

1                                   **ACCESSING PORNOGRAPHY ON SCHOOL**

2   **PROPERTY**

3   2007 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: DeMar Bud Bowman**

6   Senate Sponsor: D. Chris Buttars

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8                                   **LONG TITLE**

9                                   **General Description:**

10                                   This bill establishes penalties for accessing pornography on school property.

11                                   **Highlighted Provisions:**

12                                   This bill:

- 13                                   ▶ allows a school to suspend or expel a student for accessing pornographic material at
- 14 school; and
- 15                                   ▶ makes it a crime to access pornographic material on school property.

16                                   **Monies Appropriated in this Bill:**

17                                   None

18                                   **Other Special Clauses:**

19                                   None

20                                   **Utah Code Sections Affected:**

21                                   AMENDS:

22                                   **53A-11-904**, as last amended by Chapter 203, Laws of Utah 2003

23                                   ENACTS:

24                                   **76-10-1234**, Utah Code Annotated 1953

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26                                   *Be it enacted by the Legislature of the state of Utah:*

27                                   Section 1. Section **53A-11-904** is amended to read:

28                                   **53A-11-904. Grounds for suspension or expulsion from a public school.**

29                                   (1) A student may be suspended or expelled from a public school for any of the

30 following reasons:

31 (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive  
32 behavior, including the use of foul, profane, vulgar, or abusive language;

33 (b) willful destruction or defacing of school property;

34 (c) behavior or threatened behavior which poses an immediate and significant threat to  
35 the welfare, safety, or morals of other students or school personnel or to the operation of the  
36 school;

37 (d) possession, control, or use of an alcoholic beverage as defined in Section  
38 32A-1-105; [or]

39 (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the  
40 school or school property, to a person associated with the school, or property associated with  
41 that person, regardless of where it occurs[-]; or

42 (f) possession or use of pornographic material on school property.

43 (2) (a) A student shall be suspended or expelled from a public school for any of the  
44 following reasons:

45 (i) any serious violation affecting another student or a staff member, or any serious  
46 violation occurring in a school building, in or on school property, or in conjunction with any  
47 school activity, including:

48 (A) the possession, control, or actual or threatened use of a real weapon, explosive, or  
49 noxious or flammable material;

50 (B) the actual or threatened use of a look alike weapon with intent to intimidate another  
51 person or to disrupt normal school activities; or

52 (C) the sale, control, or distribution of a drug or controlled substance as defined in  
53 Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug  
54 paraphernalia as defined in Section 58-37a-3; or

55 (ii) the commission of an act involving the use of force or the threatened use of force  
56 which if committed by an adult would be a felony or class A misdemeanor.

57 (b) A student who commits a violation of Subsection (2)(a) involving a real or look

58 alike weapon, explosive, or flammable material shall be expelled from school for a period of  
59 not less than one year subject to the following:

60 (i) within 45 days after the expulsion the student shall appear before the student's local  
61 school board superintendent or the superintendent's designee, accompanied by a parent or legal  
62 guardian; and

63 (ii) the superintendent shall determine:

64 (A) what conditions must be met by the student and the student's parent for the student  
65 to return to school;

66 (B) if the student should be placed on probation in a regular or alternative school  
67 setting consistent with Section 53A-11-907, and what conditions must be met by the student in  
68 order to ensure the safety of students and faculty at the school the student is placed in; and

69 (C) if it would be in the best interest of both the school district and the student to  
70 modify the expulsion term to less than a year, conditioned on approval by the local school  
71 board and giving highest priority to providing a safe school environment for all students.

72 (3) A student may be denied admission to a public school on the basis of having been  
73 expelled from that or any other school during the preceding 12 months.

74 (4) A suspension or expulsion under this section is not subject to the age limitations  
75 under Subsection 53A-11-102(1).

76 (5) Each local school board shall prepare an annual report for the State Board of  
77 Education on:

78 (a) each violation committed under this section; and

79 (b) each action taken by the school district against a student who committed the  
80 violation.

81 Section 2. Section **76-10-1234** is enacted to read:

82 **76-10-1234. Accessing pornographic or indecent material on school property.**

83 (1) As used in this section:

84 (a) "Pornographic or indecent material" means any material:

85 (i) defined as harmful to minors in Section 76-10-1201;

86 (ii) described as pornographic in Section 76-10-1203; or

87 (iii) described in Section 76-10-1227.

88 (b) "School property" means property, including land and improvements, that a school  
89 district or charter school owns, leases, or occupies.

90 (2) Except as provided in Subsection (3), a person is guilty of accessing pornographic  
91 or indecent material on school property when the person willfully or knowingly creates, views,  
92 or otherwise gains access to pornographic or indecent material while present on school  
93 property, under circumstances not amounting to an attempted or actual violation of:

94 (a) distributing pornographic material as specified in Section 76-10-1204;

95 (b) inducing acceptance of pornographic material as specified in Section 76-10-1205;

96 (c) dealing in material harmful to a minor as specified in Section 76-10-1206; or

97 (d) indecent public displays as specified in Section 76-10-1228.

98 (3) This section does not apply to school or law enforcement personnel when the  
99 access to pornographic or indecent material on school property is limited to:

100 (a) investigation of a violation of this section; or

101 (b) enforcement of this section.

102 (4) Each separate offense under this section is:

103 (a) a class A misdemeanor if the person is 18 years of age or older; and

104 (b) a class B misdemeanor if the person is under 18 years of age.

105 (5) This section does not prohibit disciplinary action for actions that violate this  
106 section.