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AN ACT

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 collects or processes personal identifying information 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

(C) determines the means used to collect and

1 process the personal identifying information of users of the
2 digital service.

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

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

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

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

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

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

25 (1) connects users in a manner that allows users to
26 socially interact with other users on the digital service;

27 (2) allows a user to create a public or semi-public

1 profile for purposes of signing into and using the digital service;
2 and

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

6 (A) a message board;

7 (B) a chat room; or

8 (C) a landing page, video channel, or main feed

9 that presents to a user content created and posted by other users.

10 (b) This chapter does not apply to:

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

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

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

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

25 (5) an institution of higher education;

26 (6) a digital service provider who processes or
27 maintains user data in connection with the employment, promotion,

1 reassignment, or retention of the user as an employee or
2 independent contractor, to the extent that the user's data is
3 processed or maintained for that purpose;

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

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

9 (A) operates a digital service; and

10 (B) primarily provides education services to
11 students or educational institutions;

12 (9) a digital service provider's provision of a
13 digital service that facilitates e-mail or direct messaging
14 services, if the digital service facilitates only those services;
15 or

16 (10) a digital service provider's provision of a
17 digital service that:

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

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

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

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

8 (1) on the Internet; or

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

12 SUBCHAPTER B. DIGITAL SERVICE PROVIDER DUTIES AND PROHIBITIONS

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

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

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

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

27 (1) the minor registers the minor's age under Section

1 509.051 as younger than 18 years of age; or

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

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

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

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

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

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

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

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

21 (1) shall:

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

25 (B) limit use of the known minor's personal
26 identifying information to the purpose for which the information
27 was collected; and

1 (2) may not:

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

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

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

8 (D) use the digital service to display targeted
9 advertising to the known minor.

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

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

16 (2) substance abuse;

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

18 (4) grooming, trafficking, child pornography, or
19 other sexual exploitation or abuse.

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

21 (1) must include:

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

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

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

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

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

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

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

15 (2) may include:

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

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

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

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

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

27 Sec. 509.054. DIGITAL SERVICE PROVIDER DUTY TO CREATE

1 PARENTAL TOOLS. (a) A digital service provider shall create and
2 provide to a verified parent parental tools to allow the verified
3 parent to supervise the verified parent's known minor's use of a
4 digital service.

5 (b) Parental tools under this section must allow a verified
6 parent to:

7 (1) control the known minor's privacy and account
8 settings;

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

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

16 (4) monitor and limit the amount of time the verified
17 parent's known minor spends using the digital service.

18 Sec. 509.055. DIGITAL SERVICE PROVIDER DUTIES REGARDING
19 ADVERTISING AND MARKETING. A digital service provider shall make a
20 commercially reasonable effort to prevent advertisers on the
21 digital service provider's digital service from targeting a known
22 minor with advertisements that facilitate, promote, or offer a
23 product, service, or activity that is unlawful for a minor in this
24 state to use or engage in.

25 Sec. 509.056. USE OF ALGORITHMS. A digital service
26 provider that uses algorithms to automate the suggestion,
27 promotion, or ranking of information to known minors on the digital

1 service shall:

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

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

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

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

12 (C) the personal identifying information used as
13 inputs to provide information or content.

14 Sec. 509.057. DIGITAL SERVICE PROVIDER DUTY AS TO HARMFUL
15 MATERIAL. (a) A digital service provider as defined by Section
16 509.001 that knowingly publishes or distributes material, more than
17 one-third of which is harmful material or obscene as defined by
18 Section 43.21, Penal Code, must use a commercially reasonable age
19 verification method to verify that any person seeking to access
20 content on or through the provider's digital service is 18 years of
21 age or older.

22 (b) If a person seeking to access content on or through the
23 digital service of a provider for which age verification is
24 required under this section is not 18 years of age or older, the
25 digital service provider may not enter into an agreement with the
26 person for access to the digital service.

27 Sec. 509.058. PROTECTION OF TRADE SECRETS. Nothing in this

1 subchapter may be construed to require a digital service provider
2 to disclose a trade secret.

3 Sec. 509.059. USE OF KNOWN MINOR'S PERSONAL IDENTIFYING
4 INFORMATION FOR CERTAIN PURPOSES. Nothing in this subchapter may be
5 construed to prevent a digital service provider from collecting,
6 processing, or sharing a known minor's personal identifying
7 information in a manner necessary to:

8 (1) comply with a civil, criminal, or regulatory
9 inquiry, investigation, subpoena, or summons by a governmental
10 entity;

11 (2) comply with a law enforcement investigation;

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

14 (4) block or filter spam;

15 (5) prevent criminal activity; or

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

17 SUBCHAPTER C. VERIFIED PARENTS

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

22 (1) the person's identity; and

23 (2) the relationship of the person to the known minor.

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

1 chapter.

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

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

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

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

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

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

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

1 SUBCHAPTER D. ENFORCEMENT

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

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

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

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

16 (2) an injunction against the digital service
17 provider.

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

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

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

23 SUBCHAPTER C. TRANSFER OF DATA PROCESSING EQUIPMENT AND ELECTRONIC
24 DEVICES TO STUDENTS

25 SECTION 3.02. Section 32.101, Education Code, is amended to
26 read as follows:

27 Sec. 32.101. DEFINITIONS ~~DEFINITION~~. In this subchapter:

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

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

5 (A) a computer;

6 (B) a smartphone; or

7 (C) a tablet.

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

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

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

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

19 (2) ensure direct and informed parental consent is
20 required for a student's use of a software application, other than a
21 software application necessary for the administration of:

22 (A) an assessment instrument under Subchapter B,
23 Chapter 39; or

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

27 (3) ensure software applications do not conduct mental

1 health assessments or other assessments unrelated to educational
2 curricula that are intended to collect information about students
3 without direct and informed parental consent;

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

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

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

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

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

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

- 1 (A) self-harm;
2 (B) suicide;
3 (C) violence to others; or
4 (D) illicit drugs;
5 (10) assign to the appropriate officer of a district
6 or school the duty to receive complaints or concerns regarding
7 student use of electronic devices, including cybersecurity and
8 online safety concerns, from district or school staff, other
9 students, or parents; and
10 (11) provide methods by which a district or school may
11 ensure an operator, as that term is defined by Section 32.151, that
12 contracts with the district or school to provide software
13 applications complies with Subchapter D.

14 SECTION 3.04. Section 32.104, Education Code, is amended to
15 read as follows:

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

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

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

24 (3) remove from the equipment any offensive,
25 confidential, or proprietary information, as determined by the
26 district or school;

27 (4) adopt rules establishing programs promoting

1 parents as partners in cybersecurity and online safety that involve
2 parents in students' use of transferred equipment or electronic
3 devices; and

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

8 ARTICLE 4. STUDY OF EFFECTS OF MEDIA ON MINORS

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

11 (b) The joint committee shall consist of:

12 (1) members of the house of representatives appointed
13 by the speaker of the house of representatives; and

14 (2) members of the senate appointed by the lieutenant
15 governor.

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

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

19 (1) the health and developmental effects of media on
20 minors; and

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

23 (A) social media platforms;

24 (B) software applications;

25 (C) Internet websites;

26 (D) television programming;

27 (E) motion pictures and film;

- 1 (F) artificial intelligence;
- 2 (G) mobile devices;
- 3 (H) computers;
- 4 (I) video games;
- 5 (J) virtual and augmented reality; and
- 6 (K) other media formats the joint committee
- 7 considers necessary.

8 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

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

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 18 was passed by the House on April 26, 2023, by the following vote: Yeas 125, Nays 20, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 18 on May 28, 2023, by the following vote: Yeas 120, Nays 21, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 18 was passed by the Senate, with amendments, on May 23, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor