

**Superseded 5/4/2022**

**76-5b-103 Definitions.**

As used in this chapter:

- (1) "Child pornography" 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 pornography or vulnerable adult pornography 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 Subsection 76-5-111(1).
- (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 of age.
- (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 pornography or vulnerable adult pornography; or
  - (b) the securing or hiring of persons to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child pornography or vulnerable adult pornography.
- (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 pornography" 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.