

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

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019

# A Bill

HOUSE BILL 1032

4  
5 By: Representative Rye  
6 By: Senator Bledsoe

## For An Act To Be Entitled

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

## Subtitle

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15 CONCERNING OBSCENE MATERIALS; TO BE  
16 KNOWN AS THE "HUMAN TRAFFICKING AND CHILD  
17 EXPLOITATION PREVENTION ACT"; AND TO  
18 PROVIDE FOR INTERNET BLOCKING CAPABILITY.  
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21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23  
24 SECTION 1. Arkansas Code Title 4 is amended to add an additional  
25 chapter to read as follows:

### Chapter 21

#### Regulation of Obscene Internet Material

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

###### As used in this chapter:

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

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

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

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1 obscene under § 5-68-101 et seq.:

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

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

10 (6) "Specified anatomical area" means:

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

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

17 4-21-102. Prohibition against commercial sale or distribution of  
 18 device that may be used to access obscene material.

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

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

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

26 (C) Prohibits access to revenge pornography;

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

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

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

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

1 this section shall be deposited into the Safe Harbor Fund for Sexually

2 Exploited Children.

3 (b) A distributor shall:

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

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

9

10 4-21-103. Injunctive relief available — Civil action authorized.

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

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

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

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

28 4-21-104. Deactivation of blocking software — Unblocking content.

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

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

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

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

1 blocking of obscene material; and

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

5 software.

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

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

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

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

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

21 (b) The fund shall consist of fines collected under ~~§§~~ § 5-18-103(d),  
22 § 5-70-102(d), ~~and § 5-70-103(d), and § 4-21-102(a)(2),~~ fees collected under  
23 § 4-21-104(a)(4), and any other revenues authorized by law.