

**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

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**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 the attorney general to bring civil actions against manufacturers of devices that do not comply with this bill;
- ▶ permits private civil actions by parents and guardians of minors 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



26 minor.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

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

34 ENACTS:

35 **76-10-1238**, Utah Code Annotated 1953

36 **78B-6-2601**, Utah Code Annotated 1953

37 **78B-6-2602**, Utah Code Annotated 1953

38 **78B-6-2603**, Utah Code Annotated 1953

39 **78B-6-2604**, Utah Code Annotated 1953

40 **78B-6-2605**, Utah Code Annotated 1953

41 **78B-6-2606**, Utah Code Annotated 1953

42 REPEALS:

43 **78B-6-2202 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416  
44 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

45 **78B-6-2203 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416  
46 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

47 **78B-6-2204 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416  
48 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

49 **78B-6-2205 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416  
50 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

51 **78B-6-2206 (Contingently Effective)**, as enacted by Laws of Utah 2021, Chapter 416  
52 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416



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

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

56 **63I-2-278. Repeal dates: Title 78A and Title 78B.**

57 (1) Section 78A-2-804 is repealed on July 1, 2024.

58 (2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

59 ~~[(3) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from~~  
60 ~~Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause~~  
61 ~~of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.]~~

62 [(4)] (3) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

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

64 **76-10-1238. Deactivation of a device filter.**

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

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

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

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

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

77 **78B-6-2601. Definitions.**

78 As used in this part:

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

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

82 (3) "Filter" means  $\hat{H} \rightarrow$  generally accepted and commercially reasonable  $\leftarrow \hat{H}$  software  
82a used on a device that is  $\hat{H} \rightarrow$  [reasonably]  $\leftarrow \hat{H}$  capable of preventing  
83 the device from accessing or displaying obscene material through Internet browsers or search  
84 engines  $\hat{H} \rightarrow$  owned or controlled by the manufacturer  $\leftarrow \hat{H}$  in accordance with prevailing  
84a industry standards via mobile data networks, wired  
85 Internet networks, and wireless Internet networks.

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

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

88 (a) ~~Ĥ→ (i) ←Ĥ~~ is engaged in the business of manufacturing a device;

89 ~~Ĥ→ [(b)] (ii) ←Ĥ~~ holds the patents for the device the person manufactures; ~~Ĥ→ [and] or~~

89a ~~(iii) holds the patents for the operating system on a device; and ←Ĥ~~

90 ~~Ĥ→ [(c)] (b) ←Ĥ~~ has a commercial registered agent as that term is defined in Section

90a [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](#).

93a ~~Ĥ→ (8) "Operating system" means software that manages all of the other application~~

93b ~~programs on a device. ←Ĥ~~

94 ~~Ĥ→ [(8)] (9) ←Ĥ~~ "Password" means a string of characters or other secure method used to

94a enable,

95 deactivate, modify, or uninstall a filter on a device.

96 ~~Ĥ→ [(9)] (10) ←Ĥ~~ (a) "Retailer" means a person, that is not a manufacturer, that sells a

96a device directly

97 to consumers.

98 (b) "Retailer" includes an employee of a retailer acting in the course and scope of the

99 employee's employment.

100 ~~Ĥ→ [(10)] (11) ←Ĥ~~ "Smart phone" means the same as that term is defined in Section

100a [63A-2-101.5](#).

101 ~~Ĥ→ [(11)] (12) ←Ĥ~~ "Tablet" means a mobile device that:

102 (a) is equipped with a mobile operating system, touchscreen display, and rechargeable

103 battery; and

104 (b) has the ability to support access to a cellular network.

105 ~~Ĥ→ [(12)] (13) ←Ĥ~~ "Video game console" means a discrete computing system, including

105a the system's

106 components and peripherals, primarily used for playing video games, but does not include a

107 smartphone or tablet.

108 Section 4. Section **78B-6-2602** is enacted to read:

109 **78B-6-2602. Filter required.**

110 All devices activated in the state shall:

111 (1) contain a filter;

112 (2) ~~Ĥ→ [determine the age of a user]~~ ask the user to provide the user's age ←Ĥ during

112a activation and account set-up;☺

- 113            ⊕(3) automatically enable the filter when the user is a minor based on the  $\hat{H}$ →  
113a [~~determination~~] age provided by the user as described ← $\hat{H}$   
114 in Subsection (2);  
115            (4) allow a password to be established for the filter;  
116            (5) notify the user of the device when the filter blocks the device from accessing a  
117 website; and  
118            (6) allow a non-minor user that has a password the option to deactivate and re-activate

119 the filter.

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

121 **78B-6-2603. Manufacturer liability.**

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

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

124 (b) the device does not, upon activation in the state, enable a filter that complies with

125 the requirements described in Section [78B-6-2602](#); and

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

127 (2) Notwithstanding Subsection (1), this section does not apply to a manufacturer that

128 makes a good faith effort to provide a device that, upon activation of the device in the state ~~H~~→ [

128a and

129 using the age provided by the user, automatically enables a generally accepted and

130 commercially reasonable filter that blocks obscene content on all Internet browsers or search

131 engines accessed on the device in accordance with this section] , automatically enables a filter in

131a accordance with Section [78B-6-2602](#) ←~~H~~ .

132 (3) Nothing in this part:

133 (a) applies to a video game console; or

134 (b) creates a cause of action against a retailer of a device.

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

136 **78B-6-2604. Individual liability.**

137 With the exception of a minor's parent or legal guardian, a person may be liable in a

138 civil and criminal action for intentionally enabling the password to remove the filter on a

139 device in the possession of a minor if the minor accesses content that is obscene on the device.

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

141 **78B-6-2605. Proceedings by the attorney general.**

142 (1) The attorney general may bring an action in court against a person for a violation of

143 this chapter:

144 (a) to enjoin any action that constitutes a violation of this chapter by the issuance of a

145 temporary restraining order or preliminary or permanent injunction;

146 (b) to recover from a violator a civil penalty not to exceed \$5,000 per violation, and not

147 to exceed a total of \$50,000 in aggregate, as determined by the court;

148 (c) to recover from a violator the attorney general's reasonable expenses, investigative

149 costs, and attorney fees; and

150 (d) to obtain other appropriate relief as provided for under this chapter.

151 (2) The attorney general may seek revocation of any license or certificate authorizing a  
152 manufacturer to engage in business in this state if, after the manufacturer is found to have  
153 violated provisions of this part, the manufacturer demonstrates a repeated pattern of violations  
154 of the provisions of this part.

155 (3) For purposes of assessing a penalty under this section, a manufacturer is considered  
156 to have committed a separate violation for each device manufactured on or after January 1,  
157 2025, that violates the provisions of Section [78B-6-2602](#).

158 Section 8. Section **78B-6-2606** is enacted to read:

159 **78B-6-2606. Civil action by parent or legal guardian.**

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

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

164 (a) (i) actual damages; or

165 (ii) where actual damages are difficult to ascertain due to the nature of the injury,  
166 \$50,000 for each violation;

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

169 (c) nominal damages;

170 (d) attorney fees; and

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

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

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

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

178 (a) (i) actual damages; or

179 (ii) where actual damages are difficult to ascertain due to the nature of the injury,  
180 \$1,000 for each violation; and

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

182 Section 9. **Repealer.**

183 This bill repeals:

184 Section **78B-6-2202 (Contingently Effective), Definitions.**

185 Section **78B-6-2203 (Contingently Effective), Filter required.**

186 Section **78B-6-2204 (Contingently Effective), Liability.**

187 Section **78B-6-2205 (Contingently Effective), Damages -- Class action.**

188 Section **78B-6-2206 (Contingently Effective), Civil action for enforcement --**

189 **Penalties.**

190 Section 10. **Effective date.**

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

192 (2) The actions affecting Section **63I-2-278** (effective 05/01/24) take effect on May 1,

193 2024.