

# HOUSE BILL No. 1481

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-49-3.

**Synopsis:** Information or performances harmful to minors. Provides that a college, university, or museum, or its employee acting within the scope of the employee's employment, may raise a defense to a prosecution for the crime of dissemination of matter or conducting a performance harmful to minors. Prohibits any school or public library that qualifies for certain property tax exemptions to raise a defense to a prosecution for the crime of dissemination of matter or conducting a performance harmful to minors. Provides that the victim has a civil cause of action against the person convicted of the crime of dissemination of matter or conducting a performance harmful to minors.

**Effective:** July 1, 2019.

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## Borders

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January 16, 2019, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

# HOUSE BILL No. 1481

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 35-49-3-4, AS AMENDED BY P.L.158-2013,  
2 SECTION 649, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: Sec. 4. (a) It is a defense to a  
4 prosecution under section 3 of this chapter for the defendant to show:  
5 (1) that the matter was disseminated or that the performance was  
6 performed for legitimate scientific or educational purposes;  
7 (2) that the matter was disseminated or displayed to or that the  
8 performance was performed before the recipient by a bona fide  
9 ~~school; college, university, or~~ museum, ~~or public library that~~  
10 ~~qualifies for certain property tax exemptions under IC 6-1.1-10;~~  
11 or by an employee of such a ~~school; college, university, or~~  
12 museum ~~or public library~~ acting within the scope of the  
13 employee's employment;  
14 (3) that the defendant had reasonable cause to believe that the  
15 minor involved was eighteen (18) years of age or older and that  
16 the minor exhibited to the defendant a draft card, driver's license,  
17 birth certificate, or other official or apparently official document



1           purporting to establish that the minor was eighteen (18) years of  
2           age or older; or

3           (4) that the defendant was a salesclerk, motion picture  
4           projectionist, usher, or ticket taker, acting within the scope of the  
5           defendant's employment and that the defendant had no financial  
6           interest in the place where the defendant was so employed.

7           (b) Except as provided in subsection (c), it is a defense to a  
8           prosecution under section 3 of this chapter if all the following apply:

9           (1) A cellular telephone, another wireless or cellular  
10           communications device, or a social networking web site was used  
11           to disseminate matter to a minor that is harmful to minors.

12           (2) The defendant is not more than four (4) years older or younger  
13           than the person who received the matter that is harmful to minors.

14           (3) The relationship between the defendant and the person who  
15           received the matter that is harmful to minors was a dating  
16           relationship or an ongoing personal relationship. For purposes of  
17           this subdivision, the term "ongoing personal relationship" does  
18           not include a family relationship.

19           (4) The crime was committed by a person less than twenty-two  
20           (22) years of age.

21           (5) The person receiving the matter expressly or implicitly  
22           acquiesced in the defendant's conduct.

23           (c) The defense to a prosecution described in subsection (b) does  
24           not apply if:

25           (1) the image is disseminated to a person other than the person:

26                   (A) who sent the image; or

27                   (B) who is depicted in the image; or

28           (2) the dissemination of the image violates:

29                   (A) a protective order to prevent domestic or family violence  
30                   issued under IC 34-26-5 (or, if the order involved a family or  
31                   household member, under IC 34-26-2 or IC 34-4-5.1-5 before  
32                   their repeal);

33                   (B) an ex parte protective order issued under IC 34-26-5 (or,  
34                   if the order involved a family or household member, an  
35                   emergency order issued under IC 34-26-2 or IC 34-4-5.1  
36                   before their repeal);

37                   (C) a workplace violence restraining order issued under  
38                   IC 34-26-6;

39                   (D) a no contact order in a dispositional decree issued under  
40                   IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or  
41                   IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an  
42                   order issued under IC 31-32-13 (or IC 31-6-7-14 before its



- 1 repeal) that orders the person to refrain from direct or indirect  
 2 contact with a child in need of services or a delinquent child;  
 3 (E) a no contact order issued as a condition of pretrial release,  
 4 including release on bail or personal recognizance, or pretrial  
 5 diversion, and including a no contact order issued under  
 6 IC 35-33-8-3.6;  
 7 (F) a no contact order issued as a condition of probation;  
 8 (G) a protective order to prevent domestic or family violence  
 9 issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2  
 10 before their repeal);  
 11 (H) a protective order to prevent domestic or family violence  
 12 issued under IC 31-14-16-1 in a paternity action;  
 13 (I) a no contact order issued under IC 31-34-25 in a child in  
 14 need of services proceeding or under IC 31-37-25 in a juvenile  
 15 delinquency proceeding;  
 16 (J) an order issued in another state that is substantially similar  
 17 to an order described in clauses (A) through (I);  
 18 (K) an order that is substantially similar to an order described  
 19 in clauses (A) through (I) and is issued by an Indian:  
 20 (i) tribe;  
 21 (ii) band;  
 22 (iii) pueblo;  
 23 (iv) nation; or  
 24 (v) organized group or community, including an Alaska  
 25 Native village or regional or village corporation as defined  
 26 in or established under the Alaska Native Claims Settlement  
 27 Act (43 U.S.C. 1601 et seq.);  
 28 that is recognized as eligible for the special programs and  
 29 services provided by the United States to Indians because of  
 30 their special status as Indians;  
 31 (L) an order issued under IC 35-33-8-3.2; or  
 32 (M) an order issued under IC 35-38-1-30.

33 SECTION 2. IC 35-49-3-5 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 35 1, 2019]: **Sec. 5. (a) If a person is convicted of an offense under  
 36 section 3 of this chapter, the victim of the offense:**

- 37 **(1) has a civil cause of action against the person convicted of  
 38 the offense; and**  
 39 **(2) may recover the following from the person in the civil  
 40 action:**  
 41 **(A) Actual and consequential damages.**  
 42 **(B) Punitive damages, when determined to be appropriate**



1                   **by the court.**  
2                   **(C) Declaratory or equitable relief, including injunctive**  
3                   **relief.**  
4                   **(D) Reasonable attorney's fees and costs.**  
5                   **(E) Court costs (including fees).**  
6                   **(F) Other relief the court considers proper.**  
7                   **(b) For purposes of this section, a parent or guardian of a victim**  
8                   **under section 3 of this chapter may bring a civil cause of action on**  
9                   **behalf of the victim against the person convicted of the offense.**

