



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2017

PRINTER'S NO. 3072

PRIME SPONSOR: Munroe

COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	No Fiscal Impact	See Fiscal Note
School Safety and Security Fund	No Fiscal Impact	See Fiscal Note

SUMMARY:

Amends Title 50 (Mental Health) of the Pennsylvania Consolidated Statutes, providing for protection of minors on social media, and imposing penalties.

ANALYSIS:

Amends Title 50 (Mental Health) and inserts the following subchapters to provide for protection of minors on social media.

Hateful Conduct Prohibited:

Definitions:

The legislation prohibits hateful conduct on social media platforms. Hateful conduct is defined as the use of a social media platform to vilify, humiliate, or incite violence against a group or a class of persons on the basis of race, color, religion, ethnicity, national origin, disability, sex, sexual orientation, gender identity, or gender expression.

Incident reporting:

The bill requires social media platforms to provide clear and easily accessible mechanisms for reporting incidents of hateful conduct and mechanism for social media platform to respond to the user. In addition, the bill requires each social media platform to have a clear and concise policy readily available, which includes how it will respond to and address reported incidents.

Construction:

Nothing in the Subchapter Hateful Conduct Prohibited shall be construed as an obligation on the social media platform that adversely affects the individuals' rights or adds to the liability of a social media platform for anything other than failure to provide a mechanism for a user to report incidents of hateful conduct.

Penalties:

The Attorney General shall impose a fine on a social media platform that knowingly violates the provisions of this subchapter in an amount not to exceed \$1,000 for each day the social media platform is in violation. A determination by the Attorney General under this section shall be subject to the provisions of judicial review of Commonwealth agency action (2 Pa.C.S. ch.7 Subch. A).

Consent to Open an Account:

Age Assurance: social media platform shall make commercially reasonable effort to verify the age of users upon the creation of an account.

Required consent for minor:

- A minor must have express consent of parent or legal guardian to open an account on the social media platform. Minor is defined as an individual who is under the age of 16.
- Social media platform may obtain express consent from a minor's parent or legal guardian by:
 - Obtaining a completed and signed form via mail or electronic means;
 - A toll-free telephone number for the parent or legal guardian to call;
 - Allowing the minor's parent or legal guardian to respond to an email; or,
 - Any other commercially reasonable method of obtaining consent in light of available technology.
- Social media companies shall maintain documentation of the way the express consent was obtained. The documentation may be deleted once the individual is no longer a minor or within the established time frame by the social media company for maintaining data.
- Each social media platform shall post a notice that express consent by a minor's parent or legal guardian is required prior to opening an account, and describing how a minor's parent or legal guardian may notify the social media company that the minor has opened a social media account without the required consent.
- Upon discovery of the failure to obtain consent, the social media company shall suspend the social media account and notify the minor's parent or legal guardian if a minor opens a social media account without express consent.
- Provide minor's parent or legal guardian with the ability to revoke the consent at any time. Once revocation request is received, the social media platform shall revoke, suspend, delete, or disable the minor's account within a reasonable timeframe.

Account supervision:

- Social media companies shall provide the minor's parent or legal guardian to initiate supervision of the minor's account. Account supervision allows the minor's parent or legal guardian the ability to view privacy settings of the minor's account. It also gives the minor the option of providing notifications to the parent or legal guardian if the minor reports a person or an issue to the social media platform.

Violations and Penalties:

The Attorney General shall have jurisdiction to bring an action against a social media company that knowingly, intentionally, or negligently allows a minor to open a social media account without express consent. Penalties shall be charged for violations of this legislation. Civil fees collected shall be deposited into the School Safety and Security Fund to be used exclusively for mental health-related services for school entities.

Penalties:

- First offense – not more than \$2,500
- Second offense – not more than \$5,000
- Third or subsequent offense – not more than \$50,000
- First offense brought on behalf of multiple minors – the greater of \$5 million or the number of violations multiplied by the first offense penalty of \$2,500

Data:

Prohibitions - Social media company may not:

- Mine data related to a minor, except:
 - Data regarding age and location for the purposes of recommendations for age-appropriate content
 - Data necessary to protect minor from viewing harmful content

- Data necessary in relation to the purpose for which the data is processed as disclosed
- Sell or profit from personal information related to a minor who has opened a social media account or engage in targeted advertising based on a minor’s age, gender, or interests.
- Use a personalized recommendation system unless a minor opts in. A social media platform may provide the minor with tools to opt in for personalized recommendations.
- Process the precise geolocation information of a minor by default, and without providing a conspicuous signal to the minor consumer for the duration of the processing.
- Use dark patterns. Dark pattern is a user interface designed or manipulated with the effect of subverting or impairing user autonomy, decision making, or choice. It includes any practice the federal trade commission categorizes as a dark pattern.
- Permit an unknown adult to contact a minor consumer on the social media platform without the minor consumer first initiating the contact.

Removal:

- Social media platform shall provide an individual with the ability to correct or delete personal information.
- Social media platform that has mined or collected personal information from a minor shall display notice on the website of how an individual can request that the social media platform delete personal information in the possession of the social media platform that was collected when the individual was a minor.
- The platform shall delete personal information within 30 days of the request and shall provide notice of the removal within 90 days of the request.

Penalties:

A Social media company that fails to delete personal information shall be strictly liable for a civil penalty of \$10,000 per day per website until the personal information has been removed.

The Attorney General shall have jurisdiction to bring an action against a social media company that knowingly, intentionally, or negligently violates a prohibition under section 1132 (relating to prohibitions). The use of civil fees collected under this section shall be deposited into the School Safety and Security Fund to be used for mental-health-related services for school entities.

Penalties:

- First offense – no more than \$10,000
- Second offense – no more than \$50,000
- Third offense – no more than \$500,000
- For a first offense for an action brought on behalf of multiple minors, a civil penalty not to exceed the greater of \$50,000,000 or the total number of violations multiplied by the maximum civil penalty.

This act shall take effect in 18 months.

FISCAL IMPACT:

The bill imposes duties on the Office of Attorney General (OAG). According to the OAG, the Public Protection Division (PPD) currently has 1.5 full-time employees. The OAG estimates that they will need two additional deputy attorney generals to handle the additional volume of cases. The salary and benefits for one additional attorney are estimated to be \$178,323 and the operating cost would add an additional \$6,260, for a total of \$184,583 per attorney and \$369,166 for two.

The penalties and fees deposited into both the General Fund and into the School Safety and Security Fund would depend upon the number of violations. Data is not currently available to estimate how many social media companies would violate the new statute. Therefore, the potential fiscal impact of the bill is indeterminable at this time.

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House Appropriations Committee (D)

DATE: May 8, 2024

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.