

Sub. H. B. No. 96  
As Passed by the Senate  
AGOCD34

\_\_\_\_\_ moved to amend as follows:

After line 32784, insert:

"Sec. 1349.10. (A) (1) "Cable service provider" has the  
same meaning as in section 1332.01 of the Revised Code.

(2) "Cloud service provider" means a third-party company  
offering a cloud-based platform, infrastructure, application, or  
storage services.

(3) "Direct-to-home satellite service" has the same  
meaning as in 47 U.S.C. 303, as amended.

(4) "Identifying information" means photo identification  
or public or private transactional data.

(5) "Interactive computer service" has the same meaning as  
in the "Telecommunications Act of 1996," 47 U.S.C. 230, as  
amended.

(6) "Internet provider" means a provider of internet  
service, including all of the following:

(a) Broadband service, however defined or classified by  
the federal communications commission;

(b) Information service or telecommunications service, 18  
both as defined in the "Telecommunications Act of 1996," 47 19  
U.S.C. 153, as amended; 20

(c) Internet protocol-enabled services, as defined in 21  
section 4927.01 of the Revised Code. 22

(7) "Mobile service" and "telecommunications carrier" have 23  
the same meanings as in the "Telecommunications Act of 1996," 47 24  
U.S.C. 153, as amended. 25

(8) "Organization" means both of the following: 26

(a) A commercial establishment that, for any form of 27  
consideration, has as a significant or substantial portion of 28  
its stock-in-trade in, derives a significant or substantial 29  
portion of its revenues from, devotes a significant or 30  
substantial portion of its content or advertising to, or 31  
maintains a substantial section of its sales or online content 32  
display space for the sale, rental, or viewing of materials that 33  
are obscene or harmful to juveniles; 34

(b) A commercial establishment as defined in section 35  
2907.38 of the Revised Code. An establishment may have other 36  
principal business purposes that do not involve selling, 37  
delivering, furnishing, disseminating, providing, exhibiting, or 38  
presenting any material or performance that is obscene or 39  
harmful to juveniles on the internet and still be categorized as 40  
an organization subject to this section. The existence of other 41  
principal business purposes does not exempt an establishment 42  
from being categorized as an organization subject to this 43  
section, so long as one of its principal business purposes 44  
involves selling, delivering, furnishing, disseminating, 45  
providing, exhibiting, or presenting any material or performance 46

that is obscene or harmful to juveniles on the internet.

(9) "Photo identification" has the same meaning as in  
section 3501.01 of the Revised Code and includes any government-  
issued identification issued by another state, district,  
country, or sovereignty.

(10) "Reasonable age verification methods" means the  
following:

(a) Verifying that the person attempting to access the  
material or performance that is obscene or harmful to juveniles  
is eighteen years of age or older through the use of a  
commercial age verification system that uses photo  
identification or public or private transactional data to verify  
the person's age;

(b) Using third-party and governmental databases that use  
a commercial age verification system that uses photo  
identification or public or private transactional data to verify  
the person's age.

(11) "Transactional data" means a sequence of information  
that documents an exchange, agreement, or transfer between a  
person, organization, or third party for the purpose of  
satisfying a request or event. "Transactional data" includes  
mortgage, educational, and employment records.

(12) "Video service provider" has the same meaning as in  
section 1332.21 of the Revised Code.

(B) An organization that sells, delivers, furnishes,  
disseminates, provides, exhibits, or presents any material or  
performance that is obscene or harmful to juveniles on the  
internet shall do all of the following:

- (1) Verify that any person attempting to access the 75  
material or performance that is obscene or harmful to juveniles 76  
is eighteen years of age or older through reasonable age 77  
verification methods; 78
- (2) Verify that any person creating an account or 79  
subscription to access any material or performance that is 80  
obscene or harmful to juveniles is eighteen years of age or 81  
older through reasonable age verification methods. The 82  
organization shall reverify the age of the person every two 83  
years thereafter. 84
- (3) (a) Utilize a geofence system maintained and monitored 85  
by a licensed location-based technology provider to dynamically 86  
monitor the geolocation of persons attempting to access or 87  
creating an account or subscription to access the material or 88  
performance that is obscene or harmful to juveniles; 89
- (b) The location-based technology provider shall perform a 90  
geolocation check to dynamically monitor the person attempting 91  
to access or creating an account or subscription to access the 92  
material or performance that is obscene or harmful to juveniles 93  
and the person's location. 94
- (c) If the location-based technology provider determines 95  
that a person is located in this state, the organization that 96  
sells, delivers, furnishes, disseminates, provides, exhibits, or 97  
presents any material or performance that is obscene or harmful 98  
to juveniles on the internet shall block that person until the 99  
person's age has been verified using reasonable age verification 100  
methods. 101
- (4) Implement a notification mechanism to alert persons 102  
attempting to access or creating an account or subscription to 103

access the material or performance that is obscene or harmful to 104  
juveniles, of a geolocation check failure. 105

(C) (1) (a) Except as otherwise provided in division (C) (1) 106  
(b) of this section, an organization that sells, delivers, 107  
furnishes, disseminates, provides, exhibits, or presents any 108  
material or performance that is obscene or harmful to juveniles 109  
on the internet and verifies the age of the person creating an 110  
account or subscription to access the material or performance 111  
that is obscene or harmful to juveniles on the internet shall do 112  
the following: 113

(i) Immediately delete all information gathered for the 114  
purpose of age verification after the age verification is 115  
completed, except the information maintained for account and 116  
subscription access and for billing purposes; 117

(ii) Upon the request of the account holder or subscriber, 118  
immediately delete the data maintained for user access to the 119  
account or subscription and for billing purposes; 120

(iii) Develop and maintain a data privacy policy compliant 121  
with federal and state law and maintain data in a manner that is 122  
reasonably secure. 123

(b) On the expiration of two years after the creation of 124  
the account or subscription, the organization shall immediately 125  
delete all information relative to the creation of the user's 126  
account or subscription and any information maintained for 127  
billing purposes, unless the account holder or subscriber renews 128  
the account or subscription. 129

(2) An organization that sells, delivers, furnishes, 130  
disseminates, provides, exhibits, or presents any material or 131  
performance that is obscene or harmful to juveniles on the 132

internet and verifies the age of the person attempting to access 133  
the material or performance that is obscene or harmful to 134  
juveniles on the internet shall do both of the following: 135

(a) Immediately delete all information gathered for the 136  
purpose of age verification after age verification is completed; 137

(b) Develop and maintain a data privacy policy compliant 138  
with federal and state law and maintain data in a manner that is 139  
reasonably secure. 140

(3) An organization described in division (C) (1) or (2) of 141  
this section shall immediately delete any identifying 142  
information, except the information required for the purpose of 143  
granting a person access to the account or subscription and for 144  
billing the account or subscription, that is used for age 145  
verification of the person attempting to access or creating an 146  
account or subscription to access any material or performance on 147  
the internet that is obscene or harmful to juveniles after age 148  
verification is completed. 149

(4) An organization as described in division (C) (1) or (2) 150  
of this section shall not transfer any information collected, 151  
except for the purpose of age verification. Any party who 152  
receives transferred information for age verification purposes 153  
shall immediately delete all information gathered for the 154  
purpose of age verification after age verification is completed. 155

(D) This section does not apply to any of the following: 156

(1) A person who, while employed or contracted by a 157  
newspaper, magazine, press association, news agency, news wire 158  
service, radio or television station, or similar media, is 159  
gathering, processing, transmitting, compiling, editing, or 160  
disseminating information for the general public; 161

- (2) A provider of an interactive computer service; 162
- (3) A mobile service; 163
- (4) An internet provider; 164
- (5) A cable service provider; 165
- (6) A direct-to-home satellite service; 166
- (7) A video service provider; 167
- (8) A cloud service provider. 168

**Sec. 1349.101.** (A) The attorney general may bring a civil 169  
action against an organization that sells, delivers, furnishes, 170  
disseminates, provides, exhibits, or presents any material or 171  
performance that is obscene or harmful to juveniles on the 172  
internet that fails to comply with the requirements under 173  
divisions (B) (1) or (2) or (C) (1) or (2) of section 1349.10 of 174  
the Revised Code and as a result of that failure a minor gains 175  
access to the material or performance. Before initiating such an 176  
enforcement action, the attorney general shall provide written 177  
notice to the organization identifying and explaining the basis 178  
for each instance of alleged violation. 179

(B) Except as otherwise provided in division (D) of this 180  
section, the attorney general shall not commence an enforcement 181  
action if the organization, within forty-five days after notice 182  
of the alleged violation is sent, does both of the following: 183

(1) Cures all violations described in the notice: 184

(2) Provides the attorney general with a written statement 185  
indicating that the violations are cured and agreeing to refrain 186  
from further noncompliance of the requirements under divisions 187  
(B) (1) or (2) or (C) (1) or (2) of section 1349.10 of the Revised 188

Code. 189

(C) If the organization does not timely respond or 190  
continues to fail to comply with the requirements under 191  
divisions (B) (1) or (2) or (C) (1) or (2) of section 1349.10 of 192  
the Revised Code after receiving the notice, the attorney 193  
general may initiate the enforcement action and seek injunctive 194  
relief. 195

(D) Division (B) of this section does not apply if the 196  
organization fails to timely comply with all of the requirements 197  
described in the notice or commits subsequent violations of the 198  
same type after curing the initial violation under that 199  
division. Notwithstanding division (C) of this section, if an 200  
organization commits a subsequent violation of the same type 201  
after reporting that the initial violation is cured, the 202  
attorney general may bring a civil action at any time after 203  
sending notice of the violation under division (A) of this 204  
section. 205

(E) Nothing in this section shall be construed to provide 206  
a private right of action. The attorney general has the 207  
exclusive authority to enforce this section." 208

After line 39419, insert: 209

**"Sec. 2307.66.** (A) A victim of a violation of section 210  
2917.211 of the Revised Code has and may commence a civil cause 211  
of action against the offender for any of the following, in 212  
addition to reasonable attorney's fees and the costs of bringing 213  
the civil action: 214

(1) An injunction or a temporary restraining order 215  
prohibiting further dissemination of the image that is the 216  
subject of the violation; 217



(2) Compensatory and punitive damages for harm resulting 218  
from the violation. 219

(B) The victim shall be presumed to have suffered harm as 220  
a result of the nonconsensual dissemination of private sexual 221  
images or the nonconsensual dissemination of fabricated sexual 222  
images. 223

(C) A civil action brought under division (A) of this 224  
section shall be brought within four years after the victim 225  
discovers the private sexual image or fabricated sexual image. 226

(D) The cause of action created by this section is in 227  
addition to any other cause of action available under statutory 228  
or common law. 229

~~(D)~~ (E) As used in this section, "victim" has the same 230  
meaning as in section 2930.01 of the Revised Code. 231

(F) "Fabricated sexual image" means a created, adapted, or 232  
modified image that depicts another person, the other person is 233  
recognizable in the image by the other person's face, likeness, 234  
or other distinguishing characteristic, and the other person 235  
depicted in the image is in a state of nudity or is engaged in a 236  
sexual act." 237

After line 40865, insert: 238

**"Sec. 2917.211.** (A) As used in this section: 239

(1) "Child-victim oriented offense" and "sexually oriented 240  
offense" have the same meanings as in section 2950.01 of the 241  
Revised Code. 242

(2) "Disseminate" means to post, distribute, or publish on 243  
a computer device, computer network, web site, or other 244  
electronic device or medium of communication. 245

~~(2)~~ (3) "Image" means a photograph, film, videotape, 246  
digital recording, or other depiction or portrayal of a person. 247

~~(3)~~ (4) "Interactive computer service" has the meaning 248  
defined in the "Telecommunications Act of 1996," 47 U.S.C. 230, 249  
as amended. 250

~~(4)~~ (5) "Internet provider" means a provider of internet 251  
service, including all of the following: 252

(a) Broadband service, however defined or classified by 253  
the federal communications commission; 254

(b) Information service or telecommunications service, 255  
both as defined in the "Telecommunications Act of 1996," 47 256  
U.S.C. 153, as amended; 257

(c) Internet protocol-enabled services, as defined in 258  
section 4927.01 of the Revised Code. 259

~~(5)~~ (6) "Mobile service" and "telecommunications carrier" 260  
have the meanings defined in 47 U.S.C. 153, as amended. 261

~~(6)~~ (7) "Cable service provider" has the same meaning as 262  
in section 1332.01 of the Revised Code. 263

~~(7)~~ (8) "Direct-to-home satellite service" has the meaning 264  
defined in 47 U.S.C. 303, as amended. 265

~~(8)~~ (9) "Video service provider" has the same meaning as 266  
in section 1332.21 of the Revised Code. 267

~~(9)~~ (10) "Sexual act" means any of the following: 268

(a) Sexual activity; 269

(b) Masturbation; 270

(c) An act involving a bodily substance that is performed 271

for the purpose of sexual arousal or gratification; 272

(d) Sado-masochistic abuse. 273

(11) "Fabricated sexual image" has the same meaning as in 274  
section 2307.66 of the Revised Code. 275

(B) No person shall knowingly disseminate an image of 276  
another person if all of the following apply: 277

(1) The person in the image is eighteen years of age or 278  
older. 279

(2) The person in the image can be identified from the 280  
image itself or from information displayed in connection with 281  
the image and the offender supplied the identifying information. 282

(3) The person in the image is in a state of nudity or is 283  
engaged in a sexual act. 284

(4) The image is disseminated without consent from the 285  
person in the image. 286

(5) The image is disseminated with intent to harm the 287  
person in the image. 288

(C) No person shall knowingly disseminate a fabricated 289  
sexual image of another person without the other person's 290  
consent. 291

(D) No person shall, without the consent of the depicted 292  
person, in order to harass, extort, threaten, or cause physical, 293  
emotional, reputational, or economic harm to a person falsely 294  
depicted, knowingly do either of the following: 295

(1) Create a fabricated sexual image with intent to 296  
distribute; 297

(2) Solicit the creation of a fabricated sexual image with 298  
intent to distribute. 299

(E) This section does not prohibit the dissemination of an 300  
image or fabricated sexual image if any of the following apply: 301

(1) The image or fabricated sexual image is disseminated 302  
for the purpose of a criminal investigation that is otherwise 303  
lawful. 304

(2) The image or fabricated sexual image is disseminated 305  
for the purpose of, or in connection with, the reporting of 306  
unlawful conduct. 307

(3) The image or fabricated sexual image is part of a news 308  
report or commentary or an artistic or expressive work, such as 309  
a performance, work of art, literary work, theatrical work, 310  
musical work, motion picture, film, or audiovisual work. 311

(4) The image or fabricated sexual image is disseminated 312  
by a law enforcement officer, or a corrections officer or guard 313  
in a detention facility, acting within the scope of the person's 314  
official duties. 315

(5) The image or fabricated sexual image is disseminated 316  
for another lawful public purpose. 317

(6) ~~The~~ If the person in the image or fabricated sexual 318  
image is eighteen years of age or older, the person in the image 319  
or fabricated sexual image is knowingly and willingly in a state 320  
of nudity or engaged in a sexual act and is knowingly and 321  
willingly in a location in which the person does not have a 322  
reasonable expectation of privacy. 323

(7) The image or fabricated sexual image is disseminated 324  
for the purpose of medical treatment or examination. 325

~~(D)~~ (F) The following entities are not liable for a 326  
violation of this section solely as a result of an image or 327  
fabricated sexual image or other information provided by another 328  
person: 329

- (1) A provider of interactive computer service; 330
- (2) A mobile service; 331
- (3) A telecommunications carrier; 332
- (4) An internet provider; 333
- (5) A cable service provider; 334
- (6) A direct-to-home satellite service; 335
- (7) A video service provider. 336

~~(E)~~ (G) Any conduct that is a violation of this section 337  
and any other section of the Revised Code may be prosecuted 338  
under this section, the other section, or both sections. 339

~~(F) (1) (a)~~ (H) (1) (a) Except as otherwise provided in 340  
division ~~(F) (1) (b), (c), or (d)~~ (H) (1) (b) of this section, 341  
whoever violates division (B) of this section is guilty of 342  
nonconsensual dissemination of private sexual images, a 343  
~~misdemeanor~~ felony of the ~~third~~ fifth degree. 344

(b) If the offender previously has been convicted of or 345  
pleaded guilty to a violation of division (B) of this section, a 346  
sexually oriented offense, or a child-victim oriented offense, 347  
nonconsensual dissemination of private sexual images is a 348  
~~misdemeanor~~ felony of the ~~second~~ fourth degree. 349

~~(c) If the offender previously has been convicted of or~~ 350  
~~pleaded guilty to two or more violations of this section,~~ 351  
~~nonconsensual dissemination of private sexual images is a~~ 352

~~misdemeanor of the first degree.~~

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~~(d) If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.~~

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~~(2) (a) Except as otherwise provided in division (H) (2) (b) of this section, whoever violates division (C) of this section is guilty of nonconsensual dissemination of fabricated sexual images, a felony of the fourth degree.~~

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(b) If the offender has previously been convicted of or pleaded guilty to a violation of this section, a sexually oriented offense, or a child-victim oriented offense, nonconsensual dissemination of fabricated sexual images is a felony of the third degree.

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(3) (a) Except as otherwise provided in division (H) (3) (b) of this section, whoever violates division (D) of this section is guilty of nonconsensual creation of fabricated sexual images, a felony of the fourth degree.

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(b) If the offender has previously been convicted of or pleaded guilty to a violation of this section, a sexually oriented offense, or a child-victim oriented offense, nonconsensual creation of fabricated sexual images is a felony of the third degree.

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(4) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Chapter 2981. of the Revised Code:

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(a) Any profits or proceeds and any property the person 382  
has acquired or maintained in violation of this section that the 383  
sentencing court determines to have been acquired or maintained 384  
as a result of the violation; 385

(b) Any interest in, securities of, claim against, or 386  
property or contractual right of any kind affording a source of 387  
influence over any enterprise that the person has established, 388  
operated, controlled, or conducted in violation of this section 389  
that the sentencing court determines to have been acquired or 390  
maintained as a result of the violation. 391

~~(G)~~ (I) A victim of a violation of this section may 392  
commence a civil cause of action against the offender, as 393  
described in section 2307.66 of the Revised Code." 394

After line 42350, insert: 395

**"Sec. 2981.02.** (A) (1) The following property is subject to 396  
forfeiture to the state or a political subdivision under either 397  
the criminal or delinquency process in section 2981.04 of the 398  
Revised Code or the civil process in section 2981.05 of the 399  
Revised Code: 400

(a) Contraband involved in an offense; 401

(b) Proceeds derived from or acquired through the 402  
commission of an offense; 403

(c) An instrumentality that is used in or intended to be 404  
used in the commission or facilitation of any of the following 405  
offenses when the use or intended use, consistent with division 406  
(B) of this section, is sufficient to warrant forfeiture under 407  
this chapter: 408

(i) A felony; 409

(ii) A misdemeanor, when forfeiture is specifically 410  
authorized by a section of the Revised Code or by a municipal 411  
ordinance that creates the offense or sets forth its penalties; 412

(iii) An attempt to commit, complicity in committing, or a 413  
conspiracy to commit an offense of the type described in 414  
divisions (A) (3) (a) and (b) of this section. 415

(2) In determining whether an alleged instrumentality was 416  
used in or was intended to be used in the commission or 417  
facilitation of an offense or an attempt, complicity, or 418  
conspiracy to commit an offense in a manner sufficient to 419  
warrant its forfeiture, the trier of fact shall consider the 420  
following factors the trier of fact determines are relevant: 421

(a) Whether the offense could not have been committed or 422  
attempted but for the presence of the instrumentality; 423

(b) Whether the primary purpose in using the 424  
instrumentality was to commit or attempt to commit the offense; 425

(c) The extent to which the instrumentality furthered the 426  
commission of, or attempt to commit, the offense. 427

(B) The property described in division ~~(F) (2)~~ (H) (4) of 428  
section 2917.211 of the Revised Code is subject to forfeiture 429  
under the criminal or delinquency process in section 2981.04 of 430  
the Revised Code, if the forfeiture is ordered by the court 431  
imposing sentence or an order of disposition. 432

(C) This chapter does not apply to or limit forfeitures 433  
under Title XLV of the Revised Code, including forfeitures 434  
relating to section 2903.06 or 2903.08 of the Revised Code." 435

Update the title, amend, enact, or repeal clauses accordingly 436



The motion was \_\_\_\_\_ agreed to.

### SYNOPSIS

#### **Age verification requirements**

#### **R.C. 1349.10 and 1349.101**

Requires an organization that sells, delivers, furnishes, disseminates, provides, exhibits, or presents any material or performance that is obscene or harmful to juveniles to utilize reasonable age verification methods and to delete identifying information of any person attempting to access those materials or performances.

Allows AGO to bring a cause of action against an organization that fails to verify the age of the minor that accessed the materials that were harmful to juveniles on the internet and removes the minor's or parent or guardian of the minor's ability to bring a cause of action against an organization that fails to verify the age of the minor that accessed the materials that were harmful to juveniles on the internet.

Exempts persons employed by newspapers, magazines, television stations, or similar media and certain service providers disseminating information for the general public from fulfilling the age verification requirement.

#### **Dissemination of fabricated sexual images**

#### **R.C. 2307.66 and 2917.211**

Creates the offenses of nonconsensual dissemination and nonconsensual creation of fabricated sexual images.

Allows for the dissemination of fabricated sexual images 462  
under certain circumstances. 463

Allows a victim of nonconsensual dissemination or 464  
nonconsensual creation of fabricated sexual images to commence a 465  
civil action against the offender. 466

**Forfeiture** 467

**R.C. 2981.02** 468

Allows the court to order a person who is convicted of 469  
nonconsensual dissemination or nonconsensual creation of 470  
fabricated sexual images or who is adjudicated a delinquent 471  
child by reason of committing that offense to criminally forfeit 472  
certain specified property acquired or maintained as a result of 473  
committing the offense. 474