

1 libraries or educational institutions.

2 (5) "Reasonably accessible" means that a person may obtain access by utilizing reasonably
3 available retail technology services, regardless of the general policies or practices of the content provider or
4 interactive computer service.

5 (6) "Sexually explicit" means involving actual or simulated:

6 (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether
7 between persons of the same or opposite sex;

8 (b) bestiality;

9 (c) masturbation;

10 (d) sadistic or masochistic abuse; or

11 (e) lascivious exhibition of the anus, genitals, or pubic area of any person.

12 (7) "Substantial amount" means an amount equal to or greater than 5% of the total visual content
13 created, produced, published, distributed, maintained, or otherwise managed by the content provider.

14
15 **NEW SECTION. Section 2. Prohibition on access to child sexual abuse material.** (1) A content
16 provider who produces, publishes, distributes, or maintains a substantial amount of sexually explicit visual
17 content may not produce, publish, distribute, or maintain child sexual abuse material in a manner in which the
18 material is reasonably accessible in Montana.

19 (2) A content provider may not collect revenue or make a profit from distributing child sexual abuse
20 material to an individual physically located in Montana, regardless of whether the material is produced or
21 created by a third party or regardless of how the revenue is generated.

22 (3) In an action filed under [section 3] alleging a violation of this section, it is a defense that a
23 content provider removes visual content that contains child sexual abuse material within 48 hours of the visual
24 content being made reasonably accessible in Montana.

25
26 **NEW SECTION. Section 3. Enforcement -- right of victim to bring action -- enforcement by**
27 **department of justice -- private right of action -- statute of limitations.** (1) A person who is injured by a
28 violation of [section 2] may maintain an action to seek the remedies available under [section 4] as well as

1 restitution.

2 (2) The department has the authority to enforce [section 2] and may maintain an action to seek the
3 remedies available under [section 4]. The department shall serve a copy of the complaint on a victim who is
4 harmed by the violation alleged in the complaint if the identity of the victim can be reasonably ascertained.

5 (3) For any violation of [section 2] not prosecuted by the victim under the authority in subsection
6 (1) or the department under the authority in subsection (2), a private person may maintain an action to seek the
7 remedies under [section 4].The person shall serve a copy of the complaint on a victim who is harmed by the
8 violation alleged in the complaint if the identity of the victim can be reasonably ascertained.

9 (4) An action under subsection (1) must be brought within 50 years of the violation.

10 (5) An action under subsection (2) or (3) must be brought within 40 years of the violation.

11 (6) A victim's failure to bring an action under subsection (1) or intervene in an action under
12 subsection (2) or (3) does not preclude a victim's ability to bring a tort action for an injury caused by a violation
13 of [section 2], but damages awarded in a tort action for the violation must be reduced by the amount of
14 damages paid to a victim under [section 4].

15 (7) A person who meets an exception to the definition of content provider under [section 1(2)(b)]
16 and also engages in activity covered under the same definition may be found to be in violation of this section
17 only to the extent that the person engages in an activity prohibited under this section as a content provider.

18 (8) For the purposes of this section, each single piece of visual content containing child sexual
19 abuse material constitutes a violation, regardless of whether the visual content is a copy or duplicate.

20

21 **NEW SECTION. Section 4. Remedies available -- apportionment of damages.** (1) A plaintiff who
22 brings an action under [section 3] may seek any of the following:

- 23 (a) injunctive relief;
- 24 (b) declaratory relief;
- 25 (c) compensatory damages;
- 26 (d) punitive damages;
- 27 (e) statutory damages, which are the following amounts:
- 28 (i) \$100,000 for a strict violation of [section 2];

