

Senator Todd Weiler proposes the following substitute bill:

SUBJECTING A MINOR TO SEXUAL MATERIAL

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Curtis Oda

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding an aggravating factor in sentencing.

Highlighted Provisions:

This bill:

- provides that if the defendant in specified offenses exposes ~~the~~ a victim ~~who is younger than 18 years of age~~ to

pornography, the courts and the Utah Board of Pardons and Parole shall consider the defendant's act as an aggravating factor in their deliberations ~~;~~ and

- provides definitions of pornography as the term is used in this bill .

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-203.12, Utah Code Annotated 1953

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

Section 1. Section **76-3-203.12** is enacted to read:



26 76-3-203.12. Exposing minor to pornography in course of committing offense -
 27 Aggravating factor.

28 (1) The sentencing judge or the Board of Pardons and Parole ~~H~~→ [shall] may ←~~H~~ consider
 28a as an
 29 aggravating factor in their deliberations regarding the sentence or the terms of probation or
 30 parole that in the course of the commission of an offense under Subsection (2), the defendant
 31 exposed a victim ~~S~~→ **who is younger than 18 years of age** ←~~S~~ to pornography.

32 (2) The offenses referred to in Subsection (1) are:

33 (a) 76-5-301.1, child kidnapping;

34 (b) 76-5-401, unlawful sexual activity with a minor;

35 (c) 76-5-401.1, sexual abuse of a minor;

36 (d) 76-5-401.2, unlawful sexual conduct with 16- or 17- year-old;

37 (e) 76-5-404, forcible sexual abuse; and

38 (f) 76-5-404.1, sexual abuse and aggravated sexual abuse of a child.

39 (3) The sentencing judge or the Board of Pardons and Parole shall also consider
 40 whether the penalty for the offense is already increased by other existing provisions of law.

40a **~~S~~→ (4) As used in this section, pornography includes:**

40b **(a) child pornography, as defined in Section 76-5b-103;**

40c **(b) material that is harmful to minors, as defined in Section 76-10-1201; and**

40d **(c) pornographic material or performance, as defined in Section 76-10-1203. ←~~S~~**

41 **~~S~~→ [~~4~~] (5) ←~~S~~ This section does not affect or limit any individual's constitutional right to**
 41a **the**

42 **lawful expression of free speech or other recognized rights secured by the Constitution or laws**
 43 **of Utah or by the Constitution or laws of the United States.**

44 **~~S~~→ [~~5~~] (6) ←~~S~~ This section does not affect or restrict the exercise of judicial discretion**
 44a **under any**
 45 **other provision of Utah law.**