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JUDICIAL PROCEEDINGS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding sexual exploitation of a minor.

Highlighted Provisions:

This bill:

► provides that jurors, court employees, and counsel are not subject to criminal or civil liability for viewing child pornography when acting within the course of the judicial process.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-201, 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-201** is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person:



- 28 (i) knowingly produces, possesses, or possesses with intent to distribute child
- 29 pornography; or
- 30 (ii) intentionally distributes or views child pornography; or
- 31 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
- 32 permits the minor to be sexually exploited as described in Subsection (1)(a).
- 33 (2) Sexual exploitation of a minor is a second degree felony.
- 34 (3) It is a separate offense under this section:
- 35 (a) for each minor depicted in the child pornography; and
- 36 (b) for each time the same minor is depicted in different child pornography.
- 37 (4) It is an affirmative defense to a charge of violating this section that no person under
- 38 18 years of age was actually depicted in the visual depiction or used in producing or advertising
- 39 the visual depiction.
- 40 (5) In proving a violation of this section in relation to an identifiable minor, proof of
- 41 the actual identity of the identifiable minor is not required.
- 42 (6) This section may not be construed to impose criminal or civil liability on:
- 43 (a) any entity or an employee, director, officer, or agent of an entity when acting within
- 44 the scope of employment, for the good faith performance of:
- 45 (i) reporting or data preservation duties required under any federal or state law; or
- 46 (ii) implementing a policy of attempting to prevent the presence of child pornography
- 47 on any tangible or intangible property, or of detecting and reporting the presence of child
- 48 pornography on the property; [~~or~~]
- 49 (b) any law enforcement officer acting within the scope of a criminal investigation[~~;~~];
- 50 (c) any employee of a court or an agency who may be required to view child
- 51 pornography during the course of and within the scope of the employee's employment;
- 52 (d) any juror who may be required to view child pornography during the course of
- 53 service as a juror; or
- 54 (e) any attorney or employee of an attorney who is required to view child pornography
- 55 during the course of a judicial process and while acting within the scope of employment.

Legislative Review Note
as of 2-24-15 3:22 PM

Office of Legislative Research and General Counsel