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1
 2 An act relating to online protections for minors;
 3 creating s. 501.1736, F.S.; defining terms; requiring
 4 social media platforms to prohibit certain minors from
 5 creating new accounts; requiring social media
 6 platforms to terminate certain accounts and provide
 7 additional options for termination of such accounts;
 8 providing conditions under which social media
 9 platforms are required to prohibit certain minors from
 10 entering into contracts to become account holders;
 11 authorizing the Department of Legal Affairs to bring
 12 actions under the Florida Deceptive and Unfair Trade
 13 Practices Act for knowing or reckless violations;
 14 authorizing the department to issue and enforce civil
 15 investigative demands under certain circumstances;
 16 providing civil penalties; authorizing punitive
 17 damages under certain circumstances; providing for
 18 private causes of action; requiring that such actions
 19 be brought within a specified timeframe; providing
 20 that certain social media platforms are subject to the
 21 jurisdiction of state courts; providing that if a
 22 social media platform allows an account holder to use
 23 such platform, the parties have entered into a
 24 contract; providing construction; authorizing the
 25 department to take certain investigative and

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26 | compliance actions; authorizing the department to
 27 | adopt rules; creating s. 501.1737, F.S.; defining
 28 | terms; requiring a commercial entity that knowingly
 29 | and intentionally publishes or distributes material
 30 | harmful to minors on a website or application that
 31 | contains a substantial portion of such material to use
 32 | certain verification methods and prevent access to
 33 | such material by minors; providing applicability and
 34 | construction; authorizing the department to bring
 35 | actions under the Florida Deceptive and Unfair Trade
 36 | Practices Act for violations; providing civil
 37 | penalties; authorizing punitive damages under certain
 38 | circumstances; providing for private causes of action;
 39 | requiring that such actions be brought within a
 40 | specified timeframe; providing that certain commercial
 41 | entities are subject to the jurisdiction of state
 42 | courts; providing construction; authorizing the
 43 | department to take certain investigative and
 44 | compliance actions; authorizing the department to
 45 | adopt rules; creating s. 501.1738, F.S.; defining the
 46 | term "anonymous age verification"; providing
 47 | requirements for a third party conducting age
 48 | verification pursuant to certain provisions; providing
 49 | for severability; providing an effective date.

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51 Be It Enacted by the Legislature of the State of Florida:

52

53 Section 1. Section 501.1736, Florida Statutes, is created
54 to read:

55 501.1736 Social media use for minors.-

56 (1) As used in this section, the term:

57 (a) "Account holder" means a resident who opens an account
58 or creates a profile or is identified by the social media
59 platform by a unique identifier while using or accessing a
60 social media platform when the social media platform knows or
61 has reason to believe the resident is located in this state.

62 (b) "Daily active users" means the number of unique users
63 in the United States who used the online forum, website, or
64 application at least 80 percent of the days during the previous
65 12 months, or, if the online forum, website, or application did
66 not exist during the previous 12 months, the number of unique
67 users in the United States who used the online forum, website,
68 or application at least 80 percent of the days during the
69 previous month.

70 (c) "Department" means the Department of Legal Affairs.

71 (d) "Resident" means a person who lives in this state for
72 more than 6 months of the year.

73 (e) "Social media platform" means an online forum,
74 website, or application that satisfies each of the following
75 criteria:

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- 76 1. Allows users to upload content or view the content or
 77 activity of other users;
- 78 2. Ten percent or more of the daily active users who are
 79 younger than 16 years of age spend on average 2 hours per day or
 80 longer on the online forum, website, or application on the days
 81 when using the online forum, website, or application during the
 82 previous 12 months or, if the online forum, website, or
 83 application did not exist during the previous 12 months, during
 84 the previous month;
- 85 3. Employs algorithms that analyze user data or
 86 information on users to select content for users; and
- 87 4. Has any of the following addictive features:
- 88 a. Infinite scrolling, which means either:
- 89 (I) Continuously loading content, or content that loads as
 90 the user scrolls down the page without the need to open a
 91 separate page; or
- 92 (II) Seamless content, or the use of pages with no visible
 93 or apparent end or page breaks.
- 94 b. Push notifications or alerts sent by the online forum,
 95 website, or application to inform a user about specific
 96 activities or events related to the user's account.
- 97 c. Displays personal interactive metrics that indicate the
 98 number of times other users have clicked a button to indicate
 99 their reaction to content or have shared or reposted the
 100 content.

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101 d. Auto-play video or video that begins to play without
102 the user first clicking on the video or on a play button for
103 that video.

104 e. Live-streaming or a function that allows a user or
105 advertiser to broadcast live video content in real-time.

106
107 The term does not include an online service, website, or
108 application where the exclusive function is e-mail or direct
109 messaging consisting of text, photographs, pictures, images, or
110 videos shared only between the sender and the recipients,
111 without displaying or posting publicly or to other users not
112 specifically identified as the recipients by the sender.

113 (2)(a) A social media platform shall prohibit a minor who
114 is younger than 14 years of age from entering into a contract
115 with a social media platform to become an account holder.

116 (b) A social media platform shall:

117 1. Terminate any account held by an account holder younger
118 than 14 years of age, including accounts that the social media
119 platform treats or categorizes as belonging to an account holder
120 who is likely younger than 14 years of age for purposes of
121 targeting content or advertising, and provide 90 days for an
122 account holder to dispute such termination. Termination must be
123 effective upon the expiration of the 90 days if the account
124 holder fails to effectively dispute the termination.

125 2. Allow an account holder younger than 14 years of age to

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126 request to terminate the account. Termination must be effective
127 within 5 business days after such request.

128 3. Allow the confirmed parent or guardian of an account
129 holder younger than 14 years of age to request that the minor's
130 account be terminated. Termination must be effective within 10
131 business days after such request.

132 4. Permanently delete all personal information held by the
133 social media platform relating to the terminated account, unless
134 there are legal requirements to maintain such information.

135 (3)(a) A social media platform shall prohibit a minor who
136 is 14 or 15 years of age from entering into a contract with a
137 social media platform to become an account holder, unless the
138 minor's parent or guardian provides consent for the minor to
139 become an account holder.

140 (b) A social media platform shall:

141 1. Terminate any account held by an account holder who is
142 14 or 15 years of age, including accounts that the social media
143 platform treats or categorizes as belonging to an account holder
144 who is likely 14 or 15 years of age for purposes of targeting
145 content or advertising, if the account holder's parent or
146 guardian has not provided consent for the minor to create or
147 maintain the account. The social media platform shall provide 90
148 days for an account holder to dispute such termination.
149 Termination must be effective upon the expiration of the 90 days
150 if the account holder fails to effectively dispute the

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151 termination.

152 2. Allow an account holder who is 14 or 15 years of age to
153 request to terminate the account. Termination must be effective
154 within 5 business days after such request.

155 3. Allow the confirmed parent or guardian of an account
156 holder who is 14 or 15 years of age to request that the minor's
157 account be terminated. Termination must be effective within 10
158 business days after such request.

159 4. Permanently delete all personal information held by the
160 social media platform relating to the terminated account, unless
161 there are legal requirements to maintain such information.

162 (4) If a court enjoins the enforcement of subsection (3)
163 or would otherwise enjoin enforcement of any other provision of
164 this section due to subsection (3), then subsection (3) shall be
165 severed, and the following shall come into effect:

166 (a) A social media platform shall prohibit a minor who is
167 14 or 15 years of age from entering into a contract with a
168 social media platform to become an account holder.

169 (b) A social media platform shall:

170 1. Terminate any account held by an account holder who is
171 14 or 15 years of age, including accounts that the social media
172 platform treats or categorizes as belonging to an account holder
173 who is likely 14 or 15 years of age for purposes of targeting
174 content or advertising, and provide 90 days for an account
175 holder to dispute such termination. Termination must be

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176 effective upon the expiration of 90 days if the account holder
177 fails to effectively dispute the termination.

178 2. Allow an account holder who is 14 or 15 years of age to
179 request to terminate the account. Termination must be effective
180 within 5 business days after such request.

181 3. Allow the confirmed parent or guardian of an account
182 holder who is 14 or 15 years of age to request that the minor's
183 account be terminated. Termination must be effective within 10
184 business days after such request.

185 4. Permanently delete all personal information held by the
186 social media platform relating to the terminated account, unless
187 there are legal requirements to maintain such information.

188 (5) Any knowing or reckless violation of subsection (2),
189 subsection (3), or, if in effect, subsection (4) is deemed an
190 unfair and deceptive trade practice actionable under part II of
191 this chapter solely by the department against a social media
192 platform. If the department has reason to believe that a social
193 media platform is in violation of subsection (2), subsection
194 (3), or, if in effect, subsection (4), the department, as the
195 enforcing authority, may bring an action against such platform
196 for an unfair or deceptive act or practice. For the purpose of
197 bringing an action pursuant to this section, ss. 501.211 and
198 501.212 do not apply. In addition to other remedies under part
199 II of this chapter, the department may collect a civil penalty
200 of up to \$50,000 per violation and reasonable attorney fees and

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201 court costs. When the social media platform's failure to comply
202 with subsection (2), subsection (3), or, if in effect,
203 subsection (4) is a consistent pattern of knowing or reckless
204 conduct, punitive damages may be assessed against the social
205 media platform.

206 (6) (a) A social media platform that knowingly or
207 recklessly violates subsection (2), subsection (3), or, if in
208 effect, subsection (4) is liable to the minor account holder,
209 including court costs and reasonable attorney fees as ordered by
210 the court. Claimants may be awarded up to \$10,000 in damages.

211 (b) A civil action for a claim under this subsection must
212 be brought within 1 year from the date the complainant knew, or
213 reasonably should have known, of the alleged violation.

214 (c) Any action brought under this subsection may only be
215 brought on behalf of a minor account holder.

216 (7) For purposes of bringing an action under this section,
217 a social media platform that allows a minor account holder
218 younger than 14 years of age or a minor account holder who is 14
219 or 15 years of age to create an account on such platform is
220 considered to be both engaged in substantial and not isolated
221 activities within this state and operating, conducting, engaging
222 in, or carrying on a business and doing business in this state,
223 and is therefore subject to the jurisdiction of the courts of
224 this state.

225 (8) If a social media platform allows an account holder to

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226 use the social media platform, the parties have entered into a
227 contract.

228 (9) This section does not preclude any other available
229 remedy at law or equity.

230 (10) (a) If, by its own inquiry or as a result of
231 complaints, the department has reason to believe that an entity
232 or person has engaged in, or is engaging in, an act or practice
233 that violates this section, the department may administer oaths
234 and affirmations, subpoena witnesses or matter, and collect
235 evidence. Within 5 days, excluding weekends and legal holidays,
236 after the service of a subpoena or at any time before the return
237 date specified therein, whichever is longer, the party served
238 may file in the circuit court in the county in which it resides
239 or in which it transacts business and serve upon the enforcing
240 authority a petition for an order modifying or setting aside the
241 subpoena. The petitioner may raise any objection or privilege
242 which would be available upon service of such subpoena in a
243 civil action. The subpoena shall inform the party served of its
244 rights under this subsection.

245 (b) If the matter that the department seeks to obtain by
246 subpoena is located outside the state, the entity or person
247 subpoenaed may make it available to the department or its
248 representative to examine the matter at the place where it is
249 located. The department may designate representatives, including
250 officials of the state in which the matter is located, to

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251 inspect the matter on its behalf, and may respond to similar
 252 requests from officials of other states.

253 (c) Upon failure of an entity or person without lawful
 254 excuse to obey a subpoena and upon reasonable notice to all
 255 persons affected, the department may apply to the circuit court
 256 for an order compelling compliance.

257 (d) The department may request that an entity or person
 258 that refuses to comply with a subpoena on the ground that
 259 testimony or matter may incriminate the entity or person be
 260 ordered by the court to provide the testimony or matter. Except
 261 in a prosecution for perjury, an entity or individual that
 262 complies with a court order to provide testimony or matter after
 263 asserting a valid privilege against self-incrimination shall not
 264 have the testimony or matter so provided, or evidence derived
 265 therefrom, received against the entity or person in any criminal
 266 investigation or proceeding.

267 (e) Any entity or person upon whom a subpoena is served
 268 pursuant to this section shall comply with the terms thereof
 269 unless otherwise provided by order of the court. Any entity or
 270 person that fails to appear with the intent to avoid, evade, or
 271 prevent compliance in whole or in part with any investigation
 272 under this part or who removes from any place, conceals,
 273 withholds, mutilates, alters, or destroys, or by any other means
 274 falsifies any documentary material in the possession, custody,
 275 or control of any entity or person subject to any such subpoena,

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276 or knowingly conceals any relevant information with the intent
 277 to avoid, evade, or prevent compliance shall be liable for a
 278 civil penalty of not more than \$5,000 per week in violation,
 279 reasonable attorney's fees, and costs.

280 (11) The department may adopt rules to implement this
 281 section.

282 Section 2. Section 501.1737, Florida Statutes, is created
 283 to read:

284 501.1737 Age verification for online access to materials
 285 harmful to minors.-

286 (1) As used in this section, the term:

287 (a) "Anonymous age verification" has the same meaning as
 288 in s. 501.1738.

289 (b) "Commercial entity" includes a corporation, a limited
 290 liability company, a partnership, a limited partnership, a sole
 291 proprietorship, and any other legally recognized entity.

292 (c) "Department" means the Department of Legal Affairs.

293 (d) "Distribute" means to issue, sell, give, provide,
 294 deliver, transfer, transmit, circulate, or disseminate by any
 295 means.

296 (e) "Material harmful to minors" means any material that:

297 1. The average person applying contemporary community
 298 standards would find, taken as a whole, appeals to the prurient
 299 interest;

300 2. Depicts or describes, in a patently offensive way,

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301 sexual conduct as specifically defined in s. 847.001(19); and

302 3. When taken as a whole, lacks serious literary,
 303 artistic, political, or scientific value for minors.

304 (f) "News-gathering organization" means any of the
 305 following:

306 1. A newspaper, news publication, or news source, printed
 307 or published online or on a mobile platform, engaged in
 308 reporting current news and matters of public interest, and an
 309 employee thereof who can provide documentation of such
 310 employment.

311 2. A radio broadcast station, television broadcast
 312 station, cable television operator, or wire service, and an
 313 employee thereof who can provide documentation of such
 314 employment.

315 (g) "Publish" means to communicate or make information
 316 available to another person or entity on a publicly available
 317 website or application.

318 (h) "Resident" means a person who lives in this state for
 319 more than 6 months of the year.

320 (i) "Standard age verification" means any commercially
 321 reasonable method of age verification approved by the commercial
 322 entity.

323 (j) "Substantial portion" means more than 33.3 percent of
 324 total material on a website or application.

325 (2) A commercial entity that knowingly and intentionally

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326 publishes or distributes material harmful to minors on a website
327 or application, if the website or application contains a
328 substantial portion of material harmful to minors, must use
329 either anonymous age verification or standard age verification
330 to verify that the age of a person attempting to access the
331 material is 18 years of age or older and prevent access to the
332 material by a person younger than 18 years of age. The
333 commercial entity must offer anonymous age verification and
334 standard age verification, and a person attempting to access the
335 material may select which method will be used to verify his or
336 her age.

337 (3) A commercial entity must ensure that the requirements
338 of s. 501.1738 are met.

339 (4) (a) This section does not apply to any bona fide news
340 or public interest broadcast, website video, report, or event
341 and does not affect the rights of a news-gathering organization.

342 (b) An Internet service provider or its affiliates or
343 subsidiaries, a search engine, or a cloud service provider does
344 not violate this section solely for providing access or
345 connection to or from a website or other information or content
346 on the Internet or a facility, system, or network not under the
347 provider's control, including transmission, downloading,
348 intermediate storage, or access software, to the extent the
349 provider is not responsible for the creation of the content of
350 the communication which constitutes material harmful to minors.

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351 (5) (a) Any violation of subsection (2) or subsection (3)
352 is deemed an unfair and deceptive trade practice actionable
353 under part II of this chapter solely by the department on behalf
354 of a resident minor against a commercial entity. If the
355 department has reason to believe that a commercial entity is in
356 violation of subsection (2) or subsection (3), the department,
357 as the enforcing authority, may bring an action against the
358 commercial entity for an unfair or deceptive act or practice.
359 For the purpose of bringing an action pursuant to this section,
360 ss. 501.211 and 501.212 do not apply. In addition to any other
361 remedy under part II of this chapter, the department may collect
362 a civil penalty of up to \$50,000 per violation and reasonable
363 attorney fees and court costs. When the commercial entity's
364 failure to comply with subsection (2) or subsection (3) is a
365 consistent pattern of conduct of the commercial entity, punitive
366 damages may be assessed against the commercial entity.

367 (b) A third party that performs age verification for a
368 commercial entity in violation of s. 501.1738 is deemed to have
369 committed an unfair and deceptive trade practice actionable
370 under part II of this chapter solely by the department against
371 such third party. If the department has reason to believe that
372 the third party is in violation of s. 501.1738, the department,
373 as the enforcing authority, may bring an action against such
374 third party for an unfair or deceptive act or practice. For the
375 purpose of bringing an action pursuant to this section, ss.

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376 501.211 and 501.212 do not apply. In addition to other remedies
377 under part II of this chapter, the department may collect a
378 civil penalty of up to \$50,000 per violation and reasonable
379 attorney fees and court costs.

380 (c) A commercial entity that violates subsection (2) for
381 failing to prohibit access or prohibit a minor from future
382 access to material harmful to minors after a report of
383 unauthorized or unlawful access is liable to the minor for such
384 access, including court costs and reasonable attorney fees as
385 ordered by the court. Claimants may be awarded up to \$10,000 in
386 damages. A civil action for a claim under this paragraph must be
387 brought within 1 year from the date the complainant knew, or
388 reasonably should have known, of the alleged violation.

389 (d) Any action under this subsection may only be brought
390 on behalf of or by a resident minor.

391 (6) For purposes of bringing an action under subsection
392 (5), a commercial entity that publishes or distributes material
393 harmful to minors on a website or application, if the website or
394 application contains a substantial portion of material harmful
395 to minors and such website or application is available to be
396 accessed in this state, is considered to be both engaged in
397 substantial and not isolated activities within this state and
398 operating, conducting, engaging in, or carrying on a business
399 and doing business in this state, and is therefore subject to
400 the jurisdiction of the courts of this state.

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401 (7) This section does not preclude any other available
402 remedy at law or equity.

403 (8)(a) If, by its own inquiry or as a result of
404 complaints, the department has reason to believe that an entity
405 or person has engaged in, or is engaging in, an act or practice
406 that violates this section, the department may administer oaths
407 and affirmations, subpoena witnesses or matter, and collect
408 evidence. Within 5 days, excluding weekends and legal holidays,
409 after the service of a subpoena or at any time before the return
410 date specified therein, whichever is longer, the party served
411 may file in the circuit court in the county in which it resides
412 or in which it transacts business and serve upon the enforcing
413 authority a petition for an order modifying or setting aside the
414 subpoena. The petitioner may raise any objection or privilege
415 which would be available upon service of such subpoena in a
416 civil action. The subpoena shall inform the party served of its
417 rights under this subsection.

418 (b) If the matter that the department seeks to obtain by
419 subpoena is located outside the state, the entity or person
420 subpoenaed may make it available to the department or its
421 representative to examine the matter at the place where it is
422 located. The department may designate representatives, including
423 officials of the state in which the matter is located, to
424 inspect the matter on its behalf, and may respond to similar
425 requests from officials of other states.

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426 (c) Upon failure of an entity or person without lawful
427 excuse to obey a subpoena and upon reasonable notice to all
428 persons affected, the department may apply to the circuit court
429 for an order compelling compliance.

430 (d) The department may request that an entity or person
431 that refuses to comply with a subpoena on the ground that
432 testimony or matter may incriminate the entity or person be
433 ordered by the court to provide the testimony or matter. Except
434 in a prosecution for perjury, an entity or individual that
435 complies with a court order to provide testimony or matter after
436 asserting a valid privilege against self-incrimination shall not
437 have the testimony or matter so provided, or evidence derived
438 therefrom, received against the entity or person in any criminal
439 investigation or proceeding.

440 (e) Any entity or person upon whom a subpoena is served
441 pursuant to this section shall comply with the terms thereof
442 unless otherwise provided by order of the court. Any entity or
443 person that fails to appear with the intent to avoid, evade, or
444 prevent compliance in whole or in part with any investigation
445 under this part or that removes from any place, conceals,
446 withholds, mutilates, alters, or destroys, or by any other means
447 falsifies any documentary material in the possession, custody,
448 or control of any entity or person subject to any such subpoena,
449 or knowingly conceals any relevant information with the intent
450 to avoid, evade, or prevent compliance, shall be liable for a

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451 civil penalty of not more than \$5,000 per week in violation,
 452 reasonable attorney's fees, and costs.

453 (9) The department may adopt rules to implement this
 454 section.

455 Section 3. Section 501.1738, Florida Statutes, is created
 456 to read:

457 501.1738 Anonymous age verification.—

458 (1) As used in this section, the term "anonymous age
 459 verification" means a commercially reasonable method used by a
 460 government agency or a business for the purpose of age
 461 verification which is conducted by a nongovernmental,
 462 independent third party organized under the laws of a state of
 463 the United States which:

464 (a) Has its principal place of business in a state of the
 465 United States; and

466 (b) Is not owned or controlled by a company formed in a
 467 foreign country, a government of a foreign country, or any other
 468 entity formed in a foreign country.

469 (2) A third party conducting anonymous age verification
 470 pursuant to this section:

471 (a) May not retain personal identifying information used
 472 to verify age once the age of an account holder or a person
 473 seeking an account has been verified.

474 (b) May not use personal identifying information used to
 475 verify age for any other purpose.

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476 (c) Must keep anonymous any personal identifying
477 information used to verify age. Such information may not be
478 shared or otherwise communicated to any person.

479 (d) Must protect personal identifying information used to
480 verify age from unauthorized or illegal access, destruction,
481 use, modification, or disclosure through reasonable security
482 procedures and practices appropriate to the nature of the
483 personal information.

484 Section 4. If any provision of this act or its application
485 to any person or circumstances is held invalid, the invalidity
486 does not affect other provisions or applications of this act
487 which can be given effect without the invalid provision or
488 application, and to this end the provisions of this act are
489 severable.

490 Section 5. This act shall take effect January 1, 2025.