **Effective Date.**

This bill takes effect on May 6, 2026.