

SENATE BILL No. 394

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-15; IC 5-2; IC 24-4-21.

Synopsis: Human trafficking. Requires manufacturers, sellers, and distributors of Internet enabled devices to install blocking software to prevent the device from accessing: (1) an Internet web site hosting indecent content; and (2) an Internet web site that promotes human trafficking or prostitution. Allows a consumer to deactivate blocking software by paying a \$20 deactivation fee and meeting certain other requirements, and provides that: (1) 60% of the fee shall be deposited in the violent crime victims compensation fund; (2) 20% of the fee shall be deposited in the human trafficking prevention and victim assistance fund; and (3) 20% of the fee shall be deposited in the state general fund. Requires the attorney general to monthly compile and transmit a list of Internet web sites to be blocked.

Effective: July 1, 2018.

Grooms

January 8, 2018, read first time and referred to Committee on Commerce and Technology.



Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 394

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 4-6-15 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]:

4 **Chapter 15. Indecent Internet Web Sites**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Blocking software" has the meaning set forth in
7 IC 24-4-21-2.

8 (2) "Indecent" has the meaning set forth in IC 24-4-21-2.

9 (3) "Internet enabled device" has the meaning set forth in
10 IC 24-4-21-2.

11 **Sec. 2. (a) The attorney general shall compile a list of Internet
12 web sites that:**

13 (1) contain indecent content; or

14 (2) facilitate human trafficking.

15 **However, the attorney general shall exclude from the list any social
16 media Internet web site that maintains in good faith its own filter
17 for indecent content.**



1 (b) The attorney general shall update the list described in
 2 subsection (a) as frequently as practicable, but at least one (1) time
 3 every thirty (30) days.

4 (c) At least one (1) time every thirty (30) days, the attorney
 5 general shall transmit the list to persons that manufacture, sell, or
 6 distribute Internet enabled devices for use in the blocking software
 7 installed on the device, as described in IC 24-4-21.

8 (d) The list described in subsection (a) is confidential and may
 9 not be placed on the Internet web site of the attorney general
 10 unless access to the list is secured by a password or other security
 11 measure.

12 **Sec. 3.** The attorney general shall receive and investigate a
 13 complaint that a particular Internet web site should not be blocked
 14 by blocking software. If the attorney general determines that an
 15 Internet web site should not be blocked, the attorney general shall
 16 inform persons that manufacture, sell, or distribute Internet
 17 enabled devices to unblock the Internet web site. The attorney
 18 general shall notify these persons at the time that the attorney
 19 general transmits the list described in section 2 of this chapter.

20 **Sec. 4.** The attorney general shall develop and distribute a
 21 written document that describes the dangers of deactivating
 22 blocking software, as described in IC 24-4-21-4.

23 **Sec. 5.** The attorney general may adopt rules to implement this
 24 chapter.

25 SECTION 2. IC 5-2-6-25, AS ADDED BY P.L.237-2015,
 26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2018]: Sec. 25. (a) The human trafficking prevention and
 28 victim assistance fund is established for the purpose of providing funds
 29 for:

- 30 (1) human trafficking victim services; and
- 31 (2) human trafficking prevention programs provided by
- 32 community based organizations.

33 Money in the fund may be used only to carry out the purposes of the
 34 fund.

35 (b) The fund shall be administered by the institute.

36 (c) The fund consists of:

- 37 (1) money deposited in the fund under **IC 24-4-21-5 and**
- 38 **IC 32-30-7-24.5;**
- 39 (2) grants; and
- 40 (3) donations.

41 (d) The expenses of administering the fund shall be paid from
 42 money in the fund.



1 (e) The treasurer of state shall invest the money in the fund not
 2 currently needed to meet the obligations of the fund in the same
 3 manner as other public money may be invested. Interest that accrues
 4 from these investments shall be deposited in the fund.

5 (f) Money in the fund at the end of a state fiscal year does not revert
 6 to the state general fund.

7 (g) The state is subrogated to the rights of a victim to whom services
 8 are provided, to the extent of the services. The subrogation rights are
 9 against the perpetrator of the crime or a person otherwise liable for the
 10 loss. If the victim brings a civil action against the perpetrator of the
 11 crime or against the person otherwise liable for the loss, the victim
 12 shall promptly notify the institute of the filing of the civil action.

13 (h) In addition to the subrogation rights under subsection (g), the
 14 state is entitled to a lien in the amount of the services provided on a
 15 recovery made by or on behalf of the victim. The state may:

16 (1) recover the amount of services in a separate action; or

17 (2) intervene in an action brought by or on behalf of the victim.

18 SECTION 3. IC 5-2-6.1-41, AS AMENDED BY P.L.105-2006,
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 41. The fund consists of amounts deposited under
 21 IC 5-2-6.3-6(b)(3), IC 11-10-7-5, IC 11-10-8-6, **IC 24-4-21-5**,
 22 IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from
 23 the general assembly.

24 SECTION 4. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS
 25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2018]:

27 **Chapter 21. Indecent Internet Content**

28 **Sec. 1. This chapter does not apply to:**

29 (1) an occasional sale of an Internet enabled device by a
 30 person that is not regularly engaged in the trade or business
 31 of selling Internet enabled devices; or

32 (2) the sale, manufacture, or distribution of an Internet
 33 enabled device manufactured before January 1, 2019.

34 **Sec. 2. The following definitions apply throughout this chapter:**

35 (1) "Blocking software" means software that prevents an
 36 Internet enabled device from accessing:

37 (A) indecent content; or

38 (B) an Internet web site that facilitates human trafficking;
 39 on the Internet. However, blocking software may not prevent
 40 access to a social media web site that maintains in good faith
 41 its own filter for indecent content.

42 (2) "Indecent" means:



- 1 (A) obscene (as described in IC 35-49-2-1); or
 2 (B) harmful to minors (as described in IC 35-49-2-2).
 3 (3) "Internet enabled device" means a device that allows a
 4 user to access the Internet and view or download content from
 5 the Internet.
- 6 Sec. 3. (a) Except as provided in section 4 of this chapter, a
 7 person may not manufacture, sell, or distribute an Internet enabled
 8 device unless the device contains active blocking software.
- 9 (b) A person that manufactures, sells, or distributes an Internet
 10 enabled device with active blocking software shall make reasonable
 11 and ongoing efforts to ensure that:
- 12 (1) the blocking software is updated and continues to function
 13 effectively; and
 14 (2) the source code and any other information that could
 15 allow a person to bypass the blocking software is kept
 16 confidential.
- 17 The person shall ensure that the blocking software blocks Internet
 18 web sites identified by the attorney general as described in
 19 IC 4-6-15.
- 20 Sec. 4. A person that manufactures, sells, or distributes an
 21 Internet enabled device may not disable the blocking software
 22 unless all the following apply:
- 23 (1) The consumer requests in writing that the blocking
 24 software be disabled.
 25 (2) The manufacturer, seller, or distributor verifies that the
 26 consumer is at least eighteen (18) years of age.
 27 (3) The consumer receives, and acknowledges in writing the
 28 receipt of, a written document describing the potential danger
 29 of deactivating the blocking software.
 30 (4) The consumer pays a twenty dollar (\$20) deactivation fee.
- 31 Sec. 5. (a) The manufacturer, seller, or distributor shall remit
 32 the deactivation fee collected under section 4 of this chapter to the
 33 department of state revenue at the same time and in the same
 34 manner that the state gross retail tax must be remitted to the
 35 department of state revenue. The manufacturer, seller, or
 36 distributor shall remit the fee with either a separate return or with
 37 a return that is combined with the return filed for the payment of
 38 the state gross retail tax, as determined by the department of state
 39 revenue.
- 40 (b) The department of state revenue shall deposit:
- 41 (1) sixty percent (60%) of the proceeds of the deactivation fee
 42 in the violent crime victims compensation fund established by



1 **IC 5-2-6.1-40;**
2 **(2) twenty percent (20%) of the proceeds of the deactivation**
3 **fee in the human trafficking prevention and victim assistance**
4 **fund established by IC 5-2-6-25; and**
5 **(3) twenty percent (20%) of the proceeds of the deactivation**
6 **fee in the state general fund.**
7 **Sec. 6. (a) A person that violates section 4 of this chapter**
8 **commits a Class B infraction.**
9 **(b) All infractions committed under this section on one (1) day**
10 **constitute only one (1) infraction.**
11 **(c) Each day on which an infraction is committed under this**
12 **section constitutes a separate violation.**
13 **Sec. 7. A violation of this chapter is a deceptive act that is**
14 **actionable by the attorney general and subject to the penalties and**
15 **remedies available to the attorney general under IC 24-5-0.5.**

