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H.B. No. 18

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the protection of minors from harmful, deceptive, or
3 unfair trade practices in connection with the use of certain
4 digital services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Securing Children
7 Online through Parental Empowerment (SCOPE) Act.

8 SECTION 2. Subtitle A, Title 11, Business & Commerce Code,
9 is amended by adding Chapter 509 to read as follows:

10 CHAPTER 509. USE OF DIGITAL SERVICES BY MINORS

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 509.001. DEFINITIONS. In this chapter:

13 (1) "Digital service" means a website, an application,
14 a program, or software that performs collection or processing
15 functions with Internet connectivity.

16 (2) "Digital service provider" means a person who owns
17 or operates a digital service.

18 (3) "Known minor" means a minor under circumstances
19 where a digital service provider has actual knowledge of, or
20 wilfully disregards, a minor's age.

21 (4) "Minor" means a child who is younger than 18 years
22 of age who:

23 (A) has never been married; and

24 (B) has not had the disabilities of minority

1 removed for general purposes.

2 (5) "Verified parent" means a person who has
3 registered with a digital service provider as the parent or
4 guardian of a known minor under Section 509.052.

5 Sec. 509.002. APPLICABILITY. (a) This chapter does not
6 apply to:

7 (1) a state agency or a political subdivision of this
8 state;

9 (2) a financial institution or data subject to Title
10 V, Gramm-Leach-Bliley Act (15 U.S.C. Section 6801 et seq.);

11 (3) a covered entity or business associate governed by
12 the privacy, security, and breach notification rules issued by the
13 United States Department of Health and Human Services, 45 C.F.R.
14 Parts 160 and 164, established under the Health Insurance
15 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
16 et seq.), and the Health Information Technology for Economic and
17 Clinical Health Act (Division A, Title XIII, and Division B, Title
18 IV, Pub. L. No. 111-5);

19 (4) a small business as defined by the United States
20 Small Business Administration on September 1, 2024;

21 (5) an institution of higher education;

22 (6) a digital service provider who processes or
23 maintains user data in connection with the employment, promotion,
24 reassignment, or retention of the user as an employee or
25 independent contractor, to the extent that the user's data is
26 processed or maintained for that purpose;

27 (7) an operator or provider regulated by Subchapter D,

1 Chapter 32, Education Code; or

2 (8) a person subject to the Family Educational Rights
3 and Privacy Act of 1974 (20 U.S.C. Section 1232g) that operates a
4 digital service.

5 (b) An Internet service provider or Internet service
6 provider's affiliate is not considered to be a digital service
7 provider if the Internet service provider or affiliate provides
8 access or connection to a digital service, unless the Internet
9 service provider or affiliate exercises control of or is otherwise
10 responsible for the creation or provision of content that exposes a
11 known minor to harm as described by Section 509.053.

12 (c) A person is not a known minor after the person's 18th
13 birthday.

14 SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS

15 Sec. 509.051. PROHIBITION ON AGREEMENTS WITH KNOWN MINORS;
16 EXEMPTIONS. (a) Except as provided by this section, a digital
17 service provider may not enter into an agreement with a known minor.

18 (b) For purposes of this section, an agreement includes:

19 (1) a terms of service agreement;

20 (2) a user agreement; and

21 (3) the creation of an account for a digital service.

22 (c) A digital service provider may enter into an agreement
23 with a known minor if the known minor's parent or guardian consents
24 in a verifiable manner that:

25 (1) is specific, informed, and unambiguous; and

26 (2) occurs in the absence of any financial incentive.

27 (d) For purposes of this section, the following are

1 acceptable methods a digital service provider may use to obtain
2 consent:

3 (1) providing a form for the known minor's parent or
4 guardian to sign and return to the digital service provider by
5 common carrier, facsimile, or electronic scan;

6 (2) providing a toll-free telephone number for the
7 known minor's parent or guardian to call to consent;

8 (3) coordinating a call with a known minor's parent or
9 guardian over videoconferencing technology;

10 (4) collecting information related to the known
11 minor's parent's or guardian's government-issued identification and
12 deleting that information after confirming the identity of the
13 parent or guardian;

14 (5) allowing the known minor's parent or guardian to
15 provide consent by responding to an e-mail and taking additional
16 steps to verify the parent's or guardian's identity;

17 (6) obtaining consent from a person registered with
18 the digital service provider as the known minor's verified parent
19 under Section 509.052; and

20 (7) any other commercially reasonable method of
21 obtaining consent that complies with Subsection (c).

22 (e) An agreement under this section must include a method by
23 which a known minor's parent or guardian can register with the
24 digital service provider as the minor's verified parent under
25 Section 509.052.

26 (f) Before obtaining consent from a known minor's parent or
27 guardian, a digital service provider must give the parent or

1 guardian the ability to permanently enable settings to:

2 (1) enable the highest privacy setting offered by the
3 digital service provider;

4 (2) prevent the digital service provider from
5 collecting any data associated with the minor that is not necessary
6 to provide the digital service;

7 (3) prevent the digital service provider from
8 processing any data associated with the minor in a manner that is
9 not related to the purpose for which the data was collected;

10 (4) prevent the digital service provider from sharing,
11 disclosing, or transferring data associated with the minor in
12 exchange for monetary or other valuable consideration;

13 (5) prevent collection of geolocation data by the
14 digital service provider;

15 (6) prevent the display of targeted advertising for
16 the minor; or

17 (7) prevent the minor from making purchases or
18 financial transactions.

19 (g) If a minor's parent or guardian, including a verified
20 parent, gives consent or performs another function of a parent or
21 guardian under this chapter, the digital service provider:

22 (1) is considered to have actual knowledge that the
23 minor is less than 18 years of age; and

24 (2) must treat the minor as a known minor.

25 (h) An agreement between a digital service provider and a
26 known minor under this section may not be construed to prevent the
27 digital service provider from collecting, processing, or sharing

1 user data in a manner necessary to comply with:

2 (1) a civil, criminal, or regulatory inquiry,
3 investigation, subpoena, or summons by a governmental authority; or

4 (2) a law enforcement agency investigating conduct
5 that the digital service provider reasonably believes in good faith
6 to violate federal, state, or local laws.

7 Sec. 509.052. REGISTRATION AS VERIFIED PARENT. (a) A
8 digital service provider shall provide a process for a known
9 minor's parent or guardian to register with the digital service
10 provider as the known minor's verified parent.

11 (b) The registration process under this section must
12 require a known minor's parent or guardian to confirm the parent's
13 or guardian's identity using a method acceptable for obtaining
14 consent under Sections 509.051(d)(1)-(5).

15 (c) A person registered with a digital service provider as a
16 known minor's verified parent may give consent or perform other
17 functions of a known minor's parent or guardian under this chapter
18 relating to a digital service provider with whom the verified
19 parent is registered without confirming the verified parent's
20 identity under Sections 509.051(d)(1)-(5).

21 Sec. 509.053. DIGITAL SERVICE PROVIDER DUTY TO EXERCISE
22 REASONABLE CARE. In relation to a known minor's use of a digital
23 service, a digital service provider shall exercise reasonable care
24 to prevent:

25 (1) self harm, suicide, eating disorders, and other
26 similar behaviors;

27 (2) substance abuse and patterns of use that indicate

1 addiction;

2 (3) bullying and harassment;

3 (4) sexual exploitation, including enticement,
4 grooming, trafficking, abuse, and child pornography;

5 (5) advertisements for products or services that are
6 unlawful for a minor, including illegal drugs, tobacco, gambling,
7 pornography, and alcohol; and

8 (6) predatory, unfair, or deceptive marketing
9 practices.

10 Sec. 509.054. ACCESS TO DATA ASSOCIATED WITH KNOWN MINOR.

11 (a) A known minor's parent or guardian may submit a request to a
12 digital service provider to access any data on the digital service
13 associated with the minor.

14 (b) A digital service provider shall establish and make
15 available a simple and easily accessible method by which a known
16 minor's parent or guardian may make a request for access under this
17 section.

18 (c) The method established under Subsection (b) must:

19 (1) allow a known minor's parent or guardian to access:

20 (A) all data in the digital service provider's
21 possession associated with the known minor, organized by:

22 (i) type of data; and

23 (ii) purpose for which the digital service
24 provider processed each type of data;

25 (B) the name of each third party to which the
26 digital service provider disclosed the data, if applicable;

27 (C) each source other than the minor from which

1 the digital service provider obtained data associated with the
2 known minor;

3 (D) the length of time for which the digital
4 service provider will retain the data associated with the known
5 minor;

6 (E) any index or score assigned to the minor as a
7 result of the data, including whether the digital service provider
8 created the index or score and, if not, who created the index or
9 score;

10 (F) the manner in which the digital service
11 provider uses an index or score under Paragraph (E);

12 (G) a method by which the known minor's parent or
13 guardian may:

14 (i) dispute the accuracy of any data
15 collected or processed by the digital service provider; and

16 (ii) request that the digital service
17 provider correct any data collected or processed by the digital
18 service provider; and

19 (H) a method by which the known minor's parent or
20 guardian may request that the digital service provider delete any
21 data associated with the known minor collected or processed by the
22 digital service provider; and

23 (2) require a known minor's parent or guardian to
24 confirm the parent's or guardian's identity using a method
25 acceptable under Sections 509.051(d)(1)-(5).

26 (d) A verified parent is not required to confirm the
27 verified parent's identity under Subsection (c)(2) when making a

1 request under this section to the digital service provider with
2 whom the verified parent is registered.

3 (e) If a digital service provider receives a request under
4 Subsection (c)(1)(G), the digital service provider shall, not later
5 than the 45th day after the request is made:

6 (1) determine whether the relevant data is inaccurate
7 or incomplete; and

8 (2) make any corrections necessary.

9 (f) If a digital service provider receives a request under
10 Subsection (c)(1)(H), the digital service provider shall delete the
11 data specified by the request not later than the 45th day after the
12 request is made.

13 Sec. 509.055. ADVERTISING AND MARKETING DUTIES. A digital
14 service provider that allows advertisers to advertise to known
15 minors on the digital service shall disclose in a clear and
16 accessible manner at the time the advertisement is displayed:

17 (1) the name of each product, service, or brand
18 advertising on the digital service;

19 (2) the subject matter of each advertisement or
20 marketing material on the digital service;

21 (3) if the digital service provider or advertiser
22 targets advertisements to known minors on the digital service, the
23 reason why each advertisement has been targeted to a minor;

24 (4) the way in which data associated with a known
25 minor's use of the digital service leads to each advertisement
26 targeted to the minor; and

27 (5) whether certain media on the digital service are

1 advertisements.

2 Sec. 509.056. USE OF ALGORITHMS. A digital service
3 provider that uses algorithms to automate the suggestion,
4 promotion, or ranking of information to known minors on the digital
5 service shall:

6 (1) ensure that the algorithm does not interfere with
7 the digital service provider's duties under Section 509.053; and

8 (2) disclose in the digital service provider's terms
9 of service, in a clear and accessible manner:

10 (A) an overview of the manner in which the
11 digital service uses algorithms to provide information to known
12 minors; and

13 (B) an overview of the manner in which those
14 algorithms use data associated with a known minor.

15 Sec. 509.057. PROHIBITION AGAINST DISCRIMINATION. A
16 digital service provider may not discriminate against a known minor
17 or the known minor's parent or guardian in any manner for exercising
18 a right described by this chapter.

19 Sec. 509.058. PROTECTION OF TRADE SECRETS. Nothing in this
20 subchapter may be construed to require a digital service provider
21 to disclose a trade secret.

22 SUBCHAPTER C. ENFORCEMENT

23 Sec. 509.101. DECEPTIVE TRADE PRACTICE. A violation of
24 this chapter is a false, misleading, or deceptive act or practice as
25 defined by Section 17.46(b). Except as provided by Section
26 509.102, in addition to any remedy under this chapter, any public
27 remedy under Subchapter E, Chapter 17, is also available for a

1 violation of this chapter.

2 Sec. 509.102. NO PRIVATE RIGHT OF ACTION. This chapter may
3 not be construed as providing a basis for, or being subject to, a
4 private right of action for a violation of this chapter.

5 SECTION 3. If any provision of this Act or its application
6 to any person or circumstance is held invalid, the invalidity does
7 not affect other provisions or applications of this Act that can be
8 given effect without the invalid provision or application, and to
9 this end the provisions of this Act are declared to be severable.

10 SECTION 4. This Act takes effect September 1, 2024.