

**Effective 5/1/2024**

**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, picture, or video, 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:
    - (i) of a minor engaging in sexually explicit conduct; or
    - (ii) artificially generated and depicts an individual with substantial characteristics 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, with or without consideration, to sell, exhibit, display, provide, give, grant admission to, provide access to, or otherwise transfer.
- (3) "Identifiable minor" means an individual:
  - (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 individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.
- (4) "Identifiable vulnerable adult" means an individual:
  - (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 individual by the individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.
- (5) "Lacks capacity to consent" means the same as that term is 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 an individual who is 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 individuals 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 individuals 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 individual;
  - (f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any individual;
  - (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" means the same as that term is 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 127, 2024 General Session

Amended by Chapter 142, 2024 General Session