

House Bill 1365

By: Representatives Horner of the 3rd, Jasperse of the 11th, Cox of the 28th, and Dunahoo of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 39 of the Official Code of Georgia Annotated, relating to minors, so as to
2 create a civil remedy for damages against commercial entities that allow minors to access a
3 social media platform without performing reasonable age verification methods; to provide
4 for definitions; to provide for reasonable age verification requirements for commercial
5 entities; to provide for standards for liability; to provide for exceptions; to provide that age
6 verification information shall not be retained by commercial entities; to provide for the
7 Attorney General's imposition of fines; to provide for a short title; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Protecting Children's Mental Health Act
12 of 2024."

13 **SECTION 2.**

14 Title 39 of the Official Code of Georgia Annotated, relating to minors, is amended in
15 Chapter 5, relating to online internet safety, by adding a new Code section to read as follows:

H. B. 1365

16 "39-5-5.

17 (a) As used in this Code section, the term:

18 (1) 'Commercial entity' means a corporation, limited liability company, partnership,
19 limited partnership, sole proprietorship, or other legally recognized entity.

20 (2) 'Digitized identification card' means a data file available on a mobile device with
21 connectivity to the internet that contains all of the data elements visible on the front and
22 back of a driver's license or identification card and displays the current status of the
23 driver's license or identification card as being valid, expired, cancelled, suspended,
24 revoked, active, or inactive.

25 (3) 'Minor' means any individual under the age of 16 years.

26 (4) 'News-gathering organization' means:

27 (A) An employee of a newspaper, news publication, or news source that is printed or
28 published on an online or mobile platform, while acting as an employee of the
29 news-gathering organization, who can provide documentation of such employment; or

30 (B) An employee of a radio station, television station, cable television system, or wire
31 service, while acting as an employee of the news-gathering organization, who can
32 provide documentation of such employment.

33 (5) 'Reasonable age verification' means to confirm that an individual seeking to access
34 a social media platform is at least 16 years of age.

35 (6)(A) 'Social media platform' means a public or semipublic internet based service or
36 application that:

37 (i) Has users in Georgia;

38 (ii) Connects users in order to allow them to interact socially with each other within
39 the service or application; and

40 (iii) Allows users to:

41 (I) Construct a public or semipublic profile for purposes of signing into and using
42 the service or application;

43 (II) Populate a list of other users with whom an individual shares a social or virtual
44 connection within the service or application, including subscribing to content related
45 to another user; and

46 (III) Create or post content viewable by other users, including, but not limited to,
47 on message boards, in chat rooms, on video channels, or through a landing page or
48 main feed that presents the user with content generated by other users.

49 (B) Such term shall not include an online service, website, or application where the
50 predominant or exclusive function is:

51 (i) Email;

52 (ii) A service that, pursuant to its terms of use, does not permit minors to use the
53 platform and utilizes commercially reasonable age assurance mechanisms to attempt
54 to prohibit minors from becoming account holders or users;

55 (iii) A streaming service that provides only licensed media in a continuous flow from
56 the service, website, or application to the end user and does not obtain a license to the
57 media from a user or account holder by agreement to its terms of service;

58 (iv) News, sports, entertainment, or other content that is preselected by the provider
59 and not user generated, and any chat, comment, or interactive functionality that is
60 provided incidental to, directly related to, or dependent upon provisions of the
61 content;

62 (v) Online shopping or ecommerce, if the interaction with other users or account
63 holders is generally limited to the ability to upload a post and comment on reviews,
64 the ability to display lists or collections of goods for sale or wish lists, and any other
65 function that is focused on online shopping or ecommerce rather than interaction
66 between users or account holders;

67 (vi) Interactive gaming, virtual gaming, or an online service that allows the creation
68 and uploading of content and the communication related to that content for the
69 purpose of interactive gaming, educational entertainment, or associated entertainment;

- 70 (vii) Photograph editing that has an associated photograph hosting service if the
71 interaction with other users or account holders is generally limited to liking or
72 commenting;
- 73 (viii) Single purpose community groups for public safety if the interaction with other
74 users or account holders is limited to that single purpose and the community group
75 has guidelines or policies against illegal content;
- 76 (ix) Career development opportunities, including professional networking, job skills,
77 learning certifications, and job posting and application services;
- 78 (x) Business-to-business software;
- 79 (xi) A teleconferencing or videoconferencing service that allows reception and
80 transmission of audio and video signals for real-time communication;
- 81 (xii) Cloud storage;
- 82 (xiii) Shared document collaboration;
- 83 (xiv) Cloud computing services, which may include cloud storage and shared
84 document collaboration;
- 85 (xv) Providing access to or interacting with data visualization platforms, libraries, or
86 hubs;
- 87 (xvi) Permitting comments on a digital news website if the news content is posted by
88 only the provider of the digital news website;
- 89 (xvii) Providing or obtaining technical support for a platform, product, or service;
- 90 (xviii) Academic, scholarly, or genealogical research;
- 91 (xix) Internet access and broadband service;
- 92 (xx) A classified advertising service in which the user is limited to providing the
93 ability to chat, comment, or interact with other users only if it is directly related to the
94 sale of goods; and
- 95 (xxi) An online, service, website, or application that is used by or under the direction
96 of an educational entity, including a learning management system, a student

97 engagement program, or a subject or skill-specific program, where the majority of the
98 content is created or posted by the provider of the online service, website, or
99 application and the ability to chat, comment, or interact with other users is directly
100 related to the provider's content.

101 (b) Before allowing access to a social media platform, a commercial entity shall use a
102 reasonable age verification method, which may include, but not be limited to:

103 (1) The submission of a digitized identification card;

104 (2) The submission of government issued identification; or

105 (3) Any commercially reasonable age verification method that meets or exceeds an
106 Identity Assurance Level 2 standard, as defined by the National Institute of Standards and
107 Technology.

108 (c)(1) A commercial entity that operates a social media platform is liable if the
109 commercial entity fails to perform reasonable age verification of any individual
110 attempting to access the social media platform.

111 (2) A commercial entity that violates this Code section is liable to an individual for
112 damages resulting from a minor accessing a social media platform, including court costs
113 and reasonable attorneys' fees as ordered by the court.

114 (3) A commercial entity that violates this Code section shall be subject to a fine of up to
115 \$10,000.00 for each violation, the amount of which shall be determined by the superior
116 court in the county in which any affected minor resides. The Attorney General shall
117 institute proceedings to impose such fine within one year of the violation.

118 (d)(1) When a commercial entity or third party performs reasonable age verification,
119 such entity or third party shall not retain any identifying information after access to the
120 social media platform has been granted.

121 (2) A commercial entity that is found to have knowingly retained identifying information
122 of an individual after access to the social media platform has been granted is liable to

123 such individual for damages resulting from retaining the identifying information,
124 including court costs and reasonable attorney's fees as ordered by the court.

125 (e) This Code section shall not:

126 (1) Apply to a news or public interest broadcast, public website video, report, or event;

127 (2) Affect the rights of a news-gathering organization; or

128 (3) Apply to cloud computing service providers."

129 **SECTION 3.**

130 All laws and parts of laws in conflict with this Act are repealed.