

House Bill 260, enacted on March 2, 2005, as applied through amended Utah Code sections 76-10-1206 and 76-10-1233.

2. The ACLU of Utah is a non-profit, non-partisan membership organization founded in 1958. The ACLU of Utah is the state affiliate of the American Civil Liberties Union (“ACLU”), which was founded in 1920 to protect and advance civil liberties throughout the United States. The ACLU has more than 500,000 members nationwide. The ACLU of Utah has more than 2,200 members and supporters. Both the ACLU of Utah and the ACLU are dedicated to defending the guarantees of liberty and equality embodied in the federal and state Constitutions.

3. The ACLU of Utah and the ACLU work to secure, among other rights, the right to individual choice with respect to matters of reproduction and sexuality, which includes abortion, contraception and sex education, and the equal treatment of gays, lesbians, bisexuals, and transgender (“LGBT”) individuals.

4. The ACLU of Utah and the ACLU also work to educate the public regarding civil rights and civil liberties. To advance that public education, the ACLU of Utah and the ACLU have created online resources where the public can find publications, reports, court briefs, news releases, and other material relating to the work done by the ACLU of Utah and the ACLU. These online resources can be found at the websites associated with the domain names ACLUUTAH.ORG and ACLU.ORG.

5. The ACLU of Utah provides visitors to its website (www.acluutah.org) with many links to the ACLU website (aclu.org). Visitors can click on those links and be automatically directed to the ACLU website. On the ACLU website, visitors can read and, if they choose, participate in a blog. The blog is an online forum where people can freely comment

on civil liberties issues, including reproductive freedom and LGBT rights. Comments on these topics may be sexual in nature. These blogs are designed to be a place where people can freely discuss and express their opinions on controversial matters, and thus they are not generally controlled for content.

6. The ACLU of Utah website also contains different headings that, when clicked on, provide more detailed information about the ACLU of Utah's and the ACLU's work in particular areas. The headings give access to information about the legal and legislative work of the ACLU of Utah and the ACLU, and offer links to outside resources relevant to those topics. There is also a heading that will take visitors to a newsroom area of the website containing press releases and articles about the ACLU of Utah's work.

7. The legal work "pages" of the ACLU of Utah website give detailed information about current and past cases handled by the ACLU of Utah. Several cases deal with LGBT rights and other types of sexual and reproductive freedom rights, including abortion. Website visitors can access newspaper articles, press releases, and further case details for many of the cases listed on the website, some of which may include or reference sexual content relevant to those cases.

8. The legislative work "pages" of the ACLU of Utah website provide access to current and past legislation and legislative reports affecting the public's civil liberties. Almost every year, there is legislative action taken in Utah regarding abortion, LGBT rights, and sexual education. Information about this legislative action is made directly available on the ACLU of Utah website.

9. The resources "pages" of the ACLU of Utah website give further information about civil liberties, including details about Banned Book Week, videos that encourage LGBT

youth to seek help from their schools or others if they have been victims of bullying, and links to the ACLU's "Don't Filter Me" project dealing with LGBT and student free speech rights in the public schools. The Banned Book Week information also provides a link to an outside website that contains a list of the 10 book titles that were the most challenged in 2009; when a website visitor clicks on that link on the ACLU of Utah website, the visitor is automatically redirected to another website, which contains a list of the challenged titles. The links to videos and the ACLU's "Don't Filter Me" project operate in a similar fashion, automatically redirecting website visitors to videos and other information on the ACLU website.

10. The newsroom "pages" of the ACLU of Utah website provide a list of, and links to, ACLU of Utah press releases. A website visitor can click on the title of the press release and be automatically linked to the full text of the press release. The press releases date back to 1998, and discuss various LGBT events, use of birth control, and other topics with sexual content.

11. Also on the ACLU of Utah website is a list of issues in which the organization is involved. By clicking on the link relating to any one of those issues, a website visitor can access much of the information described above, such as newspaper articles, press releases, and letters and legal documents relating to and describing the individual issues. This list of issues includes Free Expression, LGBT Equality, and Reproductive Rights—all of which contain what could be considered sexual content.

12. The ACLU of Utah website also provides links to other websites with sexual content, including the Utah Pride Festival website, the Planned Parenthood Federation of America website, and the Center for Reproductive Rights website. These sites all contain some form of sexual content. These links allow visitors to the ACLU of Utah website to connect directly with other websites, all of which are designed and maintained by organizations

completely separate from and outside the control of the ACLU of Utah. The ACLU of Utah has no power to maintain or regulate those linked web sites.

13. The benefit of having linked websites is that the ACLU of Utah can more easily provide Internet users with information that is relevant to and may expand upon that which is provided on the ACLU of Utah website. Thus, the ACLU of Utah can more effectively advance the goals and work of the organization by utilizing resources provided by other organizations with related or supportive work.

14. The website of the ACLU of Utah is accessed by users from both in- and outside Utah, including by Utah residents. Due to the links between the ACLU of Utah website and the websites of the ACLU and other organizations and news outlets, the ACLU of Utah presents its Utah-based users with content originating outside of Utah.

15. The ACLU of Utah considers minors to be an important audience for the resources made available on or through the ACLU of Utah website. The ACLU of Utah believes that it is particularly important that minors be able to access information about their rights and materials designed to encourage critical thinking on controversial issues. Although some people might consider certain of those materials to be harmful to minors—such as “Know Your Rights” information for LGBT youth or a 2005 report on services provided to rape victims in Utah—the ACLU of Utah does not rate or otherwise indicate a judgment of “age-appropriateness” of the content on its website, nor would it.

16. In addition to its own online use and resources, the ACLU of Utah’s staff and members use other Internet-based services such as email, discussion groups, and mailing lists (listservs) as important, low-cost methods of communicating and sharing documents and information. On information and belief, some of this communication includes descriptions or

depictions of nudity, sexual conduct and sexual excitement, which some may deem harmful to minors.

17. For these and other reasons, the ACLU of Utah and its employees fear prosecution for violation of the Act. If enforcement of the Act is not enjoined, the ACLU of Utah will risk prosecution for the simple fact that it offers truthful, informative, and constitutionally protected information to interested parties on the Internet.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on this 31st day of May, 2011.



Karen McCreary