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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/16/2024	.	
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The Committee on Fiscal Policy (Hutson) recommended the following:

1 **Senate ~~Substitute for Amendment (969436)~~ (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 501.1736, Florida Statutes, is created
7 to read:

8 501.1736 Social media use for minors.-

9 (1) As used in this section, the term:

10 (a) "Account holder" means a resident who opens an account



11 or creates a profile or is permitted to use or is identified by
12 any other form of identification while using or accessing a
13 social media platform when the social media platform knows or
14 has reason to believe the resident is located in this state.

15 (b) "Addictive features" means features that are designed
16 to cause an account holder to have an excessive or compulsive
17 need to use or engage with the social media platform.

18 (c) "Daily active users" means the unique users in the
19 United States who used the social media platform at least 80
20 percent of the days during the previous calendar year, or if the
21 social media platform did not exist during the previous calendar
22 year, the number of unique users in the United States who used
23 the social media platform at least 80 percent of the days during
24 the previous month.

25 (d) "Department" means the Department of Legal Affairs.

26 (e) "Reasonable age verification method" has the same
27 meaning as in s. 501.1738.

28 (f) "Resident" means a person who lives in this state for
29 more than 6 months of the year.

30 (g) "Social media platform" means an online forum, a
31 website, or an application offered by an entity which does all
32 of the following:

33 1. Uses algorithms that analyze user data or information on
34 users whom the online forum, website, or application knows or
35 has reason to believe are younger than 16 years of age to:

- 36 a. Select content for users; or
- 37 b. Target advertising toward users.

38 2. Has one or more of the following addictive features:

- 39 a. Infinite scrolling with continuous loading content, or



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40 content that loads as the user scrolls down the page without the
41 need to open a separate page; or seamless content, or the use of
42 pages with no visible or apparent breaks.

43 b. Push notifications or alerts sent by the online forum,
44 website, or application to inform a user about specific
45 activities or events related to the user's account.

46 c. Display personal interactive metrics that indicate the
47 number of times other users have clicked a button to indicate
48 reaction to content or have shared or reposted the content.

49 d. Auto-play video or video that begins to play without the
50 user first clicking on the video or on a play button for that
51 video.

52 e. Live-streaming or a function that allows a user or
53 advertiser to broadcast live video content in real-time.

54 3. Has 10 percent or more of daily active users younger
55 than 16 years of age spending, on average, 2 hours per day on
56 the online forum, website, or application.

57 4. Allows a user to upload content or view the content or
58 activity of other users.

59
60 The term does not include an online service, a website, or an
61 application where the exclusive function is e-mail or direct
62 messaging consisting of text, photographs, pictures, images, or
63 videos shared only between the sender and the recipients,
64 without displaying or posting publicly or to other users not
65 specifically identified as the recipients by the sender.

66 (2) (a) A social media platform shall do all of the
67 following:

68 1. Prohibit a minor who is younger than 16 years of age



69 from entering into a contract with a social media platform to
70 become an account holder.

71 2. Use reasonable age verification methods to verify the
72 age of each account holder on the social media platform at the
73 time a new account is created. If an account holder fails to
74 verify his or her age, the social media platform must deny the
75 account.

76 3. Use a reasonable age verification method to perform age
77 verification that ensures that the requirements of s. 501.1738
78 are met.

79 (b) For existing accounts, a social media platform shall do
80 the following:

81 1. Terminate any account that the social media platform
82 knows or has reason to believe is held by an account holder
83 younger than 16 years of age, including accounts that the social
84 media platform treats or categorizes as belonging to an account
85 holder who is likely younger than 16 years of age for purposes
86 of targeting content or advertising, and provide a minimum of 90
87 days for an account holder to dispute such termination by
88 verifying his or her age.

89 2. Allow an account holder younger than 16 years of age to
90 request to terminate the account. Termination must be effective
91 within 5 business days after such request.

92 3. Allow the confirmed parent or guardian of an account
93 holder younger than 16 years of age to request the minor's
94 account be terminated. Termination must be effective within 10
95 business days after such request.

96 4. Permanently delete all personal information held by the
97 social media platform relating to the terminated account, unless



98 there are legal requirements to maintain such information.

99 (3) (a) Any violation of subsection (2) is deemed an unfair
100 and deceptive trade practice actionable under part II of this
101 chapter solely by the department against a social media
102 platform. If the department has reason to believe that a social
103 media platform is in violation of subsection (2), the
104 department, as the enforcing authority, may bring an action
105 against such platform for an unfair or deceptive act or
106 practice. For the purpose of bringing an action pursuant to this
107 section, ss. 501.211 and 501.212 do not apply. In addition to
108 other remedies under part II of this chapter, the department may
109 collect a civil penalty of up to \$50,000 per violation.

110 (b) A third party that performs age verification for a
111 social media platform in violation of s. 501.1738 is deemed to
112 have committed an unfair and deceptive trade practice actionable
113 under part II of this chapter solely by the department against
114 such third party. If the department has reason to believe that
115 the third party is in violation of s. 501.1738, the department,
116 as the enforcing authority, may bring an action against such
117 third party for an unfair or deceptive act or practice. For the
118 purpose of bringing an action pursuant to this section, ss.
119 501.211 and 501.212 do not apply. In addition to other remedies
120 under part II of this chapter, the department may collect a
121 civil penalty of up to \$50,000 per violation.

122 (4) (a) A social media platform that violates subparagraph
123 (2) (b)2. or subparagraph (2) (b)3. for failing to terminate an
124 account within the required time after being notified to do so
125 by the minor account holder or a confirmed parent or guardian is
126 liable to such minor account holder for such access, including



127 court costs and reasonable attorney fees as ordered by the
128 court. Claimants may be awarded up to \$10,000 in damages.

129 (b) A civil action for a claim under this subsection must
130 be brought within 1 year after the violation.

131 (5) Any action brought under subsection (3) or subsection
132 (4) may only be brought on behalf of a minor account holder.

133 (6) For purposes of bringing an action in accordance with
134 subsection (3) or subsection (4), a social media platform that
135 allows a minor account holder younger than 16 years of age to
136 create an account on such platform is considered to be both
137 engaged in substantial and not isolated activities within this
138 state and operating, conducting, engaging in, or carrying on a
139 business and doing business in this state, and is therefore
140 subject to the jurisdiction of the courts of this state.

141 (7) If a social media platform allows an account holder to
142 use the social media platform, the parties have entered into a
143 contract.

144 (8) This section does not preclude any other available
145 remedy at law or equity.

146 (9) The department may adopt rules to implement this
147 section.

148 Section 2. Section 501.1737, Florida Statutes, is created
149 to read:

150 501.1737 Age verification for online access to materials
151 harmful to minors.—

152 (1) As used in this section, the term:

153 (a) "Commercial entity" includes a corporation, a limited
154 liability company, a partnership, a limited partnership, a sole
155 proprietorship, and any other legally recognized entity.



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156 (b) "Department" means the Department of Legal Affairs.

157 (c) "Distribute" means to issue, sell, give, provide,
158 deliver, transfer, transmit, circulate, or disseminate by any
159 means.

160 (d) "Material harmful to minors" means any material that:

161 1. The average person applying contemporary community
162 standards would find, taken as a whole, appeals to the prurient
163 interest;

164 2. Depicts or describes, in a patently offensive way,
165 sexual conduct as specifically defined in s. 847.001(19); and

166 3. When taken as a whole, lacks serious literary, artistic,
167 political, or scientific value for minors.

168 (e) "News-gathering organization" means any of the
169 following:

170 1. A newspaper, news publication, or news source, printed
171 or published online or on a mobile platform, engaged in
172 reporting current news and matters of public interest, and an
173 employee thereof who can provide documentation of such
174 employment.

175 2. A radio broadcast station, television broadcast station,
176 cable television operator, or wire service, and an employee
177 thereof who can provide documentation of such employment.

178 (f) "Publish" means to communicate or make information
179 available to another person or entity on a publicly available
180 website or application.

181 (g) "Reasonable age verification methods" has the same
182 meaning as in s. 501.1738.

183 (h) "Resident" means a person who lives in this state for
184 more than 6 months of the year.



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185 (i) "Substantial portion" means more than 33.3 percent of
186 total material on a website or application.

187 (2) A commercial entity that knowingly and intentionally
188 publishes or distributes material harmful to minors on a website
189 or application, if the website or application contains a
190 substantial portion of material harmful to minors, must perform
191 reasonable age verification methods to verify the age of a
192 person attempting to access the material is 18 years of age or
193 older and prevent access to the material by a person younger
194 than 18 years of age.

195 (3) A commercial entity or third party that performs
196 reasonable age verification methods may not retain any personal
197 identifying information of the person seeking online access to
198 material harmful to minors any longer than is reasonably
199 necessary to verify the age of the person. Any personal
200 identifying information collected for age verification may not
201 be used for any other purpose.

202 (4) (a) This section does not apply to any bona fide news or
203 public interest broadcast, website video, report, or event and
204 does not affect the rights of a news-gathering organization.

205 (b) An Internet service provider or its affiliates or
206 subsidiaries, a search engine, or a cloud service provider does
207 not violate this section solely for providing access or
208 connection to or from a website or other information or content
209 on the Internet or a facility, system, or network not under the
210 provider's control, including transmission, downloading,
211 intermediate storage, or access software, to the extent the
212 provider is not responsible for the creation of the content of
213 the communication which constitutes material harmful to minors.



214 (5) (a) Any violation of subsection (2) or subsection (3) is
215 deemed an unfair and deceptive trade practice actionable under
216 part II of this chapter solely by the department on behalf of a
217 resident minor against a commercial entity. If the department
218 has reason to believe that a commercial entity is in violation
219 of subsection (2) or subsection (3), the department, as the
220 enforcing authority, may bring an action against the commercial
221 entity for an unfair or deceptive act or practice. For the
222 purpose of bringing an action pursuant to this section, ss.
223 501.211 and 501.212 do not apply. In addition to any other
224 remedy under part II of this chapter, the department may collect
225 a civil penalty of up to \$50,000 per violation of this section.

226 (b) A commercial entity that violates subsection (2) for
227 failing to prohibit or block a minor from future access to
228 material harmful to minors after a report of unauthorized or
229 unlawful access is liable to the minor for such access,
230 including court costs and reasonable attorney fees as ordered by
231 the court. Claimants may be awarded up to \$10,000 in damages. A
232 civil action for a claim under this paragraph must be brought
233 within 1 year after the violation.

234 (c) Any action under this subsection may only be brought on
235 behalf of or by a resident minor.

236 (6) For purposes of bringing an action under subsection
237 (5), a commercial entity that publishes or distributes material
238 harmful to minors on a website or application, if the website or
239 application contains a substantial portion of material harmful
240 to minors and such website or application is available to be
241 accessed in this state, is considered to be both engaged in
242 substantial and not isolated activities within this state and



243 operating, conducting, engaging in, or carrying on a business
244 and doing business in this state, and is therefore subject to
245 the jurisdiction of the courts of this state.

246 (7) This section does not preclude any other available
247 remedy at law or equity.

248 (8) The department may adopt rules to implement this
249 section.

250 Section 3. Section 501.1738, Florida Statutes, is created
251 to read:

252 501.1738 Reasonable age verification.-

253 (1) As used in this section, the term "reasonable age
254 verification method" means a commercially reasonable method used
255 by a government agency or a business for the purpose of age
256 verification which is conducted by a nongovernmental,
257 independent, third-party organized under the laws of a state of
258 the United States which:

259 (a) Has its principal place of business in a state of the
260 United States; and

261 (b) Is not owned or controlled by a company formed in a
262 foreign country, a government of a foreign country, or any other
263 entity formed in a foreign country.

264 (2) A third party conducting age verification pursuant to
265 ss. 501.1736 and 501.1737:

266 (a) May not retain personal identifying information used to
267 verify age once the age of an account holder or a person seeking
268 an account has been verified.

269 (b) May not use personal identifying information used to
270 verify age for any other purpose.

271 (c) Must keep anonymous any personal identifying



272 information used to verify age. Such information may not be
273 shared or otherwise communicated to any person.

274 (d) Must protect personal identifying information used to
275 verify age from unauthorized or illegal access, destruction,
276 use, modification, or disclosure through reasonable security
277 procedures and practices appropriate to the nature of the
278 personal information.

279 Section 4. If any provision of this act or its application
280 to any person or circumstances is held invalid, the invalidity
281 does not affect other provisions or applications of this act
282 which can be given effect without the invalid provision or
283 application, and to this end the provisions of this act are
284 severable.

285 Section 5. This act shall take effect July 1, 2024.

286

287 ===== T I T L E A M E N D M E N T =====

288 And the title is amended as follows:

289 Delete everything before the enacting clause
290 and insert:

291 A bill to be entitled
292 An act relating to online protections for minors;
293 creating s. 501.1736, F.S.; defining terms; requiring
294 social media platforms to prohibit certain minors from
295 creating new accounts, to use reasonable age
296 verification methods to verify the ages of account
297 holders, and to terminate certain accounts and provide
298 additional options for termination of such accounts;
299 authorizing the Department of Legal Affairs to bring
300 actions for violations under the Florida Deceptive and



301 Unfair Trade Practices Act; providing penalties;
302 providing for private causes of actions; providing
303 that certain social media platforms are subject to the
304 jurisdiction of state courts; providing that if a
305 social media platform allows an account holder to use
306 such platform, the parties have entered into a
307 contract; providing construction; authorizing the
308 department to adopt rules; creating s. 501.1737, F.S.;
309 defining terms; requiring a commercial entity that
310 publishes or distributes material harmful to minors on
311 a website or application that contains a substantial
312 portion of such material to perform reasonable age
313 verification methods and prevent access to such
314 material by minors; prohibiting the retention of
315 certain personal identifying information; providing
316 applicability and construction; authorizing the
317 Department of Legal Affairs to bring an action for
318 violations under the Florida Deceptive and Unfair
319 Trade Practices Act; providing civil penalties;
320 providing for private causes of action; providing that
321 certain commercial entities are subject to the
322 jurisdiction of state courts; providing construction;
323 authorizing the department to adopt rules; creating s.
324 501.1738, F.S.; defining the term "reasonable age
325 verification method"; providing requirements for a
326 third party conducting age verification pursuant to
327 certain provisions; providing for severability;
328 providing an effective date.