

# SENATE BILL No. 274

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-30-2-96.8; IC 37.

**Synopsis:** Censorship of digital expression. Prohibits an interactive computer service or a social media platform from censoring any user of the interactive computer service or social media platform, the expression of any user of the interactive computer service or social media platform, or the ability of any user of the interactive computer service or social media platform to receive the expression of another person, based on: (1) the viewpoint of the user or another person; (2) the viewpoint represented in the user's expression or another person's expression; or (3) the user's geographic location in Indiana. Provides for specified exceptions to the prohibition. Provides that an interactive computer service or social media platform that violates the prohibition with respect to a user of the interactive computer service or social media platform is subject to a civil action by the user in which a prevailing user is entitled to one or more of the following: (1) A declaratory judgment. (2) Injunctive relief. (3) Recovery of the user's costs and reasonable and necessary attorney's fees. Provides that an interactive computer service or social media platform that willfully fails to promptly comply with an order issued by a court in an action brought for a violation of the prohibition commits contempt of the court, and provides that the court: (1) may impose on the interactive computer service or social media platform any penalty authorized for contempt of court; and (2) shall impose on the interactive computer service or social media platform a civil penalty for each day the interactive computer service or social media platform remains in noncompliance with the order, in an amount and duration sufficient to secure the interactive computer service's or social media platform's immediate compliance.

**Effective:** July 1, 2022.

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January 10, 2022, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# SENATE BILL No. 274

A BILL FOR AN ACT to amend the Indiana Code concerning civil rights.

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

1 SECTION 1. IC 34-30-2-96.8 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2022]: **Sec. 96.8. IC 37-1-1-12 and**  
4 **IC 37-1-1-13 (Concerning interactive computer services and social**  
5 **media platforms).**

6 SECTION 2. IC 37 IS ADDED TO THE INDIANA CODE AS A  
7 **NEW** TITLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

8 **TITLE 37. CIVIL RIGHTS**

9 **ARTICLE 1. CENSORSHIP**

10 **Chapter 1. Internet Censorship**

11 **Sec. 1. The general assembly finds that:**

12 **(1) each person in Indiana has a fundamental interest in the**  
13 **free exchange of ideas and information, including the freedom**  
14 **of others to share and receive ideas and information;**

15 **(2) this state has a fundamental interest in protecting the free**  
16 **exchange of ideas and information in Indiana;**

17 **(3) interactive computer services and social media platforms**



1 function as common carriers, are affected with a public  
 2 interest, are public accommodations, are central public  
 3 forums for public debate, have enjoyed governmental support  
 4 in the United States, and have cooperated with government  
 5 and party officials to censor opinions and information; and  
 6 (4) the interactive computer services and social media  
 7 platforms with the largest number of users are, by virtue of  
 8 their market dominance, common carriers.

9 Sec. 2. (a) This chapter applies only with regard to a user (as  
 10 defined by section 10 of this chapter) who:

- 11 (1) currently resides in Indiana;
- 12 (2) does business in Indiana; or
- 13 (3) shares or receives expression in Indiana.

14 (b) This chapter applies only with regard to expression to the  
 15 extent the expression is shared or received in Indiana.

16 (c) This chapter applies only to an interactive computer service  
 17 or social media platform that is open to the public and that  
 18 functionally has more than fifty million (50,000,000) active users in  
 19 the United States in a calendar month.

20 Sec. 3. As used in this chapter, "censor" means:

- 21 (1) any action taken to edit, alter, block, ban, delete, remove,  
 22 deplatform, demonetize, de-boost, regulate, restrict, inhibit  
 23 the publication or reproduction of, deny equal access or  
 24 visibility to, or otherwise discriminate against expression; and
- 25 (2) any action taken to inhibit or restrict the ability of a user  
 26 to be viewed by or to interact with another user of the  
 27 platform and any other action taken to block, ban, remove,  
 28 suspend a right to post, demonetize, restrict, deplatform, or  
 29 otherwise discriminate against the user.

30 Sec. 4. As used in this chapter, "expression" means any words,  
 31 numbers, music, sound, still or moving image, or other perceivable  
 32 communication.

33 Sec. 5. (a) As used in this chapter, except as provided in  
 34 subsection (b), "interactive computer service" means an  
 35 information service, system, or software provider that provides or  
 36 enables computer access by multiple users to a computer server.

37 (b) The term does not include an Internet service provider.

38 Sec. 6. As used in this chapter, "Internet service provider"  
 39 means a company to the extent the company provides subscribers  
 40 and consumers with access to the Internet.

41 Sec. 7. As used in this chapter, with respect to expression,  
 42 "receive" means to read, hear, view, access, or gain access to the



1 expression.

2 **Sec. 8. (a) As used in this chapter, "social media platform"**  
 3 **means an Internet search engine, Internet web site, Internet**  
 4 **system, software provider, or software application that is open to**  
 5 **the public, allows a person to create a user account, and enables**  
 6 **users to communicate with one another for the primary purpose of**  
 7 **disseminating expression.**

8 **(b) The term does not include:**

9 **(1) an Internet service provider;**

10 **(2) an electronic mail provider or service; or**

11 **(3) an Internet web site, service, or application:**

12 **(A) that consists primarily of news, sports, entertainment,**  
 13 **or other information or content that:**

14 **(i) is not generated by users of the Internet web site,**  
 15 **service, or application; and**

16 **(ii) is preselected for dissemination by the owner or**  
 17 **operator of the Internet web site, service, or application;**  
 18 **and**

19 **(B) for which any interactive functionality that allows**  
 20 **dissemination of expression by users of the Internet web**  
 21 **site, service, or application is incidental to, directly related**  
 22 **to, or dependent on dissemination of the content described**  
 23 **in clause (A).**

24 **Sec. 9. As used in this chapter, "unlawful expression" means**  
 25 **expression that is:**

26 **(1) unlawful; or**

27 **(2) tortious;**

28 **under the constitution or laws of the United States and the State of**  
 29 **Indiana.**

30 **Sec. 10. As used in this chapter, with regard to an interactive**  
 31 **computer service or social media platform, "user" means a person**  
 32 **who disseminates or receives expression through the interactive**  
 33 **computer service or social media platform.**

34 **Sec. 11. Subject to section 12 of this chapter:**

35 **(1) an interactive computer service may not censor a user of**  
 36 **the interactive computer service, the expression of a user of**  
 37 **the interactive computer service, or the ability of a user of the**  
 38 **interactive computer service to receive the expression of**  
 39 **another person, based on:**

40 **(A) the viewpoint:**

41 **(i) of the user or another person; or**

42 **(ii) represented in the user's expression or another**



- 1            **person's expression;**  
 2            **regardless of whether the viewpoint is expressed through**  
 3            **the interactive computer service or elsewhere; or**  
 4            **(B) the user's geographic location in Indiana; and**  
 5            **(2) a social media platform may not censor a user of the social**  
 6            **media platform, the expression of a user of the social media**  
 7            **platform, or the ability of a user of the social media platform**  
 8            **to receive the expression of another person, based on:**  
 9            **(A) the viewpoint:**  
 10           **(i) of the user or another person; or**  
 11           **(ii) represented in the user's expression or another**  
 12           **person's expression;**  
 13           **regardless of whether the viewpoint is expressed through**  
 14           **the interactive computer service or elsewhere; or**  
 15           **(B) the user's geographic location in Indiana.**  
 16           **Sec. 12. (a) This chapter does not prohibit an interactive**  
 17           **computer service or a social media platform from doing any of the**  
 18           **following:**  
 19           **(1) Censoring expression that the interactive computer service**  
 20           **or social media platform is specifically authorized by federal**  
 21           **law to censor.**  
 22           **(2) Censoring unlawful expression, including expression that**  
 23           **unlawfully harasses individuals or that unlawfully incites**  
 24           **violence.**  
 25           **(3) Doing any of the following at the express, specific, and**  
 26           **active request of a user:**  
 27           **(A) Limiting the user's reception of obscene, lewd,**  
 28           **lascivious, filthy, excessively violent, harassing, or**  
 29           **otherwise objectionable expression.**  
 30           **(B) Authorizing the user or facilitating the user's ability, at**  
 31           **the user's discretion, to limit access through the user's own**  
 32           **page, platform, or account to expression that is obscene,**  
 33           **lewd, lascivious, filthy, excessively violent, harassing, or**  
 34           **otherwise objectionable.**  
 35           **(4) Merely providing expression to a user in a particular**  
 36           **instance in response to that user's express request in that**  
 37           **particular instance for expression limited on the basis of**  
 38           **viewpoint or geographic location.**  
 39           **(5) Disseminating the interactive computer service's or social**  
 40           **media platform's own expression through the interactive**  
 41           **computer service or social media platform, except to the**  
 42           **extent that the dissemination of the interactive computer**



1 service's or social media platform's expression is done in a  
2 manner that:

3 (A) delays or otherwise:

4 (i) diminishes the visibility of; or

5 (ii) denies equal access to;

6 expression; or

7 (B) otherwise censors expression;

8 on the basis of viewpoint or geographic location in violation  
9 of this chapter.

10 (b) This chapter does not subject an interactive computer  
11 service or a social media platform to any cause of action or liability  
12 to the extent that the interactive computer service or a social media  
13 platform is protected from the causes of action or liability under  
14 federal law.

15 Sec. 13. (a) A user may bring a civil action against an interactive  
16 computer service or social media platform for a violation of this  
17 chapter committed by the interactive computer service or social  
18 media platform with respect to the user.

19 (b) Except as provided in subsection (c), if a court finds that an  
20 interactive computer service or social media platform has violated  
21 this chapter with respect to the user, the user is entitled to one (1)  
22 or more of the following:

23 (1) Declaratory relief under IC 34-14-1.

24 (2) Injunctive relief.

25 (3) Recovery of costs and reasonable and necessary attorney's  
26 fees incurred by the user in bringing the civil action.

27 (c) An interactive computer service or social media platform is  
28 not subject to liability under this chapter for an act for which the  
29 interactive computer service or social media platform is protected  
30 from causes of action or liability under federal law.

31 (d) Nonmutual issue preclusion and nonmutual claim preclusion  
32 are not defenses to an action brought under this section.

33 (e) Notwithstanding any other law to the contrary, this chapter:

34 (1) may be enforced only in a private civil action as provided  
35 under this section; and

36 (2) may not be enforced by a state or local government entity.

37 Sec. 14. (a) An interactive computer service or social media  
38 platform that willfully fails to promptly comply with an order  
39 issued by a court in a civil action under section 13 of this chapter  
40 commits contempt of court under IC 34-47-3-1.

41 (b) A court that finds an interactive computer service or social  
42 media platform guilty of contempt of court under subsection (a):



1 (1) may impose on the interactive computer service or social  
 2 media platform any penalty authorized for contempt of court  
 3 under IC 34-47-3; and

4 (2) shall impose on the interactive computer service or social  
 5 media platform a civil penalty:

6 (A) for each day the interactive computer service or social  
 7 media platform remains in noncompliance with the order;  
 8 and

9 (B) in an amount and duration sufficient to secure the  
 10 interactive computer service's or social media platform's  
 11 immediate compliance.

12 **Sec. 15. (a)** A waiver or purported waiver of a person's right to  
 13 bring a civil action under section 13 of this chapter is void as  
 14 unlawful and against public policy.

15 (b) A court or arbitrator may not enforce or give effect to a  
 16 waiver described in subsection (a) regardless of any contractual or  
 17 other agreement to the waiver by the person.

18 (c) The waiver prohibition under subsections (a) and (b) is a  
 19 public policy limitation on contractual and other waivers of the  
 20 highest importance and interest to the State of Indiana, and the  
 21 State of Indiana shall exercise and enforce this limitation to the full  
 22 extent permitted by the constitutions and laws of the United States  
 23 and the State of Indiana.

24 **Sec. 16.** This chapter may not be construed to limit or expand  
 25 intellectual property law.

26 **Sec. 17. (a)** This chapter applies to the maximum extent  
 27 permitted by the constitutions and laws of the United States and  
 28 the State of Indiana, but no further than the maximum extent  
 29 permitted by the constitutions and laws of the United States and  
 30 the State of Indiana.

31 (b) This chapter may not be construed to apply to cases in which  
 32 this chapter would violate the dormant Commerce Clause doctrine  
 33 enunciated by the Supreme Court of the United States.

34 **Sec. 18. (a)** The provisions, sections, subsections, clauses, and  
 35 items of this chapter are severable in the manner provided in  
 36 IC 1-1-1-8(b).

37 (b) If a court finds a provision, section, subsection, clause, or  
 38 item of this chapter to be invalid or unconstitutional, the provision,  
 39 section, subsection, clause, or item, to the extent the provision,  
 40 section, subsection, clause, or item is applicable in a manner that  
 41 is valid and constitutional, remains in effect.

42 (c) If an application of a provision, section, subsection, clause,



1 or item of this chapter to a person, group of persons, or  
2 circumstance is found by a court to be invalid or unconstitutional,  
3 the provision, section, subsection, clause, or item, as applicable to  
4 all other persons, groups of persons, and circumstances, remains  
5 in effect.

