

Nicholeen P. Peck proposes the following substitute bill:

Sexual Material Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Nicholeen P. Peck

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions relating to liability for obscenity, a child sex doll, or child sexual abuse material.

Highlighted Provisions:

This bill:

- defines terms;
- provides that an individual has a cause of action if a person exposes the individual to or depicts the individual in obscenity or child sexual abuse material;
- provides that an individual has a cause of action if a person depicts or intends to depict the individual's likeness as a minor on a child sex doll;
- provides requirements for an individual bringing an action under provisions this bill enacts;
- provides the relief a court may grant an individual bringing an action under the provisions this bill enacts;
- provides that an entity that provides access to the internet is not liable under the provisions this bill enacts, if the entity did not create the content;
- authorizes an individual to bring an action regardless of whether conduct has resulted in a criminal conviction;
- provides a severability clause; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

29 AMENDS:

30 **76-5b-201**, as last amended by Laws of Utah 2025, Chapters 173, 223 and 320

31 **78B-3-1001**, as enacted by Laws of Utah 2023, Chapter 262

32 ENACTS:

33 **78B-3-1004**, Utah Code Annotated 1953

34

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

36 Section 1. Section **76-5b-201** is amended to read:

37 **76-5b-201 . Sexual exploitation of a minor -- Offenses.**

38 (1) Terms defined in Section 76-1-101.5 apply to this section.

39 (2) An actor commits sexual exploitation of a minor when the actor knowingly possesses,
40 views, accesses with the intent to view, or maintains access with the intent to view, child
41 sexual abuse material.

42 (3)(a) A violation of Subsection (2) is a second degree felony.

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

44 (i) for each minor depicted in the child sexual abuse material; and

45 (ii) for each time the same minor is depicted in different child sexual abuse material.

46 (4) For a charge of violating this section, it is an affirmative defense that:

47 (a) the defendant:

48 (i) did not solicit the child sexual abuse material from the minor depicted in the child
49 sexual abuse material;

50 (ii) is not more than two years older than the minor depicted in the child sexual abuse
51 material; and

52 (iii) upon request of a law enforcement agent or the minor depicted in the child
53 sexual abuse material, removes from an electronic device or destroys the child
54 sexual abuse material and all copies of the child sexual abuse material in the
55 defendant's possession; and

56 (b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4,
57 Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

58 (5) In proving a violation of this section in relation to an identifiable minor, proof of the
59 actual identity of the identifiable minor is not required.

60 (6) The following are not criminally or civilly liable under this section when acting in good
61 faith compliance with Section 77-4-201 or 78B-3-1004:

62 (a) an entity or an employee, director, officer, or agent of an entity when acting within

- 63 the scope of employment, for the good faith performance of:
- 64 (i) reporting or data preservation duties required under federal or state law; or
- 65 (ii) implementing a policy of attempting to prevent the presence of child sexual abuse
- 66 material on tangible or intangible property, or of detecting and reporting the
- 67 presence of child sexual abuse material on the property;
- 68 (b) a law enforcement officer, a civilian employee of a law enforcement agency, or an
- 69 independent contractor who is contracted with a law enforcement agency, acting
- 70 within the scope of a criminal investigation;
- 71 (c) an employee of a court who may be required to view child sexual abuse material
- 72 during the course of and within the scope of the employee's employment;
- 73 (d) a juror who may be required to view child sexual abuse material during the course of
- 74 the individual's service as a juror;
- 75 (e) an attorney or agent or employee of an attorney who is required to view child sexual
- 76 abuse material during the course of a judicial process and while acting within the
- 77 scope of employment or agency relationship;
- 78 (f) an employee of the Department of Health and Human Services who is required to
- 79 view child sexual abuse material within the scope of the employee's employment;
- 80 (g) an employee, independent contractor, or designated interviewer of a Children's
- 81 Justice Center, who is required to view child sexual abuse material within the scope
- 82 of the employee's, independent contractor's, or designated interviewer's scope of
- 83 employment or assignment; or
- 84 (h) an attorney who is required to view child sexual abuse material within the scope of
- 85 the attorney's responsibility to represent the Department of Health and Human
- 86 Services, including the divisions and offices within the Department of Health and
- 87 Human Services.

88 Section 2. Section **78B-3-1001** is amended to read:

89 **78B-3-1001 . Definitions.**

90 As used in this chapter:

- 91 (1) "Child sex doll" means the same as that term is defined in Section 76-5c-209.
- 92 (2) "Child sexual abuse material" means the same as that term is defined in Section
- 93 76-5b-103.
- 94 [(4)] (3) "Commercial entity" includes [corporations, limited liability companies,
- 95 partnerships, limited partnerships, sole proprietorships, or other legally recognized
- 96 entities] a corporation, limited liability company, partnership, sole proprietorship, or

97 other legally recognized entity.

98 (4) "Cloud service provider" means a commercial entity that offers data storage, computing
99 power, or other digital infrastructure resources to a person through the internet.

100 [(2)] (5) "Digitized identification card" means a data file available on any mobile device [
101 ~~which~~] that has connectivity to the [~~Internet~~] internet through a state-approved application
102 that:

103 (a) [-]allows the mobile device to download the data file from a state agency or an
104 authorized agent of a state agency that contains all of the data elements visible on the
105 face and back of a license or identification card; and[-]

106 (b) displays the current status of the license or identification card.

107 [(3)] (6) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute,
108 circulate, or disseminate by any means.

109 [(4)] (7) "Internet" means the international computer network of both federal and
110 non-federal interoperable packet switched data networks.

111 (8) "Internet service provider" means a commercial entity that connects a person to the
112 internet by providing or installing technology including cable, wireless, or fiber-optic
113 technology.

114 [(5)] (9) "Material harmful to minors" [~~is defined as all of the following~~] means:

115 (a) [~~any~~]material that the average person, applying contemporary community standards,
116 would find, taking the material as a whole and with respect to minors, is designed to
117 appeal to, or is designed to pander to, the prurient interest;

118 (b) material that exploits, is devoted to, or principally consists of descriptions of actual,
119 simulated, or animated display or depiction of any of the following, in a manner
120 patently offensive with respect to minors:

121 (i) pubic hair, anus, vulva, genitals, or nipple of the female breast;

122 (ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals;

123 or

124 (iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation,
125 flagellation, excretory functions, exhibitions, or any other sexual act; and

126 (c) the material taken as a whole lacks serious literary, artistic, political, or scientific
127 value for minors.

128 [(6)] (10) "Minor" means [~~any person~~] an individual under 18 years old.

129 [(7)] (11) "News-gathering organization" means any of the following:

130 (a) an employee of a newspaper, news publication, or news source, printed or on an

131 online or mobile platform, of current news and public interest, while operating as an
 132 employee as provided in this ~~[subsection]~~ Subsection (11), who can provide
 133 documentation of ~~[such]~~ the employment with the newspaper, news publication, or
 134 news source; or

135 (b) an employee of a radio broadcast station, television broadcast station, cable
 136 television operator, or wire service while operating as an employee as provided in
 137 this ~~[subsection]~~ Subsection (11), who can provide documentation of ~~[such]~~ the
 138 employment.

139 (12) "Obscenity" means a material or performance that:

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

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

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

145 ~~[(8)]~~ (13) "Publish" means to communicate or make information available to another [person]
 146 individual or entity on a publicly available [Internet-]website.

147 ~~[(9)]~~ (14) "Reasonable age verification methods" means verifying that the person seeking to
 148 access the material is 18 years old or older by using any of the following methods:

149 (a) use of a digitized information card as defined in this section;

150 (b) verification through an independent, third-party age verification service that
 151 compares the personal information entered by the individual who is seeking access to
 152 the material that is available from a commercially available database, or aggregate of
 153 databases, that is regularly used by government agencies and businesses for the
 154 purpose of age and identity verification; or

155 (c) [any-] a commercially reasonable method that relies on public or private transactional
 156 data to verify the age of the person attempting to access the material.

157 (15) "Search engine" means an internet service that enables an individual to search for
 158 information on the internet by entering a search term.

159 ~~[(10)]~~ (16) "Substantial portion" means more than 33-1/3% of total material on a website,
 160 which meets the definition of "material harmful to minors" as defined in this section.

161 ~~[(11)]~~ (17)(a) "Transactional data" means a sequence of information that documents an
 162 exchange, agreement, or transfer between an individual, commercial entity, or third
 163 party used for the purpose of satisfying a request or event.

164 (b) "Transactional data" includes records from mortgage, education, and employment

165 entities.

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

167 **78B-3-1004 . Liability for obscenity, child sexual abuse material, and a child sex**
168 **doll -- Severability.**

- 169 (1) An individual has a right of action against a person that publishes or distributes
170 obscenity or child sexual abuse material on the internet within the state, or possesses,
171 purchases, or distributes a child sex doll in the state if:
172 (a) the person is subject to personal jurisdiction in this state;
173 (b)(i) the obscenity, child sexual abuse material, or child sex doll depicts the
174 individual or the individual's likeness;
175 (ii) the person displays the obscenity or child sexual abuse material in a manner that
176 makes the obscenity or child sexual abuse material accessible to the individual; or
177 (iii) the person possesses, purchases, or distributes a child sex doll in the state; and
178 (c)(i) the individual bringing the action is a resident of this state; or
179 (ii) the conduct described in Subsection (1)(b) occurs in this state.
- 180 (2) If an individual brings an action against a person in accordance with Subsection (1), a
181 court may award the individual:
182 (a) injunctive relief;
183 (b) nominal damages;
184 (c) actual damages;
185 (d) punitive damages; and
186 (e) reasonable attorney fees and court costs.
- 187 (3) No internet service provider, affiliate or subsidiary of an internet service provider,
188 search engine, or cloud service provider shall be held to have violated the provisions of
189 this section solely for providing access or connection to or from a website or other
190 information or content on the internet, or a facility, system, or network not under that
191 provider's control, including transmission, downloading, storing, or providing access, to
192 the extent that the internet service provider, affiliate or subsidiary of an internet service
193 provider, search engine, or cloud service provider is not responsible for the creation of
194 the content of the communication that constitutes obscenity or child sexual abuse
195 material.
- 196 (4) An individual with a claim under this section who satisfies the applicable standards for
197 joinder or class action may combine the individual's claim with one or more individuals
198 with a claim under this section into one action.

199 (5) An individual may bring an action under this section regardless of whether the action
200 that gives rise to a cause of action under Subsection (1) has resulted in a criminal
201 conviction.

202 (6)(a) If any provision of this section or the application of any provision to any person or
203 circumstance is held invalid, the remainder of this section shall be given effect
204 without the invalid provision or application.

205 (b) The provisions of this section are severable.

206 Section 4. **Effective Date.**

207 This bill takes effect on May 6, 2026.