

Part 1 General Provisions

76-5b-101 Title.

This chapter is known as the "Sexual Exploitation Act."

Enacted by Chapter 320, 2011 General Session

76-5b-102 Legislative determinations -- Purpose of chapter.

- (1) The Legislature of Utah determines that:
 - (a) the sexual exploitation of a minor is excessively harmful to the minor's physiological, emotional, social, and mental development;
 - (b) the sexual exploitation of a vulnerable adult who lacks the capacity to consent to sexual exploitation can result in excessive harm to the vulnerable adult's physiological, emotional, and social well-being;
 - (c) a minor cannot intelligently and knowingly consent to sexual exploitation;
 - (d) regardless of whether it is classified as legally obscene, material that sexually exploits a minor, or a vulnerable adult who does not have the capacity to consent to sexual exploitation, is not protected by the First Amendment of the United States Constitution or by the First or Fifteenth sections of Article I of the Utah Constitution and may be prohibited; and
 - (e) prohibition of and punishment for the distribution, possession, possession with intent to distribute, and production of materials that sexually exploit a minor, or a vulnerable adult who lacks the capacity to consent to sexual exploitation, is necessary and justified to eliminate the market for those materials and to reduce the harm to the minor or vulnerable adult inherent in the perpetuation of the record of the minor's or vulnerable adult's sexually exploitive activities.
- (2) It is the purpose of this chapter to prohibit the production, possession, possession with intent to distribute, and distribution of materials that sexually exploit a minor, or a vulnerable adult who lacks capacity to consent to sexual exploitation, regardless of whether the materials are classified as legally obscene.

Renumbered and Amended by Chapter 320, 2011 General Session

76-5b-103 Definitions.

As used in this chapter:

- (1) "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:
 - (a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;
 - (b) the visual depiction is of a minor engaging in sexually explicit conduct; or
 - (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.
- (2) "Distribute" means the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child sexual abuse material or vulnerable adult sexual abuse material with or without consideration.
- (3) "Identifiable minor" means a person:

- (a)
 - (i) who was a minor at the time the visual depiction was created, adapted, or modified; or
 - (ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction;and
 - (b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.
- (4) "Identifiable vulnerable adult" means a person:
- (a)
 - (i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or
 - (ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and
 - (b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.
- (5) "Lacks capacity to consent" is as defined in Section 76-5-111.4.
- (6) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.
- (7) "Minor" means a person younger than 18 years old.
- (8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.
- (9) "Produce" means:
- (a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material; or
 - (b) the securing or hiring of persons to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material.
- (10) "Sexually explicit conduct" means actual or simulated:
- (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (b) masturbation;
 - (c) bestiality;
 - (d) sadistic or masochistic activities;
 - (e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;
 - (f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;
 - (g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or
 - (h) the explicit representation of the defecation or urination functions.
- (11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
- (12) "Vulnerable adult" is as defined in Subsection 76-5-111(1).
- (13) "Vulnerable adult sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:
- (a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

- (b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or
- (c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Amended by Chapter 231, 2023 General Session