

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1032

By: Representative Rye  
By: Senator Bledsoe

## For An Act To Be Entitled

AN ACT CONCERNING OBSCENE MATERIALS; TO BE KNOWN AS THE "HUMAN TRAFFICKING AND CHILD EXPLOITATION PREVENTION ACT"; TO PROVIDE FOR INTERNET BLOCKING CAPABILITY; AND FOR OTHER PURPOSES.

## Subtitle

CONCERNING OBSCENE MATERIALS; TO BE KNOWN AS THE "HUMAN TRAFFICKING AND CHILD EXPLOITATION PREVENTION ACT"; AND TO PROVIDE FOR INTERNET BLOCKING CAPABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4 is amended to add an additional chapter to read as follows:

### Chapter 21

### Regulation of Obscene Internet Material

#### 4-21-101. Definitions.

#### As used in this chapter:

(1) "Blocking software" means software that prevents a device from accessing obscene material on the internet;

(2) "Distributor" means a person who manufactures, sells, offers for sale, leases, or distributes a product that makes content accessible on the internet;

(3) "Obscene material" means material that would be considered



obscene under § 5-68-101 et seq.;

(4) "Personal identification information" means information that identifies an individual, including an individual's photograph, Social Security number, driver's license number, name, email address, mailing address, or telephone number;

(5) "Revenge pornography" means an image of a person engaged in a specified sexual activity or that displays a specified anatomical area if the image contains or conveys the personal identification information of the depicted person to a website without the depicted person's consent; and

(6) "Specified anatomical area" means:

(A) Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or

(B) Human male genitals in a discernibly turgid state, whether covered or uncovered.

4-21-102. Prohibition against commercial sale or distribution of device that may be used to access obscene material.

(a)(1) A distributor shall not in this state manufacture, sell, offer for sale, lease, or distribute a product that makes content accessible on the internet unless the product:

(A) Contains active and properly operating blocking software that renders obscene material inaccessible;

(B) Prohibits access to content that is prohibited under this chapter;

(C) Prohibits access to revenge pornography;

(D) Prohibits access to a website that facilitates prostitution; and

(E) Prohibits access to a website that facilitates human trafficking.

(2)(A) A person who knowingly violates this subsection is upon conviction guilty of an unclassified misdemeanor and shall be punished by imprisonment of less than one (1) year or by a fine of not more than five hundred dollars (\$500), or both, for each prohibited image, video or audio depiction, or website found to be accessible at the time of the offense.

(B) Fines levied by a court under subdivision (a)(2)(A) of

this section shall be deposited into the Safe Harbor Fund for Sexually Exploited Children.

(b) A distributor shall:

(1) Make reasonable and ongoing efforts to ensure that the blocking software functions properly; and

(2) Establish a reporting mechanism, such as a website or call center, to allow a person to report unblocked obscene material or report blocked material that is not obscene material.

4-21-103. Injunctive relief available – Civil action authorized.

(a) The Attorney General or a prosecuting attorney with jurisdiction may seek injunctive relief against a distributor who allows access to content or a website in violation of this chapter.

(b)(1) If a distributor fails to block obscene material or access to a prohibited website within five (5) days after receiving a report that obscene material has breached blocking software or that a prohibited website is accessible through a product manufactured, sold, leased, or distributed by the distributor, the Attorney General or any person may file a civil action in a court with jurisdiction.

(2) The Attorney General or a person who files a civil suit under this subsection may seek damages of up to five hundred dollars (\$500) for each prohibited image, video or audio depiction of obscene material, or each accessible website that was reported but not blocked within five (5) days.

(3) The prevailing party in a civil action under this subsection may seek and be awarded attorney's fees and costs.

4-21-104. Deactivation of blocking software – Unblocking content.

(a) A distributor shall deactivate blocking software in a product if the person who purchased or leased the product:

(1) Specifically requests in writing that the distributor deactivate the blocking software;

(2) Presents identification that proves that the person is eighteen (18) years of age or older;

(3) Acknowledges in writing the receipt of a written warning from the distributor that deactivating the blocking software will prevent the

blocking of obscene material; and

(4)(A) Pays to the distributor a one-time deactivation fee of twenty dollars (\$20.00), although this chapter does not prohibit a distributor from imposing an additional charge to deactivate the blocking software.

(B) Fees collected under subdivision (a)(4)(A) of this section shall be deposited on a quarterly basis into the Safe Harbor Fund for Sexually Exploited Children.

(b)(1) If the blocking software blocks content that is not obscene and the block is reported to a distributor's call center or reporting website, the content shall be unblocked no later than five (5) days after the block is reported.

(2)(A) A person may seek judicial relief to unblock filtered content.

(B) The prevailing party in the civil action under this subdivision (b)(2) may seek and be awarded attorney's fees and costs.

SECTION 2. Arkansas Code § 19-5-1252(b), concerning the revenue sources that constitute the Safe Harbor Fund for Sexually Exploited Children, is amended to read as follows:

(b) The fund shall consist of fines collected under ~~§§~~ § 5-18-103(d), § 5-70-102(d), and § 5-70-103(d), and § 4-21-102(a)(2), fees collected under § 4-21-104(a)(4), and any other revenues authorized by law.