



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 534: Age Verification to Protect Children Act.

2023-2024 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 2, 2023
Introduced by:	Reps. N. Jackson, Carson Smith, Stevens, Biggs	Prepared by:	Susan Sitze Staff Attorney
Analysis of:	PCS to First Edition H534-CSSA-11		

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 534 would create civil penalties for publishers and distributors of material harmful to minors for failure to perform age verification.*

CURRENT LAW:

"Material harmful to minors" is defined in G.S. 14-190.13. The entirety of that statute is provided at the end of this summary. Material includes pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.

North Carolina law contains criminal offenses for displaying (G.S. 14-190.14) or disseminating (G.S. 14-190.15) material harmful to minors, or for exhibiting a life performance harmful to minors (G.S. 14-190.15).

BILL ANALYSIS:

The PCS for House Bill 534 would enact the "Pornography Age Verification Enforcement Act" or PAVE Act.

The PCS would require commercial entities that publish or distribute material harmful to minors on internet websites to verify that a person seeking to access the material is 18 by requiring the person to comply with a commercial age verification system.

The Attorney General would be authorized to conduct investigation of the alleged failure to use a required system and provide the commercial entity with at least 30 days to comply with the requirement. If the entity fails to comply, the Attorney General could initiate a civil action in the Superior Court of Wake County to assess civil penalties.

Civil penalties could be assessed as follows:

- \$5,000 for each day of violation.
- An additional \$10,000 for each violation, at the request of the Attorney General.

Civil penalties collected would be remitted to the Civil Penalty and Forfeiture Fund.

EFFECTIVE DATE: This act would become effective January 1, 2024, and apply to websites accessed on or after that date.

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BACKGROUND:

§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a minor.

- (1) Harmful to Minors. – That quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:
 - a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
 - b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
 - c. The material or performance lacks serious literary, artistic, political, or scientific value for minors.
- (2) Material. – Pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words.
- (3) Minor. – An individual who is less than 18 years old and is not married or judicially emancipated.
- (4) Prostitution. – Engaging or offering to engage in sexual activity with or for another in exchange for anything of value.
- (5) Sexual Activity. – Any of the following acts:
 - a. Masturbation, whether done alone or with another human or an animal.
 - b. Vaginal, anal, or oral intercourse, whether done with another human or with an animal.
 - c. Touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female.
 - d. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.
 - e. Excretory functions; provided, however, that this sub-subdivision shall not apply to G.S. 14-190.17A.
 - f. The insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.
 - g. The lascivious exhibition of the genitals or pubic area of any person.
- (6) Sexually Explicit Nudity. – The showing of:
 - a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast, except as provided in G.S. 14-190.9(b); or
 - b. Covered human male genitals in a discernibly turgid state.