

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:



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

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

32 (3) "Exhibit" means to show.

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

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

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

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

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

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

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

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

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

49 [(5)] (6) "Knowingly" means an awareness, whether actual or constructive, of the
50 character of material or of a performance. A person has constructive knowledge if a reasonable
51 inspection or observation under the circumstances would have disclosed the nature of the
52 subject matter and if a failure to inspect or observe is either for the purpose of avoiding the
53 disclosure or is criminally negligent.

54 [(6)] (7) "Material":

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

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

61 [~~(7)~~] (8) "Minor" means any person less than [~~eighteen~~] 18 years of age.

62 [~~(8)~~] (9) "Nudity" means the showing of the human male or female genitals, pubic area,
63 or buttocks, with less than an opaque covering, or the showing of a female breast with less than
64 an opaque covering, or any portion [~~thereof~~] of the female breast below the top of the nipple, or
65 the depiction of covered male genitals in a discernibly turgid state.

66 [~~(9)~~] (10) "Performance" means any physical human bodily activity, whether engaged
67 in alone or with other persons, including but not limited to singing, speaking, dancing, acting,
68 simulating, or pantomiming.

69 [~~(10)~~] (11) "Public place" includes a place to which admission is gained by payment of
70 a membership or admission fee, however designated, notwithstanding its being designated a
71 private club or by words of like import.

72 [~~(11)~~] (12) "Sado-masochistic abuse" means flagellation or torture by or upon a person
73 who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume, or the
74 condition of being fettered, bound, or otherwise physically restrained on the part of one so
75 clothed.

76 [~~(12)~~] (13) "Sexual conduct" means acts of masturbation, sexual intercourse, or any
77 touching of a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a
78 female, breast, whether alone or between members of the same or opposite sex or between
79 humans and animals in an act of apparent or actual sexual stimulation or gratification.

80 [~~(13)~~] (14) "Sexual excitement" means a condition of human male or female genitals
81 when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging
82 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