

Effective 5/1/2024

Superseded 5/7/2025

76-5b-201.1 Aggravated sexual exploitation of a minor.

- (1) As used in this section:
 - (a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.
 - (b) The terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated sexual exploitation of a minor if the actor:
 - (a) intentionally distributes child sexual abuse material;
 - (b) knowingly produces child sexual abuse material; or
 - (c) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) or (b) or Section 76-5b-201.
- (3)
 - (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a first degree felony.
 - (b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.
 - (c) A violation of Subsection (2)(a) is a second degree felony if the child sexual abuse material depicts an individual who is:
 - (i) 14 years old or older; or
 - (ii) pubescent.
- (4) It is a separate offense under this section:
 - (a) for each minor depicted in the child sexual abuse material; and
 - (b) for each time the same minor is depicted in different child sexual abuse material.
- (5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.
- (6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:
 - (a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:
 - (i) reporting or data preservation duties required under federal or state law; or
 - (ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;
 - (b) a law enforcement officer acting within the scope of a criminal investigation;
 - (c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;
 - (d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;
 - (e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;
 - (f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; or
 - (g) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.