

REPORTING OF CHILD PORNOGRAPHY

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the law regarding child pornography.

Highlighted Provisions:

This bill:

▶ requires that a computer technician who finds child pornography in the course of the technician's work shall report the finding to law enforcement or the federal cyber tip

line for child pornography;

▶ provides that the willful failure to report the child pornography is a class B misdemeanor;

▶ provides immunity for a computer technician who reports in good faith; and

▶ specifies that Internet service providers, including hosting services, are not liable under this section.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-10-1204.5, Utah Code Annotated 1953



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

29 Section 1. Section **76-10-1204.5** is enacted to read:

30 **76-10-1204.5. Reporting of child pornography by a computer technician.**

31 (1) As used in this section:

32 (a) "Child pornography" means the same as that term is defined in Section [76-5b-103](#).

33 (b) "Computer technician" or "technician" means an individual who in the course and
34 scope of the individual's employment for compensation installs, maintains, troubleshoots,
35 upgrades, or repairs computer hardware, software, personal computer networks, or peripheral
36 equipment.

37 (c) "Image" means an image of child pornography or an image that a computer
38 technician reasonably believes is child pornography.

39 (2) (a) A computer technician who views an image on a computer or other electronic
40 device that is or appears to be child pornography shall immediately report the finding of the
41 image to a state or local law enforcement agency, or the Cyber Tip Line at the National Center
42 for Missing and Exploited Children.

43 (b) A computer technician who willfully does not report an image as required under
44 Subsection (2)(a) is guilty of a class B misdemeanor.

45 (c) The identity of the computer technician who reports an image shall be confidential,
46 except as necessary for the criminal investigation and the judicial process.

47 (d) If the computer technician makes a report under this section in good faith, the
48 technician is immune from any criminal or civil liability related to reporting the image.

49 (e) It is a defense to prosecution under this section that the computer technician did not
50 report the image because the technician reasonably believed the image did not depict a person
51 younger than 18 years of age.

52 (3) This section does not apply to an Internet service provider or interactive computer
53 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications
54 service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service,
55 or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as
56 defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

57 (a) the distribution of an intimate image by the Internet service provider occurs only
58 incidentally through the provider's function of:

- 59 (i) transmitting or routing data from one person to another person; or
60 (ii) providing a connection between one person and another person;
61 (b) the provider does not intentionally engage, aid, or abet in the distribution of the
62 intimate image; and
63 (c) the provider does not knowingly receive from or through a person who distributes
64 the intimate image a fee greater than the fee generally charged by the provider, as a specific
65 condition for permitting the person to distribute the intimate image.
66 (4) This section does not apply to a hosting company, as defined in Section
67 76-10-1230, if:
68 (a) the distribution of child pornography by the hosting company occurs only
69 incidentally through the hosting company's function of providing data storage space or data
70 caching to a person;
71 (b) the hosting company does not intentionally engage, aid, or abet in the distribution
72 of the child pornography; and
73 (c) the hosting company does not knowingly receive from or through a person who
74 distributes the child pornography a fee greater than the fee generally charged by the provider, as
75 a specific condition for permitting the person to distribute, store, or cache the child
76 pornography.

Legislative Review Note
Office of Legislative Research and General Counsel