

1                                   **RESOLUTION OPPOSING UNITED STATES**  
2                                   **SUPREME COURT'S PORNOGRAPHY**  
3                                   **DECISION**

4                                   2006 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Ron Bigelow**

7                                   Senate Sponsor: Michael G. Waddoups

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9   **LONG TITLE**

10 **General Description:**

11           This joint resolution of the Legislature expresses opposition to a recent decision of the  
12 United States Supreme Court regarding pornography and urges Congress to pass a  
13 constitutional amendment to protect children from accessing pornography.

14 **Highlighted Provisions:**

15           This resolution:

- 16           ▶ expresses opposition to the United States Supreme Court's decision in Ashcroft v.  
17 American Civil Liberties Union, 124 S. Ct. 2783, 159 L. Ed. 2d 690, regarding  
18 protecting minors from exposure to pornography; and  
19           ▶ urges the United States Congress to pass a constitutional amendment protecting  
20 children from accessing pornography.

21 **Special Clauses:**

22           None

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24 *Be it resolved by the Legislature of the state of Utah:*

25           WHEREAS, in Ashcroft v. American Civil Liberties Union, 124 S. Ct. 2783, 159 L.  
26 Ed. 2d 690, plaintiffs challenged the content-based speech restrictions of the Child Online  
27 Protection Act (COPA), which was designed to protect minors from exposure to pornography



28 on the World Wide Web;

29 WHEREAS, in that case, the United States Supreme Court invoked a requirement that,  
30 in order to prevail in a court challenge, the federal government must demonstrate that less  
31 restrictive methods of protecting minors from pornography are not as effective as current law;

32 WHEREAS, in that case, the United States Supreme Court held that the federal  
33 government failed to meet the burden of proving that proposed alternatives such as filtering  
34 software, a plausible less restrictive alternative to COPA, would be less effective in protecting  
35 minors from exposure to pornography on the Internet;

36 WHEREAS, child pornography has become a \$3 billion annual industry;

37 WHEREAS, the United States Customs Service estimates that there are more than  
38 100,000 websites offering child pornography, which is illegal worldwide;

39 WHEREAS, these unlawful sexual images can be purchased very easily at these  
40 websites;

41 WHEREAS, more than 20,000 images of child pornography are posted on the Internet  
42 every week;

43 WHEREAS, one in five children who use computer chat rooms has been approached  
44 over the Internet by pedophiles;

45 WHEREAS, in 2002, the United States Supreme Court stated in another case that  
46 virtual pornographic images of children are a victimless crime;

47 WHEREAS, in many instances it is impossible for a viewer to determine whether an  
48 image is a virtual or an actual photographic image;

49 WHEREAS, the determination of whether the material is "harmful to minors" was  
50 intended by the United States Supreme Court to be made by lawfully appointed juries made up  
51 of, in the Court's own words, "average person[s], applying contemporary community standards,  
52 would find, taking the material as a whole and with respect to minors, is designed to appeal to,  
53 or is designed to pander to, the prurient interest" and "taken as a whole, lack serious literary,  
54 artistic, political, or scientific value for minors";

55 WHEREAS, the United States Congress should take deliberate action to protect minors  
56 through the passage of a constitutional amendment protecting minors from exposure to  
57 pornography; and

58 WHEREAS, governments and the courts must respond decisively when minors are

59 exposed to material that is harmful to them, in the name of preserving the free speech right of  
60 adults:

61 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah  
62 expresses opposition to the United States Supreme Court's decision in Ashcroft v. American  
63 Civil Liberties Union, 124 S. Ct. 2783, 159 L. Ed. 2d 690, and other recent cases that claim to  
64 preserve the free speech rights of adults while exposing minors to material the United States  
65 Supreme Court has stated is "harmful to minors."

66 BE IT FURTHER RESOLVED that the Legislature of the state of Utah ~~H→~~ **in order to**  
66a **help protect children,** ~~←H~~ strongly urges  
67 the United States Congress to pass a constitutional amendment ~~H→~~ **,if necessary,** ~~[to protect~~  
67a **minors from] prohibiting child** ~~←H~~  
68 pornography ~~H→~~ **, actual or simulated.**

68a **BE IT FURTHER RESOLVED that the Legislature strongly urges Congress to pass a**  
68b **constitutional amendment, if necessary, to** [and] ~~←H~~ criminalize the possession ~~H→~~ **or**  
68c **viewing** ~~←H~~ of ~~H→~~ ~~[pornographic images of children in any form]~~ **child pornography, actual or**  
68d **simulated, by any individual** ~~←H~~ .

69 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority  
70 Leader of the United States Senate, the Speaker of the United States House of Representatives,  
71 the United States Supreme Court, and to the members of Utah's congressional delegation.

**Legislative Review Note**  
**as of 1-6-06 9:49 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HJR007**

**Resolution Opposing United States Supreme Court's Pornography Decision** 25-Jan-06  
10:09 AM

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**State Impact**

Mailing requirements of this resolution can be handled within existing budgets.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**