

BILL ANALYSIS

Senate Research Center
88R10318 SHH-D

S.B. 2021
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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 of age from viewing explicit content online by requiring distributors and publishers of explicit content to require 18 years of age verification to view content. Commercial entities are held liable if they fail to perform age verification. The publisher and distributor of explicit content must show a Texas Health and Human Services warning before viewing the page. The webpage is also required to show a porn addiction help page on all pages.

As proposed, S.B. 2021 amends current law relating to requirements for certain Internet websites containing sexual material harmful to minors.

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 the heading to Chapter 120, Business and Commerce Code, to read as follows:

CHAPTER 120. SOCIAL MEDIA PLATFORMS AND INTERNET WEBSITES

SECTION 2. Amends Chapter 120, Business and Commerce Code, by adding Subchapter E, as follows:

SUBCHAPTER E. SEXUAL MATERIAL HARMFUL TO MINORS

Sec. 120.201. DEFINITIONS. Defines "commercial entity," "distribute," "minor," "news-gathering organization," "publish," "sexual material harmful to minors," and "transactional data."

Sec. 120.202. 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 120.203 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 after access has been granted to the material.

(c) Provides that a commercial entity that knowingly and intentionally publishes or distributes material on an Internet website that is found to have violated this section is liable to the parent or guardian of the minor for damages resulting from a minor's access to the material, including court costs and reasonable attorney fees as ordered by the court.

(d) Provides that a commercial entity that knowingly and intentionally publishes or distributes material on an Internet website, or a third party that performs the age verification required by Subsection (a) that is found to have knowingly retained identifying information of an individual after access has been granted to the individual is liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.

Sec. 120.203. 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 subchapter 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. 120.204. SEXUAL MATERIALS HEALTH WARNINGS. Requires a commercial entity required to use reasonable age verification methods under Section 120.202(a) to display certain notices on the landing page of the Internet website and all advertisements for the Internet website. Sets forth the required language for the Internet website notices.

Sec. 120.205. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter 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 subchapter 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.

SECTION 3. Effective date: September 1, 2023.