
PRELIMINARY DRAFT
No. 3021

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2024 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 24-4-23; IC 35-52-24-20.5.

Synopsis: Age verification for material harmful to minors. Requires an adult oriented website operator that displays material harmful to minors to use a reasonable age verification method to prevent a minor from accessing an adult oriented website. Creates a cause of action to permit: (1) the parent or guardian of a child harmed by a violation of the age verification requirement to obtain monetary damages, injunctive relief, and reasonable attorney's fees; and (2) any other person to bring an action to obtain injunctive relief and reasonable attorney's fees. Prohibits a person that conducts age verification from retaining the identifying information of an individual seeking to access an adult oriented website that displays material harmful to minors, and permits an individual whose identifying information is retained to bring an action to obtain monetary damages, injunctive relief, and reasonable attorney's fees. Provides that an adult oriented website operator who knowingly or intentionally publishes an adult oriented website without using a reasonable age verification method commits allowing a child to access Internet pornography, a Class A misdemeanor, and increases the penalty to a Level 6 felony for a prior conviction or violation.

Effective: July 1, 2024.



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-4-23 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2024]:

4 **Chapter 23. Age Verification for Adult Oriented Websites**

5 **Sec. 1. "Adult oriented website" means a publicly accessible**
6 **website that publishes material harmful to minors, if at least**
7 **one-third (1/3) of the images and videos published on the website**
8 **depict material harmful to minors.**

9 **Sec. 2. "Adult oriented website operator" means a person that**
10 **owns or operates an adult oriented website.**

11 **Sec. 3. "Material harmful to minors" means matter or a**
12 **performance described in IC 35-49-2-2.**

13 **Sec. 4. "Minor" means a person less than eighteen (18) years of**
14 **age.**

15 **Sec. 5. "Mobile credential" has the meaning set forth in**
16 **IC 9-13-2-103.4.**

17 **Sec. 6. "Reasonable age verification method" means a method**
18 **of determining that an individual seeking to access a website**
19 **containing material harmful to minors is not a minor by using one**
20 **(1) or more of the following methods:**

21 **(1) A mobile credential.**

22 **(2) An independent third party age verification service that**
23 **compares the identifying information entered by the**
24 **individual who is seeking access with material that is available**
25 **from a commercially available data base, or an aggregate of**
26 **data bases, that is regularly used by government agencies and**
27 **businesses for the purpose of age and identity verification.**

28 **(3) Any commercially reasonable method that relies on public**
29 **or private transactional data to verify the age of the**
30 **individual attempting to access the material.**

31 **Sec. 7. "Transactional data" means a sequence of information**



1 that documents an exchange, agreement, or transfer between an
2 individual, commercial entity, or third party used for the purpose
3 of satisfying a request or event. The term includes records that
4 relate to a mortgage, education, or employment.

5 **Sec. 8. An adult oriented website operator may not knowingly**
6 **or intentionally publish an adult oriented website unless the adult**
7 **oriented website operator uses a reasonable age verification**
8 **method to prevent a minor from accessing the adult oriented**
9 **website.**

10 **Sec. 9. (a) If:**

11 (1) an adult oriented website operator knowingly or
12 intentionally publishes an adult oriented website in violation
13 of section 8 of this chapter; and

14 (2) a minor accesses the adult oriented website;

15 the parent or guardian of the minor who accessed the adult
16 oriented website may bring an action against the adult oriented
17 website operator.

18 (b) A parent or guardian who prevails in an action described in
19 this section is entitled to:

20 (1) either:

21 (A) actual damages; or

22 (B) liquidated damages of one thousand dollars (\$1,000);

23 (2) injunctive relief; and

24 (3) court costs, reasonable attorney's fees, and other
25 reasonable expenses of litigation, including expert witness
26 fees.

27 **Sec. 10. (a) If an adult oriented website operator publishes an**
28 **adult oriented website in violation of section 8 of this chapter, any**
29 **person may bring an action to seek injunctive relief.**

30 (b) A person that brings an action for injunctive relief under
31 this section and prevails is entitled to:

32 (1) injunctive relief; and

33 (2) court costs, reasonable attorney's fees, and other
34 reasonable expenses of litigation, including expert witness
35 fees.

36 **Sec. 11. (a) This section applies to a person that uses or purports**
37 **to use a reasonable age verification method to grant or deny access**
38 **to an adult oriented website.**

39 (b) A person to which this section applies may not retain
40 identifying information of the person seeking access to an adult
41 oriented website, unless retention of the identifying information is
42 required by a court order.

43 (c) An individual whose identifying information is retained in
44 violation of this section may bring an action against the person that
45 unlawfully retained the individual's identifying information. An
46 individual who prevails in an action described in this section is



- 1 entitled to:
- 2 (1) either:
- 3 (A) actual damages; or
- 4 (B) liquidated damages of one thousand dollars (\$1,000);
- 5 (2) injunctive relief; and
- 6 (3) court costs, reasonable attorney's fees, and other
- 7 reasonable expenses of litigation, including expert witness
- 8 fees.
- 9 **Sec. 12. An adult oriented website operator who knowingly or**
- 10 **intentionally publishes an adult oriented website without using a**
- 11 **reasonable age verification method to prevent a minor from**
- 12 **accessing the adult oriented website commits allowing a child to**
- 13 **access Internet pornography, a Class A misdemeanor. However,**
- 14 **the offense is a Level 6 felony if the adult oriented website operator**
- 15 **has:**
- 16 (1) a prior unrelated conviction under this section; or
- 17 (2) been found liable in a prior unrelated civil action brought
- 18 under section 9 or 10 of this chapter.
- 19 SECTION 2. IC 35-52-24-20.5 IS ADDED TO THE INDIANA
- 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 21 [EFFECTIVE JULY 1, 2024]: **Sec. 20.5. IC 24-4-23-12 defines a**
- 22 **crime concerning an adult oriented website.**

