

MATERIAL HARMFUL TO MINORS

AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott L Wyatt

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding material harmful to minors.

Highlighted Provisions:

This bill:

- ▶ amends the definition of material that is harmful to a minor to include inappropriate violence; and
- ▶ provides a definition of inappropriate violence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1201, as last amended by Chapter 9, Laws of Utah 2001

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

Section 1. Section **76-10-1201** is amended to read:

76-10-1201. Definitions.

For the purpose of this part:



(1) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this act has occurred, is occurring, or will occur.

(2) "Distribute" means to transfer possession of materials whether with or without consideration.

(3) "Exhibit" means to show.

(4) (a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

~~[(a)]~~ (i) taken as a whole, appeals to the prurient interest in sex of minors;

~~[(b)]~~ (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

~~[(c)]~~ (iii) taken as a whole, does not have serious value for minors. Serious value includes only serious literary, artistic, political or scientific value for minors.

(b) "Harmful to minors" also means that quality of any description or representation, in whatsoever form, of inappropriate violence.

(5) "Inappropriate violence" means any description or representation, in an interactive video or electronic game, of violence that, taken as a whole:

(a) appeals to the morbid interest of minors in violence;

(b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) does not have serious literary, artistic, political, or scientific value for minors.

~~[(5)]~~ (6) "Knowingly" means an awareness, whether actual or constructive, of the character of material or of a performance. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally negligent.

~~[(6)]~~ (7) "Material":

(a) means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication~~[- Material]; and~~

(b) includes undeveloped photographs, molds, printing plates, and other latent representational objects.

~~[(7)]~~ (8) "Minor" means any person less than ~~[eighteen]~~ 18 years of age.

~~[(8)]~~ (9) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering, or the showing of a female breast with less than an opaque covering, or any portion ~~[thereof]~~ of the female breast below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

~~[(9)]~~ (10) "Performance" means any physical human bodily activity, whether engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming.

~~[(10)]~~ (11) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

~~[(11)]~~ (12) "Sado-masochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

~~[(12)]~~ (13) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

~~[(13)]~~ (14) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Legislative Review Note
as of 11-16-06 11:33 AM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-18-06 11:40 AM

The Judiciary Interim Committee recommended this bill.

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Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for law-abiding individuals, businesses, or local governments.

12/27/2006, 8:33:48 AM, Lead Analyst: Byrne, D.

Office of the Legislative Fiscal Analyst