

Effective 5/10/2016

76-10-1204.5 Reporting of child pornography by a computer technician.

- (1) As used in this section:
 - (a) "Child pornography" means the same as that term is defined in Section 76-5b-103.
 - (b) "Computer technician" or "technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.
 - (c) "Image" means an image of child pornography or an image that a computer technician reasonably believes is child pornography.
- (2)
 - (a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child pornography shall immediately report the finding of the image to:
 - (i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or
 - (ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).
 - (b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.
 - (c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.
 - (d)
 - (i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.
 - (ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.
 - (e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years of age.
- (3)
 - (a) An employer of a computer technician may implement a procedure that requires:
 - (i) the computer technician report an image as is required under Subsection (2)(a) to an employee designated by the employer to receive the report of the image; and
 - (ii) the designated employee to immediately forward the report provided by the computer technician to an agency under Subsection (2)(a)(i).
 - (b) Compliance by the computer technician and the designated employee with the reporting process under Subsection (3)(a) is compliance with the reporting requirement of this section and establishes immunity under Subsection (2)(d).
- (4) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child pornography.

Enacted by Chapter 313, 2016 General Session

