

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4
5 By: Representative Rye
6 By: Senator Bledsoe
7

A Bill

HOUSE BILL 1032

For An Act To Be Entitled

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.
13

Subtitle

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



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.

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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.

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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.

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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.

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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.

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