

88 harmful impact of exposing minors to the material or performance. The warning of the harm
89 shall be prominently displayed in the following form:

90 STATE OF UTAH WARNING

91 Exposing minors to obscene material may damage or negatively impact minors.

92 (2) (a) For print publications created after May 12, 2020, the warning in Subsection (1)
93 shall be placed in clear, readable type on the cover of each publication which includes material
94 as defined in Section 76-10-1201.

95 (b) For digital publications:

96 (i) the warning in Subsection (1) shall be displayed in searchable text format and for at
97 least five seconds prior to the display of any video or each image which includes material as
98 defined in Section 76-10-1201; or

99 (ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display
100 the warning in Subsection (1) prior to each video or image contained on the website.

101 (3) A person who violates this section shall be liable for a civil penalty not to exceed
102 \$2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty
103 established by law, and enjoined from further violations. The civil penalty may be assessed and
104 recovered in a civil action brought in any court of competent jurisdiction. Each of the following
105 violations shall create a separate liability per violation:

106 (a) ~~§~~ ~~→~~ [be] ~~←~~ ~~§~~ the sale or display of potentially harmful content without the warning
106a required in

107 Subsection (1), in accordance with Subsection (2); or

108 (b) the absence of the following searchable text within the website's metadata -
109 utahobscenitywarning.

110 (4) The determination by a court as to whether a person is distributing material the
111 state considers to be obscene material or performance as defined in Section 78B-6-1203 shall
112 be proven by clear and convincing evidence. All other elements of proof shall be proven by a
113 preponderance of the evidence.

114 (5) The court, in ordering payment, shall specify each amount for the civil penalty,
115 filing fees, and attorney fees.

116 (6) In assessing the amount of a civil penalty for a violation of this chapter, the court
117 shall consider all of the following:

118 (a) the nature and extent of the violation;

243 court's order for payment.

244 (21) The Utah Office for Victims of Crime shall:

245 (a) maintain a record of documents and payments submitted pursuant to Subsections
 246 (18), (19), and (20);

247 (b) create and provide to the Legislature in odd-numbered years beginning November
 248 2021, a report containing the following for the previous two years:

249 (i) the number of notices of alleged violations received from the attorney general's
 250 office;

251 (ii) the number of court orders received; and

252 (iii) the total amount received and deposited into the Crime Victim Reparations Fund.

252a **§→ (22) This section does not apply to:**

252b **(a) a person portrayed in obscene or pornographic material that is created, duplicated,**

252c **or distributed without the person's knowledge or consent; or**

252d **(b) a person who is coerced or blackmailed into distributing obscene or pornographic**

252e **material. ←§**

253 **§→ [(22)] (23) ←§** Beginning May 1, 2025, and at each five-year interval, the dollar amount
 253a of the

254 civil penalty provided in Subsection (3) shall be adjusted by the Judicial Council based on the

255 change in the annual Consumer Price Index for the most recent five-year period ending on

256 December 31 of the previous year, and rounded to the nearest five dollars. The attorney general

257 shall publish the dollar amount of the civil penalty together with the date of the next scheduled

258 adjustment.