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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
03/04/2024 09:58 AM	.	03/06/2024 06:15 PM
	.	

Senator Grall moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

501.1736 Social media use for minors.-

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

(a) "Account holder" means a resident who opens an account
or creates a profile or is identified by the social media
platform by a unique identifier while using or accessing a



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12 social media platform when the social media platform knows or
13 has reason to believe the resident is located in this state.

14 (b) "Daily active users" means the number of unique users
15 in the United States who used the online forum, website, or
16 application at least 80 percent of the days during the previous
17 12 months, or, if the online forum, website, or application did
18 not exist during the previous 12 months, the number of unique
19 users in the United States who used the online forum, website,
20 or application at least 80 percent of the days during the
21 previous month.

22 (c) "Department" means the Department of Legal Affairs.

23 (d) "Resident" means a person who lives in this state for
24 more than 6 months of the year.

25 (e) "Social media platform" means an online forum, website,
26 or application that satisfies each of the following criteria:

27 1. Allows users to upload content or view the content or
28 activity of other users;

29 2. Ten percent or more of the daily active users who are
30 younger than 16 years of age spend on average 2 hours per day or
31 longer on the online forum, website, or application on the days
32 when using the online forum, website, or application during the
33 previous 12 months or, if the online forum, website, or
34 application did not exist during the previous 12 months, during
35 the previous month;

36 3. Employs algorithms that analyze user data or information
37 on users to select content for users; and

38 4. Has any of the following addictive features:

39 a. Infinite scrolling, which means either:

40 (I) Continuously loading content, or content that loads as



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41 the user scrolls down the page without the need to open a
42 separate page; or

43 (II) Seamless content, or the use of pages with no visible
44 or apparent end or page breaks.

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

48 c. Displays personal interactive metrics that indicate the
49 number of times other users have clicked a button to indicate
50 their reaction to content or have shared or reposted the
51 content.

52 d. Auto-play video or video that begins to play without the
53 user first clicking on the video or on a play button for that
54 video.

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

57
58 The term does not include an online service, website, or
59 application where the exclusive function is e-mail or direct
60 messaging consisting of text, photographs, pictures, images, or
61 videos shared only between the sender and the recipients,
62 without displaying or posting publicly or to other users not
63 specifically identified as the recipients by the sender.

64 (2) (a) A social media platform shall prohibit a minor who
65 is younger than 14 years of age from entering into a contract
66 with a social media platform to become an account holder.

67 (b) A social media platform shall:

68 1. Terminate any account held by an account holder younger
69 than 14 years of age, including accounts that the social media



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70 platform treats or categorizes as belonging to an account holder
71 who is likely younger than 14 years of age for purposes of
72 targeting content or advertising, and provide 90 days for an
73 account holder to dispute such termination. Termination must be
74 effective upon the expiration of the 90 days if the account
75 holder fails to effectively dispute the termination.

76 2. Allow an account holder younger than 14 years of age to
77 request to terminate the account. Termination must be effective
78 within 5 business days after such request.

79 3. Allow the confirmed parent or guardian of an account
80 holder younger than 14 years of age to request that the minor's
81 account be terminated. Termination must be effective within 10
82 business days after such request.

83 4. Permanently delete all personal information held by the
84 social media platform relating to the terminated account, unless
85 there are legal requirements to maintain such information.

86 (3) (a) A social media platform shall prohibit a minor who
87 is 14 or 15 years of age from entering into a contract with a
88 social media platform to become an account holder, unless the
89 minor's parent or guardian provides consent for the minor to
90 become an account holder.

91 (b) A social media platform shall:

92 1. Terminate any account held by an account holder who is
93 14 or 15 years of age, including accounts that the social media
94 platform treats or categorizes as belonging to an account holder
95 who is likely 14 or 15 years of age for purposes of targeting
96 content or advertising, if the account holder's parent or
97 guardian has not provided consent for the minor to create or
98 maintain the account. The social media platform shall provide 90



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99 days for an account holder to dispute such termination.
100 Termination must be effective upon the expiration of the 90 days
101 if the account holder fails to effectively dispute the
102 termination.

103 2. Allow an account holder who is 14 or 15 years of age to
104 request to terminate the account. Termination must be effective
105 within 5 business days after such request.

106 3. Allow the confirmed parent or guardian of an account
107 holder who is 14 or 15 years of age to request that the minor's
108 account be terminated. Termination must be effective within 10
109 business days after such request.

110 4. Permanently delete all personal information held by the
111 social media platform relating to the terminated account, unless
112 there are legal requirements to maintain such information.

113 (4) If a court enjoins the enforcement of subsection (3) or
114 would otherwise enjoin enforcement of any other provision of
115 this section due to subsection (3), then subsection (3) shall be
116 severed, and the following shall come into effect:

117 (a) A social media platform shall prohibit a minor who is
118 14 or 15 years of age from entering into a contract with a
119 social media platform to become an account holder.

120 (b) A social media platform shall:

121 1. Terminate any account held by an account holder who is
122 14 or 15 years of age, including accounts that the social media
123 platform treats or categorizes as belonging to an account holder
124 who is likely 14 or 15 years of age for purposes of targeting
125 content or advertising, and provide 90 days for an account
126 holder to dispute such termination. Termination must be
127 effective upon the expiration of 90 days if the account holder



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128 fails to effectively dispute the termination.

129 2. Allow an account holder who is 14 or 15 years of age to
130 request to terminate the account. Termination must be effective
131 within 5 business days after such request.

132 3. Allow the confirmed parent or guardian of an account
133 holder who is 14 or 15 years of age to request that the minor's
134 account be terminated. Termination must be effective within 10
135 business days after such request.

136 4. Permanently delete all personal information held by the
137 social media platform relating to the terminated account, unless
138 there are legal requirements to maintain such information.

139 (5) Any knowing or reckless violation of subsection (2),
140 subsection (3), or, if in effect, subsection (4) is deemed an
141 unfair and deceptive trade practice actionable under part II of
142 this chapter solely by the department against a social media
143 platform. If the department has reason to believe that a social
144 media platform is in violation of subsection (2), subsection
145 (3), or, if in effect, subsection (4), the department, as the
146 enforcing authority, may bring an action against such platform
147 for an unfair or deceptive act or practice. For the purpose of
148 bringing an action pursuant to this section, ss. 501.211 and
149 501.212 do not apply. In addition to other remedies under part
150 II of this chapter, the department may collect a civil penalty
151 of up to \$50,000 per violation and reasonable attorney fees and
152 court costs. When the social media platform's failure to comply
153 with subsection (2), subsection (3), or, if in effect,
154 subsection (4) is a consistent pattern of knowing or reckless
155 conduct, punitive damages may be assessed against the social
156 media platform.



157 (6) (a) A social media platform that knowingly or recklessly
158 violates subsection (2), subsection (3), or, if in effect,
159 subsection (4) is liable to the minor account holder, including
160 court costs and reasonable attorney fees as ordered by the
161 court. Claimants may be awarded up to \$10,000 in damages.

162 (b) A civil action for a claim under this subsection must
163 be brought within 1 year from the date the complainant knew, or
164 reasonably should have known, of the alleged violation.

165 (c) Any action brought under this subsection may only be
166 brought on behalf of a minor account holder.

167 (7) For purposes of bringing an action under this section,
168 a social media platform that allows a minor account holder
169 younger than 14 years of age or a minor account holder who is 14
170 or 15 years of age to create an account on such platform is
171 considered to be both engaged in substantial and not isolated
172 activities within this state and operating, conducting, engaging
173 in, or carrying on a business and doing business in this state,
174 and is therefore subject to the jurisdiction of the courts of
175 this state.

176 (8) If a social media platform allows an account holder to
177 use the social media platform, the parties have entered into a
178 contract.

179 (9) This section does not preclude any other available
180 remedy at law or equity.

181 (10) (a) If, by its own inquiry or as a result of
182 complaints, the department has reason to believe that an entity
183 or person has engaged in, or is engaging in, an act or practice
184 that violates this section, the department may administer oaths
185 and affirmations, subpoena witnesses or matter, and collect



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186 evidence. Within 5 days, excluding weekends and legal holidays,
187 after the service of a subpoena or at any time before the return
188 date specified therein, whichever is longer, the party served
189 may file in the circuit court in the county in which it resides
190 or in which it transacts business and serve upon the enforcing
191 authority a petition for an order modifying or setting aside the
192 subpoena. The petitioner may raise any objection or privilege
193 which would be available upon service of such subpoena in a
194 civil action. The subpoena shall inform the party served of its
195 rights under this subsection.

196 (b) If the matter that the department seeks to obtain by
197 subpoena is located outside the state, the entity or person
198 subpoenaed may make it available to the department or its
199 representative to examine the matter at the place where it is
200 located. The department may designate representatives, including
201 officials of the state in which the matter is located, to
202 inspect the matter on its behalf, and may respond to similar
203 requests from officials of other states.

204 (c) Upon failure of an entity or person without lawful
205 excuse to obey a subpoena and upon reasonable notice to all
206 persons affected, the department may apply to the circuit court
207 for an order compelling compliance.

208 (d) The department may request that an entity or person
209 that refuses to comply with a subpoena on the ground that
210 testimony or matter may incriminate the entity or person be
211 ordered by the court to provide the testimony or matter. Except
212 in a prosecution for perjury, an entity or individual that
213 complies with a court order to provide testimony or matter after
214 asserting a valid privilege against self-incrimination shall not



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215 have the testimony or matter so provided, or evidence derived
216 therefrom, received against the entity or person in any criminal
217 investigation or proceeding.

218 (e) Any entity or person upon whom a subpoena is served
219 pursuant to this section shall comply with the terms thereof
220 unless otherwise provided by order of the court. Any entity or
221 person that fails to appear with the intent to avoid, evade, or
222 prevent compliance in whole or in part with any investigation
223 under this part or who removes from any place, conceals,
224 withholds, mutilates, alters, or destroys, or by any other means
225 falsifies any documentary material in the possession, custody,
226 or control of any entity or person subject to any such subpoena,
227 or knowingly conceals any relevant information with the intent
228 to avoid, evade, or prevent compliance shall be liable for a
229 civil penalty of not more than \$5,000 per week in violation,
230 reasonable attorney's fees, and costs.

231 (11) The department may adopt rules to implement this
232 section.

233 Section 2. Section 501.1737, Florida Statutes, is created
234 to read:

235 501.1737 Age verification for online access to materials
236 harmful to minors.-

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

238 (a) "Anonymous age verification" has the same meaning as in
239 s. 501.1738.

240 (b) "Commercial entity" includes a corporation, a limited
241 liability company, a partnership, a limited partnership, a sole
242 proprietorship, and any other legally recognized entity.

243 (c) "Department" means the Department of Legal Affairs.



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244 (d) "Distribute" means to issue, sell, give, provide,
245 deliver, transfer, transmit, circulate, or disseminate by any
246 means.

247 (e) "Material harmful to minors" means any material that:

248 1. The average person applying contemporary community
249 standards would find, taken as a whole, appeals to the prurient
250 interest;

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

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

255 (f) "News-gathering organization" means any of the
256 following:

257 1. A newspaper, news publication, or news source, printed
258 or published online or on a mobile platform, engaged in
259 reporting current news and matters of public interest, and an
260 employee thereof who can provide documentation of such
261 employment.

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

265 (g) "Publish" means to communicate or make information
266 available to another person or entity on a publicly available
267 website or application.

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

270 (i) "Standard age verification" means any commercially
271 reasonable method of age verification approved by the commercial
272 entity.



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273 (j) "Substantial portion" means more than 33.3 percent of
274 total material on a website or application.

275 (2) A commercial entity that knowingly and intentionally
276 publishes or distributes material harmful to minors on a website
277 or application, if the website or application contains a
278 substantial portion of material harmful to minors, must use
279 either anonymous age verification or standard age verification
280 to verify that the age of a person attempting to access the
281 material is 18 years of age or older and prevent access to the
282 material by a person younger than 18 years of age. The
283 commercial entity must offer anonymous age verification and
284 standard age verification, and a person attempting to access the
285 material may select which method will be used to verify his or
286 her age.

287 (3) A commercial entity must ensure that the requirements
288 of s. 501.1738 are met.

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

292 (b) An Internet service provider or its affiliates or
293 subsidiaries, a search engine, or a cloud service provider does
294 not violate this section solely for providing access or
295 connection to or from a website or other information or content
296 on the Internet or a facility, system, or network not under the
297 provider's control, including transmission, downloading,
298 intermediate storage, or access software, to the extent the
299 provider is not responsible for the creation of the content of
300 the communication which constitutes material harmful to minors.

301 (5) (a) Any violation of subsection (2) or subsection (3) is



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302 deemed an unfair and deceptive trade practice actionable under
303 part II of this chapter solely by the department on behalf of a
304 resident minor against a commercial entity. If the department
305 has reason to believe that a commercial entity is in violation
306 of subsection (2) or subsection (3), the department, as the
307 enforcing authority, may bring an action against the commercial
308 entity for an unfair or deceptive act or practice. For the
309 purpose of bringing an action pursuant to this section, ss.
310 501.211 and 501.212 do not apply. In addition to any other
311 remedy under part II of this chapter, the department may collect
312 a civil penalty of up to \$50,000 per violation and reasonable
313 attorney fees and court costs. When the commercial entity's
314 failure to comply with subsection (2) or subsection (3) is a
315 consistent pattern of conduct of the commercial entity, punitive
316 damages may be assessed against the commercial entity.

317 (b) A third party that performs age verification for a
318 commercial entity in violation of s. 501.1738 is deemed to have
319 committed an unfair and deceptive trade practice actionable
320 under part II of this chapter solely by the department against
321 such third party. If the department has reason to believe that
322 the third party is in violation of s. 501.1738, the department,
323 as the enforcing authority, may bring an action against such
324 third party for an unfair or deceptive act or practice. For the
325 purpose of bringing an action pursuant to this section, ss.
326 501.211 and 501.212 do not apply. In addition to other remedies
327 under part II of this chapter, the department may collect a
328 civil penalty of up to \$50,000 per violation and reasonable
329 attorney fees and court costs.

330 (c) A commercial entity that violates subsection (2) for



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331 failing to prohibit access or prohibit a minor from future
332 access to material harmful to minors after a report of
333 unauthorized or unlawful access is liable to the minor for such
334 access, including court costs and reasonable attorney fees as
335 ordered by the court. Claimants may be awarded up to \$10,000 in
336 damages. A civil action for a claim under this paragraph must be
337 brought within 1 year from the date the complainant knew, or
338 reasonably should have known, of the alleged violation.

339 (d) Any action under this subsection may only be brought on
340 behalf of or by a resident minor.

341 (6) For purposes of bringing an action under subsection
342 (5), a commercial entity that publishes or distributes material
343 harmful to minors on a website or application, if the website or
344 application contains a substantial portion of material harmful
345 to minors and such website or application is available to be
346 accessed in this state, is considered to be both engaged in
347 substantial and not isolated activities within this state and
348 operating, conducting, engaging in, or carrying on a business
349 and doing business in this state, and is therefore subject to
350 the jurisdiction of the courts of this state.

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

353 (8) (a) If, by its own inquiry or as a result of complaints,
354 the department has reason to believe that an entity or person
355 has engaged in, or is engaging in, an act or practice that
356 violates this section, the department may administer oaths and
357 affirmations, subpoena witnesses or matter, and collect
358 evidence. Within 5 days, excluding weekends and legal holidays,
359 after the service of a subpoena or at any time before the return



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360 date specified therein, whichever is longer, the party served
361 may file in the circuit court in the county in which it resides
362 or in which it transacts business and serve upon the enforcing
363 authority a petition for an order modifying or setting aside the
364 subpoena. The petitioner may raise any objection or privilege
365 which would be available upon service of such subpoena in a
366 civil action. The subpoena shall inform the party served of its
367 rights under this subsection.

368 (b) If the matter that the department seeks to obtain by
369 subpoena is located outside the state, the entity or person
370 subpoenaed may make it available to the department or its
371 representative to examine the matter at the place where it is
372 located. The department may designate representatives, including
373 officials of the state in which the matter is located, to
374 inspect the matter on its behalf, and may respond to similar
375 requests from officials of other states.

376 (c) Upon failure of an entity or person without lawful
377 excuse to obey a subpoena and upon reasonable notice to all
378 persons affected, the department may apply to the circuit court
379 for an order compelling compliance.

380 (d) The department may request that an entity or person
381 that refuses to comply with a subpoena on the ground that
382 testimony or matter may incriminate the entity or person be
383 ordered by the court to provide the testimony or matter. Except
384 in a prosecution for perjury, an entity or individual that
385 complies with a court order to provide testimony or matter after
386 asserting a valid privilege against self-incrimination shall not
387 have the testimony or matter so provided, or evidence derived
388 therefrom, received against the entity or person in any criminal



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389 investigation or proceeding.

390 (e) Any entity or person upon whom a subpoena is served
391 pursuant to this section shall comply with the terms thereof
392 unless otherwise provided by order of the court. Any entity or
393 person that fails to appear with the intent to avoid, evade, or
394 prevent compliance in whole or in part with any investigation
395 under this part or that removes from any place, conceals,
396 withholds, mutilates, alters, or destroys, or by any other means
397 falsifies any documentary material in the possession, custody,
398 or control of any entity or person subject to any such subpoena,
399 or knowingly conceals any relevant information with the intent
400 to avoid, evade, or prevent compliance, shall be liable for a
401 civil penalty of not more than \$5,000 per week in violation,
402 reasonable attorney's fees, and costs.

403 (9) The department may adopt rules to implement this
404 section.

405 Section 3. Section 501.1738, Florida Statutes, is created
406 to read:

407 501.1738 Anonymous age verification.-

408 (1) As used in this section, the term "anonymous age
409 verification" means a commercially reasonable method used by a
410 government agency or a business for the purpose of age
411 verification which is conducted by a nongovernmental,
412 independent third party organized under the laws of a state of
413 the United States which:

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

416 (b) Is not owned or controlled by a company formed in a
417 foreign country, a government of a foreign country, or any other



418 entity formed in a foreign country.

419 (2) A third party conducting anonymous age verification
420 pursuant to this section:

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

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

426 (c) Must keep anonymous any personal identifying
427 information used to verify age. Such information may not be
428 shared or otherwise communicated to any person.

429 (d) Must protect personal identifying information used to
430 verify age from unauthorized or illegal access, destruction,
431 use, modification, or disclosure through reasonable security
432 procedures and practices appropriate to the nature of the
433 personal information.

434 Section 4. If any provision of this act or its application
435 to any person or circumstances is held invalid, the invalidity
436 does not affect other provisions or applications of this act
437 which can be given effect without the invalid provision or
438 application, and to this end the provisions of this act are
439 severable.

440 Section 5. This act shall take effect January 1, 2025.

441
442 ===== T I T L E A M E N D M E N T =====

443 And the title is amended as follows:

444 Delete everything before the enacting clause
445 and insert:

446 A bill to be entitled



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447 An act relating to online protections for minors;
448 creating s. 501.1736, F.S.; defining terms; requiring
449 social media platforms to prohibit certain minors from
450 creating new accounts; requiring social media
451 platforms to terminate certain accounts and provide
452 additional options for termination of such accounts;
453 providing conditions under which social media
454 platforms are required to prohibit certain minors from
455 entering into contracts to become account holders;
456 authorizing the Department of Legal Affairs to bring
457 actions under the Florida Deceptive and Unfair Trade
458 Practices Act for knowing or reckless violations;
459 authorizing the department to issue and enforce civil
460 investigative demands under certain circumstances;
461 providing civil penalties; authorizing punitive
462 damages under certain circumstances; providing for
463 private causes of action; requiring that such actions
464 be brought within a specified timeframe; providing
465 that certain social media platforms are subject to the
466 jurisdiction of state courts; providing that if a
467 social media platform allows an account holder to use
468 such platform, the parties have entered into a
469 contract; providing construction; authorizing the
470 department to take certain investigative and
471 compliance actions; authorizing the department to
472 adopt rules; creating s. 501.1737, F.S.; defining
473 terms; requiring a commercial entity that knowingly
474 and intentionally publishes or distributes material
475 harmful to minors on a website or application that



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476 contains a substantial portion of such material to use
477 certain verification methods and prevent access to
478 such material by minors; providing applicability and
479 construction; authorizing the department to bring
480 actions under the Florida Deceptive and Unfair Trade
481 Practices Act for violations; providing civil
482 penalties; authorizing punitive damages under certain
483 circumstances; providing for private causes of action;
484 requiring that such actions be brought within a
485 specified timeframe; providing that certain commercial
486 entities are subject to the jurisdiction of state
487 courts; providing construction; authorizing the
488 department to take certain investigative and
489 compliance actions; authorizing the department to
490 adopt rules; creating s. 501.1738, F.S.; defining the
491 term "anonymous age verification"; providing
492 requirements for a third party conducting age
493 verification pursuant to certain provisions; providing
494 for severability; providing an effective date.