

20217072e1

1 A bill to be entitled
2 An act relating to social media platforms; providing
3 legislative findings; creating s. 106.072, F.S.;
4 defining terms; prohibiting a social media platform
5 from willfully deplatforming a candidate; providing
6 fines for violations; authorizing social media
7 platforms to provide free advertising for candidates
8 under specified conditions; providing enforcement
9 authority consistent with federal and state law;
10 creating s. 287.137, F.S.; defining terms; providing
11 requirements for public contracts and economic
12 incentives related to entities that have been
13 convicted or held civilly liable for antitrust
14 violations; prohibiting a public entity from entering
15 into any type of contract with a person or an
16 affiliate on the antitrust violator vendor list;
17 providing applicability; requiring certain contract
18 documents to contain a specified statement; requiring
19 the Department of Management Services to maintain a
20 list of people or affiliates disqualified from the
21 public contracting and purchasing process; specifying
22 requirements for publishing such list; providing
23 procedures for placing a person or an affiliate on the
24 list; providing procedural and legal rights for a
25 person or affiliate to challenge placement on the
26 list; providing a procedure for temporarily placing a
27 person on an antitrust violator vendor list; providing
28 procedural and legal rights for a person to challenge
29 temporary placement on the list; specifying conditions

20217072e1

30 for removing certain entities and affiliates from the
31 list; authorizing a person, under specified
32 conditions, to retain rights or obligations under
33 existing contracts or binding agreements; prohibiting
34 a person who has been placed on the antitrust violator
35 vendor list from receiving certain economic
36 incentives; providing exceptions; providing
37 enforcement authority consistent with federal and
38 state law; creating s. 501.2041, F.S.; defining terms;
39 providing that social media platforms that fail to
40 comply with specified requirements and prohibitions
41 commit an unfair or deceptive act or practice;
42 requiring a notification given by a social media
43 platform for censoring content or deplatforming a user
44 to contain certain information; providing an exception
45 to the notification requirements; authorizing the
46 Department of Legal Affairs to investigate suspected
47 violations under the Deceptive and Unfair Trade
48 Practices Act and bring specified actions for such
49 violations; specifying circumstances under which a
50 private cause of action may be brought; specifying how
51 damages are to be calculated; providing construction
52 for violations of certain provisions of this act;
53 granting the department specified subpoena powers;
54 providing enforcement authority consistent with
55 federal and state law; amending s. 501.212, F.S.;
56 conforming a provision to changes made by the act;
57 providing for severability; providing an effective
58 date.

20217072e1

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60 Be It Enacted by the Legislature of the State of Florida:
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62 Section 1. The Legislature finds that:

63 (1) Social media platforms represent an extraordinary
64 advance in communication technology for Floridians.

65 (2) Users should be afforded control over their personal
66 information related to social media platforms.

67 (3) Floridians increasingly rely on social media platforms
68 to express their opinions.

69 (4) Social media platforms have transformed into the new
70 public town square.

71 (5) Social media platforms have become as important for
72 conveying public opinion as public utilities are for supporting
73 modern society.

74 (6) Social media platforms hold a unique place in
75 preserving first amendment protections for all Floridians and
76 should be treated similarly to common carriers.

77 (7) Social media platforms that unfairly censor, shadow
78 ban, deplatform, or apply post-prioritization algorithms to
79 Florida candidates, Florida users, or Florida residents are not
80 acting in good faith.

81 (8) Social media platforms should not take any action in
82 bad faith to restrict access or availability to Floridians.

83 (9) Social media platforms have unfairly censored, shadow
84 banned, deplatformed, and applied post-prioritization algorithms
85 to Floridians.

86 (10) The state has a substantial interest in protecting its
87 residents from inconsistent and unfair actions by social media

20217072e1

88 platforms.

89 (11) The state must vigorously enforce state law to protect
90 Floridians.

91 Section 2. Section 106.072, Florida Statutes, is created to
92 read:

93 106.072 Social media deplatforming of political
94 candidates.-

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

96 (a) "Candidate" has the same meaning as in s.
97 106.011(3)(e).

98 (b) "Deplatform" has the same meaning as in s. 501.2041.

99 (c) "Social media platform" has the same meaning as in s.
100 501.2041.

101 (d) "User" has the same meaning as in s. 501.2041.

102 (2) A social media platform may not willfully deplatform a
103 candidate for office who is known by the social media platform
104 to be a candidate, beginning on the date of qualification and
105 ending on the date of the election or the date the candidate
106 ceases to be a candidate. A social media platform must provide
107 each user a method by which the user may be identified as a
108 qualified candidate and which provides sufficient information to
109 allow the social media platform to confirm the user's
110 qualification by reviewing the website of the Division of
111 Elections or the website of the local supervisor of elections.

112 (3) Upon a finding of a violation of subsection (2) by the
113 Florida Elections Commission, in addition to the remedies
114 provided in ss. 106.265 and 106.27, the social media platform
115 may be fined \$250,000 per day for a candidate for statewide
116 office and \$25,000 per day for a candidate for other offices.

20217072e1

117 (4) A social media platform that willfully provides free
118 advertising for a candidate must inform the candidate of such
119 in-kind contribution. Posts, content, material, and comments by
120 candidates which are shown on the platform in the same or
121 similar way as other users' posts, content, material, and
122 comments are not considered free advertising.

123 (5) This section may only be enforced to the extent not
124 inconsistent with federal law and 47 U.S.C. s. 230(e)(3), and
125 notwithstanding any other provision of state law.

126 Section 3. Section 287.137, Florida Statutes, is created to
127 read:

128 287.137 Antitrust violations; denial or revocation of the
129 right to transact business with public entities; denial of
130 economic benefits.-

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

132 (a) "Affiliate" means:

133 1. A predecessor or successor of a person convicted of or
134 held civilly liable for an antitrust violation; or

135 2. An entity under the control of any natural person who is
136 active in the management of the entity that has been convicted
137 of or held civilly liable for an antitrust violation. The term
138 includes those officers, directors, executives, partners,
139 shareholders, employees, members, and agents who are active in
140 the management of an affiliate. The ownership by one person of
141 shares constituting a controlling interest in another person, or
142 a pooling of equipment or income among persons when not for fair
143 market value under an arm's length agreement, is a prima facie
144 case that one person controls another person. The term also
145 includes a person who knowingly enters into a joint venture with

20217072e1

146 a person who has violated an antitrust law during the preceding
147 36 months.

148 (b) "Antitrust violation" means any failure to comply with
149 a state or federal antitrust law as determined in a civil or
150 criminal proceeding brought by the Attorney General, a state
151 attorney, a similar body or agency of another state, the Federal
152 Trade Commission, or the United States Department of Justice.

153 (c) "Antitrust violator vendor list" means the list
154 required to be kept by the department pursuant to paragraph
155 (3) (b).

156 (d) "Conviction or being held civilly liable" or "convicted
157 or held civilly liable" means a criminal finding of
158 responsibility or guilt or conviction, with or without an
159 adjudication of guilt, being held civilly responsible or liable,
160 or having a judgment levied for an antitrust violation in any
161 federal or state trial court of record relating to charges
162 brought by indictment, information, or complaint on or after
163 July 1, 2021, as a result of a jury verdict, nonjury trial, or
164 entry of a plea of guilty or nolo contendere or other finding of
165 responsibility or liability.

166 (e) "Economic incentives" means state grants, cash grants,
167 tax exemptions, tax refunds, tax credits, state funds, and other
168 state incentives under chapter 288 or administered by Enterprise
169 Florida, Inc.

170 (f) "Person" means a natural person or an entity organized
171 under the laws of any state or of the United States which
172 operates as a social media platform, as defined in s. 501.2041,
173 with the legal power to enter into a binding contract and which
174 bids or applies to bid on contracts let by a public entity, or

20217072e1

175 which otherwise transacts or applies to transact business with a
176 public entity. The term includes those officers, directors,
177 executives, partners, shareholders, employees, members, and
178 agents who are active in the management of an entity.

179 (g) "Public entity" means the state and any of its
180 departments or agencies.

181 (2) (a) A person or an affiliate who has been placed on the
182 antitrust violator vendor list following a conviction or being
183 held civilly liable for an antitrust violation may not submit a
184 bid, proposal, or reply for any new contract to provide any
185 goods or services to a public entity; may not submit a bid,
186 proposal, or reply for a new contract with a public entity for
187 the construction or repair of a public building or public work;
188 may not submit a bid, proposal, or reply on new leases of real
189 property to a public entity; may not be awarded or perform work
190 as a contractor, supplier, subcontractor, or consultant under a
191 new contract with a public entity; and may not transact new
192 business with a public entity.

193 (b) A public entity may not accept a bid, proposal, or
194 reply from, award a new contract to, or transact new business
195 with any person or affiliate on the antitrust violator vendor
196 list unless that person or affiliate has been removed from the
197 list pursuant to paragraph (3) (e).

198 (c) This subsection does not apply to contracts that were
199 awarded or business transactions that began before a person or
200 an affiliate was placed on the antitrust violator vendor list or
201 before July 1, 2021, whichever date occurs later.

202 (3) (a) Beginning July 1, 2021, all invitations to bid,
203 requests for proposals, and invitations to negotiate, as those

20217072e1

204 terms are defined in s. 287.012, and any contract document
205 described in s. 287.058 must contain a statement informing
206 persons of the provisions of paragraph (2) (a).

207 (b) The department shall maintain an antitrust violator
208 vendor list of the names and addresses of the persons or
209 affiliates who have been disqualified from the public
210 contracting and purchasing process under this section. The
211 department shall electronically publish the initial antitrust
212 violator vendor list on January 1, 2022, and shall update and
213 electronically publish the list quarterly thereafter.
214 Notwithstanding this paragraph, a person or an affiliate
215 disqualified from the public contracting and purchasing process
216 pursuant to this section is disqualified as of the date the
217 department enters the final order.

218 (c)1. After receiving notice of a judgment, sentence, or
219 order from any source that a person was convicted or held
220 civily liable for an antitrust violation and after the
221 department has investigated the information and verified both
222 the judgment, sentence, or order and the identity of the person
223 named in the documentation, the department must immediately
224 notify the person or affiliate in writing of its intent to place
225 the name of that person or affiliate on the antitrust violator
226 vendor list and of the person's or affiliate's right to a
227 hearing, the procedure that must be followed, and the applicable
228 time requirements. If the person or affiliate does not request a
229 hearing, the department shall enter a final order placing the
230 name of the person or affiliate on the antitrust violator vendor
231 list. A person or affiliate may be placed on the antitrust
232 violator vendor list only after the department has provided the

20217072e1

233 person or affiliate with a notice of intent.

234 2. Within 21 days after receipt of the notice of intent,
235 the person or affiliate may file a petition for a formal hearing
236 under ss. 120.569 and 120.57(1) to determine whether good cause
237 has been shown by the department and whether it is in the public
238 interest for the person or affiliate to be placed on the
239 antitrust violator vendor list. A person or an affiliate may not
240 file a petition for an informal hearing under s. 120.57(2). The
241 procedures of chapter 120 shall apply to any formal hearing
242 under this paragraph except, within 30 days after the formal
243 hearing or receipt of the hearing transcript, whichever is
244 later, the administrative law judge shall enter a final order
245 that shall consist of findings of fact, conclusions of law,
246 interpretation of agency rules, and any other information
247 required by law or rule to be contained in the final order. The
248 final order shall direct the department to place or not place
249 the person or affiliate on the antitrust violator vendor list.
250 The final order of the administrative law judge is final agency
251 action for purposes of s. 120.68.

252 3. In determining whether it is in the public interest to
253 place a person or an affiliate on the antitrust violator vendor
254 list under this paragraph, the administrative law judge shall
255 consider the following factors:

256 a. Whether the person or affiliate was convicted or held
257 civilly liable for an antitrust violation.

258 b. The nature and details of the antitrust violation.

259 c. The degree of culpability of the person or affiliate
260 proposed to be placed on the antitrust violator vendor list.

261 d. Reinstatement or clemency in any jurisdiction in

20217072e1

262 relation to the antitrust violation at issue in the proceeding.

263 e. The needs of public entities for additional competition
264 in the procurement of goods and services in their respective
265 markets.

266 f. The effect of the antitrust violations on Floridians.

267 4. After the person or affiliate requests a formal hearing,
268 the burden shifts to the department to prove that it is in the
269 public interest for the person or affiliate to whom it has given
270 notice under this paragraph to be placed on the antitrust
271 violator vendor list. Proof that a person was convicted or was
272 held civilly liable or that an entity is an affiliate of such
273 person constitutes a prima facie case that it is in the public
274 interest for the person or affiliate to whom the department has
275 given notice to be put on the antitrust violator vendor list.
276 Status as an affiliate must be proven by clear and convincing
277 evidence. Unless the administrative law judge determines that
278 the person was convicted or that the person was civilly liable
279 or is an affiliate of such person, that person or affiliate may
280 not be placed on the antitrust violator vendor list.

281 5. Any person or affiliate who has been notified by the
282 department of its intent to place his or her name on the
283 antitrust violator vendor list may offer evidence on any
284 relevant issue. An affidavit alone does not constitute competent
285 substantial evidence that the person has not been convicted or
286 is not an affiliate of a person convicted or held civilly
287 liable. Upon establishment of a prima facie case that it is in
288 the public interest for the person or affiliate to whom the
289 department has given notice to be put on the antitrust violator
290 vendor list, the person or affiliate may prove by a

20217072e1

291 preponderance of the evidence that it would not be in the public
292 interest to put him or her on the antitrust violator vendor
293 list, based upon evidence addressing the factors in subparagraph
294 3.

295 (d)1. Upon receipt of an information or indictment from any
296 source that a person has been charged with or accused of
297 violating any state or federal antitrust law in a civil or
298 criminal proceeding, including a civil investigative demand,
299 brought by the Attorney General, a state attorney, the Federal
300 Trade Commission, or the United States Department of Justice on
301 or after July 1, 2021, the Attorney General must determine
302 whether there is probable cause that a person has likely
303 violated the underlying antitrust laws, which justifies
304 temporary placement of such person on the antitrust violator
305 vendor list until such proceeding has concluded.

306 2. If the Attorney General determines probable cause
307 exists, the Attorney General shall notify the person in writing
308 of its intent to temporarily place the name of that person on
309 the antitrust violator vendor list, and of the person's right to
310 a hearing, the procedure that must be followed, and the
311 applicable time requirements. If the person does not request a
312 hearing, the Attorney General shall enter a final order
313 temporarily placing the name of the person on the antitrust
314 violator vendor list. A person may be placed on the antitrust
315 violator vendor list only after being provided with a notice of
316 intent from the Attorney General.

317 3. Within 21 days after receipt of the notice of intent,
318 the person may file a petition for a formal hearing pursuant to
319 ss. 120.569 and 120.57(1) to determine whether it is in the

20217072e1

320 public interest for the person to be temporarily placed on the
321 antitrust violator vendor list. A person may not file a petition
322 for an informal hearing under s. 120.57(2). The procedures of
323 chapter 120 shall apply to any formal hearing under this
324 paragraph.

325 4. In determining whether it is in the public interest to
326 place a person on the antitrust violator vendor list under this
327 paragraph, the administrative law judge shall consider the
328 following factors:

329 a. The likelihood the person will be convicted or held
330 civilly liable for the antitrust violation.

331 b. The nature and details of the antitrust violation.

332 c. The degree of culpability of the person proposed to be
333 placed on the antitrust violator vendor list.

334 d. The needs of public entities for additional competition
335 in the procurement of goods and services in their respective
336 markets.

337 e. The effect of the antitrust violations on Floridians.

338 5. The Attorney General has the burden to prove that it is
339 in the public interest for the person to whom it has given
340 notice under this paragraph to be temporarily placed on the
341 antitrust violator vendor list. Unless the administrative law
342 judge determines that it is in the public interest to
343 temporarily place a person on the antitrust violator vendor
344 list, that person shall not be placed on the antitrust violator
345 vendor list.

346 6. This paragraph does not apply to affiliates.

347 (e)1. A person or an affiliate may be removed from the
348 antitrust violator vendor list subject to such terms and

20217072e1

349 conditions as may be prescribed by the administrative law judge
350 upon a determination that removal is in the public interest. In
351 determining whether removal is in the public interest, the
352 administrative law judge must consider any relevant factors,
353 including, but not limited to, the factors identified in
354 subparagraph (c)3. Upon proof that a person was found not guilty
355 or not civilly liable, the antitrust violation case was
356 dismissed, the court entered a finding in the person's favor,
357 the person's conviction or determination of liability has been
358 reversed on appeal, or the person has been pardoned, the
359 administrative law judge shall determine that removal of the
360 person or an affiliate of that person from the antitrust
361 violator vendor list is in the public interest. A person or an
362 affiliate on the antitrust violator vendor list may petition for
363 removal from the list no sooner than 6 months after the date a
364 final order is entered pursuant to this section but may petition
365 for removal at any time if the petition is based upon a reversal
366 of the conviction or liability on appellate review or pardon.
367 The petition must be filed with the department, and the
368 proceeding must be conducted pursuant to the procedures and
369 requirements of this subsection.

370 2. If the petition for removal is denied, the person or
371 affiliate may not petition for another hearing on removal for a
372 period of 9 months after the date of denial unless the petition
373 is based upon a reversal of the conviction on appellate review
374 or a pardon. The department may petition for removal before the
375 expiration of such period if, in its discretion, it determines
376 that removal is in the public interest.

377 (4) The conviction of a person or a person being held

20217072e1

378 civilly liable for an antitrust violation, or placement on the
379 antitrust violator vendor list, does not affect any rights or
380 obligations under any contract, franchise, or other binding
381 agreement that predates such conviction, finding of civil
382 liability, or placement on the antitrust violator vendor list.

383 (5) A person who has been placed on the antitrust violator
384 vendor list is not a qualified applicant for economic incentives
385 under chapter 288, and such person shall not be qualified to
386 receive such economic incentives. This subsection does not apply
387 to economic incentives that are awarded before a person is
388 placed on the antitrust violator vendor list or before July 1,
389 2021.

390 (6) This section does not apply to:

391 (a) Any activity regulated by the Public Service
392 Commission;

393 (b) The purchase of goods or services made by any public
394 entity from the Department of Corrections, from the nonprofit
395 corporation organized under chapter 946, or from any qualified
396 nonprofit agency for the blind or other severely handicapped
397 persons under ss. 413.032-413.037; or

398 (c) Any contract with a public entity to provide any goods
399 or services for emergency response efforts related to a state of
400 emergency declaration issued by the Governor.

401 (7) This section may only be enforced to the extent not
402 inconsistent with federal law and notwithstanding any other
403 provision of state law.

404 Section 4. Section 501.2041, Florida Statutes, is created
405 to read:

406 501.2041 Unlawful acts and practices by social media

20217072e1

407 platforms.—

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

409 (a) "Algorithm" means a mathematical set of rules that
410 specifies how a group of data behaves and that will assist in
411 ranking search results and maintaining order or that is used in
412 sorting or ranking content or material based on relevancy or
413 other factors instead of using published time or chronological
414 order of such content or material.

415 (b) "Censor" includes any action taken by a social media
416 platform to delete, regulate, restrict, edit, alter, inhibit the
417 publication or republication of, suspend a right to post,
418 remove, or post an addendum to any content or material posted by
419 a user. The term also includes actions to inhibit the ability of
420 a user to be viewable by or to interact with another user of the
421 social media platform.

422 (c) "Deplatform" means the action or practice by a social
423 media platform to permanently delete or ban a user or to
424 temporarily delete or ban a user from the social media platform
425 for more than 14 days.

426 (d) "Journalistic enterprise" means an entity doing
427 business in Florida that:

428 1. Publishes in excess of 100,000 words available online
429 with at least 50,000 paid subscribers or 100,000 monthly active
430 users;

431 2. Publishes 100 hours of audio or video available online
432 with at least 100 million viewers annually;

433 3. Operates a cable channel that provides more than 40
434 hours of content per week to more than 100,000 cable television
435 subscribers; or

20217072e1

436 4. Operates under a broadcast license issued by the Federal
437 Communications Commission.

438 (e) "Post-prioritization" means action by a social media
439 platform to place, feature, or prioritize certain content or
440 material ahead of, below, or in a more or less prominent
441 position than others in a newsfeed, a feed, a view, or in search
442 results. The term does not include post-prioritization of
443 content and material of a third party, including other users,
444 based on payments by that third party, to the social media
445 platform.

446 (f) "Shadow ban" means action by a social media platform,
447 through any means, whether the action is determined by a natural
448 person or an algorithm, to limit or eliminate the exposure of a
449 user or content or material posted by a user to other users of
450 the social media platform. This term includes acts of shadow
451 banning by a social media platform which are not readily
452 apparent to a user.

453 (g) "Social media platform" means any information service,
454 system, Internet search engine, or access software provider
455 that:

456 1. Provides or enables computer access by multiple users to
457 a computer server, including an Internet platform or a social
458 media site;

459 2. Operates as a sole proprietorship, partnership, limited
460 liability company, corporation, association, or other legal
461 entity;

462 3. Does business in the state; and

463 4. Satisfies at least one of the following thresholds:

464 a. Has annual gross revenues in excess of \$100 million, as

20217072e1

465 adjusted in January of each odd-numbered year to reflect any
466 increase in the Consumer Price Index.

467 b. Has at least 100 million monthly individual platform
468 participants globally.

469
470 The term does not include any information service, system,
471 Internet search engine, or access software provider operated by
472 a company that owns and operates a theme park or entertainment
473 complex as defined in s. 509.013.

474 (h) "User" means a person who resides or is domiciled in
475 this state and who has an account on a social media platform,
476 regardless of whether the person posts or has posted content or
477 material to the social media platform.

478 (2) A social media platform that fails to comply with any
479 of the provisions of this subsection commits an unfair or
480 deceptive act or practice as specified in s. 501.204.

481 (a) A social media platform must publish the standards,
482 including detailed definitions, it uses or has used for
483 determining how to censor, deplatform, and shadow ban.

484 (b) A social media platform must apply censorship,
485 deplatforming, and shadow banning standards in a consistent
486 manner among its users on the platform.

487 (c) A social media platform must inform each user about any
488 changes to its user rules, terms, and agreements before
489 implementing the changes and may not make changes more than once
490 every 30 days.

491 (d) A social media platform may not censor or shadow ban a
492 user's content or material or deplatform a user from the social
493 media platform:

20217072e1

494 1. Without notifying the user who posted or attempted to
495 post the content or material; or

496 2. In a way that violates this part.

497 (e) A social media platform must:

498 1. Provide a mechanism that allows a user to request the
499 number of other individual platform participants who were
500 provided or shown the user's content or posts.

501 2. Provide, upon request, a user with the number of other
502 individual platform participants who were provided or shown
503 content or posts.

504 (f) A social media platform must:

505 1. Categorize algorithms used for post-prioritization and
506 shadow banning.

507 2. Allow a user to opt out of post-prioritization and
508 shadow banning algorithm categories to allow sequential or
509 chronological posts and content.

510 (g) A social media platform must provide users with an
511 annual notice on the use of algorithms for post-prioritization
512 and shadow banning and reoffer annually the opt-out opportunity
513 in subparagraph (f)2.

514 (h) A social media platform may not apply or use post-
515 prioritization or shadow banning algorithms for content and
516 material posted by or about a user who is known by the social
517 media platform to be a candidate as defined in s. 106.011(3)(e),
518 beginning on the date of qualification and ending on the date of
519 the election or the date the candidate ceases to be a candidate.
520 Post-prioritization of certain content or material from or about
521 a candidate for office based on payments to the social media
522 platform by such candidate for office or a third party is not a

20217072e1

523 violation of this paragraph. A social media platform must
524 provide each user a method by which the user may be identified
525 as a qualified candidate and which provides sufficient
526 information to allow the social media platform to confirm the
527 user's qualification by reviewing the website of the Division of
528 Elections or the website of the local supervisor of elections.

529 (i) A social media platform must allow a user who has been
530 deplatformed to access or retrieve all of the user's
531 information, content, material, and data for at least 60 days
532 after the user receives the notice required under subparagraph
533 (d)1.

534 (j) A social media platform may not take any action to
535 censor, deplatform, or shadow ban a journalistic enterprise
536 based on the content of its publication or broadcast. Post-
537 prioritization of certain journalistic enterprise content based
538 on payments to the social media platform by such journalistic
539 enterprise is not a violation of this paragraph. This paragraph
540 does not apply if the content or material is obscene as defined
541 in s. 847.001.

542 (3) For purposes of subparagraph (2)(d)1., a notification
543 must:

544 (a) Be in writing.

545 (b) Be delivered via electronic mail or direct electronic
546 notification to the user within 7 days after the censoring
547 action.

548 (c) Include a thorough rationale explaining the reason that
549 the social media platform censored the user.

550 (d) Include a precise and thorough explanation of how the
551 social media platform became aware of the censored content or

20217072e1

552 material, including a thorough explanation of the algorithms
553 used, if any, to identify or flag the user's content or material
554 as objectionable.

555 (4) Notwithstanding any other provisions of this section, a
556 social media platform is not required to notify a user if the
557 censored content or material is obscene as defined in s.
558 847.001.

559 (5) If the department, by its own inquiry or as a result of
560 a complaint, suspects that a violation of this section is
561 imminent, occurring, or has occurred, the department may
562 investigate the suspected violation in accordance with this
563 part. Based on its investigation, the department may bring a
564 civil or administrative action under this part. For the purpose
565 of bringing an action pursuant to this section, ss. 501.211 and
566 501.212 do not apply.

567 (6) A user may only bring a private cause of action for
568 violations of paragraph (2) (b) or subparagraph (2) (d)1. In a
569 private cause of action brought under paragraph (2) (b) or
570 subparagraph (2) (d)1., the court may award the following
571 remedies to the user:

572 (a) Up to \$100,000 in statutory damages per proven claim.

573 (b) Actual damages.

574 (c) If aggravating factors are present, punitive damages.

575 (d) Other forms of equitable relief, including injunctive
576 relief.

577 (e) If the user was deplatformed in violation of paragraph
578 (2) (b), costs and reasonable attorney fees.

579 (7) For purposes of bringing an action in accordance with
580 subsections (5) and (6), each failure to comply with the

20217072e1

581 individual provisions of subsection (2) shall be treated as a
582 separate violation, act, or practice. For purposes of bringing
583 an action in accordance with subsections (5) and (6), a social
584 media platform that censors, shadow bans, deplatforms, or
585 applies post-prioritization algorithms to candidates and users
586 in the state is conclusively presumed to be both engaged in
587 substantial and not isolated activities within the state and
588 operating, conducting, engaging in, or carrying on a business,
589 and doing business in this state, and is therefore subject to
590 the jurisdiction of the courts of the state.

591 (8) In an investigation by the department into alleged
592 violations of this section, the department's investigative
593 powers include, but are not limited to, the ability to subpoena
594 any algorithm used by a social media platform related to any
595 alleged violation.

596 (9) This section may only be enforced to the extent not
597 inconsistent with federal law and 47 U.S.C. s. 230(e)(3), and
598 notwithstanding any other provision of state law.

599 Section 5. Subsection (2) of section 501.212, Florida
600 Statutes, is amended to read:

601 501.212 Application.—This part does not apply to:

602 (2) Except as provided in s. 501.2041, a publisher,
603 broadcaster, printer, or other person engaged in the
604 dissemination of information or the reproduction of printed or
605 pictorial matter, insofar as the information or matter has been
606 disseminated or reproduced on behalf of others without actual
607 knowledge that it violated this part.

608 Section 6. If any provision of this act or the application
609 thereof to any person or circumstance is held invalid, the

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610 invalidity shall not affect other provisions or applications of
611 the act which can be given effect without the invalid provision
612 or application, and to this end the provisions of this act are
613 declared severable.

614 Section 7. This act shall take effect July 1, 2021.

615