

1 **AGGRAVATED SEXUAL EXPLOITATION OF A MINOR**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Paul Ray**

5 Senate Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill increases the penalty for sexual exploitation of a minor under certain
9 circumstances.
10

11 **Highlighted Provisions:**

12 This bill:

13 ▶ increases the penalty for sexual exploitation of a minor when the offense is
14 committed under certain circumstances, including by a relative or an individual in a
15 position of special trust in relation to the minor, or against a minor under 13 years of
16 age; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-5b-201**, as last amended by Laws of Utah 2016, Chapter 116

25

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

26 Section 1. Section **76-5b-201** is amended to read:
27



28 **76-5b-201. Sexual exploitation of a minor -- Offenses.**

29 (1) A person is guilty of sexual exploitation of a minor:

30 (a) when the person:

31 (i) knowingly produces, possesses, or possesses with intent to distribute child

32 pornography; or

33 (ii) intentionally distributes or views child pornography; or

34 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
35 permits the minor to be sexually exploited as described in Subsection (1)(a).

36 (2) ~~[Sexual]~~ Except as provided in Subsection (3), sexual exploitation of a minor is a
37 second degree felony.

38 (3) Sexual exploitation of a minor is a first degree felony if:

39 (a) the actor:

40 (i) was previously convicted under this section of sexual exploitation of a minor;

41 (ii) held a position of special trust in relation to the victim, as defined in Section

42 76-5-404.1; or

43 (iii) is a relative of the victim; or

44 (b) the victim is:

45 (i) under 13 years of age; or

46 (ii) visually depicted engaging in violence, bestiality, or sadistic or masochistic
47 activity.

48 ~~[(3)]~~ (4) It is a separate offense under this section:

49 (a) for each minor depicted in the child pornography; and

50 (b) for each time the same minor is depicted in different child pornography.

51 ~~[(4)]~~ (5) It is an affirmative defense to a charge of violating this section that no person
52 under 18 years of age was actually depicted in the visual depiction or used in producing or
53 advertising the visual depiction.

54 ~~[(5)]~~ (6) In proving a violation of this section in relation to an identifiable minor, proof
55 of the actual identity of the identifiable minor is not required.

56 ~~[(6)]~~ (7) This section may not be construed to impose criminal or civil liability on:

57 (a) any entity or an employee, director, officer, or agent of an entity when acting within
58 the scope of employment, for the good faith performance of:

- 59 (i) reporting or data preservation duties required under any federal or state law; or
- 60 (ii) implementing a policy of attempting to prevent the presence of child pornography
- 61 on any tangible or intangible property, or of detecting and reporting the presence of child
- 62 pornography on the property;
- 63 (b) any law enforcement officer acting within the scope of a criminal investigation;
- 64 (c) any employee of a court who may be required to view child pornography during the
- 65 course of and within the scope of the employee's employment;
- 66 (d) any juror who may be required to view child pornography during the course of the
- 67 person's service as a juror; or
- 68 (e) any attorney or employee of an attorney who is required to view child pornography
- 69 during the course of a judicial process and while acting within the scope of employment.

Legislative Review Note
Office of Legislative Research and General Counsel