

HB0155S01 compared with HB0155

~~deleted text~~ shows text that was in HB0155 but was deleted in HB0155S01.

inserted text shows text that was not in HB0155 but was inserted into HB0155S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Craig Hall proposes the following substitute bill:

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 an employer may establish a procedure for the computer technician employee to report to a designated employee who will report the 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

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- ▶ specifies that Internet service providers, including hosting services, are not liable under this section if the provider reports child pornography in compliance with specified federal law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-10-1204.5, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

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

(2) (a) A computer technician who views an image on a computer or other electronic device that is or appears to be child pornography shall immediately report the finding of the image to:

(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or

(ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).

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

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

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

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

(3) (a) An employer of a computer technician may implement a procedure that requires:

(i) the computer technician report an image as is required under Subsection (2)(a) to an employee designated by the employer to receive the report of the image; and

(ii) the designated employee to immediately forward the report provided by the computer technician to an agency under Subsection (2)(a)(1).

(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection (3)(a) is compliance with the reporting requirement of this section and establishes immunity under Subsection (2)(d).

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

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

(i) transmitting or routing data from one person to another person; or

(ii) providing a connection between one person and another person;

(b) the provider does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(c) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(4) This section does not apply to a hosting company, as defined in Section

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76-10-1230, if:

~~_____ (a) the distribution} the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child pornography} by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;~~

~~_____ (b) the hosting company does not intentionally engage, aid, or abet in the distribution of the child pornography; and~~

~~_____ (c) the hosting company does not knowingly receive from or through a person who distributes the child pornography a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the child pornography}.~~

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Legislative Review Note

Office of Legislative Research and General Counsel}