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A Bill

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4

5 By: Representatives Gramlich, A. Collins, Springer

6 *By: Senators J. Boyd, C. Tucker*

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For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS CHILDREN AND TEENS'
10 ONLINE PRIVACY PROTECTION ACT; AND FOR OTHER
11 PURPOSES.

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Subtitle

15

TO CREATE THE ARKANSAS CHILDREN AND

16

TEENS' ONLINE PRIVACY PROTECTION ACT.

17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19

20 SECTION 1. Arkansas Code Title 4, Chapter 88, is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 15 – Arkansas Children and Teens' Online Privacy Protection Act

23

24 4-88-1501. Title.

25 This subchapter shall be known and may be cited as the "Arkansas
26 Children and Teens' Online Privacy Protection Act".

27

28 4-88-1502. Definitions.

29 As used in this subchapter:

30 (1) "Child" means an individual twelve (12) years of age or
31 younger;

32 (2) "Connected device" means a device that is capable of
33 connecting to the Internet, directly or indirectly, or to another connected
34 device;

35 (3) "Disclosure" means:

36 (A) The release of personal information collected from a



1 child or teen by an operator for any purpose, except where the personal
2 information is provided to a person other than an operator who:

3 (i) Provides support for the internal operations of
4 the website, online service, online application, or mobile application of the
5 operator, excluding any activity relating to individual-specific advertising
6 to children or teens; and

7 (ii) Does not disclose or use that personal
8 information for any other purpose; and

9 (B) Making personal information collected from a child or
10 teen by a website, online service, online application, or mobile application
11 directed to children or teens or with actual knowledge that such information
12 was collected from a child or teen, publicly available in identifiable form
13 by any means including by a public posting, through the Internet, or through:

14 (i) A homepage of a website;

15 (ii) A pen pal service;

16 (iii) An electronic mail service;

17 (iv) A message board; or

18 (v) A chat room;

19 (4)(A) "Individual-specific advertising to children or teens"
20 means advertising or any other effort to market a product or service that is
21 directed to a specific child or teen or a device that is linked or reasonably
22 linkable to a child or teen:

23 (i) Based on:

24 (a) The personal information of:

25 (1) The child or teen; or

26 (2) A group of children or teens who are
27 similar in sex, age, income level, race, or ethnicity to the specific child
28 or teen to whom the product or service is marketed;

29 (b) Psychological profiling of a child or teen
30 or group of children or teens; or

31 (c) A unique identifier of the device; or

32 (ii) As a result of use by the child or teen, access
33 by any device of the child or teen, or use by a group of children or teens
34 who are similar to the specific child or teen, of more than a single:

35 (a) Website;

36 (b) Online service;

- 1 (c) Online application;
- 2 (d) Mobile application; or
- 3 (e) Connected device.

4 (B) "Individual-specific advertising to children or teens"
5 does not include:

6 (i) Advertising or marketing to an individual or the
7 device of an individual in response to the individual's specific request for
8 information or feedback, such as a child or teen's current search query;

9 (ii) Contextual advertising, such as when an
10 advertisement is displayed based on the content of the website, online
11 service, online application, mobile application, or connected device in which
12 the advertisement appears and does not vary based on personal information
13 related to the viewer; or

14 (iii) Processing personal information solely for
15 measuring or reporting advertising or content performance, reach, or
16 frequency, including independent measurement.

17 (C) Nothing in subdivision (4)(A) of this section shall be
18 construed to prohibit an operator with actual knowledge or knowledge fairly
19 implied on the basis of objective circumstances that an individual is sixteen
20 (16) years of age or younger from delivering advertising or marketing that is
21 age-appropriate and intended for a child or teen audience, so long as the
22 operator does not use any personal information other than whether the user is
23 age sixteen (16) or younger;

24 (5) "Internet" means collectively a system of interconnected
25 computer networks that comprise the interconnected world-wide network of
26 networks and employ without limitation the Transmission Control
27 Protocol/Internet Protocol, or any predecessor or successor protocols to such
28 protocol, or the User Datagram Protocol to communicate information of all
29 kinds by wire or radio;

30 (6) "Mobile application" means:

31 (A) A software program that runs on the operating system
32 of:

33 (i) A cellular telephone;

34 (ii) A tablet computer; or

35 (iii) A similar portable computing device that
36 transmits data over a wireless connection; and

1 (B) Includes without limitation a service or application
2 offered via a connected device;

3 (7) "Online application" means an Internet-connected software
4 program and includes without limitation a service or application offered via
5 a connected device;

6 (8) "Online contact information" means an email address or
7 another substantially similar identifier that permits direct contact with a
8 person online;

9 (9)(A)(i) "Operator" means a person who, for commercial
10 purposes, operates or provides a website on the internet, an online service,
11 an online application, or a mobile application, and who:

12 (ii)(a) Collects or maintains, either directly or
13 through a service provider, personal information from or about the users of
14 that website, service, or application;

15 (b) Allows another person to collect personal
16 information directly from users of that website, service, or application, in
17 which case, the operator is deemed to have collected the information; or

18 (c) Allows users of that website, service, or
19 application to publicly disclose personal information, in which case, the
20 operator is deemed to have collected the information.

21 (B) "Operator" does not include:

22 (i) Any nonprofit entity that would otherwise be
23 exempt from coverage under section 5 of the Federal Trade Commission Act, 15
24 U.S.C. § 45 et seq., as it existed on January 1, 2025; or

25 (ii) An interactive gaming platform that complies
26 with the requirements of the Children's Online Privacy Protection Act, 15
27 U.S.C. § 6501, as it existed on January 1, 2025, and the rules, guidance, and
28 exemptions under that act, as it existed on January 1, 2025;

29 (10) "Parent" means a natural parent, adoptive parent, legal
30 guardian, or legal custodian of an individual who is sixteen (16) years of
31 age or younger;

32 (11) "Person" means any individual, partnership, corporation,
33 trust, estate, cooperative, association, or other entity;

34 (12)(A) "Personal information" means individually identifiable
35 information about an individual collected online, including without
36 limitation:

- 1 (i) A first and last name;
2 (ii) A home or other physical address including
3 street name and name of the city or town of residence;
4 (iii) An e-mail address;
5 (iv) A telephone number;
6 (v) A Social Security number;
7 (vi) Any other identifier that permits the physical
8 or online contacting of a specific individual;
9 (vii) Geolocation information sufficient to identify
10 a street name and a city or town;
11 (viii) Information generated from the measurement or
12 technological processing of an individual's biological, physical, or
13 physiological characteristics that is used to identify an individual,
14 including without limitation:
15 (a) Fingerprints;
16 (b) Voice prints;
17 (c) Iris or retina imagery scans;
18 (d) Facial templates;
19 (e) Deoxyribonucleic acid (DNA) information;
20 or
21 (f) Gait;
22 (ix) Information linked or reasonably linkable to a
23 child or teen; or
24 (x) Information linked or reasonably linkable to a
25 child or teen or the parents of that child or teen, including without
26 limitation any unique identifier, that an operator collects online from the
27 child or teen and combines with an identifier described in subdivision
28 (12)(A) of this section.
29 (B) "Personal information" does not include an audio file
30 that contains a child or teen's voice so long as the operator:
31 (i) Does not request information via voice that
32 would otherwise be considered personal information under subdivision (12)(A)
33 of this section;
34 (ii) Provides clear notice of its collection and use
35 of the audio file and its deletion policy in its privacy policy;
36 (iii) Only uses the voice within the audio file

1 solely as a replacement for written words, to perform a task, or engage with
2 a website, online service, online application, or mobile application, such as
3 to perform a search or fulfill a verbal instruction or request; and

4 (iv) Only maintains the audio file long enough to
5 complete the stated purpose and then immediately deletes the audio file and
6 does not make any other use of the audio file prior to deletion;

7 (13) "Teen" means an individual who is:

8 (A) Thirteen (13) years of age or older; and

9 (B) Younger than seventeen (17) years of age;

10 (14) "Verifiable consent" means any reasonable effort, including
11 without limitation a request for authorization for future collection, use,
12 and disclosure described in the notice, to ensure that, in the case of a
13 child, a parent of the child, or, in the case of a teen, the teen:

14 (A) Receives specific notice of the personal information
15 collection, use, and disclosure practices of the operator; and

16 (B) Before the personal information of the child or teen
17 is collected, freely and unambiguously authorizes:

18 (i) The collection, use, and disclosure, as
19 applicable, of that personal information; and

20 (ii) Any subsequent use of that personal
21 information; and

22 (15) "Website, online service, online application, or mobile
23 application directed to children" means:

24 (A)(i) A commercial website, online service, online
25 application, or mobile application that is targeted to children; or

26 (ii) That portion of a commercial website, online
27 service, online application, or mobile application that is targeted to
28 children.

29 (B) A commercial website, online service, online
30 application, or mobile application, or a portion of a commercial website,
31 online service, online application, or mobile application, shall not be
32 deemed directed to children solely for referring or linking to a commercial
33 website, online service, online application, or mobile application directed
34 to children by using information location tools, including a directory,
35 index, reference, pointer, or hypertext link.

36

1 4-88-1503. Personal information from and about children and teens –
2 Online collection and use.

3 (a)(1) Except as provided in subdivision (a)(2) of this section, it
4 is unlawful for an operator of a website, online service, online application,
5 or mobile application directed to children or for any operator of a website,
6 online service, online application, or mobile application with actual
7 knowledge or knowledge fairly implied on the basis of objective
8 circumstances:

9 (A) To collect personal information from a child or teen
10 in a manner that violates subsection (b) of this section;

11 (B) To collect, use, disclose to third parties, or compile
12 personal information of a child or teen for purposes of individual-specific
13 advertising to children or teens, or to allow another person to collect, use,
14 disclose, or compile this information for individual-specific advertising to
15 children or teens;

16 (C) To collect the personal information of a child or teen
17 except when the collection of the personal information is:

18 (i) Consistent with the context of a particular
19 service or the relationship of the child or teen with the operator, including
20 without limitation collection that is necessary to fulfill a transaction or
21 provide a product or service requested by the child or teen; or

22 (ii) Required or specifically authorized by law;

23 (D) To store or transfer the personal information of a
24 child or teen of the United States unless the operator discloses to the child
25 or teen involved that his or her personal information is being stored or
26 transferred outside of the United States; or

27 (E) To retain the personal information of a child or teen
28 for longer that is reasonably necessary to fulfill a transaction or provide a
29 service requested by the child or teen except as required or specifically
30 authorized by law.

31 (2) Neither an operator nor the operator's agent shall be liable
32 for a disclosure made in good faith and following reasonable procedures in
33 responding to a request for disclosure of personal information under
34 subdivision (b)(3)(A) of this section to the parent of a child or to a teen
35 under subdivision (b)(4)(A) of this section.

36 (b) An operator of a website, online service, online application, or

1 mobile application directed to children or that has actual knowledge or
2 knowledge fairly implied on the basis of objective circumstances that it is
3 collecting personal information from children or teens shall:

4 (1) Provide clear and conspicuous notice of:

5 (A) What information is collected from children or teens
6 by the operator;

7 (B) How the operator uses such information;

8 (C) The operator's disclosure practices for such
9 information;

10 (D) The rights and opportunities available to the parent
11 of the child or teen under subdivisions (b)(3) and (b)(4) of this section;
12 and

13 (E) The procedures or mechanisms the operator uses to
14 ensure that personal information is not collected from children or teens
15 except under subsection (b) of this section;

16 (2) Obtain verifiable consent from a parent of a child or
17 consent from a teen:

18 (A) For the collection, use, or disclosure of personal
19 information from children or teens; and

20 (B) Before using or disclosing personal information of
21 the child or teen for any purpose that is a material change from the original
22 purposes and disclosure practices specified to the parent of the child or the
23 teen under subdivisions (b)(3) and (b)(4) of this section;

24 (3) Provide, upon request of a parent under this subsection (b)
25 whose child has provided personal information to that operator, upon proper
26 identification of that parent, to the parent:

27 (A)(i) A description of the specific types of personal
28 information collected from the child by that operator;

29 (ii) The method by which the operator obtained the
30 personal information; and

31 (iii) The purposes for which the operator, collects,
32 uses, discloses, and retains the personal information; and

33 (B) The opportunity to:

34 (i) Delete at any time personal information
35 collected from the child or content or information submitted by the child to
36 a website, online service, online application, or mobile application and to

1 refuse at any time to permit the operator's further use or maintenance in
2 retrievable form, or future online collection, of personal information from
3 that child; and

4 (ii) Challenge the accuracy of the personal
5 information and, if the parent of the child establishes the inaccuracy of the
6 personal information, to have the inaccurate personal information corrected;
7 and

8 (C) A means that is reasonable under the circumstances for
9 the parent to obtain any personal information collected from that child, if
10 that information is available to the operator at the time the parent makes
11 the request;

12 (4) Provide, upon the request of a teen under subdivision (b)(1)
13 of this section who has provided personal information to the operator and
14 upon proper identification of that teen:

15 (A) A description of the specific types of personal
16 information collected from the teen by the operator, the method by which the
17 operator obtained the personal information, and the purposes for which the
18 operator collects, uses, discloses, and retains the personal information;

19 (B) The opportunity at any time to delete personal
20 information collected from the teen or content or information submitted by
21 the teen to a website, online service, online application, or mobile
22 application and to refuse further use or collection of personal information
23 from the teen;

24 (C) The opportunity to challenge the accuracy of the
25 personal information and, if the teen establishes the inaccuracy of the
26 personal information, to have the inaccurate personal information corrected;
27 and

28 (D) A means that is reasonable under the circumstances for
29 the teen to obtain any personal information collected from the teen, if the
30 information is available to the operator at the time the teen makes the
31 request;

32 (5) Not require a child to disclose more personal information
33 than is reasonably necessary to participate as a condition to participate in:

34 (A) A game;

35 (B) The offering of a prize; or

36 (C) Another activity; and

1 (6) Establish, implement, and maintain reasonable security
2 practices to protect the confidentiality, integrity, and accessibility of
3 personal information of children or teens collected by the operator, and
4 protect the personal information against unauthorized access.

5 (c) Verifiable consent under subdivision (b)(2)(A) of this section is
6 not required in the case of:

7 (1) Online contact information collected from a child or teen
8 that is used only to respond directly on a one-time basis to a specific
9 request from the child or teen and is not used to recontact the child or teen
10 or to contact another child or teen and is not maintained in retrievable form
11 by the operator;

12 (2) A request for the name or online contact information of a
13 parent or teen that is used for the sole purpose of obtaining verifiable
14 consent or providing notice under this section and where such information is
15 not maintained in retrievable form by the operator if verifiable consent is
16 not obtained after a reasonable time;

17 (3) Online contact information collected from a child or teen
18 that is used only to respond more than once directly to a specific request
19 from the child or teen and is not used to recontact the child or teen beyond
20 the scope of that request if, before any additional response after the
21 initial response to the child or teen, the operator uses reasonable efforts
22 to provide a parent or teen notice of the online contact information
23 collected from the child or teen, the purposes for which it is to be used,
24 and an opportunity for the parent or teen to request that the operator make
25 no further use of the information and that it not be maintained in
26 retrievable form; and

27 (4) The name of the child or teen and online contact
28 information, to the extent reasonably necessary to protect the safety of a
29 child or teen participant on the site:

30 (i) Used only for the purpose of protecting such safety;

31 (ii) Not used to recontact the child or teen or for any
32 other purpose; and

33 (iii) Not disclosed on the site, if the operator uses
34 reasonable efforts to provide a parent or teen notice of the name and online
35 contact information collected from the child or teen, the purposes for which
36 it is to be used, and an opportunity for the parent or teen to request that

1 the operator make no further use of the information and that it not be
2 maintained in retrievable form; or

3 (E) The collection, use, or dissemination of such information by
4 the operator necessary to:

5 (i) Protect the security or integrity of its website;

6 (ii) Take precautions against liability;

7 (iii) Respond to judicial process; or

8 (iv) Provide information to law enforcement agencies
9 or for an investigation on a matter related to public safety.

10 (d)(1) An operator may terminate service provided to a child whose
11 parent has refused or a teen who has refused under subdivision (b)(2) of this
12 section to permit the operator's further use or maintenance in retrievable
13 form or future online collection of personal information from that child or
14 teen.

15 (2) An operator shall not discontinue service provided to a
16 child or teen on the basis of a request by the parent or the child or by the
17 teen under subdivision (b)(3)(B)(i) of this section to delete personal
18 information collected from the child or teen, to the extent that the operator
19 is capable of providing this service without the personal information.

20 (3) A request made under subdivisions (b)(3)(B)(i) of this
21 section to delete personal information of a child or teen shall not be
22 construed to:

23 (A) Limit the authority of a law enforcement agency to
24 obtain any content or information from an operator under a lawfully executed
25 warrant or an order of a court of competent jurisdiction; and

26 (B) Require an operator or third party to delete
27 information that:

28 (i) Another law requires the operator or third party
29 to maintain;

30 (ii) Was submitted to the website, online service,
31 online application, or mobile application of the operator by any person other
32 than the user who is attempting to erase or otherwise eliminate the content
33 or information, including without limitation content or information submitted
34 by the user that was republished or resubmitted by another person; or

35 (iii) Prohibit an operator from retaining a record
36 of the deletion request and the minimum information necessary for the

1 purposes of ensuring compliance with a request made under subsection (b) of
2 this section or ensuring that the child or teen's information remains
3 deleted.

4 (e) Except as provided under § 4-88-1503 and § 4-88-1505, a violation
5 of subdivisions (b)(2) and (b)(3) of this section shall be treated as an
6 unfair or deceptive act or practice prescribed under the Deceptive Trade
7 Practices Act, § 4-88-101 et seq.

8
9 4-88-1504. Enforcement.

10 In a case in which the Attorney General has reason to believe that an
11 interest of the residents of the state has been or is threatened or adversely
12 affected by the engagement of any person in a practice that violates the
13 provisions of this subchapter, the Attorney General may bring a civil action
14 on behalf of the residents of the state in a court of competent jurisdiction
15 to:

16 (1) Enjoin that practice;

17 (2) Enforce compliance with the rule;

18 (3) Obtain damages, restitution, or other compensation on behalf
19 of residents of the state; or

20 (4) Obtain such other relief as the court finds appropriate.

21
22 4-88-1505. Construction.

23 (1) For purposes of enforcing this subchapter, in making a
24 determination as to whether an operator has knowledge fairly implied on the
25 basis of objective circumstances that a user is a child or teen, the Attorney
26 General shall rely on competent and reliable empirical evidence, taking into
27 account the totality of the circumstances, including without limitation
28 consideration of whether the operator, using available technology, exercised
29 reasonable care.

30 (2) Nothing in this subchapter shall be construed to require an
31 operator to:

32 (A) Affirmatively collect any personal information regarding the
33 age of a child or teen that an operator is not already collecting in the
34 normal course of business; or

35 (B) Implement an age gating or age verification functionality.

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/s/Gramlich