

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 591 Social Media Protection for Minors

SPONSOR(S): Rayner-Goolsby and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 792

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) Choice & Innovation Subcommittee			
3) Appropriations Committee			
4) Commerce Committee			

SUMMARY ANALYSIS

Social media platforms are a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities gives users quick electronic communication of content, such as personal information, videos, and photos. Social media use by children can have positive and negative influences, and providing them with information and external controls can help prevent harmful effects.

The bill requires social media platforms to meet the following operating requirements:

- Disclose:
 - Content moderation policies.
 - Manipulation of photographs or digital images.
 - Methodology used to consider the best interests of minors when providing services.
 - User policies related to harmful behaviors, such as bullying and harassment.
- Provide:
 - Local resources for law enforcement, suicide prevention, and domestic violence prevention.
 - Protective measures such as screen time, usage data, and other parental settings.
- Require minors at the time of log in to read and accept a disclaimer on social media harms.

Social media platforms that fail to meet such operating requirements are prohibited from registering, enrolling, or otherwise accepting new accounts from minors.

Subject to appropriation by the Legislature, the Department of Agriculture and Consumer Services must:

- Enforce the operating requirements and provide for adequate staffing and investigative resources.
- Implement measures to screen and evaluate social media platforms for compliance with the operating requirements, including the minimum age requirement for registration or enrollment.

The bill provides that a social media platform is subject to a fine of \$10,000 for each occurrence in which a minor is registered or enrolled in a platform that fails to meet the operating requirements. Proceeds from such fines must be directed to resources serving the mental health needs of children.

The bill requires all schools operating in the state that accept state funding are prohibited from requiring students, regardless of age, to register, enroll, or participate in social media platforms as a means to access information, materials, or resources related to school-sponsored educational activities.

The bill will have an indeterminate, negative fiscal impact on state government and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2023.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0591.RRS

DATE: 3/7/2023

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Social Media Platforms

Generally, a social media platform is a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities. Social media is internet-based and gives users quick electronic communication of content, such as personal information, videos, and photos. Users engage with social media via a computer, tablet, or smartphone via web-based software or applications.¹

Effects of Social Media on Children

Generally, social media use by children can have both positive and negative effects on their health.² Some potential safety risks of social media use include:³

- Exposure to harmful or inappropriate content.
- Exposure to dangerous people.
- Cyberbullying.
- Oversharing personal information.
- Exposure to excessive advertisements.
- Privacy concerns, including the collection of data about minors.
- Identity theft or being hacked.
- Interference with sleep, exercise, homework, or family activities.

While children generally become more attuned to social interactions as they enter adolescence, those who are frequent, early social media users become particularly sensitive to anticipating social risks and rewards from their peers, according to a study published in JAMA Pediatrics.⁴

The researchers found that “habitual” social media users, or those who checked their social feeds 15 times a day or more, responded quicker and more intensely to perceived good or bad emotions from peers, compared to students who checked once a day or less. The areas of the brain associated with motivation and cognitive control became more active among the habitual students when expecting social rewards and punishments. The students who used little social media reacted less strongly to social cues over the same time period.⁵

Another study in the Journal of Adolescent Health found that 9- and 10-year-olds who spent hours a day playing video games or watching online algorithm-based videos had a higher risk of developing obsessive-compulsive disorders.⁶

¹ Maya Dollarhide, *Social Media: Definition, Effects, and List of Top Apps*, Investopedia.com, <https://www.investopedia.com/terms/s/social-media.asp> (last visited Mar. 1, 2023).

² Mayo Clinic Staff, *Teens and social media use: What's the impact?*, Mayo Foundation for Medical Education and Research, <https://www.mayoclinic.org/healthy-lifestyle/tween-and-teen-health/in-depth/teens-and-social-media-use/art-20474437> (last visited Mar. 2, 2023).

³ Loyola Medicine, *Social Media Safety for Kids and Teens*, <https://www.loyolamedicine.org/about-us/blog/social-media-safety-kids-teens>, (last visited Mar. 2, 2023)

⁴ Sarah D. Sparks, *Preteens' Social Media Habits Could Be Changing Their Brains*, Education Week, Jan. 6, 2023, <https://www.edweek.org/leadership/preteens-social-media-habits-could-be-changing-their-brains/2023/01> (last visited Mar. 1, 2023); Maria T. Maza, BS; Kara A. Fox, MA; Seh-Joo Kwon, BS; et al, *Association of Habitual Checking Behaviors on Social Media With Longitudinal Functional Brain Development*, JAMA Pediatrics, Jan. 3, 2023, <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2799812> (last visited Mar. 1, 2023).

⁵ Maria T. Maza, *supra* note 4.

⁶ *Id*; Jason M. Nagata, M.D., M.Sc.; Jonathan Chu; Gabriel Zamora; Caitlin R. Costello, M.D.; Stuart B. Murray, D.Clin.Psych., Ph.D.; Fiona C. Baker, Ph.D.; *Screen Time and Obsessive-Compulsive Disorder Among Children 9–10 Years Old: A Prospective Cohort*

In 2021, the Wall Street Journal reported internal research showing that Instagram conducted online surveys, diary studies, focus groups and large-scale questionnaires, which showed that 32% of teenage girls reported that Instagram made them have a worse body image. Of research participants who experienced suicidal thoughts, 13% of British teens and 6% of American teens directly linked their interest in suicide to Instagram.⁷

Recently, U.S. Surgeon General Vivek Murthy remarked that 13 years old is “too early” for children to use social media, despite most social media companies allowing 13 year olds to use their platforms. In early adolescence, kids are still “developing their identity, their sense of self,” Murthy said on CNN’s “Newsroom” on Jan. 29. He stated that “the skewed, and often distorted, environment of social media often does a disservice to many of those children.”⁸

However, social media can allow teens to create online identities, communicate with others, and build social networks, which can provide teens with valuable support, especially helping those who experience exclusion. Social media can expose teens to current events, allow them to interact across geographic barriers, and teach them about a variety of subjects, including healthy behaviors. Also, social media that is humorous or provides a meaningful connection to peers may help teens avoid depression.⁹

In 2022, the Pew Research Center conducted a survey asking teens of their views on social media. Generally, they credit social media for helping to build stronger friendships and exposing them to a more diverse world, but they express concern that these sites lead to drama and social pressure.¹⁰

Safety Measures and Parental Controls

Providing children with information on ways to more safely use social media may decrease the harm they experience. Having conversations about social media, its benefits, and its risks, may help promote positive social media usage.¹¹

Also, parental controls can help protect children from inappropriate content, cyberbullying and other online safety issues. Generally, parental controls are a group of settings that put a parent in control of what content a child can see.¹² Many websites, games, software, devices, and user interfaces offer the optional use of parental controls. Examples of parental controls include blocking websites, filtering content, imposing limits on screen time, allowing parents to monitor online activity, location tracking, and disabling Wi-Fi.¹³

Laws Protecting Children Online

Children’s Online Privacy Protection Act (COPPA)

The Children’s Online Privacy Protection Act (COPPA)¹⁴ and its related rules, is a federal law that regulates websites’ collection and use of children’s information. The operator of a website or online service that is directed to children, or that has actual knowledge that it collects children’s personal

Study; Journal of Adolescent Health, Dec. 12, 2022; [https://www.jahonline.org/article/S1054-139X\(22\)00722-4/fulltext](https://www.jahonline.org/article/S1054-139X(22)00722-4/fulltext) (last visited Mar. 1, 2023).

⁷ Taylor Hatmaker, *Facebook knows Instagram harms teens. Now, its plan to open the app to kids looks worse than ever*, TechCrunch.com, <https://techcrunch.com/2021/09/16/facebook-instagram-for-kids-mosseri-wsj-teen-girls/> (last visited Mar. 1, 2023).

⁸ Lauraine Langreo, EducationWeek, *Surgeon General: Kids Under 14 Should Not Use Social Media*, Feb. 2, 2023, <https://www.edweek.org/leadership/surgeon-general-kids-under-14-should-not-use-social-media/2023/02> (last visited Mar. 1, 2023).

⁹ Mayo Clinic, *supra* note 2.

¹⁰ Pew Research Center, *Teens’ Social Media Habits and Experiences*, <https://www.pewresearch.org/internet/2018/11/28/teens-social-media-habits-and-experiences/>, (last visited Mar. 2, 2023).

¹¹ WebMD Editorial Contributors, *How to Talk to Your Kids About Social Media*, WebMD.com, <https://www.webmd.com/parenting/how-to-talk-to-kids-about-social-media> (last visited Mar. 1, 2023).

¹² Internetmatters.org, *Parental Controls*, <https://www.internetmatters.org/parental-controls/> (last visited Mar. 1, 2023).

¹³ Caroline Knorr, Commonsensemedia.org, *Parents’ Ultimate Guide to Parental Controls*, <https://www.commonsensemedia.org/articles/parents-ultimate-guide-to-parental-controls> (last visited Mar. 1, 2023).

¹⁴ 16 C.F.R. pt. 312.

information (covered entities), must comply with requirements regarding data collection and use, privacy policy notifications, and data security.

A covered entity may not collect personal information from a child under the age of 13 without the prior, verifiable consent of his or her parent.¹⁵

COPPA requires covered entities to:¹⁶

- Give parents direct notice of their privacy policies, including a description of their data collection and sharing practices;
- Post a clear link to their privacy policies on their home page and at each area of their website where they collect personal information from children;
- Institute procedures to protect the personal information that they hold;
- Ensure that any third party with which they share collected personal information implements the same protection procedures; and
- Delete children's personal information after the purpose for its retention has been fulfilled.

Violations of COPPA are deemed an unfair or deceptive act or practice and may therefore be prosecuted by the FTC. COPPA also authorizes state attorneys general to enforce violations that affect residents of their states. There is no criminal prosecution or private right of action provided for under COPPA.¹⁷

California Age-Appropriate Design Code Act

In 2022, California adopted the California Age-Appropriate Design Code Act (CAADCA),¹⁸ legislation modelled on the United Kingdom's Age Appropriate Design Code,¹⁹ which requires online platforms to adhere to strict default privacy and safety settings that protect the best interest of children.²⁰ CAADCA covers children under 18 years of age and will be effective July 1, 2024.²¹

CAADCA requires certain businesses that provide an online service, product, or feature that is likely to be accessed by children to comply with several new requirements and restrictions, including:²²

- Prohibitions on using any personal information that it knows or should know is materially detrimental to a child's physical or mental health and/or wellbeing; and
- Prohibitions on obscuring user interface features to deliberately defeat consent or manipulate children into providing unnecessary personal information, otherwise called "dark patterns."

Such businesses must complete a Data Protection Impact Assessment for any new feature they wish to offer to the public if it is likely to be accessed by children, which will determine if any dark patterns are employed, if there is an asymmetrical reward, or if targeted advertisements are deployed in a way that could harm or exploit children.²³

Social Media Use in Florida Schools

¹⁵ 15 U.S.C. ss. 6502(a)-(b).

¹⁶ See, Federal Trade Commission, *General Questions About the COPPA Rule: What is the Children's Online Privacy Protection Rule?*, <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions-0> (last visited Mar. 1, 2023).

¹⁷ *Id.*

¹⁸ Cal. Civil Code § 1798.99.28-.35

¹⁹ 5Rights Foundation, *California follows UK lead as child data protection law is passed*, <https://5rightsfoundation.com/in-action/california-follows-uk-lead-as-child-data-protection-law-is-passed.html> (last visited Mar. 2, 2023).

²⁰ Office of Governor Gavin Newsome, *Governor Newsom Signs First-in-Nation Bill Protecting Children's Online Data and Privacy*, <https://www.gov.ca.gov/2022/09/15/governor-newsom-signs-first-in-nation-bill-protecting-childrens-online-data-and-privacy/> (last visited Mar. 2, 2023).

²¹ Cal. Civil Code § 1798.99.28-.35

²² Briana Kelly, Nelson Mullins Riley & Scarborough LLP, *State of California Passes Bill to Protect Children Online*, Jan. 26, 2023, https://www.nelsonmullins.com/idea_exchange/alerts/privacy_and_data_security_alert/all/state-of-california-passes-bill-to-protect-children-online (last visited Mar. 2, 2023).

²³ *Id.*

Students in Florida are not required to receive instruction on social media. However, an instructional model for a social media course²⁴ is available in CPALMS.²⁵ The purpose of this social media course is to enable students to develop fundamental skills in the use of social media across print, multimedia, web, and broadcast platforms, including ethical and legal uses. The content of this course should include, but not be limited to, the following:²⁶

- Demonstrating entry-level skills in digital communication and packaging them across the platforms/mediums of print, multimedia, online, and broadcast;
- Demonstrating fundamental skills in social media platforms and their uses; expressing social connections with maturity and complexity appropriate to writer, audience, purpose, and context;
- Using fundamental research skills and networking formats;
- Collaborating amongst peers; and
- Using effective listening, speaking, and viewing strategies with an emphasis on the use of evidence to support or refute a claim in multimedia presentations, class discussions, and extended text discussions.

Department of Agriculture and Consumer Services

In addition to regulating agriculture in Florida, the Department of Agriculture and Consumer Services (DACS) also protects consumers from unfair and deceptive business practices and provides consumer information.²⁷

DACS achieves this, in part, through licensing and registering various professionals, including:

- Professional Surveyors and Mappers (ch. 472, F.S.);
- Private Investigative, Private Security, and Repossession Services (ch. 493, F.S.);
- Solicitation of Funds (ch. 496, F.S.);
- Health Studios (ch. 501, pt. I, F.S.);
- Telemarketing Services (ch. 501, pt. IV, F.S.);
- Intrastate Movers and Brokers (ch. 507, F.S.);
- Sellers of Liquefied Petroleum Gas (ch. 527, F.S.);
- Pawnbroking (ch. 539, F.S.);
- Motor Vehicle Repair Shops (ch. 559, pt. IX, F.S.); and
- Sellers of Travel (ch. 559, pt. XI, F.S.).

Generally, DACS can discipline a licensee for violations of their professional license laws, as provided in their applicable practice act, including fines and revocation.

Also, DACS acts as the state's clearinghouse for consumer complaints, information and protection. DACS protects consumers and businesses from unfair and unsafe business practices across a wide range of market sectors, including gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides, and weighing and measuring devices. DACS provides consumer education and information on these issues on their website.²⁸

Effect of the Bill

Beginning January 1, 2024, a social media platform operating in the state must meet the following operating requirements:

- Disclose the following:

²⁴ CPALMS, Course, *Social Media 1 (#1006375)*, <https://www.cpalms.org/PreviewCourse/Preview/17758>, (last visited Mar. 2, 2023).

²⁵ CPALMS is the State of Florida's official source for standards information and course descriptions. It provides access to the usands of standards-aligned, free, and high-quality instructional/educational resources that have been developed specifically for the standards and vetted through a rigorous review process. CPALMS, *About CPALMS*, http://www.cpalms.org/CPALMS/about_us.aspx, (last visited Mar. 2, 2023).

²⁶ *Id.*

²⁷ s. 20.14(2), F.S.

²⁸ Department of Agriculture and Consumer Services, *Division of Consumer Services*, <https://www.fdacs.gov/Divisions-Offices/Consumer-Services> (last visited Mar. 7, 2023).

- Content moderation policies, including the use of addictive design features such as autoplay or infinite scroll.
- Manipulation of photographs or digital images.
- Methodology used to consider the best interests of minors when designing, developing, and providing services.
- Clear and concise user policies, protections, and reporting mechanisms related to harmful behaviors such as bullying, harassment, and threats of violence or self-harm.
- Provide the following:
 - Zip code-based references to local resources for law enforcement, suicide prevention, and domestic violence prevention services.
 - Protective measures such as screen time, usage data, and other parental settings.
- At the time of log in, require minors to read and accept a disclaimer which must be in substantially the following form:

This application may be harmful to your mental health and may use design features that have addictive qualities or present unverified information or that may be manipulated by [insert platform name] for your viewing. This application may also collect your personal data to further manipulate your viewable content and may share your personal data with others.

Social media platforms that fail to meet such operating requirements are prohibited from registering, enrolling, or otherwise accepting new accounts from minors.

Subject to appropriation by the Legislature, DACS must:

- Enforce the operating requirements and provide for adequate staffing and investigative resources.
- Implement measures to screen and evaluate social media platforms for compliance with the operating requirements, including the minimum age requirement for registration or enrollment.

The bill provides that a social media platform is subject to a fine of \$10,000 for each occurrence in which a minor is registered or enrolled in a platform that fails to meet the operating requirements. Proceeds from such fines must be directed to resources serving the mental health needs of children.

The bill requires all schools operating in the state that accept state funding are prohibited from requiring students, regardless of age, to register, enroll, or participate in social media platforms as a means to access information, materials, or resources related to school-sponsored educational activities.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 501.174, F.S.; providing operating requirements for social media platforms.
Section 2: Provides requirements for schools operating in Florida.
Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may increase revenues due to increased fines levied to social media platforms that violate the operating requirements.

2. Expenditures:

The bill will increase state expenditures due to increased regulatory costs for DACS to enforce the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will require social media platforms to expend resources to develop standards and mechanisms to comply with the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not provide a definition for “social media platform,” or indicate whether the requirements are only applicable to platforms used by children, which may cause confusion of the applicability of the bill. The sponsor has indicated that these issues will be addressed on an amendment to the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES