

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

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

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.

By: Bryan Hughes

Substitute the following for  
By: Bryan Hughes

**ADOPTED**  
MAY 23 2023

Lacey Spaw  
Secretary of the Senate

H.B. No. 18

C.S. H.B. No. 18

A BILL TO BE ENTITLED

AN ACT

<EOH>

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

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

ARTICLE 1. SHORT TITLE

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

ARTICLE 2. USE OF DIGITAL SERVICES BY MINORS

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

CHAPTER 509. USE OF DIGITAL SERVICES BY MINORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 509.001. DEFINITIONS. In this chapter:

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

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

(A) owns or operates a digital service;

(B) determines the purpose of collecting and processing the personal identifying information of users of the digital service; and

1                   (C) determines the means used to collect and  
2 process the personal identifying information of users of the  
3 digital service.

4                   (3) "Harmful material" has the meaning assigned by  
5 Section 43.24, Penal Code.

6                   (4) "Known minor" means a person that a digital service  
7 provider knows to be a minor.

8                   (5) "Minor" means a child who is younger than 18 years  
9 of age who has not had the disabilities of minority removed for  
10 general purposes.

11                   (6) "Personal identifying information" means information  
12 that identifies, relates to, describes, can be associated with, or  
13 can reasonably be linked to, directly or indirectly, a particular  
14 consumer or household. The term does not include publicly available  
15 information.

16                   (7) "Verified parent" means the parent or guardian of a  
17 known minor whose identity and relationship to the minor have been  
18 verified by a digital service provider under Section 509.101.

19                   Sec. 509.002. APPLICABILITY. (a) Except to the extent that  
20 Section 509.057 applies to any digital service provider, this  
21 chapter applies only to a digital service provider who provides a  
22 digital service that:

23                   (1) has a primary function of connecting users in a  
24 manner that allows users to socially interact with other users on  
25 the digital service;

1           (2) allows a user to create a public or semi-public  
2 profile for purposes of signing into and using the digital service;  
3 and

4           (3) allows a user to create or post content that can be  
5 viewed by other users of the digital service, including sharing  
6 content on:

7                   (A) a message board;

8                   (B) a chat room; or

9                   (C) a landing page or main feed that presents to a  
10 user content created and posted by other users.

11           (b) This chapter does not apply to:

12                   (1) a state agency or a political subdivision of this  
13 state;

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

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

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

26                   (5) an institution of higher education;

1           (6) a digital service provider who processes or  
2 maintains user data in connection with the employment, promotion,  
3 reassignment, or retention of the user as an employee or  
4 independent contractor, to the extent that the user's data is  
5 processed or maintained for that purpose;

6           (7) an operator or provider regulated by Subchapter D,  
7 Chapter 32, Education Code, that primarily provides education  
8 services to students or educational institutions;

9           (8) a person subject to the Family Educational Rights  
10 and Privacy Act of 1974 (20 U.S.C. Section 1232g) that:

11                   (A) operates a digital service; and

12                   (B) primarily provides education services to  
13 students or educational institutions;

14           (9) a digital service provider who provides a digital  
15 service that facilitates e-mail or direct messaging services, if  
16 the digital service facilitates only those services; or

17           (10) a digital service provider who provides a digital  
18 service that:

19                   (A) primarily functions to provide a user with  
20 access to news, sports, entertainment, commerce, or content  
21 selected by the digital service provider; and

22                   (B) allows chat, comment, or other interactive  
23 functionality that is incidental to the digital service.

24           (c) Unless an Internet service provider, Internet service  
25 provider's affiliate or subsidiary, search engine, or cloud  
26 service provider is responsible for the creation of harmful  
27 material or other content described by Section 509.053(a), the

1 Internet service provider, Internet service provider's affiliate  
2 or subsidiary, search engine, or cloud service provider is not  
3 considered a digital service provider if the Internet service  
4 provider or provider's affiliate or subsidiary, search engine, or  
5 cloud service provider solely provides access or connection,  
6 including through transmission, download, intermediate storage,  
7 access software, or other service, to an Internet website or to  
8 other information or content:

9 (1) on the Internet; or

10 (2) on a facility, system, or network not under the  
11 control of the Internet service provider, provider's affiliate or  
12 subsidiary, search engine, or cloud service provider.

13 SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS

14 Sec. 509.051. DIGITAL SERVICE PROVIDER DUTY TO REGISTER AGE  
15 OF USER. (a) A digital service provider may not enter into an  
16 agreement with a person for access to a digital service unless the  
17 person has registered the person's age with the digital service  
18 provider.

19 (b) A person who registers the person's age as younger than  
20 18 years of age is considered to be a known minor to the digital  
21 service provider until after the person's 18th birthday.

22 (c) A digital service provider may not allow a person who  
23 registers the person's age to alter the person's registered age,  
24 unless the alteration process involves a commercially reasonable  
25 review process.

26 (d) A minor is considered to a be known minor to a digital  
27 service provider if:



1           (1) the minor registers the minor's age under Section  
2 509.051 as younger than 18 years of age; or

3           (2) the minor's parent or guardian, including a verified  
4 parent:

5                   (A) notifies a digital service provider that the  
6 minor is younger than 18 years of age;

7                   (B) successfully disputes the registered age of the  
8 minor; or

9                   (C) performs another function of a parent or  
10 guardian under this chapter

11           (e) If a minor is a known minor, or if the minor's parent or  
12 guardian, including a verified parent, takes an action under  
13 Subsection (a), a digital service provider:

14                   (1) is considered to have actual knowledge that the minor  
15 is younger than 18 years of age; and

16                   (2) shall treat the minor as a known minor under this  
17 chapter.

18           Sec. 509.052. DIGITAL SERVICE PROVIDER DUTIES RELATING TO  
19 AGREEMENT WITH MINOR. Unless a verified parent provides otherwise  
20 under Section 509.102, a digital service provider that enters into  
21 an agreement with a known minor for access to a digital service:

22                   (1) shall:

23                           (A) limit collection of the known minor's personal  
24 identifying information to information reasonably necessary to  
25 provide the digital service; and

1           (B) limit use of the known minor's personal  
2 identifying information to the purpose for which the information  
3 was collected; and

4           (2) may not:

5           (A) allow the known minor to make purchases or  
6 engage in other financial transactions through the digital  
7 service;

8           (B) share, disclose, or sell the known minor's  
9 personal identifying information;

10          (C) use the digital service to collect the known  
11 minor's precise geolocation data; or

12          (D) use the digital service to display targeted  
13 advertising to the known minor.

14          Sec. 509.053. DIGITAL SERVICE PROVIDER DUTY TO PREVENT HARM  
15 TO KNOWN MINORS. (a) In relation to a known minor's use of a  
16 digital service, a digital service provider shall develop and  
17 implement a strategy to prevent the known minor's exposure to  
18 harmful material and other content that promotes, glorifies, or  
19 facilitates:

20           (1) suicide, self-harm, or eating disorders;

21           (2) substance abuse;

22           (3) stalking, bullying, or harassment; or

23           (4) grooming, trafficking, child pornography, or other  
24 sexual exploitation or abuse.

25          (b) A strategy developed under Subsection (a) may include:

1           (1) creating and maintaining a comprehensive list of  
2 harmful material or other content described by Subsection (a) to  
3 block from display to a known minor;

4           (2) using filtering technology and other protocols to  
5 enforce the blocking of material or content on the list under  
6 Subdivision (1) uniformly across all platforms on which the digital  
7 service operates;

8           (3) using hash-sharing technology and other protocols to  
9 identify recurring harmful material or other content described by  
10 Subsection (a);

11           (4) creating and maintaining a database of keywords used  
12 for filter evasion, such as identifiable misspellings, hash-tags,  
13 or identifiable homoglyphs;

14           (5) performing standard human-performed monitoring  
15 reviews to ensure efficacy of filtering technology;

16           (6) making available to users a comprehensive  
17 description of the categories of harmful material or other content  
18 described by Subsection (a) that will be filtered;

19           (7) engaging a third party to rigorously review the  
20 digital service provider's content filtering technology;

21           (8) except as provided by Section 509.058, making  
22 available the digital service provider's algorithm code to  
23 independent security researchers;

24           (9) participating in industry-specific partnerships to  
25 share best practices in preventing access to harmful material or  
26 other content described by Subsection (a); or

27           (10) conducting periodic independent audits to ensure:

1           (A) continued compliance with the digital service  
2 provider's strategy; and

3           (B) efficacy of filtering technology and protocols  
4 used by the digital service provider.

5       Sec. 509.054. DIGITAL SERVICE PROVIDER DUTY TO CREATE  
6 PARENTAL TOOLS. (a) A digital service provider shall create and  
7 provide to a verified parent parental tools to allow the verified  
8 parent to supervise the verified parent's known minor's use of a  
9 digital service.

10       (b) Parental tools under this section must allow a verified  
11 parent to:

12           (1) control the known minor's privacy and account  
13 settings;

14           (2) alter the duties of a digital service provider under  
15 Section 509.052 with regard to the verified parent's known minor;

16           (3) if the verified parent alters the duty of a digital  
17 service provider under Section 509.052(2) (A), restrict the ability  
18 of the verified parent's known minor to make purchases or engage  
19 in financial transactions; and

20           (4) monitor the amount of time the verified parent's  
21 known minor spends using the digital service.

22       Sec. 509.055. DIGITAL SERVICE PROVIDER DUTIES REGARDING  
23 ADVERTISING AND MARKETING. A digital service provider shall make  
24 a commercially reasonable effort to prevent advertisers on the  
25 digital service provider's digital service from targeting a known  
26 minor with advertisements that facilitate, promote, or offer a

1 product, service, or activity that is unlawful for a minor in this  
2 state to use or engage in.

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

7 (1) make a commercially reasonable effort to ensure that  
8 the algorithm does not interfere with the digital service  
9 provider's duties under Section 509.053; and

10 (2) disclose in the digital service provider's terms of  
11 service, privacy policy, or similar document, in a clear and  
12 accessible manner, an overview of:

13 (A) the manner in which the digital service uses  
14 algorithms to provide information or content;

15 (B) the manner in which algorithms promote, rank,  
16 or filter information or content; and

17 (C) the personal identifying information used as  
18 inputs to provide information or content.

19 Sec. 509.057. DIGITAL SERVICE PROVIDER DUTY AS TO HARMFUL  
20 MATERIAL. (a) A digital service provider as defined by Section  
21 509.001 that knowingly publishes or distributes material, more  
22 than one-third of which is harmful material or obscene as defined  
23 by Section 43.21, Penal Code, must use a commercially reasonable  
24 age verification method to verify that any person seeking to access  
25 content on or through the provider's digital service is 18 years  
26 of age or older.

1 (b) If a person seeking to access content on or through the  
2 provider's digital service is not 18 years of age or older, the  
3 digital service provider may not enter into an agreement with the  
4 person for access to the digital service.

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

8 Sec. 509.059. USE OF KNOWN MINOR'S PERSONAL IDENTIFYING  
9 INFORMATION FOR CERTAIN PURPOSES. Nothing in this subchapter may  
10 be construed to prevent a digital service provider from collecting,  
11 processing, or sharing a known minor's personal identifying  
12 information in a manner necessary to comply with:

- 13 (1) a civil, criminal, or regulatory inquiry,  
14 investigation, subpoena, or summons by a governmental entity; or  
15 (2) a law enforcement investigation.

16 SUBCHAPTER C. VERIFIED PARENTS

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

- 21 (1) the person's identity; and  
22 (2) the relationship of the person to the known minor.

23 (b) A digital service provider shall provide a process by  
24 which a person who has been verified under Subsection (a) as the  
25 parent or guardian of a known minor may participate in the digital  
26 service as the known minor's verified parent as provided by this  
27 chapter.

1       Sec. 509.102. POWERS OF VERIFIED PARENT. (a) A verified parent  
2 is entitled to alter the duties of a digital service provider under  
3 Section 509.052 with regard to the verified parent's known minor.

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

7       Sec. 509.103. ACCESS TO KNOWN MINOR'S PERSONAL IDENTIFYING  
8 INFORMATION. (a) A known minor's verified parent may submit a  
9 request to a digital service provider to:

10       (1) review and download any personal identifying  
11 information associated with the minor in the possession of the  
12 digital service provider; and

13       (2) delete any personal identifying information  
14 associated with the minor collected or processed by the digital  
15 service provider.

16       (b) A digital service provider shall establish and make  
17 available on the digital service provider's digital service a  
18 method by which a known minor's parent or guardian may make a  
19 request for access under this section.

20       Sec. 509.104. MINOR IN CONSERVATORSHIP OF DEPARTMENT OF  
21 FAMILY AND PROTECTIVE SERVICES. If a minor is in the  
22 conservatorship of the Department of Family and Protective  
23 Services, the department may designate the minor's caregiver or a  
24 member of the department's staff to perform the functions of the  
25 minor's parent or guardian under this chapter.

26                   SUBCHAPTER D. ENFORCEMENT

1       Sec. 509.151. DECEPTIVE TRADE PRACTICE; ENFORCEMENT BY  
2 ATTORNEY GENERAL. A violation of this chapter is a deceptive act  
3 or practice actionable under Subchapter E, Chapter 17, solely as  
4 an enforcement action by the consumer protection division of the  
5 attorney general's office.

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

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

13           (1) a declaratory judgment under Chapter 37, Civil  
14 Practice and Remedies Code; or

15           (2) an injunction against the digital service provider.

16       ARTICLE 3. USE AND TRANSFER OF ELECTRONIC DEVICES BY STUDENTS

17       SECTION 3.01. The heading to Subchapter C, Chapter 32,  
18 Education Code, is amended to read as follows:

19       SUBCHAPTER C. TRANSFER OF DATA PROCESSING EQUIPMENT AND  
20                           ELECTRONIC DEVICES TO STUDENTS

21       SECTION 3.02. Section 32.101, Education Code, is amended to  
22 read as follows:

23       Sec. 32.101. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

24           (1) "Data [~~,"data~~] processing" has the meaning assigned  
25 by Section 2054.003, Government Code.

26           (2) "Electronic device" means a device that is capable  
27 of connecting to a cellular network or the Internet, including:



- 1           (A) a computer;
- 2           (B) a smartphone; or
- 3           (C) a tablet.

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

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

9           Sec. 32.1021. STANDARDS. The agency shall adopt standards for  
10 permissible electronic devices and software applications used by  
11 a school district or open-enrollment charter school. In adopting  
12 the standards, the agency must:

13           (1) minimize data collection conducted on students  
14 through electronic devices and software applications;

15           (2) ensure direct and informed parental consent is  
16 required for a student's use of a software application necessary  
17 for the administration of:

18           (A) an assessment instrument under Subchapter B,  
19 Chapter 39; or

20           (B) an assessment relating to college, career, or  
21 military readiness for which student performance is considered in  
22 evaluating a school district's performance under Section 39.054;

23           (3) ensure software applications do not conduct mental  
24 health assessments or other assessments unrelated to educational  
25 curricula that are intended to collect information about students  
26 without direct and informed parental consent;

1           (4) ensure that parents are provided the resources  
2 necessary to understand cybersecurity risks and online safety  
3 regarding their child's use of electronic devices before the child  
4 uses an electronic device at the child's school;

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

8           (6) consider necessary adjustments by age level to the  
9 use of electronic devices in the classroom to foster development  
10 of students' abilities regarding spending school time and  
11 completing assignments without the use of an electronic device;

12           (7) consider appropriate restrictions on student access  
13 to social media websites or applications with an electronic device  
14 transferred to a student by a district or school;

15           (8) require a district or school, before using a social  
16 media application for an educational purpose, to determine that an  
17 alternative application that is more secure and provides the same  
18 educational functionality as the social media application is  
19 unavailable for that educational purpose;

20           (9) consider the required use of an Internet filter  
21 capable of notifying appropriate school administrators, who are  
22 then required to notify the student's parent, if a student accesses  
23 inappropriate or concerning content or words, including content  
24 related to:

25                   (A) self-harm;

26                   (B) suicide;

27                   (C) violence to others; or

1                   (D) illicit drugs;

2                   (10) assign to the appropriate officer of a district or  
3 school the duty to receive complaints or concerns regarding student  
4 use of electronic devices, including cybersecurity and online  
5 safety concerns, from district or school staff, other students, or  
6 parents; and

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

11           SECTION 3.04. Section 32.104, Education Code, is amended to  
12 read as follows:

13           Sec. 32.104. REQUIREMENTS FOR TRANSFER. Before transferring  
14 data processing equipment or an electronic device to a student, a  
15 school district or open-enrollment charter school must:

16                   (1) adopt rules governing transfers under this  
17 subchapter, including provisions for technical assistance to the  
18 student by the district or school;

19                   (2) determine that the transfer serves a public purpose  
20 and benefits the district or school; ~~and~~

21                   (3) remove from the equipment any offensive,  
22 confidential, or proprietary information, as determined by the  
23 district or school;

24                   (4) adopt rules establishing programs promoting parents  
25 as partners in cybersecurity and online safety that involve parents  
26 in students' use of transferred equipment or electronic devices;  
27 and

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

5           ARTICLE 4. STUDY OF EFFECTS OF MEDIA ON MINORS

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

8           (b) The joint committee shall consist of:

9                 (1) members of the house of representatives appointed by  
10 the speaker of the house of representatives; and

11                 (2) members of the senate appointed by the lieutenant  
12 governor.

13           (c) In conducting the study, members of the joint committee  
14 shall confer with experts on the subject.

15           (d) The members of the joint committee shall examine:

16                 (1) the health and developmental effects of media on  
17 minors; and

18                 (2) the effects of exposure by a minor to various forms  
19 of media, including:

20                         (A) social media platforms;

21                         (B) software applications;

22                         (C) Internet websites;

23                         (D) television programming;

24                         (E) motion pictures and film;

25                         (F) artificial intelligence;

26                         (G) mobile devices;

27                         (H) computers;

- 1 (I) video games;
- 2 (J) virtual and augmented reality; and
- 3 (K) other media formats the joint committee
- 4 considers necessary.

5 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

6 SECTION 5.01. If any provision of this Act or its application  
7 to any person or circumstance is held invalid, the invalidity does  
8 not affect other provisions or applications of this Act that can  
9 be given effect without the invalid provision or application, and  
10 to this end the provisions of this Act are declared to be  
11 severable.

12 SECTION 5.02. Article 3 of this Act applies beginning with  
13 the 2023-2024 school year.

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

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

ADOPTED

MAY 23 2023

FLOOR AMENDMENT NO. 1

*Latey Spaw*  
Secretary of the Senate

BY: *Ryan Hughes*

1 Amend C.S.H.B. No. 18 (senate committee report) as follows:

2 (1) In SECTION 2.01 of the bill, in added Section 509.001(1),  
3 Business & Commerce Code (page 1, lines 38 and 39), strike  
4 "performs collection or processing functions" and substitute  
5 "collects or processes personal identifying information".

6 (2) In SECTION 2.01 of the bill, strike added Section  
7 509.001(6), Business & Commerce Code (page 1, lines 55 through  
8 59), and substitute the following:

9 (6) "Personal identifying information" means any  
10 information, including sensitive information, that is linked or  
11 reasonably linkable to an identified or identifiable individual.  
12 The term includes pseudonymous information when the information is  
13 used by a controller or processor in conjunction with additional  
14 information that reasonably links the information to an identified  
15 or identifiable individual. The term does not include deidentified  
16 information or publicly available information.

17 (3) In SECTION 2.01 of the bill, in added Section  
18 509.002(a)(1), Business & Commerce Code (page 2, line 7), strike  
19 "has a primary function of connecting" and substitute "connects".

20 (4) In SECTION 2.01 of the bill, in added Section  
21 509.002(a)(3)(C), Business & Commerce Code (page 2, line 18),  
22 between "page" and "or", insert ", video channel,".

23 (5) In SECTION 2.01 of the bill, in added Section  
24 509.002(b)(9), Business & Commerce Code (page 2, line 49), strike  
25 "provider who provides" and substitute "provider's provision of".

1 (6) In SECTION 2.01 of the bill, in added Section  
2 509.002(b)(10), Business & Commerce Code (page 2, line 52), strike  
3 "provider who provides" and substitute "provider's provision of".

4 (7) In SECTION 2.01 of the bill, in added Section  
5 509.002(b)(10)(A), Business & Commerce Code (page 2, line 55),  
6 strike "entertainment,".

7 (8) In SECTION 2.01 of the bill, in added Section  
8 509.002(b)(10)(A), Business & Commerce Code (page 2, lines 55 and  
9 56), between "content" and "selected", insert "primarily generated  
10 or".

11 (9) In SECTION 2.01 of the bill, in added Section 509.002(c),  
12 Business & Commerce Code (page 2, lines 64 and 65), strike "a  
13 digital service provider" and substitute "to be a digital service  
14 provider or to offer a digital service".

15 (10) In SECTION 2.01 of the bill, in added Section 509.051(a),  
16 Business & Commerce Code (page 3, line 9), strike "for access to"  
17 and substitute "to create an account with".

18 (11) In SECTION 2.01 of the bill, in added Section 509.053,  
19 Business & Commerce Code (page 3, line 68, through page 4, line  
20 31), strike Subsection (b) and substitute the following:

21 (b) A strategy developed under Subsection (a):

22 (1) must include:

23 (A) creating and maintaining a comprehensive list  
24 of harmful material or other content described by Subsection (a)  
25 to block from display to a known minor;

26 (B) using filtering technology and other protocols  
27 to enforce the blocking of material or content on the list under

1 Paragraph (A);

2 (C) using hash-sharing technology and other  
3 protocols to identify recurring harmful material or other content  
4 described by Subsection (a);

5 (D) creating and maintaining a database of keywords  
6 used for filter evasion, such as identifiable misspellings, hash-  
7 tags, or identifiable homoglyphs;

8 (E) performing standard human-performed monitoring  
9 reviews to ensure efficacy of filtering technology;

10 (F) making available to users a comprehensive  
11 description of the categories of harmful material or other content  
12 described by Subsection (a) that will be filtered; and

13 (G) except as provided by Section 509.058, making  
14 available the digital service provider's algorithm code to  
15 independent security researchers; and

16 (2) may include:

17 (A) engaging a third party to rigorously review the  
18 digital service provider's content filtering technology;

19 (B) participating in industry-specific  
20 partnerships to share best practices in preventing access to  
21 harmful material or other content described by Subsection (a); or

22 (C) conducting periodic independent audits to  
23 ensure:

24 (i) continued compliance with the digital  
25 service provider's strategy; and

26 (ii) efficacy of filtering technology and  
27 protocols used by the digital service provider.



1 (12) In SECTION 2.01 of the bill, in added Section  
2 509.054(b)(4), Business & Commerce Code (page 4, line 48), between  
3 "monitor" and "the", insert "and limit".

4 (13) In SECTION 2.01 of the bill, in added Section 509.057(b),  
5 Business & Commerce Code (page 5, line 13), strike "provider's  
6 digital service" and substitute "digital service of a provider for  
7 which age verification is required under this section".

8 (14) In SECTION 2.01 of the bill, in added Section 509.059,  
9 Business & Commerce Code (page 5, line 23), strike "comply with".

10 (15) In SECTION 2.01 of the bill, in added Section 509.059,  
11 Business & Commerce Code (page 5, lines 24 through 26), strike  
12 Subdivisions (1) and (2) and substitute the following:

13 (1) comply with a civil, criminal, or regulatory  
14 inquiry, investigation, subpoena, or summons by a governmental  
15 entity;

16 (2) comply with a law enforcement investigation;

17 (3) detect, block, or prevent the distribution of  
18 unlawful, obscene, or other harmful material to a known minor;

19 (4) block or filter spam;

20 (5) prevent criminal activity; or

21 (6) protect the security of a digital service.

22 (16) In SECTION 2.01 of the bill, in added Section 509.152,  
23 Business & Commerce Code (page 6, between lines 12 and 13), insert  
24 the following:

25 (c) A court may not certify an action brought under this  
26 section as a class action.

27 (17) In SECTION 3.03 of the bill, in added Section 32.1021(2),

- 1 Education Code (page 6, line 40), between "application" and
- 2 "necessary", insert ", other than a software application".

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 25, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB18** by Slawson (Relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services and electronic devices, including the use and transfer of electronic devices to students by a public school.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would require digital service providers to register the age of all users. The bill establishes rules for digital service providers regarding their duties relating to known minors, including the duty to prevent harm, create parental tools, and prevent certain targeted advertising.

The bill would entitle verified parents of known minors using digital services to supervise and manage their minor's use of, and personal identifying information collected by, the digital service provider.

A violation of the chapter would be a deceptive trade practice under Subchapter E, Chapter 17, of the Business and Commerce Code.

Article 3 of the bill would create rules regarding the standards for electronic devices and software applications used by school districts.

Article 4 of the bill would direct a joint committee of the Legislature to conduct a study on the effects of media on minors.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** JMc, SMAT, SL, LCO, CSmi, NPe, NV

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 19, 2023**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB18** by Slawson (relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services and electronic devices, including the use and transfer of electronic devices to students by a public school.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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A violation of the chapter would be a deceptive trade practice under Subchapter E, Chapter 17, of the Business and Commerce Code.

Article 3 of the bill would create rules regarding the standards for electronic devices and software applications used by school districts.

Article 4 of the bill would direct a joint committee of the Legislature to conduct a study on the effects of media on minors.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 530 Family and Protective Services, Department of, 701 Texas Education Agency

**LBB Staff:** JMc, SMAT, LCO, CSmi, NPe, NV

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 14, 2023**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB18** by Slawson (Relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit digital service providers from entering into a service agreement with a known minor without the verifiable consent of the minor's parent or guardian. It would require a provider to exercise reasonable care to prevent harm to a minor in relation to the minor's use of the service. It would also establish rules regarding verification of consent, and require the provider to provide certain information to parents or guardians upon request.

A violation of the bill's provision would be a deceptive trade practice under Subchapter E, Chapter 17, of the Business and Commerce Code. This bill would not apply to digital services provided by state agencies, institutions of higher education, or certain other entities. According to OAG, any legal work required as a result of passage of the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources

**LBB Staff:** JMc, SMAT, LCO, CSmi, NPe, NV

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

April 12, 2023

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Youth Health & Safety, Select

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB18** by Slawson (relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit digital service providers from entering into a service agreement with a known minor without the verifiable consent of the minor's parent or guardian. It would require a provider to exercise reasonable care to prevent harm to a minor in relation to the minor's use of the service. It would also establish rules regarding verification of consent, and require the provider to provide certain information to parents or guardians upon request.

A violation of the bill's provision would be a deceptive trade practice under Subchapter E, Chapter 17, of the Business and Commerce Code. This bill would not apply to digital services provided by state agencies, institutions of higher education, or certain other entities. According to OAG, any legal work required as a result of passage of the bill could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources

**LBB Staff:** JMc, NPe, LCO, CSmi, NV

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**March 19, 2023**

**TO:** Honorable Senfronia Thompson, Chair, House Committee on Youth Health & Safety, Select

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB18** by Slawson (Relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services.), **As Introduced**

There would be an indeterminate cost to the state based on the extent to which the provisions of the bill apply to state owned applications and websites.

The bill would add a chapter to the Business and Commerce Code relating to the protection of minors from harmful, deceptive, or unfair trade practices in connection with the use of certain websites, applications, programs, or software that perform collection or processing functions with internet connectivity. The bill would prohibit providers from collecting personal identifying information from a minor without the consent of a parent or guardian. It would also impose rules on providers regarding a parent or guardian's access to their child's personal information, and use of algorithms and advertisements, as well as allow parents or guardians to bring a civil action against providers for violating these provisions. Additionally, the bill would require providers to make parental tools that allow for supervision over supplying this information to providers.

The bill would impact the state electronic internet portal, Texas.gov, which is managed by the Department of Information Resources (DIR). The portal is funded through fees charged to the end user utilizing Texas.gov for applications, permitting, and registrations, as well as other services, and with charges to agencies utilizing the portal to host applications. According to DIR, there would likely be costs incurred due to adjusting any digital services to require parental consent for minors using the service. Some state-owned applications would either have to no longer permit minors to use the service, or else provide a parental consent process for each application. The bill does not specify the extent to which these parental tools must verify parental/guardian relationship. The cost to develop these processes per application could range from \$250,000 for basic mandatory parental controls and notifications, to \$750,000 or more for identity proofing or validation, proof of the parental/guardian relationship, and other security measures specific to minors.

**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources

**LBB Staff:** JMc, NPe, LCO, CSmi, NV