

1-1 By: Slawson, et al. (Senate Sponsor - Hughes) H.B. No. 18
 1-2 (In the Senate - Received from the House April 27, 2023;
 1-3 May 4, 2023, read first time and referred to Committee on State
 1-4 Affairs; May 21, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;
 1-6 May 21, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19			X	

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 18 By: Hughes

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the protection of minors from harmful, deceptive, or
 1-24 unfair trade practices in connection with the use of certain
 1-25 digital services and electronic devices, including the use and
 1-26 transfer of electronic devices to students by a public school.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 ARTICLE 1. SHORT TITLE

1-29 SECTION 1.01. This Act may be cited as the Securing Children
 1-30 Online through Parental Empowerment (SCOPE) Act.

1-31 ARTICLE 2. USE OF DIGITAL SERVICES BY MINORS

1-32 SECTION 2.01. Subtitle A, Title 11, Business & Commerce
 1-33 Code, is amended by adding Chapter 509 to read as follows:

1-34 CHAPTER 509. USE OF DIGITAL SERVICES BY MINORS

1-35 SUBCHAPTER A. GENERAL PROVISIONS

1-36 Sec. 509.001. DEFINITIONS. In this chapter:

1-37 (1) "Digital service" means a website, an application,
 1-38 a program, or software that performs collection or processing
 1-39 functions with Internet connectivity.

1-40 (2) "Digital service provider" means a person who:

1-41 (A) owns or operates a digital service;

1-42 (B) determines the purpose of collecting and
 1-43 processing the personal identifying information of users of the
 1-44 digital service; and

1-45 (C) determines the means used to collect and
 1-46 process the personal identifying information of users of the
 1-47 digital service.

1-48 (3) "Harmful material" has the meaning assigned by
 1-49 Section 43.24, Penal Code.

1-50 (4) "Known minor" means a person that a digital
 1-51 service provider knows to be a minor.

1-52 (5) "Minor" means a child who is younger than 18 years
 1-53 of age who has not had the disabilities of minority removed for
 1-54 general purposes.

1-55 (6) "Personal identifying information" means
 1-56 information that identifies, relates to, describes, can be
 1-57 associated with, or can reasonably be linked to, directly or
 1-58 indirectly, a particular consumer or household. The term does not
 1-59 include publicly available information.

1-60 (7) "Verified parent" means the parent or guardian of

2-1 a known minor whose identity and relationship to the minor have been
2-2 verified by a digital service provider under Section 509.101.
2-3 Sec. 509.002. APPLICABILITY. (a) Except to the extent that
2-4 Section 509.057 applies to any digital service provider, this
2-5 chapter applies only to a digital service provider who provides a
2-6 digital service that:
2-7 (1) has a primary function of connecting users in a
2-8 manner that allows users to socially interact with other users on
2-9 the digital service;
2-10 (2) allows a user to create a public or semi-public
2-11 profile for purposes of signing into and using the digital service;
2-12 and
2-13 (3) allows a user to create or post content that can be
2-14 viewed by other users of the digital service, including sharing
2-15 content on:
2-16 (A) a message board;
2-17 (B) a chat room; or
2-18 (C) a landing page or main feed that presents to a
2-19 user content created and posted by other users.
2-20 (b) This chapter does not apply to:
2-21 (1) a state agency or a political subdivision of this
2-22 state;
2-23 (2) a financial institution or data subject to Title
2-24 V, Gramm-Leach-Bliley Act (15 U.S.C. Section 6801 et seq.);
2-25 (3) a covered entity or business associate governed by
2-26 the privacy, security, and breach notification rules issued by the
2-27 United States Department of Health and Human Services, 45 C.F.R.
2-28 Parts 160 and 164, established under the Health Insurance
2-29 Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d
2-30 et seq.), and the Health Information Technology for Economic and
2-31 Clinical Health Act (Division A, Title XIII, and Division B, Title
2-32 IV, Pub. L. No. 111-5);
2-33 (4) a small business as defined by the United States
2-34 Small Business Administration on September 1, 2024;
2-35 (5) an institution of higher education;
2-36 (6) a digital service provider who processes or
2-37 maintains user data in connection with the employment, promotion,
2-38 reassignment, or retention of the user as an employee or
2-39 independent contractor, to the extent that the user's data is
2-40 processed or maintained for that purpose;
2-41 (7) an operator or provider regulated by Subchapter D,
2-42 Chapter 32, Education Code, that primarily provides education
2-43 services to students or educational institutions;
2-44 (8) a person subject to the Family Educational Rights
2-45 and Privacy Act of 1974 (20 U.S.C. Section 1232g) that:
2-46 (A) operates a digital service; and
2-47 (B) primarily provides education services to
2-48 students or educational institutions;
2-49 (9) a digital service provider who provides a digital
2-50 service that facilitates e-mail or direct messaging services, if
2-51 the digital service facilitates only those services; or
2-52 (10) a digital service provider who provides a digital
2-53 service that:
2-54 (A) primarily functions to provide a user with
2-55 access to news, sports, entertainment, commerce, or content
2-56 selected by the digital service provider; and
2-57 (B) allows chat, comment, or other interactive
2-58 functionality that is incidental to the digital service.
2-59 (c) Unless an Internet service provider, Internet service
2-60 provider's affiliate or subsidiary, search engine, or cloud service
2-61 provider is responsible for the creation of harmful material or
2-62 other content described by Section 509.053(a), the Internet service
2-63 provider, Internet service provider's affiliate or subsidiary,
2-64 search engine, or cloud service provider is not considered a
2-65 digital service provider if the Internet service provider or
2-66 provider's affiliate or subsidiary, search engine, or cloud service
2-67 provider solely provides access or connection, including through
2-68 transmission, download, intermediate storage, access software, or
2-69 other service, to an Internet website or to other information or

3-1 content:
 3-2 (1) on the Internet; or
 3-3 (2) on a facility, system, or network not under the
 3-4 control of the Internet service provider, provider's affiliate or
 3-5 subsidiary, search engine, or cloud service provider.
 3-6 SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS
 3-7 Sec. 509.051. DIGITAL SERVICE PROVIDER DUTY TO REGISTER AGE
 3-8 OF USER. (a) A digital service provider may not enter into an
 3-9 agreement with a person for access to a digital service unless the
 3-10 person has registered the person's age with the digital service
 3-11 provider.
 3-12 (b) A person who registers the person's age as younger than
 3-13 18 years of age is considered to be a known minor to the digital
 3-14 service provider until after the person's 18th birthday.
 3-15 (c) A digital service provider may not allow a person who
 3-16 registers the person's age to alter the person's registered age,
 3-17 unless the alteration process involves a commercially reasonable
 3-18 review process.
 3-19 (d) A minor is considered to a be known minor to a digital
 3-20 service provider if:
 3-21 (1) the minor registers the minor's age under Section
 3-22 509.051 as younger than 18 years of age; or
 3-23 (2) the minor's parent or guardian, including a
 3-24 verified parent:
 3-25 (A) notifies a digital service provider that the
 3-26 minor is younger than 18 years of age;
 3-27 (B) successfully disputes the registered age of
 3-28 the minor; or
 3-29 (C) performs another function of a parent or
 3-30 guardian under this chapter
 3-31 (e) If a minor is a known minor, or if the minor's parent or
 3-32 guardian, including a verified parent, takes an action under
 3-33 Subsection (a), a digital service provider:
 3-34 (1) is considered to have actual knowledge that the
 3-35 minor is younger than 18 years of age; and
 3-36 (2) shall treat the minor as a known minor under this
 3-37 chapter.
 3-38 Sec. 509.052. DIGITAL SERVICE PROVIDER DUTIES RELATING TO
 3-39 AGREEMENT WITH MINOR. Unless a verified parent provides otherwise
 3-40 under Section 509.102, a digital service provider that enters into
 3-41 an agreement with a known minor for access to a digital service:
 3-42 (1) shall:
 3-43 (A) limit collection of the known minor's
 3-44 personal identifying information to information reasonably
 3-45 necessary to provide the digital service; and
 3-46 (B) limit use of the known minor's personal
 3-47 identifying information to the purpose for which the information
 3-48 was collected; and
 3-49 (2) may not:
 3-50 (A) allow the known minor to make purchases or
 3-51 engage in other financial transactions through the digital service;
 3-52 (B) share, disclose, or sell the known minor's
 3-53 personal identifying information;
 3-54 (C) use the digital service to collect the known
 3-55 minor's precise geolocation data; or
 3-56 (D) use the digital service to display targeted
 3-57 advertising to the known minor.
 3-58 Sec. 509.053. DIGITAL SERVICE PROVIDER DUTY TO PREVENT HARM
 3-59 TO KNOWN MINORS. (a) In relation to a known minor's use of a digital
 3-60 service, a digital service provider shall develop and implement a
 3-61 strategy to prevent the known minor's exposure to harmful material
 3-62 and other content that promotes, glorifies, or facilitates:
 3-63 (1) suicide, self-harm, or eating disorders;
 3-64 (2) substance abuse;
 3-65 (3) stalking, bullying, or harassment; or
 3-66 (4) grooming, trafficking, child pornography, or
 3-67 other sexual exploitation or abuse.
 3-68 (b) A strategy developed under Subsection (a) may include:
 3-69 (1) creating and maintaining a comprehensive list of

4-1 harmful material or other content described by Subsection (a) to
4-2 block from display to a known minor;
4-3 (2) using filtering technology and other protocols to
4-4 enforce the blocking of material or content on the list under
4-5 Subdivision (1) uniformly across all platforms on which the digital
4-6 service operates;
4-7 (3) using hash-sharing technology and other protocols
4-8 to identify recurring harmful material or other content described
4-9 by Subsection (a);
4-10 (4) creating and maintaining a database of keywords
4-11 used for filter evasion, such as identifiable misspellings,
4-12 hash-tags, or identifiable homoglyphs;
4-13 (5) performing standard human-performed monitoring
4-14 reviews to ensure efficacy of filtering technology;
4-15 (6) making available to users a comprehensive
4-16 description of the categories of harmful material or other content
4-17 described by Subsection (a) that will be filtered;
4-18 (7) engaging a third party to rigorously review the
4-19 digital service provider's content filtering technology;
4-20 (8) except as provided by Section 509.058, making
4-21 available the digital service provider's algorithm code to
4-22 independent security researchers;
4-23 (9) participating in industry-specific partnerships
4-24 to share best practices in preventing access to harmful material or
4-25 other content described by Subsection (a); or
4-26 (10) conducting periodic independent audits to
4-27 ensure:
4-28 (A) continued compliance with the digital
4-29 service provider's strategy; and
4-30 (B) efficacy of filtering technology and
4-31 protocols used by the digital service provider.
4-32 Sec. 509.054. DIGITAL SERVICE PROVIDER DUTY TO CREATE
4-33 PARENTAL TOOLS. (a) A digital service provider shall create and
4-34 provide to a verified parent parental tools to allow the verified
4-35 parent to supervise the verified parent's known minor's use of a
4-36 digital service.
4-37 (b) Parental tools under this section must allow a verified
4-38 parent to:
4-39 (1) control the known minor's privacy and account
4-40 settings;
4-41 (2) alter the duties of a digital service provider
4-42 under Section 509.052 with regard to the verified parent's known
4-43 minor;
4-44 (3) if the verified parent alters the duty of a digital
4-45 service provider under Section 509.052(2)(A), restrict the ability
4-46 of the verified parent's known minor to make purchases or engage in
4-47 financial transactions; and
4-48 (4) monitor the amount of time the verified parent's
4-49 known minor spends using the digital service.
4-50 Sec. 509.055. DIGITAL SERVICE PROVIDER DUTIES REGARDING
4-51 ADVERTISING AND MARKETING. A digital service provider shall make a
4-52 commercially reasonable effort to prevent advertisers on the
4-53 digital service provider's digital service from targeting a known
4-54 minor with advertisements that facilitate, promote, or offer a
4-55 product, service, or activity that is unlawful for a minor in this
4-56 state to use or engage in.
4-57 Sec. 509.056. USE OF ALGORITHMS. A digital service
4-58 provider that uses algorithms to automate the suggestion,
4-59 promotion, or ranking of information to known minors on the digital
4-60 service shall:
4-61 (1) make a commercially reasonable effort to ensure
4-62 that the algorithm does not interfere with the digital service
4-63 provider's duties under Section 509.053; and
4-64 (2) disclose in the digital service provider's terms
4-65 of service, privacy policy, or similar document, in a clear and
4-66 accessible manner, an overview of:
4-67 (A) the manner in which the digital service uses
4-68 algorithms to provide information or content;
4-69 (B) the manner in which algorithms promote, rank,

5-1 or filter information or content; and

5-2 (C) the personal identifying information used as
5-3 inputs to provide information or content.

5-4 Sec. 509.057. DIGITAL SERVICE PROVIDER DUTY AS TO HARMFUL
5-5 MATERIAL. (a) A digital service provider as defined by Section
5-6 509.001 that knowingly publishes or distributes material, more than
5-7 one-third of which is harmful material or obscene as defined by
5-8 Section 43.21, Penal Code, must use a commercially reasonable age
5-9 verification method to verify that any person seeking to access
5-10 content on or through the provider's digital service is 18 years of
5-11 age or older.

5-12 (b) If a person seeking to access content on or through the
5-13 provider's digital service is not 18 years of age or older, the
5-14 digital service provider may not enter into an agreement with the
5-15 person for access to the digital service.

5-16 Sec. 509.058. PROTECTION OF TRADE SECRETS. Nothing in this
5-17 subchapter may be construed to require a digital service provider
5-18 to disclose a trade secret.

5-19 Sec. 509.059. USE OF KNOWN MINOR'S PERSONAL IDENTIFYING
5-20 INFORMATION FOR CERTAIN PURPOSES. Nothing in this subchapter may be
5-21 construed to prevent a digital service provider from collecting,
5-22 processing, or sharing a known minor's personal identifying
5-23 information in a manner necessary to comply with:

5-24 (1) a civil, criminal, or regulatory inquiry,
5-25 investigation, subpoena, or summons by a governmental entity; or

5-26 (2) a law enforcement investigation.

5-27 SUBCHAPTER C. VERIFIED PARENTS

5-28 Sec. 509.101. VERIFICATION OF PARENT OR GUARDIAN. (a) A
5-29 digital service provider shall verify, using a commercially
5-30 reasonable method and for each person seeking to perform an action
5-31 on a digital service as a minor's parent or guardian:

5-32 (1) the person's identity; and

5-33 (2) the relationship of the person to the known minor.

5-34 (b) A digital service provider shall provide a process by
5-35 which a person who has been verified under Subsection (a) as the
5-36 parent or guardian of a known minor may participate in the digital
5-37 service as the known minor's verified parent as provided by this
5-38 chapter.

5-39 Sec. 509.102. POWERS OF VERIFIED PARENT. (a) A verified
5-40 parent is entitled to alter the duties of a digital service provider
5-41 under Section 509.052 with regard to the verified parent's known
5-42 minor.

5-43 (b) A verified parent is entitled to supervise the verified
5-44 parent's known minor's use of a digital service using tools provided
5-45 by a digital service provider under Section 509.054.

5-46 Sec. 509.103. ACCESS TO KNOWN MINOR'S PERSONAL IDENTIFYING
5-47 INFORMATION. (a) A known minor's verified parent may submit a
5-48 request to a digital service provider to:

5-49 (1) review and download any personal identifying
5-50 information associated with the minor in the possession of the
5-51 digital service provider; and

5-52 (2) delete any personal identifying information
5-53 associated with the minor collected or processed by the digital
5-54 service provider.

5-55 (b) A digital service provider shall establish and make
5-56 available on the digital service provider's digital service a
5-57 method by which a known minor's parent or guardian may make a
5-58 request for access under this section.

5-59 Sec. 509.104. MINOR IN CONSERVATORSHIP OF DEPARTMENT OF
5-60 FAMILY AND PROTECTIVE SERVICES. If a minor is in the
5-61 conservatorship of the Department of Family and Protective
5-62 Services, the department may designate the minor's caregiver or a
5-63 member of the department's staff to perform the functions of the
5-64 minor's parent or guardian under this chapter.

5-65 SUBCHAPTER D. ENFORCEMENT

5-66 Sec. 509.151. DECEPTIVE TRADE PRACTICE; ENFORCEMENT BY
5-67 ATTORNEY GENERAL. A violation of this chapter is a deceptive act or
5-68 practice actionable under Subchapter E, Chapter 17, solely as an
5-69 enforcement action by the consumer protection division of the

6-1 attorney general's office.

6-2 Sec. 509.152. PRIVATE CAUSE OF ACTION. (a) Except as
 6-3 provided by Subsection (b), this chapter may not be construed as
 6-4 providing a basis for, or being subject to, a private right of
 6-5 action for a violation of this chapter.

6-6 (b) If a digital service provider violates this chapter, the
 6-7 parent or guardian of a known minor affected by that violation may
 6-8 bring a cause of action seeking:

6-9 (1) a declaratory judgment under Chapter 37, Civil
 6-10 Practice and Remedies Code; or

6-11 (2) an injunction against the digital service
 6-12 provider.

6-13 ARTICLE 3. USE AND TRANSFER OF ELECTRONIC DEVICES BY STUDENTS

6-14 SECTION 3.01. The heading to Subchapter C, Chapter 32,
 6-15 Education Code, is amended to read as follows:

6-16 SUBCHAPTER C. TRANSFER OF DATA PROCESSING EQUIPMENT AND ELECTRONIC
 6-17 DEVICES TO STUDENTS

6-18 SECTION 3.02. Section 32.101, Education Code, is amended to
 6-19 read as follows:

6-20 Sec. 32.101. DEFINITIONS [DEFINITION]. In this subchapter:

6-21 (1) "Data [~~,"~~ "data] processing" has the meaning
 6-22 assigned by Section 2054.003, Government Code.

6-23 (2) "Electronic device" means a device that is capable
 6-24 of connecting to a cellular network or the Internet, including:

6-25 (A) a computer;

6-26 (B) a smartphone; or

6-27 (C) a tablet.

6-28 (3) "Internet filter" means a software application
 6-29 that is capable of preventing an electronic device from accessing
 6-30 certain websites or displaying certain online material.

6-31 SECTION 3.03. Subchapter C, Chapter 32, Education Code, is
 6-32 amended by adding Section 32.1021 to read as follows:

6-33 Sec. 32.1021. STANDARDS. The agency shall adopt standards
 6-34 for permissible electronic devices and software applications used
 6-35 by a school district or open-enrollment charter school. In adopting
 6-36 the standards, the agency must:

6-37 (1) minimize data collection conducted on students
 6-38 through electronic devices and software applications;

6-39 (2) ensure direct and informed parental consent is
 6-40 required for a student's use of a software application necessary
 6-41 for the administration of:

6-42 (A) an assessment instrument under Subchapter B,
 6-43 Chapter 39; or

6-44 (B) an assessment relating to college, career, or
 6-45 military readiness for which student performance is considered in
 6-46 evaluating a school district's performance under Section 39.054;

6-47 (3) ensure software applications do not conduct mental
 6-48 health assessments or other assessments unrelated to educational
 6-49 curricula that are intended to collect information about students
 6-50 without direct and informed parental consent;

6-51 (4) ensure that parents are provided the resources
 6-52 necessary to understand cybersecurity risks and online safety
 6-53 regarding their child's use of electronic devices before the child
 6-54 uses an electronic device at the child's school;

6-55 (5) specify periods of time during which an electronic
 6-56 device transferred to a student must be deactivated in the interest
 6-57 of student safety;

6-58 (6) consider necessary adjustments by age level to the
 6-59 use of electronic devices in the classroom to foster development of
 6-60 students' abilities regarding spending school time and completing
 6-61 assignments without the use of an electronic device;

6-62 (7) consider appropriate restrictions on student
 6-63 access to social media websites or applications with an electronic
 6-64 device transferred to a student by a district or school;

6-65 (8) require a district or school, before using a
 6-66 social media application for an educational purpose, to determine
 6-67 that an alternative application that is more secure and provides
 6-68 the same educational functionality as the social media application
 6-69 is unavailable for that educational purpose;

7-1 (9) consider the required use of an Internet filter
7-2 capable of notifying appropriate school administrators, who are
7-3 then required to notify the student's parent, if a student accesses
7-4 inappropriate or concerning content or words, including content
7-5 related to:

- 7-6 (A) self-harm;
- 7-7 (B) suicide;
- 7-8 (C) violence to others; or
- 7-9 (D) illicit drugs;

7-10 (10) assign to the appropriate officer of a district
7-11 or school the duty to receive complaints or concerns regarding
7-12 student use of electronic devices, including cybersecurity and
7-13 online safety concerns, from district or school staff, other
7-14 students, or parents; and

7-15 (11) provide methods by which a district or school may
7-16 ensure an operator, as that term is defined by Section 32.151, that
7-17 contracts with the district or school to provide software
7-18 applications complies with Subchapter D.

7-19 SECTION 3.04. Section 32.104, Education Code, is amended to
7-20 read as follows:

7-21 Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before
7-22 transferring data processing equipment or an electronic device to a
7-23 student, a school district or open-enrollment charter school must:

7-24 (1) adopt rules governing transfers under this
7-25 subchapter, including provisions for technical assistance to the
7-26 student by the district or school;

7-27 (2) determine that the transfer serves a public
7-28 purpose and benefits the district or school; ~~and~~

7-29 (3) remove from the equipment any offensive,
7-30 confidential, or proprietary information, as determined by the
7-31 district or school;

7-32 (4) adopt rules establishing programs promoting
7-33 parents as partners in cybersecurity and online safety that involve
7-34 parents in students' use of transferred equipment or electronic
7-35 devices; and

7-36 (5) for the transfer of an electronic device to be used
7-37 for an educational purpose, install an Internet filter that blocks
7-38 and prohibits pornographic or obscene materials or applications,
7-39 including from unsolicited pop-ups, installations, and downloads.

7-40 ARTICLE 4. STUDY OF EFFECTS OF MEDIA ON MINORS

7-41 SECTION 4.01. (a) A joint committee of the legislature
7-42 shall conduct a study on the effects of media on minors.

7-43 (b) The joint committee shall consist of:

7-44 (1) members of the house of representatives appointed
7-45 by the speaker of the house of representatives; and

7-46 (2) members of the senate appointed by the lieutenant
7-47 governor.

7-48 (c) In conducting the study, members of the joint committee
7-49 shall confer with experts on the subject.

7-50 (d) The members of the joint committee shall examine:

7-51 (1) the health and developmental effects of media on
7-52 minors; and

7-53 (2) the effects of exposure by a minor to various forms
7-54 of media, including:

- 7-55 (A) social media platforms;
- 7-56 (B) software applications;
- 7-57 (C) Internet websites;
- 7-58 (D) television programming;
- 7-59 (E) motion pictures and film;
- 7-60 (F) artificial intelligence;
- 7-61 (G) mobile devices;
- 7-62 (H) computers;
- 7-63 (I) video games;
- 7-64 (J) virtual and augmented reality; and
- 7-65 (K) other media formats the joint committee
7-66 considers necessary.

7-67 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

7-68 SECTION 5.01. If any provision of this Act or its
7-69 application to any person or circumstance is held invalid, the

8-1 invalidity does not affect other provisions or applications of this
8-2 Act that can be given effect without the invalid provision or
8-3 application, and to this end the provisions of this Act are declared
8-4 to be severable.

8-5 SECTION 5.02. Article 3 of this Act applies beginning with
8-6 the 2023-2024 school year.

8-7 SECTION 5.03. (a) Except as provided by Subsection (b) of
8-8 this section, this Act takes effect September 1, 2024.

8-9 (b) Article 3 of this Act takes effect immediately if it
8-10 receives a vote of two-thirds of all the members elected to each
8-11 house, as provided by Section 39, Article III, Texas Constitution.
8-12 If this Act does not receive the vote necessary for immediate
8-13 effect, Article 3 of this Act takes effect September 1, 2023.

8-14

* * * * *