

SEXUAL EXPLOITATION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard A. Greenwood

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding sexual exploitation.

Highlighted Provisions:

This bill:

► modifies a definition in Title 76, Chapter 5b, Sexual Exploitation Act, to provide consistency.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-103, as renumbered and amended by Laws of Utah 2011, Chapter 320

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

Section 1. Section **76-5b-103** is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) "Child pornography" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether



28 made or produced by electronic, mechanical, or other means, of sexually explicit conduct,
29 where:

30 (a) the production of the visual depiction involves the use of a minor engaging in
31 sexually explicit conduct;

32 (b) the visual depiction is of a minor engaging in sexually explicit conduct; or

33 (c) the visual depiction has been created, adapted, or modified to appear that an
34 identifiable minor is engaging in sexually explicit conduct.

35 (2) "Distribute" means the selling, exhibiting, displaying, wholesaling, retailing,
36 providing, giving, granting admission to, or otherwise transferring or presenting child
37 pornography or vulnerable adult pornography with or without consideration.

38 (3) "Identifiable minor" means a person:

39 (a) (i) who was a minor at the time the visual depiction was created, adapted, or
40 modified; or

41 (ii) whose image as a minor was used in creating, adapting, or modifying the visual
42 depiction; and

43 (b) who is recognizable as an actual person by the person's face, likeness, or other
44 distinguishing characteristic, such as a birthmark, or other recognizable feature.

45 (4) "Identifiable vulnerable adult" means a person:

46 (a) (i) who was a vulnerable adult at the time the visual depiction was created, adapted,
47 or modified; or

48 (ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the
49 visual depiction; and

50 (b) who is recognizable as an actual person by the person's face, likeness, or other
51 distinguishing characteristic, such as a birthmark, or other recognizable feature.

52 (5) "Lacks capacity to consent" is as defined in Subsection 76-5-111(1).

53 (6) "Live performance" means any act, play, dance, pantomime, song, or other activity
54 performed by live actors in person.

55 (7) "Minor" means a person younger than 18 years of age.

56 (8) "Nudity or partial nudity" means any state of dress or undress in which the human
57 genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is
58 less than completely and opaquely covered.

59 (9) "Produce" means:

60 (a) the photographing, filming, taping, directing, producing, creating, designing, or
61 composing of child pornography or vulnerable adult pornography; or

62 (b) the securing or hiring of persons to engage in the photographing, filming, taping,
63 directing, producing, creating, designing, or composing of child pornography or vulnerable
64 adult pornography.

65 (10) "Sexually explicit conduct" means actual or simulated:

66 (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal,
67 whether between persons of the same or opposite sex;

68 (b) masturbation;

69 (c) bestiality;

70 (d) sadistic or masochistic activities;

71 (e) lascivious exhibition of the genitals [~~or~~], pubic [~~area~~] region, buttocks, or female
72 breast of any person;

73 (f) the visual depiction of nudity or partial nudity for the purpose of causing sexual
74 arousal of any person;

75 (g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

76 (h) the explicit representation of the defecation or urination functions.

77 (11) "Simulated sexually explicit conduct" means a feigned or pretended act of
78 sexually explicit conduct which duplicates, within the perception of an average person, the
79 appearance of an actual act of sexually explicit conduct.

80 (12) "Vulnerable adult" is as defined in Subsection 76-5-111(1).

81 (13) "Vulnerable adult pornography" means any visual depiction, including any live
82 performance, photograph, film, video, picture, or computer or computer-generated image or
83 picture, whether made or produced by electronic, mechanical, or other means, of sexually
84 explicit conduct, where:

85 (a) the production of the visual depiction involves the use of a vulnerable adult
86 engaging in sexually explicit conduct;

87 (b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct;
88 or

89 (c) the visual depiction has been created, adapted, or modified to appear that an

90 identifiable vulnerable adult is engaging in sexually explicit conduct.

Legislative Review Note
as of 1-25-13 1:07 PM

Office of Legislative Research and General Counsel