

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Sirois offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 98 and 99, insert:

5 Section 2. Section 501.1735, Florida Statutes, is created
6 to read:

7 501.1735 Protection of children in online spaces.-

8 (1) DEFINITIONS.-As used in this section, the term:

9 (a) "Child" or "children" means a consumer or consumers
10 who are under 18 years of age.

11 (b) "Dark pattern" means a user interface designed or
12 manipulated with the substantial effect of subverting or
13 impairing user autonomy, decision-making, or choice and

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14 includes, but is not limited to, any practice the Federal Trade
15 Commission refers to as a dark pattern.

16 (c) "Online platform" means a social media platform or an
17 online gaming platform.

18 (d) "Personal information" means information that is
19 linked or reasonably linkable to an identified or identifiable
20 consumer or household, including biometric information, genetic
21 information, and unique identifiers to the consumer.

22 (e) "Precise geolocation data" means information from
23 technology, such as global positioning system level latitude and
24 longitude coordinates or other mechanisms, which directly
25 identifies the specific location of a natural person with
26 precision and accuracy within a radius of 1,750 feet. The term
27 does not include information generated by the transmission of
28 communications or any information generated by or connected to
29 advance utility metering infrastructure systems or equipment for
30 use by a utility.

31 (f) "Profile" or "profiling" means any form of automated
32 processing performed on personal information to evaluate,
33 analyze, or predict personal aspects relating to the economic
34 situation, health, personal preferences, interests, reliability,
35 behavior, location, or movements of a child.

36 (g) "Social media platform" means a form of electronic
37 communication through which users create online communities to
38 share information, ideas, personal messages, and other content.

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39 (h) "Substantial harm or privacy risk to children" means
40 the processing of personal information in a manner that may
41 result in any reasonably foreseeable substantial physical
42 injury, economic injury, or offensive intrusion into the privacy
43 expectations of a reasonable child under the circumstances,
44 including:

45 1. Mental health disorders or associated behaviors,
46 including the promotion or exacerbation of self-harm, suicide,
47 eating disorders, and substance abuse disorders;

48 2. Patterns of use that indicate or encourage addictive
49 behaviors;

50 3. Physical violence, online bullying, and harassment;

51 4. Sexual exploitation, including enticement, sex
52 trafficking, and sexual abuse and trafficking of online sexual
53 abuse material;

54 5. Promotion and marketing of tobacco products, gambling,
55 alcohol, or narcotic drugs as defined in s. 102 of the
56 Controlled Substances Act, 21 U.S.C. 802; or

57 6. Predatory, unfair, or deceptive marketing practices, or
58 other financial harms.

59 (2) An online platform that provides an online service,
60 product, game, or feature likely to be predominantly accessed by
61 children may not:

62 (a) Process the personal information of any child if the
63 online platform has actual knowledge or willfully disregards

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64 that the processing may result in substantial harm or privacy
65 risk to children.

66 (b) Profile a child unless both of the following criteria
67 are met:

68 1. The online platform can demonstrate it has appropriate
69 safeguards in place to protect children.

70 2.a. Profiling is necessary to provide the online service,
71 product, or feature requested and only with respect to the
72 aspects of the online service, product, or feature with which
73 the child is actively and knowingly engaged; or

74 b. The online platform can demonstrate a compelling reason
75 that profiling does not pose a substantial harm or privacy risk
76 to children.

77 (c) Collect, sell, share, or retain any personal
78 information that is not necessary to provide an online service,
79 product, or feature with which a child is actively and knowingly
80 engaged unless the online platform can demonstrate a compelling
81 reason that collecting, selling, sharing, or retaining the
82 personal information does not pose a substantial harm or privacy
83 risk to children likely to routinely access the online service,
84 product, or feature.

85 (d) Use personal information of a child for any reason
86 other than the reason for which the personal information was
87 collected, unless the online platform can demonstrate a

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88 compelling reason that the use of the personal information does
89 not pose a substantial harm or privacy risk to children.

90 (e) Collect, sell, or share any precise geolocation data
91 of children unless the collection of the precise geolocation
92 data is strictly necessary for the online platform to provide
93 the service, product, or feature requested and then only for the
94 limited time that the collection of the precise geolocation data
95 is necessary to provide the service, product, or feature.

96 (f) Collect any precise geolocation data of a child
97 without providing an obvious sign to the child for the duration
98 of the collection that the precise geolocation data is being
99 collected.

100 (g) Use dark patterns to lead or encourage children to
101 provide personal information beyond what is reasonably expected
102 to provide that online service, product, game, or feature; to
103 forego privacy protections; or to take any action that the
104 online platform has actual knowledge or willfully disregards may
105 result in substantial harm or privacy risk to children.

106 (h) Use any personal information collected to estimate age
107 or age range for any other purpose or retain that personal
108 information longer than necessary to estimate age. The age
109 estimate must be proportionate to the risks and data practice of
110 an online service, product, or feature.

111 (3) If an online platform processes personal information
112 pursuant to subsection (2), the online platform bears the burden

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113 of demonstrating that such processing does not violate
114 subsection (2).

115 (4) Notwithstanding s. 501.212, a violation of subsection
116 (2) is deemed an unfair or deceptive trade practice within the
117 meaning of part II of chapter 501, and a person who violates
118 this section is subject to the penalties and remedies provided
119 therein.

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122 **T I T L E A M E N D M E N T**

123 Remove line 13 and insert:

124 applicability; creating s. 501.1735, F.S.; providing
125 definitions; providing requirements for online
126 platforms that provide online services, products,
127 games, or features likely to be predominantly accessed
128 by children; providing for enforcement; providing
129 construction; providing an effective date.

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