

CS FOR HOUSE BILL NO. 254(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/24/24

Offered: 3/20/24

Sponsor(s): REPRESENTATIVES VANCE, Carpenter, Rauscher, Gray

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to minors and the Internet; and relating to use of social media by**
2 **minors."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 09.68 is amended by adding a new section to read:

5 **Sec. 09.68.140. Civil liability for publishing or distributing pornography to**
6 **minors on the Internet.** (a) A commercial entity that intentionally publishes or
7 distributes pornography on the Internet from an Internet website that contains a
8 substantial portion of pornography shall use a commercially reasonable age
9 verification method to verify that a person attempting to access the pornography is 18
10 years of age or older. A commercial entity that violates this subsection is liable to an
11 individual for damages resulting from a minor accessing the pornography. In this
12 subsection, "commercially reasonable age verification method" includes requiring the
13 person attempting to access the pornography to provide a digitized identification card,
14 requiring the person to comply with a commercial age verification system that verifies

1 age using government-issued identification, or another method that relies on public or
2 private transactional data.

3 (b) A commercial entity or third party may not retain identifying information
4 of an individual used to verify age under (a) of this section after access has been
5 granted to the pornography. A commercial entity that knowingly retains identifying
6 information of an individual after access has been granted to the individual is liable to
7 the individual for damages resulting from retaining the identifying information.

8 (c) The attorney general may investigate an alleged violation of (a) or (b) of
9 this section and may bring a civil action in superior court.

10 (d) In addition to damages under (a) or (b) of this section, a commercial entity
11 that knowingly violates (a) or (b) of this section is liable to the state in a civil action
12 for

13 (1) a civil penalty of \$10,000 for each day that the commercial entity is
14 in violation of (a) or (b) of this section;

15 (2) an additional civil penalty of not more than \$250,000 if, as a result
16 of the commercial entity's violation of (a) of this section, a minor accesses
17 pornography that the entity published or distributed; and

18 (3) full reasonable attorney fees and costs.

19 (e) When determining the amount of a civil penalty under (d)(2) of this
20 section, the superior court shall consider

21 (1) the seriousness of the violation, including the nature,
22 circumstances, extent, and gravity of the violation;

23 (2) the commercial entity's history of prior violations;

24 (3) the deterrent effect of the civil penalty;

25 (4) the economic effect of the civil penalty on the commercial entity;

26 (5) the commercial entity's knowledge of the requirements of this
27 section; and

28 (6) any other information that justice requires.

29 (f) This section does not apply to a news or public interest broadcast, Internet
30 website video, report, or event. This section may not be construed to affect the rights
31 of a

(1) printed, online, or mobile platform newspaper, news publication, or news source of current news;

(2) radio broadcast station, television broadcast station, cable television operator, or wire service; or

(3) an employee of an entity identified in (1) or (2) of this subsection.

(g) A commercial entity that is an Internet service provider, search engine, cloud service provider, or affiliate or subsidiary of an Internet service provider is not liable under this section if the entity

(1) is not responsible for the creation of the pornography; and

(2) solely provides access or connections to

(A) an Internet website;

(B) information or material on the Internet; or

(C) a system or network, not under the control of the entity, for
storage, intermediate storage, Internet access software, or another
means to Internet access or connectivity.

(h) In this section,

(1) "commercial entity" includes a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other entity recognized by law:

(2) "distribute" means to issue, sell, give, provide, deliver, transfer, transmit, circulate, or disseminate by any means;

(3) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks;

(4) "minor" means a person under 18 years of age;

(5) "pornography" means material that

(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest:

(B) in a manner patently offensive with respect to minors, exploits is devoted to, or principally consists of a description or an actual

simulated, or animated display or depiction of

(i) pubic hair, anuses, vulvas, genitals, or nipples of a female breast;

(ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or

(iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and

(C) when taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

(6) "publish" means to communicate or make information available to another person or entity on a publicly available Internet website;

(7) "substantial portion" means more than one-third of the total material on an Internet website contains pornography;

(8) "transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event.

* Sec. 2. AS 44.30 is amended by adding a new section to read:

Article 3. Parental Control Software Reimbursement.

Sec. 44.30.150. Parental control software reimbursement program. (a) The department shall administer a parental control software reimbursement program.

(b) The department shall reimburse a parent who applies for reimbursement and provides the department with sufficient documentation of an expenditure on parental control software for a child's Internet-connected device. The department may reimburse a parent up to \$100 for parental control software for each child each year. The department shall adjust the amount of the reimbursement annually to reflect changes in the Consumer Price Index for all urban consumers for urban Alaska compiled by the Bureau of Labor Statistics, United States Department of Labor.

(c) If the amount appropriated in a fiscal year is insufficient to reimburse each applicant, the department shall distribute the available funds on a pro rata basis.

(d) The department may adopt regulations necessary to implement this

1 section.

2 (e) In this section,

3 (1) "department" means the Department of Family and Community
4 Services;

5 (2) "parent" means a

6 (A) child's natural or adoptive parent;

7 (B) child's guardian, but not the state if the child is in the legal
8 custody of the state;

9 (C) person who is acting in the place of a child's natural or
10 adoptive parent, such as a grandparent or stepparent with whom the child lives,
11 or a person who is legally responsible for the child's welfare; and

12 (D) child's surrogate parent who has been appointed under
13 AS 14.30.325.

14 * **Sec. 3.** AS 45.50 is amended by adding new sections to read:

15 **Article 5A. Social Media Platforms and Minors.**

16 **Sec. 45.50.650. User age restrictions.** (a) A social media platform may not
17 allow a minor under 14 years of age who is a resident of the state to enter into a
18 contract with the platform to create or maintain an account on the platform.

19 (b) A social media platform may not allow a minor who is 14 or 15 years of
20 age and a resident of the state to enter into a contract with the platform to create or
21 maintain an account on the platform without first obtaining written consent from the
22 minor's confirmed parent.

23 (c) A social media platform shall verify the age of each user of the platform in
24 the state using a commercially reasonable age verification method. In this subsection,
25 "commercially reasonable age verification method" includes requiring the user to
26 provide a digitized identification card, requiring the person to comply with a
27 commercial age verification system that verifies age using government-issued
28 identification, or another method that relies on public or private transactional data.

29 (d) A third party that obtains identifying information about a user to verify age
30 under (c) of this section may not retain the information after the user's age has been
31 verified.

Sec. 45.50.660. Account termination and deletion of personal information.

(a) A social media platform shall terminate the account of

(1) a minor under 14 years of age; and

(2) a minor who is 14 or 15 years of age whose confirmed parent has not provided written consent for the minor to maintain the account.

(b) A social media platform shall provide a 90-day period during which a minor user or a minor user's confirmed parent may dispute the termination of an account under (a) of this section. Termination takes effect after 90 days if the minor user or the minor user's confirmed parent does not effectively dispute the termination.

(c) A social media platform shall allow a minor user under 16 years of age or the minor user's confirmed parent to request to terminate the minor's account. Account termination under this subsection must take effect within 10 business days after the termination request.

(d) A social media platform shall permanently delete all personal information held by the social media platform related to an account terminated under this section, unless the social media platform is required by law to retain the information.

Sec. 45.50.670. Enforcement and penalties. (a) If a third party providing age verification under AS 45.50.650(c) or social media platform violates AS 45.50.650 - 45.50.690, the attorney general may bring an action in superior court to seek injunctive relief, civil penalties, or other appropriate remedies.

(b) A third party providing age verification under AS 45.50.650(c) or social media platform that violates AS 45.50.650 - 45.50.690 is subject to a civil penalty of not more than \$10,000 for each violation.

(c) When determining the amount of a civil penalty under this section, the superior court shall consider

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the history of prior violations;

(3) the deterrent effect of the civil penalty;

(4) the economic effect of the civil penalty on the violator;

(5) the violator's knowledge of the requirements of AS

1 45.50.690; and

2 (6) any other information that justice requires.

3 **Sec. 45.50.680. Private right of action.** If a third party providing age
4 verification under AS 45.50.650(c) or social media platform violates AS 45.50.650 -
5 45.50.690, a parent or other person with legal custody of a minor user who is harmed
6 by the violation may bring an action against the platform in superior court to seek
7 actual damages, punitive damages, attorney fees, and costs.

8 **Sec. 45.50.690. Definitions.** In AS 45.50.650 - 45.50.690,

9 (1) "confirmed parent" means a parent or other person who has legal
10 custody of a minor under 16 years of age and whose identity and relationship to the
11 minor have been verified by a social media platform;

12 (2) "minor" means an individual under 18 years of age who has not
13 had the disabilities of a minor removed as described in AS 09.55.590;

14 (3) "social media platform" means an online service, application, or
15 Internet website that is available to the general public and that allows users to create,
16 share, or view user-generated content, including text, images, videos, or audio; "social
17 media platform" does not include an online service, application, or Internet website
18 that exclusively provides

19 (A) electronic mail services; or

20 (B) direct messaging consisting of text, photographs, pictures,
21 images, or videos shared only between the sender and a recipient, without
22 displaying or posting to other users not specifically identified as a recipient by
23 the sender;

24 (4) "user" means a person who accesses or uses a social media
25 platform.