

**Effective 5/7/2025**

**Superseded 1/1/2027**

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

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits sexual exploitation of a minor when the actor knowingly possesses, views, accesses with the intent to view, or maintains access with the intent to view, child sexual abuse material.
- (3)
  - (a) A violation of Subsection (2) is a second degree felony.
  - (b) It is a separate offense under this section:
    - (i) for each minor depicted in the child sexual abuse material; and
    - (ii) for each time the same minor is depicted in different child sexual abuse material.
- (4) For a charge of violating this section, it is an affirmative defense that:
  - (a) the defendant:
    - (i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;
    - (ii) is not more than two years older than the minor depicted in the child sexual abuse material; and
    - (iii) upon request of a law enforcement agent or the minor depicted in the child sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and
  - (b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- (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, a civilian employee of a law enforcement agency, or an independent contractor who is contracted with a law enforcement agency, 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;
  - (g) an employee, independent contractor, or designated interviewer of a Children's Justice Center, who is required to view child sexual abuse material within the scope of the employee's, independent contractor's, or designated interviewer's scope of employment or assignment;

(h) 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.

Amended by Chapter 173, 2025 General Session

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session