

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 ENROLLED ACT No. 1047

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

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

SECTION 1. IC 34-11-2-4, AS AMENDED BY P.L.44-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An action for:

- (1) injury to person or character;
- (2) injury to personal property; or
- (3) a forfeiture of penalty given by statute;

must be commenced within two (2) years after the cause of action accrues.

(b) **Except as provided in subsections (c) and (d)**, an action for injury to a person that results from the sexual abuse of a child must be commenced within the later of:

- (1) seven (7) years after the cause of action accrues; or
- (2) four (4) years after the person ceases to be a dependent of the person alleged to have performed the sexual abuse.

(c) **An action for injury to a person that:**

- (1) **results from the sexual abuse of a child;**
- (2) **is barred due to the expiration of the statute of limitations period described in subsection (b); and**
- (3) **is brought against a congressionally chartered organization that was incorporated before June 16, 1916;**

**may be commenced in accordance with subsection (d).**

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**(d) An action described in subsection (c) may be commenced before July 1, 2025, by a person who, before January 1, 2024, participated in a bankruptcy proceeding or bankruptcy settlement that:**

**(1) was initiated on February 18, 2020; and**

**(2) involved the organization described in subsection (c)(3).**

SECTION 2. IC 34-21.5-2-1, AS ADDED BY P.L.29-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. The following definitions apply throughout this article:

**(1) "Computer generated image" means a photograph, digital image, or video of an individual created or modified by means of a computer software program, artificial intelligence, application, or other design editing tools.**

~~(+)~~ **(2) "Disclosure" means display, transfer, publication, or distribution to another person.**

~~(=)~~ **(3) "Distribute" means to transfer to another person in, or by means of, any medium, forum, telecommunications device or network, or Internet web site.**

~~(=)~~ **(4) "Harm" includes:**

(A) physical harm;

(B) economic harm; and

(C) emotional distress, whether or not accompanied by physical or economic harm.

~~(+)~~ **(5) "Identifiable" means recognizable by a person other than the depicted individual:**

(A) from an intimate image itself; or

(B) from an intimate image and identifying characteristic disclosed in connection with the intimate image.

~~(=)~~ **(6) "Intimate image" means a photograph, digital image, computer generated image, or video that depicts:**

(A) an individual engaging in sexual intercourse;

(B) an individual engaging in other sexual conduct (as defined in IC 35-31.5-2-221.5); or

(C) the exhibition of the uncovered buttocks, genitals, or female breast of an individual.

SECTION 3. IC 35-45-4-5, AS AMENDED BY P.L.142-2020, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) The following definitions apply throughout this section:

(1) "Camera" means a camera, a video camera, a device that captures a digital image, or any other type of video recording



device.

(2) "Peep" means:

(A) any looking of a clandestine, surreptitious, prying, or secretive nature; **or**

(B) **using a concealed camera with the intent of capturing an intimate image (as defined by IC 34-21.5-2-1).**

(3) "Private area" means the naked or undergarment clad genitals, pubic area, or buttocks of an individual.

(b) A person:

(1) who knowingly or intentionally:

(A) peeps; or

(B) goes upon the land of another with the intent to peep; into an occupied dwelling of another person; or

(2) who knowingly or intentionally peeps **in or** into an area where an occupant of the area reasonably can be expected to disrobe **or is actually expected to disrobe**, including:

(A) restrooms;

(B) baths;

(C) showers; and

(D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(c) However, the offense under subsection (b) is a Level 6 felony if:

(1) it is knowingly or intentionally committed by means of a camera; or

(2) the person who commits the offense has a prior unrelated conviction under this section.

(d) A person who:

(1) without the consent of the individual; and

(2) with intent to peep at the private area of an individual;

peeps at the private area of an individual and records an image by means of a camera commits public voyeurism, a Class A misdemeanor.

(e) The offense under subsection (d) is a Level 6 felony if the person has a prior unrelated conviction under this section or if the person:

(1) publishes the image;

(2) makes the image available on the Internet; or

(3) transmits or disseminates the image to another person.

(f) It is a defense to a prosecution under subsection (d) that the individual deliberately exposed the individual's private area.

(g) A person who, with the intent to peep, operates an unmanned aerial vehicle in a manner that is intended to cause the unmanned aerial vehicle to enter the space above or surrounding another person's

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occupied dwelling for the purpose of capturing images, photographs, video recordings, or audio recordings of the other person while the other person is:

- (1) within the other person's occupied dwelling; or
- (2) on the land or premises:
  - (A) on which the other person's occupied dwelling is located; and
  - (B) in a location that is not visible from an area:
    - (i) open to the general public; or
    - (ii) where a member of the general public has the right to be;

commits remote aerial voyeurism, a Class A misdemeanor.

(h) The offense under subsection (g) is a Level 6 felony if the person has a prior unrelated conviction under this section or if the person:

- (1) publishes the images, photographs, or recordings captured;
- (2) makes the images, photographs, or recordings captured available on the Internet; or
- (3) transmits or disseminates the images, photographs, or recordings captured to another person.

SECTION 4. IC 35-45-4-8, AS ADDED BY P.L.185-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. (a) This section does not apply to:

- (1) a photograph, digital image, or video that is distributed:**
  - ~~(1)~~ **(A)** to report a possible criminal act;
  - ~~(2)~~ **(B)** in connection with a criminal investigation;
  - ~~(3)~~ **(C)** under a court order; ~~or~~
  - ~~(4)~~ **(D)** to a location that is:
    - ~~(A)~~ **(i)** intended solely for the storage or backup of personal data, including photographs, digital images, and video; and
    - ~~(B)~~ **(ii)** password protected; ~~or~~
  - (E) by a news reporting or an entertainment medium (as defined in IC 32-36-1-4);**
- (2) a newspaper or news service that publishes news related information through a website;**
- (3) a cloud service provider; or**
- (4) an Internet provider, an affiliate or subsidiary of an Internet provider, or a search engine that:**
  - (A) solely provides access or connection to a website or other Internet content that is not under the control of that Internet service provider, affiliate or subsidiary, or search engine; and**
  - (B) is not responsible for creating or publishing the content that constitutes material harmful to minors.**



(b) As used in this section, "distribute" means to transfer to another person in, or by means of, any medium, forum, telecommunications device or network, or ~~Internet web site;~~ **website**, including posting an image on ~~an Internet web site~~ **a website** or application.

(c) As used in this section, "intimate image" means a photograph, digital image, **computer generated image**, or video:

(1) that depicts:

(A) sexual intercourse;

(B) other sexual conduct (as defined in IC 35-31.5-2-221.5);

or

(C) exhibition of the uncovered buttocks, genitals, or female breast;

of an individual; ~~and~~

(2) taken, captured, **created, disseminated**, or recorded by:

(A) an individual depicted in the photograph, digital image, or video and given or transmitted directly to the person described in subsection (d); ~~or~~

(B) the person described in subsection (d) in the physical presence of an individual depicted in the photograph, digital image, or video; ~~or~~

**(C) the person described in subsection (d) with respect to a photograph, digital image, computer generated image, or video of an individual created or modified by means of a computer software program, artificial intelligence, application, or other digital editing tools; and**

**(3) that is of a quality, characteristic, or condition such that it appears to depict the alleged victim.**

(d) A person who:

(1) knows or reasonably should know that an individual depicted in an intimate image does not consent to the distribution of the intimate image; and

(2) distributes the intimate image;

commits distribution of an intimate image, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

**(e) It is not a necessary element of the offense described in subsection (d) that the individual depicted in the intimate image actually sent the image.**

**SECTION 5. An emergency is declared for this act.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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