

By: Slawson, Patterson, González of El Paso,
Burrows, Darby, et al.

H.B. No. 18

Substitute the following for H.B. No. 18:

By: Lozano

C.S.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.

23 (5) "Verified parent" means a person who has
24 registered with a digital service provider as the parent or

1 guardian of a known minor under Section 509.052.

2 Sec. 509.002. APPLICABILITY. This chapter does not apply
3 to:

4 (1) a state agency or a political subdivision of this
5 state;

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

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

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

18 (5) an institution of higher education.

19 SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS

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

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

24 (1) a terms of service agreement;

25 (2) a user agreement; and

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

27 (c) A digital service provider may enter into an agreement

1 with a known minor if the known minor's parent or guardian consents
2 in a verifiable manner that:

- 3 (1) is specific, informed, and unambiguous; and
4 (2) occurs in the absence of any financial or other
5 incentive.

6 (d) For purposes of this section, the following are
7 acceptable methods a digital service provider may use to obtain
8 consent:

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

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

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

16 (4) collecting information related to the known
17 minor's parent's or guardian's government-issued identification and
18 deleting that information after confirming the identity of the
19 parent or guardian;

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

23 (6) obtaining consent from a person registered with
24 the digital service provider as the known minor's verified parent
25 under Section 509.052.

26 (e) An agreement under this section must include a method by
27 which a known minor's parent or guardian can register with the

1 digital service provider as the minor's verified parent under
2 Section 509.052.

3 (f) Before obtaining consent from a known minor's parent or
4 guardian, a digital service provider must give the parent or
5 guardian the ability to permanently enable settings to:

6 (1) enable the highest privacy setting offered by the
7 digital service provider;

8 (2) prevent the digital service provider from
9 collecting any data associated with the minor that is not necessary
10 to provide the digital service;

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

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

17 (5) prevent collection of geolocation data by the
18 digital service provider;

19 (6) disable targeted advertising for the minor; or

20 (7) prevent the minor from making purchases or
21 financial transactions.

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

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

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

1 Sec. 509.052. REGISTRATION AS VERIFIED PARENT. (a) A
2 digital service provider shall provide a process for a known
3 minor's parent or guardian to register with the digital service
4 provider as the known minor's verified parent.

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

9 (c) A person registered with a digital service provider as a
10 known minor's verified parent may give consent or perform other
11 functions of a known minor's parent or guardian under this chapter
12 relating to a digital service provider with whom the verified
13 parent is registered without confirming the verified parent's
14 identity under Sections 509.051(d)(1)-(5).

15 Sec. 509.053. DIGITAL SERVICE PROVIDER DUTY TO PREVENT
16 HARM. (a) A digital service provider shall exercise reasonable
17 care to prevent physical, emotional, and developmental harm to a
18 known minor in relation to the minor's use of the digital service,
19 including:

20 (1) self harm, suicide, eating disorders, and other
21 similar behaviors;

22 (2) substance abuse and patterns of use that indicate
23 addiction;

24 (3) bullying and harassment;

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

27 (5) advertisements for products or services that are

1 unlawful for a minor, including illegal drugs, tobacco, gambling,
2 pornography, and alcohol; and

3 (6) predatory, unfair, or deceptive marketing
4 practices.

5 (b) A digital service provider shall exercise reasonable
6 care to ensure that a known minor is not exposed to a type of harm
7 described by Subsection (a) in relation to the minor's use of the
8 digital service.

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

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

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

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

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

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

21 (i) type of data; and

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

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

26 (C) each source other than the minor from which
27 the digital service provider obtained data associated with the

1 known minor;

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

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

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

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

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

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

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

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

25 (d) A verified parent is not required to confirm the
26 verified parent's identity under Subsection (c)(2) when making a
27 request under this section to the digital service provider with

1 whom the verified parent is registered.

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

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

7 (2) make any corrections necessary.

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

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

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

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

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

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

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

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

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

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

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

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

14 Sec. 509.057. PROHIBITION ON LIMITING OR DISCONTINUING
15 DIGITAL SERVICE. A digital service provider may not limit or
16 discontinue a digital service provided to a known minor due to the
17 nature of responses made by the known minor's parent or guardian
18 under Section 509.051(f).

19 SUBCHAPTER C. ENFORCEMENT

20 Sec. 509.101. DECEPTIVE TRADE PRACTICE. A violation of
21 this chapter is a false, misleading, or deceptive act or practice as
22 defined by Section 17.46(b). In addition to any remedy under this
23 chapter, a remedy under Subchapter E, Chapter 17, is also available
24 for a violation of this chapter.

25 SECTION 3. If any provision of this Act or its application
26 to any person or circumstance is held invalid, the invalidity does
27 not affect other provisions or applications of this Act that can be

C.S.H.B. No. 18

1 given effect without the invalid provision or application, and to
2 this end the provisions of this Act are declared to be severable.

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