

BILL ANALYSIS

Senate Research Center

H.B. 1181
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State Affairs
5/13/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Studies show the ease at which minors are able to access pornography is poorly controlled and allows exposure and exploitation of children online. Pornography is potentially biologically addictive, desensitizing brain reward circuits, increasing conditioned responses, and weakening brain function.

This legislation would ban minors under 18 years old from viewing explicit content online by requiring distributors and publishers of explicit content to require 18 years of age to view content. Commercial entities are held liable if they fail to perform age verification.

H.B. 1181 amends current law relating to restricting access to sexual material harmful to minors on an Internet website and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 129B, as follows:

CHAPTER 129B. LIABILITY FOR ALLOWING MINORS TO ACCESS PORNOGRAPHIC MATERIAL

Sec. 129B.001. DEFINITIONS. Defines "commercial entity," "distribute," "minor," "news-gathering organization," "publish," "sexual material harmful to minors," and "transactional data."

Sec. 129B.002. PUBLICATION OF MATERIAL HARMFUL TO MINORS. (a) Requires a commercial entity that knowingly and intentionally publishes or distributes material on an Internet website, including a social media platform, more than one-third of which is sexual material harmful to minors, to use reasonable age verification methods as described by Section 129B.003 to verify that an individual attempting to access the material is 18 years of age or older.

(b) Prohibits a commercial entity that performs the age verification required by Subsection (a) or a third party that performs the age verification required by Subsection (a) from retaining any identifying information of the individual.

Sec. 129B.003. REASONABLE AGE VERIFICATION METHODS. (a) Defines "digital identification."

(b) Requires a commercial entity that knowingly and intentionally publishes or distributes material on an Internet website or a third party that performs age verification under this chapter to require an individual to:

- (1) provide digital identification; or
- (2) comply with a commercial age verification system that verifies age using:
 - (A) government-issued identification; or
 - (B) a commercially reasonable method that relies on public or private transactional data to verify the age of an individual.

Sec. 129B.004. APPLICABILITY OF CHAPTER. (a) Provides that this chapter does not apply to a bona fide news or public interest broadcast, website video, report, or event and is prohibited from being construed to affect the rights of a news-gathering organization.

(b) Prohibits an Internet service provider, or its affiliates or subsidiaries, a search engine, or a cloud service provider from being held to have violated this chapter solely for providing access or connection to or from a website or other information or content on the Internet or on a facility, system, or network not under that provider's control, including transmission, downloading, intermediate storage, access software, or other services to the extent the provider or search engine is not responsible for the creation of the content that constitutes sexual material harmful to minors.

Sec. 129B.005. CIVIL PENALTY; INJUNCTION. (a) Authorizes the attorney general, if the attorney general believes that an entity is knowingly violating or has knowingly violated this chapter and the action is in the public interest, to bring an action in a Travis County district court or the district court in the county in which the principal place of business of the entity is located in this state to enjoin the violation, recover a civil penalty described by Subsection (b), and obtain other relief the court considers appropriate.

(b) Authorizes a civil penalty imposed under this section to be in an amount equal to not more than the total, if applicable, of:

- (1) \$10,000 per day that the entity operates an Internet website in violation of the age verification requirements of this chapter;
- (2) \$10,000 per instance when the entity retains identifying information in violation of Section 129B.002(b); and
- (3) if, because of the entity's violation of the age verification requirements of this chapter, one or more minors accesses sexual material harmful to minors, an additional amount of not more than \$250,000.

(c) Requires that the amount of a civil penalty under this section be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;
- (4) the economic effect of a penalty on the entity on whom the penalty will be imposed;
- (5) the entity's knowledge that the act constituted a violation of this chapter; and
- (6) any other matter that justice may require.

SECTION 2. Effective date: September 1, 2023.