



## SB0072 compared with SB0072S01

20 **Utah Code Sections Affected:**

21 AMENDS:

22 ~~{53G-10-103 , as last amended by Laws of Utah 2025, Chapter 173}~~

23 ~~{53H-4-213.1 , as renumbered and amended by Laws of Utah 2025, First Special Session,  
Chapter 8}~~

25 ~~{53H-4-213.7 , as renumbered and amended by Laws of Utah 2025, First Special Session,  
Chapter 8}~~

22 **76-5c-101** , as renumbered and amended by Laws of Utah 2025, Chapter 173

23 **76-5c-102** , as renumbered and amended by Laws of Utah 2025, Chapter 173

24 **76-5c-103** , as renumbered and amended by Laws of Utah 2025, Chapter 173

25 **76-5c-104** , as renumbered and amended by Laws of Utah 2025, Chapter 173

26 **76-5c-106** , as renumbered and amended by Laws of Utah 2025, Chapter 173

27 **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

44

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

## SB0072 compared with SB0072S01

- 51           {Section 1. Section 53G-10-103 is amended to read: }
- 52           **53G-10-103. Sensitive instructional materials.**
- 53 (1) As used in this section:
- 54 (a)
- 55           (i) "Instructional material" means a material, regardless of format, used:
- 56               (A) as or in place of textbooks to deliver curriculum within the state curriculum framework for
- 57               courses of study by students; or
- 58               (B) to support a student's learning in any school setting.
- 59 (ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites,
- 60           online applications, and live presentations.
- 61 (iii) "Instructional material" does not mean exclusively library materials.
- 62 (b) "LEA governing board" means:
- 63           (i) for a school district, the local school board;
- 64           (ii) for a charter school, the charter school governing board; or
- 65           (iii) for the Utah Schools for the Deaf and the Blind, the state board.
- 66 (c) "Material" means the same as that term is defined in Section 76-5c-101.
- 67 (d) "Minor" means any person less than 18 years old.
- 68 (e) "Objective sensitive material" means an instructional material that constitutes pornographic
- 69           or indecent material, as that term is defined in Section 76-5c-208, under the non-discretionary
- 70           standards described in Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).
- 71 (f) "Public school" means:
- 72           (i) a district school;
- 73           (ii) a charter school; or
- 74           (iii) the Utah Schools for the Deaf and the Blind.
- 75 (g)
- 76           (i) "School setting" means, for a public school:
- 77               (A) in a classroom;
- 78               (B) in a school library; or
- 79               (C) on school property.
- 80 (ii) "School setting" includes the following activities that an organization or individual or organization
- 81           outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

## SB0072 compared with SB0072S01

- 82 (A) an assembly;
- 83 (B) a guest lecture;
- 84 (C) a live presentation; or
- 85 (D) an event.
- 86 (h)
- (i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.
- 88 (ii) "Sensitive material" does not include an instructional material:
- 89 (A) that an LEA selects under Section 53G-10-402;
- 90 (B) for a concurrent enrollment course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child;
- 94 (C) for medical courses;
- 95 (D) for family and consumer science courses; or
- 96 (E) for another course the state board exempts in state board rule.
- 97 ~~[(iii)]~~ (i) "Subjective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-5c-208, under the following factor-balancing standards:
- 100 ~~[(A)]~~ (i) material that is harmful to minors under Section 76-5c-101;
- 101 ~~[(B)]~~ (ii) material that is pornographic under Section 76-5c-101;~~[-or]~~
- 102 ~~[(C)]~~ (iii) material that includes certain fondling or other erotic touching under Subsection 76-5c-207(1)
- (a)(i)(D)~~[-]~~ ; or
- 104 (iv) material that is obscene animal abuse material under Section 76-5c-101.
- 105 (2)
- (a) Sensitive materials are prohibited in the school setting.
- 106 (b) A public school or an LEA may not:
- 107 (i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or
- 109 (ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.
- 111

## SB0072 compared with SB0072S01

- (c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.
- 115 (d) If an instructional material constitutes objective sensitive material:
- 116 (i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and
- 118 (ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.
- 120 (3)
- (a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:
- 122 (i) an employee of the relevant LEA;
- 123 (ii) a student who is enrolled in the relevant LEA;
- 124 (iii) a parent of a child who is enrolled in the relevant LEA; or
- 125 (iv) a member of the relevant LEA governing board.
- 126 (b)
- (i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.
- 130 (ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.
- 134 (4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:
- 136 (a)
- (i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and
- 140 (ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the

## SB0072 compared with SB0072S01

challenged material from any school setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

- 145 (b)
- (i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and
- 147 (ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;
- 150 (c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:
- 152 (i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;
- 156 (ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and
- 159 (iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and
- 163 (d) communicate to the state board the allegation and the LEA's final determination regarding the allegation and the challenged instructional material.
- 165 (5)
- (a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.
- 168 (b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:
- 170 (i) the board's rationale for the decision; and
- 171 (ii) the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.
- 173 (6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:

## SB0072 compared with SB0072S01

- 175 (a) revisiting a previous decision;
- 176 (b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a  
challenged instructional material; or
- 178 (c) reconsidering a challenged instructional material if the LEA governing board receives additional  
information regarding the material.
- 180 (7)
- (a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each  
LEA statewide shall remove the relevant instructional material from student access.
- 183 (b) The requirement described in Subsection (7)(a) to remove a given material from student access  
applies if the following number of LEAs makes a determination that a given instructional material  
constitutes objective sensitive material:
- 186 (i) at least three school districts; or
- 187 (ii) at least two school districts and five charter schools.
- 188 (c) The state board shall:
- 189 (i) aggregate allegations and LEA determinations described in Subsection (4)(d); and
- 190 (ii) no later than 10 school days after the day on which the condition described in Subsection (7)(b)  
occurs, communicate to all LEAs the application of the requirement described in Subsection (7)(a)  
to remove the material from student access.
- 194 (d)
- (i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in  
addition to making the communication described in Subsection (7)(c), the state board may:
- 197 (A) place the material on the agenda of a public board meeting within 60 days after the day on  
which the state board makes the communication to LEAs under Subsection (7)(c); and
- 200 (B) at the specified state board meeting, vote to overturn the application of the requirement  
described in Subsection (7)(a) to remove a given material from student access statewide.
- 203 (ii) If the state board votes to overturn the application of the statewide removal requirement described in  
Subsection (7)(a) under Subsection (7)(d)(i):
- 205 (A) the statewide removal requirement described in Subsection (7)(a) no longer applies;
- 207 (B) an LEA may choose to return the given material to student access; and
- 208 (C) nothing affects the findings of an LEA governing board regarding removal of the given material  
within the board's LEA.

## SB0072 compared with SB0072S01

- 210 (e) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless  
of whether:
- 212 (i) the sensitive material determinations occur in the same academic year; or
- 213 (ii) a sensitive material determination occurred before July 1, 2024.
- 214 (8) The state board shall:
- 215 (a) in consultation with the Office of the Attorney General, provide guidance and training to support  
public schools in identifying instructional materials that meet the definition of sensitive materials  
under this section;
- 218 (b) establish a process through which an individual described in Subsection (3)(a) may report to the  
state board an allegation that an LEA is out of compliance with this section; and
- 221 (c) annually report to the Education Interim Committee, at or before the November interim meeting, on  
implementation and compliance with this section, including:
- 223 (i) any policy the state board or an LEA adopts to implement or comply with this section;
- 225 (ii) any rule the state board makes to implement or comply with this section; and
- 226 (iii) any complaints an LEA or the state board receives regarding a violation of this section, including:
- 228 (A) action taken in response to a complaint described in this Subsection (8)(c)(iii);
- 229 (B) if an LEA retains an instructional material for which the LEA or the state board receives a  
complaint, the LEA's rationale for retaining the instructional material; and
- 232 (C) compliance failures that the state board identifies through the reporting process described in  
Subsection (8)(b) and other investigations or research.
- 234 (9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to  
enforce this section for any claims or damages, including court costs and attorney fees, that:
- 237 (a) a person brings or incurs as a result of this section; and
- 238 (b) is not covered by the person's insurance policies or any coverage agreement that the State Risk  
Management Fund issues.
- 240 (10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the  
Legislative Auditor General shall:
- 242 (a) conduct an audit of each school district's compliance with this section, ensuring the completion of  
all school district audits before November 2028; and
- 244 (b) annually report to the Education Interim Committee regarding completed sensitive material audits  
under this Subsection (10).

## SB0072 compared with SB0072S01

- 246 ~~{Section 2. Section 53H-4-213.1 is amended to read: }~~
- 247 **53H-4-213.1. Educational telecommunications -- Definitions.**
- 248 (1) As used in Sections 53H-4-213.1 through 53H-4-213.7:
- 249 (a) "Digital resource" means a digital or online library resource, including a database.
- 250 (b) "Digital resource provider" means an entity that offers a digital resource to customers for license or sale.
- 252 (c) "Education Advisory Council" means the Utah Education Advisory Council created in Section 53H-4-213.6.
- 254 (d) "Obscene animal abuse material" means the same as that term is defined in Section 76-5c-101.
- 256 ~~[(e)]~~ (e) "Obscene or pornographic material" means material that:
- 257 (i) an average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;
- 259 (ii) is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and
- 261 (iii) taken as a whole does not have serious literary, artistic, political, or scientific value.
- 263 ~~[(e)]~~ (f) "Telehealth" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, and consultation, and educational, public health, or other related purposes.
- 266 ~~[(f)]~~ (g) "Telehealth Advisory Council" means the Utah Telehealth Advisory Council created in Section 53H-4-213.5.
- 268 ~~[(g)]~~ (h) "Utah Education and Telehealth Network," or "UETN," means a consortium and partnership between public and higher education, the Department of Health and Human Services, and health care providers, that is created in Section 53H-4-213.4.
- 271 (2) The Legislature finds and determines the following:
- 272 (a) the University of Utah's Dolores Dore' Eccles Broadcast Center is the statewide public broadcasting and telecommunications facility for education in Utah;
- 274 (b) the center shall provide services to citizens of the state in cooperation with higher and public education, state and local government, and private industry;
- 276 (c) distribution services provided through the center shall include KUED - TV, KUER - FM, and KUEN - TV;
- 278 (d) KUED - TV and KUER - FM are licensed to the University of Utah;
- 279

## SB0072 compared with SB0072S01

- (e) the Utah Education and Telehealth Network's broadcast entity, KUEN - TV, is licensed to the Utah Board of Higher Education and, together with UETN, is operated on behalf of the state's systems of public and higher education;
- (f) all the entities referred to in Subsection (2)(c) are under the administrative supervision of the University of Utah, subject to the authority and governance of the Utah Board of Higher Education and
- (g) this section neither regulates nor restricts a privately owned company in the distribution or dissemination of educational programs.

~~{Section 3. Section 53H-4-213.7 is amended to read: }~~

### **53H-4-213.7. Educational telecommunications -- Digital resource standards.**

- (1) A digital resource purchased or licensed by UETN and offered to students in public schools must have safety policies and technology protection measures that:
- (a) prohibit and prevent a public school student using the resource from sending, receiving, viewing, or downloading obscene or pornographic material or obscene animal abuse material; and
- (b) filter or block access to obscene or pornographic material or obscene animal abuse material.
- (2)
- (a) Regardless of any contract provision to the contrary, if UETN discovers a digital resource does not meet the requirements described in Subsection (1), UETN:
- (i) shall notify the digital resource provider; and
- (ii) may withhold future payments pending the digital resource provider's compliance with Subsection (1).
- (b) A digital resource provider is in breach of contract if the digital resource provider fails to verify compliance with Subsection (1) within 90 days after the day on which UETN provides the notice described in Subsection (2)(a)(i).
- (c) A contract UETN enters into for a digital resource shall contain provisions that comply with this section.
- (3) Before November 30 of each year, UETN shall submit a report to the Education Interim Committee detailing all instances of a digital resource provider's failure to comply with the provisions of this section.

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

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

## SB0072 compared with SB0072S01

As used in this chapter:

- 312 (1)
- (a) "Animal crushing" means actual conduct in which a living non-human mammal, bird, reptile, or amphibian is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury.
- 315 (b) "Animal crushing" does not include:
- 316 (i) normal veterinary, agricultural husbandry, or other animal management practice;
- 317 (ii) the slaughter of animals for food;
- 318 (iii) hunting, trapping, fishing, or a sporting activity not otherwise prohibited by state or federal law;
- 320 (iv) medical or scientific research; or
- 321 (v) conduct necessary to protect the life or property of an individual.
- 322 [(1)] (2) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.
- 324 [(2)] (3) "Constructive awareness" means that:
- 325 (a) a reasonable inspection or observation by an individual under the circumstances would have disclosed the nature of the subject matter; and
- 327 (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.
- 329 [(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.
- 332 [(4)] (5) "Criminally negligent" means the same as that term is defined in Section 76-2-103.
- 333 [(5)] (6) "Distribute" means to transfer possession of a material with or without consideration.
- 335 [(6)] (7) "Exhibit" means to show.
- 336 [(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:
- 339 (i) taken as a whole, appeals to the prurient interest in sex of minors;
- 340 (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- 342 (iii) taken as a whole, does not have serious value for minors.

## SB0072 compared with SB0072S01

- 343 (b) Serious value includes only serious literary, artistic, political, or scientific value for minors.  
345 [~~(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.
- 348 [~~(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.
- 352 (b) "Material" includes undeveloped photographs, molds, printing plates, and other latent  
representational objects.
- 354 [~~(10)~~] (11) "Minor" means an individual younger than 18 years old.
- 355 [~~(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.
- 358 [~~(12)~~] (13) "Nudity" means:  
359 (a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque  
covering;  
361 (b) the showing of a female breast with less than an opaque covering, or any portion of the female  
breast below the top of the areola; or  
363 (c) the depiction of covered male genitals in a discernibly turgid state.
- 364 (14) "Obscene animal abuse material" means material that:  
365 (a)  
(i) depicts animal crushing; or  
366 (ii) sexual conduct with an animal; and  
367 (b)  
(i) the average individual, applying contemporary community standards, finds that, taken as a whole,  
the depiction of animal crushing or sexual conduct with an animal appeals to prurient interest in sex;  
370 (ii) the depiction of animal crushing or sexual conduct with an animal is patently offensive; and  
372 (iii) taken as a whole, the depiction of animal crushing or sexual conduct with an animal does not have  
serious literary, artistic, political, or scientific value.
- 374 [~~(13)~~] (15) "Performance" means any physical human bodily activity, whether engaged in alone or with  
other individuals, including singing, speaking, dancing, acting, simulating, or pantomiming.

## SB0072 compared with SB0072S01

- 377 [(14)] (16) "Pornographic" means:
- 378 (a) the average individual, applying contemporary community standards, finds that, taken as a whole,  
the material or performance appeals to prurient interest in sex;
- 380 (b) the material or performance is patently offensive in the description or depiction of nudity, sexual  
conduct, sexual excitement, sadomasochistic abuse, or excretion; and
- 382 (c) taken as a whole the material or performance does not have serious literary, artistic, political, or  
scientific value.
- 384 [(15)] (17) "Public place" includes a place to which admission is gained by payment of a membership or  
admission fee, however designated, notwithstanding its being designated a private club or by words  
of like import.
- 387 [(16)] (18) "Sadomasochistic abuse" means:
- 388 (a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a  
revealing or bizarre costume; or
- 390 (b) the condition of being fettered, bound, or otherwise physically restrained on the part of an individual  
clothed as described in Subsection (14)(a).
- 392 [(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.
- 397 (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.
- 401 (b) "Sexual conduct with an animal" includes a violation of bestiality as described in Section  
76-13-213.
- 403 [(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.

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

144

## SB0072 compared with SB0072S01

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

- 409 (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.
- 415 (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.

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

158 **76-5c-103. Relation to other state and local laws.**

- 422 (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.
- 427 (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:
- 430 (i) zoning;
- 431 (ii) licensing;
- 432 (iii) public nuisances;
- 433 (iv) a specific type of business such as adult bookstores or drive-in movies; or
- 434 (v) use of blinder racks.
- 435 (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.

## SB0072 compared with SB0072S01

- 439 (3)
- (a) The commission of a crime under this chapter offends public decency under Subsection 76-9-1301(2).
- 441 (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).
- 181 Section 4. Section **76-5c-104** is amended to read:
- 182 **76-5c-104. Injunctive relief -- Jurisdiction -- Consent to be sued.**
- 446 (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.
- 452 (b) No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined.
- 454 (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.
- 458 (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.
- 462 (e) The sheriff receiving the material described in Subsection (1)(d) shall be directed to seize and destroy the material.
- 464 (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.
- 206 Section 5. Section **76-5c-106** is amended to read:
- 207 **76-5c-106. Corporate defendants -- Summons -- Subpoena duces tecum.**

## SB0072 compared with SB0072S01

- 471 (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.
- 479 (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.
- 483 (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.
- 486 (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.
- 489 (3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings against individuals under this chapter.

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

229 **76-5c-107. Search and seizure -- Affidavit -- Issuance of warrant -- Hearing upon claim that material seized not pornographic or harmful to minors -- Procedures cumulative.**

- 495 (1)
- (a) An affidavit for a search warrant shall be filed with a magistrate describing with specificity the material sought to be seized.
- 497 (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.
- 501 (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,

## SB0072 compared with SB0072S01

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.

- 508 (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.
- 512 (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.
- 519 (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.
- 524 (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.
- 527 (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.
- 530 (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.
- 534 (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).

537

## SB0072 compared with SB0072S01

(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.

540 (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.

543 (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.

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

285 **76-5c-109. Affirmative defenses.**

549 (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.

553 (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.

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

294 **76-5c-110. Exemptions to chapter.**

558 (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.

562 (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.

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

304 **76-5c-203. Aiding or abetting a minor in distributing pornographic material or obscene animal abuse material.**

## SB0072 compared with SB0072S01

- 569 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 570 (2) An actor commits aiding or abetting a minor in distributing pornographic material or obscene animal  
571 abuse material if the actor:
- 572 (a) is 18 years old or older; and
- 573 (b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:
- 574 (i) sending or bringing pornographic material or obscene animal abuse material into the state with intent  
575 to distribute or exhibit the [~~pornographic~~]material to another individual;
- 577 (ii) preparing, publishing, printing, or possessing pornographic material or obscene animal abuse  
578 material with intent to distribute or exhibit the [~~pornographic~~]material to another individual;
- 580 (iii) distributing or offering to distribute, or exhibiting or offering to exhibit, pornographic material or  
581 obscene animal abuse material to another individual;
- 582 (iv) writing, creating, or soliciting the publication or advertising of pornographic material or obscene  
583 animal abuse material;
- 584 (v) promoting the distribution or exhibition of obscene animal abuse material or material the minor  
585 represents to be pornographic or obscene animal abuse material; or
- 587 (vi) presenting or directing a pornographic performance in a public place or a place exposed to public  
588 view or participates in that portion of the performance which makes the performance pornographic.
- 590 (3) A violation of Subsection (2) is a third degree felony subject to:
- 591 (a) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited up to the  
592 maximum allowed by law; and
- 593 (b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.
- 595 (4)
- 596 (a) Each act of distributing pornographic material or obscene animal abuse material described in  
597 Subsection (2) is a separate offense.
- 597 (b) It is a separate offense under this section for:
- 598 (i) each day's exhibition of any pornographic motion picture film or obscene animal abuse material  
599 motion picture film; and
- 600 (ii) each day in which any pornographic publication or obscene animal abuse material publication is  
601 displayed or exhibited in a public place with intent to distribute or exhibit the publication to another  
602 individual.
- 603 (5)

## SB0072 compared with SB0072S01

- (a) This section does not apply to an [~~Internet~~] internet service provider if:
- 604 (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:
- 607 (A) transmitting or routing data from one person to another person; or
- 608 (B) providing a connection between one person and another person;
- 609 (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
- 611 (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.
- 615 (b) This section does not apply to a hosting company if:
- 616 (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;
- 619 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the  
pornographic material or obscene animal abuse material; and
- 621 (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.
- 625 (6) Subsection (3) supersedes Section 77-18-105.
- 363 Section 10. Section **76-5c-204** is amended to read:
- 364 **76-5c-204. Inducing acceptance of pornographic material or obscene animal abuse material.**
- 629 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 630 (2) An actor commits [-]inducing acceptance of pornographic material or obscene animal abuse material  
if the actor knowingly:
- 632 (a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of  
any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser  
or consignee receive any pornographic material or obscene animal abuse material or material

## SB0072 compared with SB0072S01

reasonably believed by the purchaser or consignee to be pornographic or obscene animal abuse material; or

- 637 (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial  
or otherwise, because of the failure or refusal to accept pornographic material or obscene animal  
641 abuse material or material reasonably believed by the purchaser or consignee to be pornographic or  
642 obscene animal abuse material.
- (3) A violation of Subsection (2) is a third degree felony subject to:
- 643 (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
- 644 (b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.
- 646 (4)
- (a) This section does not apply to an [~~Internet~~] internet service provider if:
- 647 (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:
- 650 (A) transmitting or routing data from one person to another person; or
- 651 (B) providing a connection between one person and another person;
- 652 (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
- 654 (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.
- 658 (b) This section does not apply to a hosting company if:
- 659 (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;
- 662 (ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the  
pornographic material or obscene animal abuse material; and
- 664

## SB0072 compared with SB0072S01

(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.

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

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

407 **76-5c-208. Pornographic or indecent material on school property.**

671 (1)

(a) As used in this section:

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

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

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

677 (A) is harmful to minors;

678 (B) is pornographic;

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

680 (D) contains a nude or partially denuded figure~~[-:]~~ ; or

681 (E) is obscene animal abuse material.

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

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

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

688 (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

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

693 (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.

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

## SB0072 compared with SB0072S01

- 697 (4) The offenses referred to in Subsection (2) are:
- 698 (a) distributing pornographic material as described in Section 76-5c-202;
- 699 (b) aiding or abetting a minor in distributing pornographic material or obscene animal abuse material as  
described in Section 76-5c-203;
- 701 (c) inducing acceptance of pornographic material or obscene animal abuse material as described in  
Section 76-5c-204;
- 703 (d) distributing material harmful to minors as described in Section 76-5c-205;
- 704 (e) aiding or abetting a minor in distributing material harmful to minors as described in Section  
76-5c-206;[-or]
- 706 (f) indecent public display in the presence of a minor as described in Section 76-5c-207[-] ; or
- 708 (g) distributing obscene animal abuse material as described in Section 76-5c-215.
- 709 (5) This section does not:
- 710 (a) prohibit disciplinary action for actions that violate this section; or
- 711 (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:
- 714 (i) investigating a violation of this section; or
- 715 (ii) enforcing this section.
- 453 Section 12. Section **76-5c-212** is amended to read:
- 454 **76-5c-212. Fee owner or intermediate lessor allowing real property to be used for illicit  
pornographic purposes.**
- 719 (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.
- 725 (b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 727 (2) An actor commits fee owner or intermediate lessor allowing real property to be used for illicit  
pornographic purposes if:
- 729 (a) the actor is a fee owner or intermediate lessor of real property;

## SB0072 compared with SB0072S01

- 730 (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
- 734 (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.
- 737 (3) A violation of Subsection (2) is a class A misdemeanor.
- 738 (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.

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

479 **76-5c-213. Tenant or occupant failing to exit real property after using the property for  
obscene animal abuse material or pornographic purposes.**

- 744 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 745 (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:
- 747 (a) is a tenant or occupant of real property;
- 748 (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
- 751 (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).
- 753 (3) A violation of Subsection (2) is a class A misdemeanor.

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

492 **76-5c-214. Conspiracy to commit a obscene animal abuse material or pornographic or  
harmful materials violation.**

- 757 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 758 (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.
- 760 (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony subject  
to:

## SB0072 compared with SB0072S01

- 762 (i) a minimum mandatory fine of not less than \$1,000; and  
763 (ii) incarceration, without suspension of the sentence in any way, for a term of not less than 60  
days.
- 765 (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:
- 767 (i) a minimum mandatory fine of not less than \$5,000; and  
768 (ii) incarceration, without suspension of the sentence in any way, for a term of not less than one year.
- 770 (4) Subsection (3) supersedes Section 77-18-105.
- 508 Section 15. Section **15** is enacted to read:
- 509 **76-5c-215. Distributing obscene animal abuse material.**
- 773 (1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.
- 774 (2) An actor commits distributing obscene animal abuse material if the actor:
- 775 (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;
- 777 (b) prepares, publishes, prints, or possesses obscene animal abuse material with intent to distribute or  
exhibit the obscene animal abuse material to another individual;
- 779 (c) distributes or offers to distribute, or exhibits or offers to exhibit, obscene animal abuse material to  
another individual;
- 781 (d) writes, creates, or solicits the publication or advertising of obscene animal abuse material; or
- 783 (e) promotes the distribution or exhibition of obscene animal abuse material or material that the actor  
represents to be obscene animal abuse material.
- 785 (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:
- 787 (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
- 789 (ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.
- 791 (b) A violation of Subsection (2) is a class A misdemeanor if the actor is 16 or 17 years old.
- 793 (c) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old.
- 795 (4) It is a separate offense under this section for:
- 796

## SB0072 compared with SB0072S01

(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

799 (b) each act of distributing of obscene animal abuse material described in Subsection (2).

800 (5)

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

801 (i) the distribution of obscene animal abuse material by the internet service provider occurs only incidentally through the internet service provider's function of:

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

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

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

807 (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.

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

811 (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;

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

816 (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.

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

557 **76-17-401. Definitions.**

As used in this part:

822 (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.

825 (b) "Enterprise" includes illicit as well as licit entities.

826

## SB0072 compared with SB0072S01

- (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.
- 836 (3) "Person" includes an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.
- 838 (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:
- 844 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;
- 846 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;
- 848 (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;
- 851 (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;
- 853 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;
- 855 (f) unlawful marking of pistol or revolver under Section 53-5a-105;
- 856 (g) alteration of number or mark on pistol or revolver under Section 53-5a-106;
- 857 (h) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;
- 859

## SB0072 compared with SB0072S01

- 863 (i) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances  
865 Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah  
867 Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;
- 868 (j) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;
- 869 (k) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;
- 870 (l) assault under Section 76-5-102;
- 871 (m) aggravated assault under Section 76-5-103;
- 872 (n) a threat of terrorism under Section 76-5-107.3;
- 873 (o) a criminal homicide offense under Section 76-5-201;
- 874 (p) kidnapping under Section 76-5-301;
- 875 (q) aggravated kidnapping under Section 76-5-302;
- 876 (r) human trafficking for labor under Section 76-5-308;
- 877 (s) human trafficking for sexual exploitation under Section 76-5-308.1;
- 878 (t) human smuggling under Section 76-5-308.3;
- 879 (u) human trafficking of a child under Section\_76-5-308.5;
- 880 (v) benefiting from trafficking and human smuggling under Section 76-5-309;
- 881 (w) aggravated human trafficking under Section 76-5-310;
- 882 (x) sexual exploitation of a minor under Section 76-5b-201;
- 883 (y) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 884 (z) sexual extortion under Section 76-5b-204;
- 885 (aa) arson under Section 76-6-102;
- 886 (bb) aggravated arson under Section\_76-6-103;
- 887 (cc) causing a catastrophe under Section 76-6-105;
- 888 (dd) burglary under Section 76-6-202;
- 889 (ee) aggravated burglary under Section 76-6-203;
- 890 (ff) burglary of a vehicle under Section 76-6-204;
- 891 (gg) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;
- 892 (hh) robbery under Section 76-6-301;
- 893 (ii) aggravated robbery under Section 76-6-302;
- (jj) theft under Section 76-6-404;
- (kk) theft by deception under Section 76-6-405;

## SB0072 compared with SB0072S01

- 894 (ll) theft by extortion under Section 76-6-406;
- 895 (mm) receiving stolen property under Section 76-6-408;
- 896 (nn) theft of services under Section 76-6-409;
- 897 (oo) forgery under Section 76-6-501;
- 898 (pp) unlawful use of financial transaction card under Section 76-6-506.2;
- 899 (qq) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;
- 901 (rr) financial transaction card offenses under Section 76-6-506.6;
- 902 (ss) deceptive business practices under Section 76-6-507;
- 903 (tt) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods  
under Section 76-6-508;
- 905 (uu) bribery of a labor official under Section 76-6-509;
- 906 (vv) defrauding creditors under Section 76-6-511;
- 907 (ww) acceptance of deposit by insolvent financial institution under Section 76-6-512;
- 908 (xx) unlawful dealing with property by fiduciary under Section 76-6-513;
- 909 (yy) unlawful influence of a contest under Section 76-6-514;
- 910 (zz) making a false credit report under Section 76-6-517;
- 911 (aaa) criminal simulation under Section 76-6-518;
- 912 (bbb) criminal usury under Section 76-6-520;
- 913 (ccc) insurance fraud under Section 76-6-521;
- 914 (ddd) retail theft under Section 76-6-602;
- 915 (eee) computer crimes under Section 76-6-703;
- 916 (fff) identity fraud under Section 76-6-1102;
- 917 (ggg) mortgage fraud under Section 76-6-1203;
- 918 (hhh) sale of a child under Section 76-7-203;
- 919 (iii) bribery or offering a bribe under Section 76-8-103;
- 920 (jjj) threat to influence official or political action under Section 76-8-104;
- 921 (kkk) receiving bribe or bribery by public servant under Section 76-8-105;
- 922 (lll) receiving bribe for endorsement of person as a public servant under Section 76-8-106;
- 924 (mmm) bribery for endorsement of person as public servant under Section 76-8-106.1;
- 925 (nnn) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;
- 927 (ooo) official misconduct concerning inside information under Section 76-8-202;

## SB0072 compared with SB0072S01

- 928 (ppp) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;
- 930 (qqq) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;
- 932 (rrr) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;
- 934 (sss) making a false or inconsistent material statement under Section 76-8-502;
- 935 (ttt) making a false or inconsistent statement under Section 76-8-503;
- 936 (uuu) making a written false statement under Section 76-8-504;
- 937 (vvv) tampering with a witness under Section 76-8-508;
- 938 (www) retaliation against a witness, victim, or informant under Section 76-8-508.3;
- 939 (xxx) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
- 940 (yyy) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
- 941 (zzz) tampering with evidence under Section 76-8-510.5;
- 942 (aaaa) falsification or alteration of a government record under Section 76-8-511, if the record is a record  
described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation  
Act;
- 945 (bbbb) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;
- 947 (cccc) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;
- 949 (dddd) public assistance fraud by a provider under Section 76-8-1203.5;
- 950 (eeee) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;
- 951 (ffff) false statement to obtain or increase unemployment compensation under Section 76-8-1301;
- 953 (gggg) false statement to prevent or reduce unemployment compensation or liability under Section  
76-8-1302;
- 955 (hhhh) unlawful failure to comply with Employment Security Act requirements under Section  
76-8-1303;
- 957 (iiii) unlawful use or disclosure of employment information under Section 76-8-1304;
- 958 (jjjj) intentionally or knowingly causing one animal to fight with another under Subsection  
76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning dog fighting;
- 961 (kkkk) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang under  
Section 76-9-803;
- 963 (llll) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang  
under Section 76-9-803.1;
- 965 (mmmm) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;

## SB0072 compared with SB0072S01

- 967 (nnnn) aggravated intimidating a minor to remain in a criminal street gang under Section 76-9-803.3;
- 969 (oooo) unlawful conduct involving an explosive, chemical, or incendiary device under Section  
76-15-210;
- 971 (pppp) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;
- 973 (qqqq) unlawful delivery or mailing of an explosive, chemical, or incendiary device under Section  
76-15-209;
- 975 (rrrr) forging or counterfeiting trademarks, trade name, or trade device under Section 76-16-302;
- 977 (ssss) selling goods under counterfeited trademark, trade name, or trade devices under Section  
76-16-303;
- 979 (tttt) sales in containers bearing registered trademark of substituted articles under Section 76-16-304;
- 981 (uuuu) selling or dealing with article bearing registered trademark or service mark with intent to defraud  
under Section 76-16-306;
- 983 (vvvv) participating in gambling under Section 76-9-1402;
- 984 (wwww) permitting gambling under Section 76-9-1403;
- 985 (xxxx) online gambling prohibition under Section 76-9-1404;
- 986 (yyyy) gambling promotion under Section 76-9-1405;
- 987 (zzzz) gambling fraud under Section 76-9-1406;
- 988 (aaaa) possessing a gambling device or record under Section 76-9-1407;
- 989 (bbbb) obtaining a benefit from a confidence game under Section 76-9-1410;
- 990 (cccc) distributing pornographic material under Section 76-5c-202;
- 991 (dddd) aiding or abetting a minor in distributing pornographic material under Section 76-5c-203;
- 993 (eeee) inducing acceptance of pornographic material under Section 76-5c-204;
- 994 (ffff) distributing material harmful to minors under Section 76-5c-205;
- 995 (ggggg) aiding or abetting a minor in distributing material harmful to minors under Section 76-5c-206;
- 997 (hhhhh) distributing obscene animal abuse material under Section 76-5c-215;
- 998 [~~(hhhhh)~~] (iiii) distribution of a pornographic file for exhibition under Section 76-5c-305;
- 999 [~~(iiii)~~] (jjjj) indecent public display in the presence of a minor under Section 76-5c-207;
- 1000 [~~(jjjj)~~] (kkkk) engaging in prostitution under Section 76-5d-202;
- 1001 [~~(kkkk)~~] (llll) aiding prostitution under Section 76-5d-206;
- 1002 [(HHH)] (mmmm) exploiting prostitution under Section 76-5d-207;
- 1003 [~~(mmmm)~~] (nnnn) aggravated exploitation of prostitution under Section 76-5d-208;

## SB0072 compared with SB0072S01

- 1004 [~~(nnnnn)~~] (ooooo) communications fraud under Section 76-6-525;
- 1005 [~~(ooooo)~~] (ppppp) possession of a dangerous weapon with criminal intent under Section 76-11-208;
- 1007 [~~(ppppp)~~] (qqqqq) an act prohibited by the criminal provisions of Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;
- 1009 [~~(qqqqq)~~] (rrrrr) vehicle compartment for contraband under Section 76-9-1902 or 76-9-1903;
- 1011 [~~(rrrrr)~~] (sssss) an act prohibited by the criminal provisions of the laws governing taxation in this state;
- or
- 1013 [~~(sssss)~~] (ttttt) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Secs. 1961(1)(B), (C), and (D).
- 752 Section 17. Section **76-17-403** is amended to read:
- 753 **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.**
- 1020 (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:
- 1024 (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
- 1027 (ii) the conduct has been adjudged criminal by a court of the state or of the United States.
- 1029 (2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.
- 1031 (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.
- 1033 (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.
- 1036 (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,

## SB0072 compared with SB0072S01

performed, or recklessly tolerated by the board of directors or a high managerial agent acting within the scope of the agent's employment.

- 1040 (5) In all actions arising under this section, the burden of proof is clear and convincing evidence.
- 1042 (6) The attorney general, county attorney, or, if within a prosecution district, the district attorney may maintain an action under this section on behalf of the state, the county, or any person injured by a person engaged in conduct forbidden by Section 76-17-407, to prevent, restrain, or remedy injury as defined in this section and may recover the damages and costs allowed by this section.
- 1047 (7) In all actions under this section, the elements of each claim or cause of action shall be stated with particularity against each defendant.
- 1049 (8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed before trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of the prevailing party's reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable attorney fee.
- 1055 (9)
- (a) An action or proceeding brought under this section shall be commenced within three years after the conduct prohibited by Section 76-17-407 terminates or the cause of action accrues, whichever is later.
- 1058 (b) Subsection (9)(a) supersedes any limitation to the contrary.
- 1059 (10)
- (a) In any action brought under this section, the court may prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after making provisions for the rights of innocent persons.
- 1062 (b) Before liability is determined in any action brought under this section, the court may:
- 1063 (i) issue restraining orders and injunctions;
- 1064 (ii) require satisfactory performance bonds or any other bond the court considers appropriate and necessary in connection with any property or requirement imposed upon a party by the court; and
- 1067 (iii) enter any other order the court considers necessary and proper.
- 1068 (c) After a determination of liability, the court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following:

1070

## SB0072 compared with SB0072S01

- (i) order a person to divest the person's self of any interest in or any control, direct or indirect, of an enterprise;
- 1072 (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
- 1076 (iii) order the dissolution or reorganization of an enterprise.
- 1077 (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.
- 1084 (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.
- 1090 (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.
- 832 Section 18. Section **78B-6-2101** is amended to read:
- 833 **78B-6-2101. Definitions.**
- As used in this part:
- 1098 (1) "Minor" means an individual less than 18 years [~~of age~~] old.
- 1099 (2) "Obscene animal abuse material" means the same as that term is defined in Section 76-5c-101.
- 1101 [~~(2)~~] (3) "Pornographic material" means material that:
- 1102 (a) the average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;

1104

## SB0072 compared with SB0072S01

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

1106 (c) taken as a whole does not have serious literary, artistic, political, or scientific value.

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

845 **78B-6-2102. Exemptions.**

1109 (1) If the conditions of Subsection (2) are met, this part does not apply to:

1110 (a) the following, as defined in the Communications Act of 1934, as amended:

1111 (i) an interactive computer service;

1112 (ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or

1114 (iii) a multichannel video programming distributor;

1115 (b) an [~~Internet~~] internet service provider;

1116 (c) a provider of an electronic communications service;

1117 (d) a distributor of [~~Internet~~] internet-based video services;

1118 (e) a hosting company as defined in Section 76-5c-401; or

1119 (f) a distributor of electronic or computerized game software that users manipulate through interactive devices.

1121 (2) This part does not apply to an entity described in Subsection (1) if:

1122 (a) the distribution of obscene animal abuse material or pornographic material by the entity occurs only incidentally through the entity's function of:

1124 (i) transmitting or routing data from one person to another person;

1125 (ii) providing a connection between one person and another person; or

1126 (iii) providing data storage space or data caching to a person; and

1127 (b) the entity does not intentionally aid or abet in the distribution of the obscene animal abuse material or pornographic material.

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

867 **78B-6-2103. Liability -- Safe harbor.**

1131 (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:

1134 (a) at the time the obscene animal abuse material or pornographic material is viewed by the person, the person is a minor; and

## SB0072 compared with SB0072S01

- 1136 (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.
- 1140 (2) Nothing in this part affects any private right of action existing under other law, including contract.
- 1142 (3) Notwithstanding Subsection (1), a person who distributes or otherwise provides obscene animal  
abuse material or pornographic material is not liable under this section if the person who distributes  
or otherwise provides obscene animal abuse material or pornographic material:
- 1146 (a) provides a warning that:
- 1147 (i) is conspicuous;
- 1148 (ii) appears before the obscene animal abuse material or pornographic material can be accessed; and
- 1150 (iii) consists of a good faith effort to warn persons accessing the obscene animal abuse material or  
pornographic material that the [~~pornographic~~]-material may be harmful to minors; and
- 1153 (b) makes a good faith effort to verify the age of a person accessing the obscene animal abuse material  
or pornographic material.
- 1155 (4) Subsection (3) may not be interpreted as exempting a person from complying with Title 13, Chapter  
39, Child Protection Registry.
- 1157 (5)
- (a)
- (i) Notwithstanding Section 78B-6-2105, a person who is not exempt under Section 78B-6-2102,  
and who distributes or otherwise provides [~~obscene~~] obscene animal abuse material or  
pornographic material to consumers without a warning label or without the metadata described  
in Subsection 78B-6-2105(3)(b) is not liable if the person demonstrates reasonable efforts to  
determine the location of recipients of [~~obscene~~] obscene animal abuse material or pornographic  
material within the state and the placement of warning labels on material that enters the state.  
Reasonable efforts shall result in a compliance rate that exceeds 75% of the content believed to  
enter the state within the shorter of six months prior to any claim, or from May 12, 2020, to the  
time of the claim.
- 1167 (ii) [-]Proof of reasonable efforts to comply with Subsection (5)(a)(i) shall remove liability only for  
the type of compliance for which reasonable efforts have been proven.
- 1170 (b) The use of virtual private networks or similar technology by the consumer to hide the consumer's  
location may not be included in a compliance rate calculation.

## SB0072 compared with SB0072S01

- 1172 (6) Notwithstanding Section 78B-6-2105, a video game without a warning label is not liable if it has  
a rating of the Entertainment Software Rating Board or equivalent, as long as it also explicitly  
provides notice of the content as part of the rating.
- 912 Section 21. Section **78B-6-2105** is amended to read:  
913 **78B-6-2105. Civil action for enforcement -- Penalties.**
- 1177 (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.
- 1181 (2) The warning of the harm shall be prominently displayed in the following form:  
1182 STATE OF UTAH WARNING  
1183 Exposing minors to obscene material may damage or negatively impact minors.
- 1184 (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.
- 1187 (b) For digital publications:  
1188 (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  
1191 (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.
- 1194 (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.
- 1197 (5) The civil penalty may be assessed and recovered in a civil action brought in any court of competent  
jurisdiction.
- 1199 (6) Each of the following violations shall create a separate liability per violation:  
1200 (a) the sale or display of potentially harmful content without the warning required in Subsection (2), in  
accordance with Subsection (3); or  
1202 (b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.

## SB0072 compared with SB0072S01

- 1204 (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.
- 1208 (8) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.
- 1210 (9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:
- 1212 (a) the nature and extent of the violation;
- 1213 (b) the number and severity of the violations;
- 1214 (c) the economic effect of the penalty on the violator;
- 1215 (d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;
- 1217 (e) the willfulness of the violator's misconduct;
- 1218 (f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and
- 1220 (g) any other factor that the court determines justice requires.
- 1221 (10) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (11).
- 1223 (11) A private person may bring an action in the public interest pursuant to this section if:
- 1224 (a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;
- 1226 (b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:
- 1228 (i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or
- 1230 (ii) the attorney general believes that there is no merit to the action; and
- 1231 (c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (17).
- 1233 (12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

## SB0072 compared with SB0072S01

- 1235 (13) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the  
noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged  
violation. The notice of alleged violation shall:
- 1238 (a) state that the person executing the notice believes that there is a violation; and  
1239 (b) provide factual information sufficient to establish the basis for the alleged violation.
- 1240 (14) A person who serves a notice of alleged violation identified in Subsection (13) shall complete and  
provide to the alleged violator at the time the notice of alleged violation is 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:
- 1245 (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  
1247 (b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:  
1249 (i) corrected the alleged violation and all similar violations known to the alleged violator;  
1251 (ii) agreed to pay a penalty for the alleged violation in the amount of \$500 per violation; and  
1253 (iii) notified, in writing, the noticing party that the violation has been corrected.
- 1254 (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.
- 1258 (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.
- 1263 (17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall be  
presented as follows:
- 1265 Date:  
1266 Name of Noticing Party or attorney for Noticing Party:  
1267 Address:  
1268 Phone number:  
1269 SPECIAL COMPLIANCE PROCEDURE  
1270 PROOF OF COMPLIANCE

## SB0072 compared with SB0072S01

1271 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.

1273 The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

1275 (1) you have not actually taken the corrective steps that you have certified in this form;

1276 (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

1278 (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.

1281 PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

1283 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)

1286 Date:

1287 Name of Noticing Party or attorney for Noticing Party:

1288 Address:

1289 Phone number:

1290 PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

1292 Certification of Compliance

1293 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.

1297 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):

1300 [ ] 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.

## SB0072 compared with SB0072S01

1302 [ ] Eliminating the alleged exposure, and attaching a statement accurately describing how the  
alleged exposure has been eliminated.

1304 CERTIFICATION

1305 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.

1309 Signature of alleged violator or authorized representative:

1310 Date:

1311 Name and title of signatory:

1312 (18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one time for a  
specific violation.

1314 (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.

1319 (20) Payments shall be made in accordance with this section.

1320 (a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

1322 (b) A penalty paid in accordance with the special compliance procedure in Subsection (17) shall be  
made directly to the noticing party.

1324 (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.

1328 (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.

1331 (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.

1333 (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).

## SB0072 compared with SB0072S01

- 1336 (23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for  
payment.
- 1338 (24) The Utah Office for Victims of Crime shall:
- 1339 (a) maintain a record of documents and payments submitted pursuant to Subsections (21), (22), and  
(23);
- 1341 (b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report  
containing the following for the previous two years:
- 1343 (i) the number of notices of alleged violations received from the attorney general's office;
- 1345 (ii) the number of court orders received; and
- 1346 (iii) the total amount received and deposited into the Crime Victim Reparations Fund.
- 1347 (25) This section does not apply to:
- 1348 (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
- 1351 (b) a person who is coerced or blackmailed into distributing [~~obscene or~~] obscene animal abuse material  
or pornographic material.
- 1353 (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.

1096 Section 22. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

3-2-26 10:53 AM