

# HOUSE BILL No. 1036

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4-23.

**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.

**Effective:** July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

# HOUSE BILL No. 1036

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**



1 of determining that an individual seeking to access a website  
 2 containing material harmful to minors is not a minor by using one  
 3 (1) or more of the following methods:

4 (1) A mobile credential.

5 (2) An independent third party age verification service that  
 6 compares the identifying information entered by the  
 7 individual who is seeking access with material that is available  
 8 from a commercially available data base, or an aggregate of  
 9 data bases, that is regularly used by government agencies and  
 10 businesses for the purpose of age and identity verification.

11 (3) Any commercially reasonable method that relies on public  
 12 or private transactional data to verify the age of the  
 13 individual attempting to access the material.

14 **Sec. 7. "Transactional data"** means a sequence of information  
 15 that documents an exchange, agreement, or transfer between an  
 16 individual, commercial entity, or third party used for the purpose  
 17 of satisfying a request or event. The term includes records that  
 18 relate to a mortgage, education, or employment.

19 **Sec. 8. An adult oriented website operator may not knowingly**  
 20 **or intentionally publish an adult oriented website unless the adult**  
 21 **oriented website operator uses a reasonable age verification**  
 22 **method to prevent a minor from accessing the adult oriented**  
 23 **website.**

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

25 (1) an adult oriented website operator knowingly or  
 26 intentionally publishes an adult oriented website in violation  
 27 of section 8 of this chapter; and

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

29 the parent or guardian of the minor who accessed the adult  
 30 oriented website may bring an action against the adult oriented  
 31 website operator.

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

34 (1) either:

35 (A) actual damages; or

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

37 (2) injunctive relief; and

38 (3) court costs, reasonable attorney's fees, and other  
 39 reasonable expenses of litigation, including expert witness  
 40 fees.

41 **Sec. 10. (a) If an adult oriented website operator publishes an**  
 42 **adult oriented website in violation of section 8 of this chapter, any**



1 person may bring an action to seek injunctive relief.  
2 (b) A person that brings an action for injunctive relief under  
3 this section and prevails is entitled to:  
4 (1) injunctive relief; and  
5 (2) court costs, reasonable attorney's fees, and other  
6 reasonable expenses of litigation, including expert witness  
7 fees.  
8 Sec. 11. (a) This section applies to a person that uses or purports  
9 to use a reasonable age verification method to grant or deny access  
10 to an adult oriented website.  
11 (b) A person to which this section applies may not retain  
12 identifying information of the person seeking access to an adult  
13 oriented website, unless retention of the identifying information is  
14 required by a court order.  
15 (c) An individual whose identifying information is retained in  
16 violation of this section may bring an action against the person that  
17 unlawfully retained the individual's identifying information. An  
18 individual who prevails in an action described in this section is  
19 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.

