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LEGISLATIVE ACTION

Senate	.	House
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Floor: 2/AD/2R	.	Floor: C
02/21/2024 03:57 PM	.	02/22/2024 05:24 PM
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Senator Grall moved the following:

1 **Senate Substitute for Amendment (243784) (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 identified by the social media



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12 platform by a unique identifier 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 associated with an
16 account holder having an excessive or compulsive need to use or
17 engage with the social media platform.

18 (c) "Anonymous age verification method" has the same
19 meaning as in s. 501.1738.

20 (d) "Daily active users" means the unique users in the
21 United States who used the social media platform at least 80
22 percent of the days during the previous 12 months, or if the
23 social media platform did not exist during the previous 12
24 months, the number of unique users in the United States who used
25 the social media platform at least 80 percent of the days during
26 the previous month.

27 (e) "Department" means the Department of Legal Affairs.

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 allows a
32 user to upload content or view the content or activity of other
33 users and which does any of the following:

34 1. Uses algorithms that analyze user data or information on
35 users to select content for users; or

36 2. Has any of the following addictive features:

37 a. Infinite scrolling with continuous loading content, or
38 content that loads as the user scrolls down the page without the
39 need to open a separate page; or seamless content, or the use of
40 pages with no visible or apparent breaks.



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

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

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

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

53
54 The term does not include an online service, a website, or an
55 application where the exclusive function is e-mail or direct
56 messaging consisting of text, photographs, pictures, images, or
57 videos shared only between the sender and the recipients,
58 without displaying or posting publicly or to other users not
59 specifically identified as the recipients by the sender.

60 (h) "Standard age verification method" means any
61 commercially reasonable method of age verification approved by
62 the social media platform.

63 (2) (a) A social media platform that uses any of the design
64 features specified in subparagraphs (1) (g) 1. and 2. on the daily
65 active users on the social media platform who are younger than
66 16 years of age and that has had 10 percent or more of such
67 daily active users spend, on average, at least 2 hours per day
68 on the social media platform shall do all of the following:

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



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

72 2. Verify the age of each account holder on the social
73 media platform at the time a new account is created. If an
74 account holder fails to verify his or her age, the social media
75 platform must deny the account. Either an anonymous age
76 verification method or a standard method must be used to verify
77 age. The social media platform shall offer an anonymous age
78 verification method and may offer a standard age verification
79 method. If both methods are offered, a potential account holder
80 may select which method will be used to verify his or her age.

81 3. If age verification is performed using an anonymous age
82 verification method, ensure that the requirements of s. 501.1738
83 are met.

84 (b) A social media platform that uses any of the design
85 features specified in subparagraphs (1)(g)1. and 2. on the daily
86 active users on the social media platform who are younger than
87 16 years of age and that has had 10 percent or more of such
88 daily active users spend, on average, at least 2 hours per day
89 on the social media platform shall do the following for existing
90 accounts:

91 1. Terminate any account that the social media platform
92 knows or has reason to believe is held by an account holder
93 younger than 16 years of age, including accounts that the social
94 media platform treats or categorizes as belonging to an account
95 holder who is likely younger than 16 years of age for purposes
96 of targeting content or advertising, and provide a minimum of 90
97 days for an account holder to dispute such termination by
98 verifying his or her age.



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

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

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

109 (3) (a) Any knowing or reckless violation of subsection (2)
110 is deemed an unfair and deceptive trade practice actionable
111 under part II of this chapter solely by the department against a
112 social media platform. If the department has reason to believe
113 that a social media platform is in violation of subsection (2),
114 the department, as the enforcing authority, may bring an action
115 against such platform for an unfair or deceptive act or
116 practice. For the purpose of bringing an action pursuant to this
117 section, ss. 501.211 and 501.212 do not apply. In addition to
118 other remedies under part II of this chapter, the department may
119 collect a civil penalty of up to \$50,000 per violation and
120 reasonable attorney fees and court costs. When the social media
121 platform's failure to comply with subsection (2) is a consistent
122 pattern of knowing or reckless conduct, punitive damages may be
123 assessed against the social media platform.

124 (b) A third party that knowingly or recklessly performs age
125 verification for a social media platform in violation of s.
126 501.1738 is deemed to have committed an unfair and deceptive
127 trade practice actionable under part II of this chapter solely



128 by the department against such third party. If the department
129 has reason to believe that the third party is in violation of s.
130 501.1738, the department, as the enforcing authority, may bring
131 an action against such third party for an unfair or deceptive
132 act or practice. For the purpose of bringing an action pursuant
133 to this section, ss. 501.211 and 501.212 do not apply. In
134 addition to other remedies under part II of this chapter, the
135 department may collect a civil penalty of up to \$50,000 per
136 violation and reasonable attorney fees and court costs.

137 (4) (a) A social media platform that knowingly or recklessly
138 violates subparagraph (2) (b)2. or subparagraph (2) (b)3. for
139 failing to terminate an account within the required time after
140 being notified to do so by the minor account holder or a
141 confirmed parent or guardian is liable to such minor account
142 holder for failing to terminate the account, including court
143 costs and reasonable attorney fees as ordered by the court.
144 Claimants may be awarded up to \$10,000 in damages.

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

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

149 (6) For purposes of bringing an action in accordance with
150 subsection (3) or subsection (4), a social media platform that
151 allows a minor account holder younger than 16 years of age to
152 create an account on such platform is considered to be both
153 engaged in substantial and not isolated activities within this
154 state and operating, conducting, engaging in, or carrying on a
155 business and doing business in this state, and is therefore
156 subject to the jurisdiction of the courts of this state.



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157 (7) If a social media platform allows an account holder to
158 use the social media platform, the parties have entered into a
159 contract.

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

162 (9) The department may adopt rules to implement this
163 section.

164 Section 2. Section 501.1737, Florida Statutes, is created
165 to read:

166 501.1737 Age verification for online access to materials
167 harmful to minors.-

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

169 (a) "Anonymous age verification method" has the same
170 meaning as in s. 501.1738.

171 (b) "Commercial entity" includes a corporation, a limited
172 liability company, a partnership, a limited partnership, a sole
173 proprietorship, and any other legally recognized entity.

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

175 (d) "Distribute" means to issue, sell, give, provide,
176 deliver, transfer, transmit, circulate, or disseminate by any
177 means.

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

179 1. The average person applying contemporary community
180 standards would find, taken as a whole, appeals to the prurient
181 interest;

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

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



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186 (f) "News-gathering organization" means any of the
187 following:

188 1. A newspaper, news publication, or news source, printed
189 or published online or on a mobile platform, engaged in
190 reporting current news and matters of public interest, and an
191 employee thereof who can provide documentation of such
192 employment.

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

196 (g) "Publish" means to communicate or make information
197 available to another person or entity on a publicly available
198 website or application.

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

201 (i) "Standard age verification method" means any
202 commercially reasonable method of age verification approved by
203 the commercial entity.

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

206 (2) A commercial entity that knowingly and intentionally
207 publishes or distributes material harmful to minors on a website
208 or application, if the website or application contains a
209 substantial portion of material harmful to minors, must use
210 either an anonymous age verification method or a standard age
211 verification method to verify that the age of a person
212 attempting to access the material is 18 years of age or older
213 and prevent access to the material by a person younger than 18
214 years of age. The commercial entity must offer an anonymous age



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215 verification method and may offer a standard age verification
216 method. If both methods are offered, a person attempting to
217 access the material may select which method will be used to
218 verify his or her age.

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

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

224 (b) An Internet service provider or its affiliates or
225 subsidiaries, a search engine, or a cloud service provider does
226 not violate this section solely for providing access or
227 connection to or from a website or other information or content
228 on the Internet or a facility, system, or network not under the
229 provider's control, including transmission, downloading,
230 intermediate storage, or access software, to the extent the
231 provider is not responsible for the creation of the content of
232 the communication which constitutes material harmful to minors.

233 (5) (a) Any violation of subsection (2) or subsection (3) is
234 deemed an unfair and deceptive trade practice actionable under
235 part II of this chapter solely by the department on behalf of a
236 resident minor against a commercial entity. If the department
237 has reason to believe that a commercial entity is in violation
238 of subsection (2) or subsection (3), the department, as the
239 enforcing authority, may bring an action against the commercial
240 entity for an unfair or deceptive act or practice. For the
241 purpose of bringing an action pursuant to this section, ss.
242 501.211 and 501.212 do not apply. In addition to any other
243 remedy under part II of this chapter, the department may collect



244 a civil penalty of up to \$50,000 per violation and reasonable
245 attorney fees and court costs. When the commercial entity's
246 failure to comply with subsection (2) or subsection (3) is a
247 consistent pattern of conduct of the commercial entity, punitive
248 damages may be assessed against the commercial entity.

249 (b) A third party that performs age verification for a
250 commercial entity in violation of s. 501.1738 is deemed to have
251 committed an unfair and deceptive trade practice actionable
252 under part II of this chapter solely by the department against
253 such third party. If the department has reason to believe that
254 the third party is in violation of s. 501.1738, the department,
255 as the enforcing authority, may bring an action against such
256 third party for an unfair or deceptive act or practice. For the
257 purpose of bringing an action pursuant to this section, ss.
258 501.211 and 501.212 do not apply. In addition to other remedies
259 under part II of this chapter, the department may collect a
260 civil penalty of up to \$50,000 per violation and reasonable
261 attorney fees and court costs.

262 (c) A commercial entity that violates subsection (2) for
263 failing to prohibit or block a minor from future access to
264 material harmful to minors after a report of unauthorized or
265 unlawful access is liable to the minor for such access,
266 including court costs and reasonable attorney fees as ordered by
267 the court. Claimants may be awarded up to \$10,000 in damages. A
268 civil action for a claim under this paragraph must be brought
269 within 1 year after the violation.

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

272 (6) For purposes of bringing an action under subsection



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273 (5), a commercial entity that publishes or distributes material
274 harmful to minors on a website or application, if the website or
275 application contains a substantial portion of material harmful
276 to minors and such website or application is available to be
277 accessed in this state, is considered to be both engaged in
278 substantial and not isolated activities within this state and
279 operating, conducting, engaging in, or carrying on a business
280 and doing business in this state, and is therefore subject to
281 the jurisdiction of the courts of this state.

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

284 (8) The department may adopt rules to implement this
285 section.

286 Section 3. Section 501.1738, Florida Statutes, is created
287 to read:

288 501.1738 Anonymous age verification.—

289 (1) As used in this section, the term "anonymous age
290 verification method" means a commercially reasonable method used
291 by a government agency or a business for the purpose of age
292 verification which is conducted by a nongovernmental,
293 independent third party organized under the laws of a state of
294 the United States which:

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

297 (b) Is not owned or controlled by a company formed in a
298 foreign country, a government of a foreign country, or any other
299 entity formed in a foreign country.

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



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

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

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

310 (d) Must protect personal identifying information used to
311 verify age from unauthorized or illegal access, destruction,
312 use, modification, or disclosure through reasonable security
313 procedures and practices appropriate to the nature of the
314 personal information.

315 Section 4. If any provision of this act or its application
316 to any person or circumstances is held invalid, the invalidity
317 does not affect other provisions or applications of this act
318 which can be given effect without the invalid provision or
319 application, and to this end the provisions of this act are
320 severable.

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

322
323 ===== T I T L E A M E N D M E N T =====

324 And the title is amended as follows:

325 Delete everything before the enacting clause
326 and insert:

327 A bill to be entitled
328 An act relating to online protections for minors;
329 creating s. 501.1736, F.S.; defining terms; requiring
330 certain social media platforms to prohibit certain



331 minors from creating new accounts and to verify the
332 age of account holders; specifying the age
333 verification methods the social media platform is
334 required and authorized to offer; requiring certain
335 social media platforms to terminate certain accounts
336 and provide additional options for termination of such
337 accounts; authorizing the Department of Legal Affairs
338 to bring actions for knowing or reckless violations
339 under the Florida Deceptive and Unfair Trade Practices
340 Act; providing penalties; authorizing punitive damages
341 under certain circumstances; providing for private
342 causes of action; providing that certain social media
343 platforms are subject to the jurisdiction of state
344 courts; providing that if a social media platform
345 allows an account holder to use such platform, the
346 parties have entered into a contract; providing
347 construction; authorizing the department to adopt
348 rules; creating s. 501.1737, F.S.; defining terms;
349 requiring a commercial entity that knowingly and
350 intentionally publishes or distributes material
351 harmful to minors on a website or application that
352 contains a substantial portion of such material to use
353 certain verification methods and prevent access to
354 such material by minors; providing applicability and
355 construction; authorizing the department to bring an
356 action for violations under the Florida Deceptive and
357 Unfair Trade Practices Act; providing civil penalties;
358 authorizing punitive damages under certain
359 circumstances; providing for private causes of action;



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360 providing that certain commercial entities are subject
361 to the jurisdiction of state courts; providing
362 construction; authorizing the department to adopt
363 rules; creating s. 501.1738, F.S.; defining the term
364 "anonymous age verification method"; providing
365 requirements for a third party conducting age
366 verification pursuant to certain provisions; providing
367 for severability; providing an effective date.