

Representative Susan Pulsipher proposes the following substitute bill:

CHILDREN'S DEVICE PROTECTION ACT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill enacts the Children's Device Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a tablet or a smartphone (a device) manufactured on or after January 1, 2025, to automatically enable a filter upon device activation by a minor;
- ▶ requires the filter enabled for minors at activation to:
 - prevent a minor user of the device from accessing material that is obscene through Internet browsers or search engines; and
 - provide non-minor users the option to deactivate and re-activate the filter with a password;
- ▶ permits a parent or guardian of a minor or the attorney general to bring an action against manufacturers and others who violate provisions of this bill; and
- ▶ makes it a criminal offense for any person, with the exception of a parent or legal guardian, to enable the removal of the filter on a device in the possession of a minor.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63I-2-278**, as last amended by Laws of Utah 2023, Chapters 33, 250

32 ENACTS:

33 **76-10-1238**, Utah Code Annotated 1953

34 **78B-6-2601**, Utah Code Annotated 1953

35 **78B-6-2602**, Utah Code Annotated 1953

36 **78B-6-2603**, Utah Code Annotated 1953

37 **78B-6-2604**, Utah Code Annotated 1953

38 **78B-6-2605**, Utah Code Annotated 1953

39 REPEALS:

40 **78B-6-2202 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416
41 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

42 **78B-6-2203 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416
43 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

44 **78B-6-2204 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416
45 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

46 **78B-6-2205 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416
47 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

48 **78B-6-2206 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416
49 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416



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

52 Section 1. Section **63I-2-278** is amended to read:

53 **63I-2-278. Repeal dates: Title 78A and Title 78B.**

54 (1) Section **78A-2-804** is repealed on July 1, 2024.

55 (2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

56 [~~(3) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from~~

57 ~~Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause~~
58 ~~of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.]~~

59 ~~[(4)]~~ (3) Sections [78B-12-301](#) and [78B-12-302](#) are repealed on January 1, 2025.

60 Section 2. Section **76-10-1238** is enacted to read:

61 **76-10-1238. Deactivation of a device filter.**

62 (1) (a) An adult individual, other than the parent or legal guardian of the minor in
63 possession of a device, who intentionally disables the filter required under Section [78B-6-2602](#)
64 on a device in possession of a minor for the purpose of disseminating pornography to the
65 minor, commits a class A misdemeanor.

66 (b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount
67 not to exceed \$2,500.

68 (2) A person who has a prior conviction under this section, who commits a subsequent
69 violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each separate
70 offense, be fined in an amount not to exceed \$5,000 and may be imprisoned for zero to five
71 years.

72 Section 3. Section **78B-6-2601** is enacted to read:

73 **Part 26. Children's Device Protection Act**

74 **78B-6-2601. Definitions.**

75 As used in this part:

76 (1) "Activate" means the process of powering on a device and associating the device
77 with a user account.

78 (2) "Device" means a tablet or a smart phone manufactured on or after January 1, 2025.

79 (3) "Filter" means generally accepted and commercially reasonable software used on a
80 device that is capable of preventing the device from accessing or displaying obscene material
81 through Internet browsers or search engines owned or controlled by the manufacturer in
82 accordance with prevailing industry standards, including blocking known websites linked to
83 obscene content via mobile data networks, wired Internet networks, and wireless Internet
84 networks.

85 (4) "Internet" means the same as that term is defined in Section [13-40-102](#).

86 (5) "Manufacturer" means a person that:

87 (a) (i) is engaged in the business of manufacturing a device;

- 88 (ii) holds the patents for the device the person manufactures; or
89 (iii) holds the patents for the operating system on a device; and
90 (b) has a commercial registered agent as that term is defined in Section [16-17-102](#).
91 (6) "Minor" means an individual under the age of 18 who is not emancipated, married,
92 or a member of the armed forces of the United States.
93 (7) "Obscenity" means the same as that term is defined in Section [32B-1-504](#).
94 (8) "Operating system" means software that manages all of the other application
95 programs on a device.
96 (9) "Password" means a string of characters or other secure method used to enable,
97 deactivate, modify, or uninstall a filter on a device.
98 (10) (a) "Retailer" means a person, that is not a manufacturer, that sells a device
99 directly to consumers.
100 (b) "Retailer" includes an employee of a retailer acting in the course and scope of the
101 employee's employment.
102 (11) "Smart phone" means the same as that term is defined in Section [63A-2-101.5](#).
103 (12) "Tablet" means a mobile device that:
104 (a) is equipped with a mobile operating system, touchscreen display, and rechargeable
105 battery; and
106 (b) has the ability to support access to a cellular network.
107 (13) "Video game console" means a discrete computing system, including the system's
108 components and peripherals, primarily used for playing video games, but does not include a
109 smartphone or tablet.
110 Section 4. Section **78B-6-2602** is enacted to read:
111 **78B-6-2602. Filter required.**
112 All devices activated in the state shall:
113 (1) contain a filter;
114 (2) ask the user to provide the user's age during activation and account set-up;
115 (3) automatically enable the filter when the user is a minor based on the age provided
116 by the user as described in Subsection (2);
117 (4) allow a password to be established for the filter;
118 (5) notify the user of the device when the filter blocks the device from accessing a

119 website; and

120 (6) allow a non-minor user that has a password the option to deactivate and re-activate
121 the filter.

122 Section 5. Section **78B-6-2603** is enacted to read:

123 **78B-6-2603. Manufacturer liability.**

124 (1) A manufacturer of a device is subject to civil liability if:

125 (a) a device is activated in the state;

126 (b) the device does not, upon activation in the state, enable a filter that complies with
127 the requirements described in Section [78B-6-2602](#); and

128 (c) the minor accesses material that is obscene on the device.

129 (2) Notwithstanding Subsection (1), this section does not apply to a manufacturer that
130 makes a good faith effort to provide a device that, upon activation of the device in the state and
131 using the age provided by the user, automatically enables a filter in accordance with Section
132 [78B-6-2602](#).

133 (3) Nothing in this part:

134 (a) applies to a device manufactured prior to January 1, 2025;

135 (b) applies to a video game console; or

136 (c) creates a cause of action against a retailer of a device.

137 Section 6. Section **78B-6-2604** is enacted to read:

138 **78B-6-2604. Individual liability.**

139 With the exception of a minor's parent or legal guardian, a person may be liable in a
140 civil and criminal action for intentionally enabling the password to remove the filter on a
141 device in the possession of a minor if the minor accesses content that is obscene on the device.

142 Section 7. Section **78B-6-2605** is enacted to read:

143 **78B-6-2605. Civil action.**

144 (1) A parent or legal guardian of a minor that accesses obscene content on a device as a
145 result of a manufacturer's failure to comply with of Section [78B-6-2602](#) may bring a private
146 cause of action in court against the manufacturer.

147 (2) A person bringing an action under Subsection (1) may recover:

148 (a) (i) actual damages; or

149 (ii) where actual damages are difficult to ascertain due to the nature of the injury,

150 \$50,000 for each violation;

151 (b) if a violation is found to be knowing and willful, punitive damages in an amount
152 determined by the court;

153 (c) nominal damages;

154 (d) attorney fees; and

155 (e) such other relief as the court deems appropriate, including court costs and expenses.

156 (3) Nothing herein shall preclude the bringing of a class action lawsuit against a
157 manufacturer where its conduct in violation of Section [78B-6-2602](#) is knowing and willful.

158 (4) A parent or legal guardian of a minor may bring an action in against any person
159 who is not the parent or legal guardian of the child and who disables the filter from a device in
160 the possession of the child which results in the minor's exposure to obscene content.

161 (5) A person bringing an action under Subsection (4) may recover:

162 (a) (i) actual damages; or

163 (ii) where actual damages are difficult to ascertain due to the nature of the injury.

164 \$1,000 for each violation; and

165 (b) such other relief as the court deems appropriate.

166 (6) The attorney general may bring an action under this section to the same extent as a
167 parent or legal guardian of a minor.

168 **Section 8. Repealer.**

169 This bill repeals:

170 Section [78B-6-2202](#) (Contingently Effective), Definitions.

171 Section [78B-6-2203](#) (Contingently Effective), Filter required.

172 Section [78B-6-2204](#) (Contingently Effective), Liability.

173 Section [78B-6-2205](#) (Contingently Effective), Damages -- Class action.

174 Section [78B-6-2206](#) (Contingently Effective), Civil action for enforcement --

175 **Penalties.**

176 **Section 9. Effective date.**

177 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

178 (2) The actions affecting Section [63I-2-278](#) take effect on May 1, 2024.

179