

Representative Craig Hall proposes the following substitute bill:

REPORTING OF CHILD PORNOGRAPHY

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Todd Weiler

Cosponsor: Marie H. Poulson

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 or acting in good faith does not make a report; and

- ▶ 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.



25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 ENACTS:

31 [76-10-1204.5](#), Utah Code Annotated 1953

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

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

35 **76-10-1204.5. Reporting of child pornography by a computer technician.**

36 (1) As used in this section:

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

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

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

44 (2) (a) A computer technician who in the course of employment for compensation
45 views an image on a computer or other electronic device that is or appears to be child
46 pornography shall immediately report the finding of the image to:

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

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

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

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

55 (d) (i) If the computer technician makes or does not make a report under this section in

56 good faith, the technician is immune from any criminal or civil liability related to reporting or
57 not reporting the image.

58 (ii) In this Subsection (2)(d), good faith may be presumed from an employee's or
59 employer's previous course of conduct when the employee or employer has made appropriate
60 reports.

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

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

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

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

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

73 (4) This section does not apply to an Internet service provider or interactive computer
74 service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications
75 service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service,
76 or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as
77 defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the
78 provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute
79 that requires reporting by a provider of an image of child pornography.