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**RESOLUTION OPPOSING UNITED STATES
SUPREME COURT'S PORNOGRAPHY
DECISION**

2006 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Ron Bigelow

Senate Sponsor: Michael G. Waddoups

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LONG TITLE

General Description:

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

Highlighted Provisions:

36 This resolution:

37 ▶ expresses opposition to the United States Supreme Court's decision in Ashcroft v.
38 American Civil Liberties Union, 124 S. Ct. 2783, 159 L. Ed. 2d 690, regarding
39 protecting minors from exposure to pornography; and

40 ▶ urges the United States Congress to pass a constitutional amendment protecting
41 children from accessing pornography.

42 **Special Clauses:**

43 None



44
45 *Be it resolved by the Legislature of the state of Utah:*

46 WHEREAS, in Ashcroft v. American Civil Liberties Union, 124 S. Ct. 2783, 159 L.
47 Ed. 2d 690, plaintiffs challenged the content-based speech restrictions of the Child Online
48 Protection Act (COPA), which was designed to protect minors from exposure to pornography
49 on the World Wide Web;

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

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

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

58 WHEREAS, the United States Customs Service estimates that there are more than
59 100,000 websites offering child pornography, which is illegal worldwide;

60 WHEREAS, these unlawful sexual images can be purchased very easily at these
61 websites;

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

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

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

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

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

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

79 WHEREAS, governments and the courts must respond decisively when minors are
80 exposed to material that is harmful to them, in the name of preserving the free speech right of
81 adults:

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

87 BE IT FURTHER RESOLVED that the Legislature of the state of Utah, in order to help
88 protect children, strongly urges the United States Congress to pass a constitutional amendment,
89 if necessary, prohibiting child pornography, actual or simulated.

90 BE IT FURTHER RESOLVED that the Legislature strongly urges Congress to pass a
91 constitutional amendment, if necessary, to criminalize the possession or viewing of child

92 pornography, actual or simulated, by any individual.

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