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A Bill

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HOUSE BILL 1717

By: Representatives Gramlich, A. Collins, Springer, *Bentley, A. Brown, Walker, Achor*

By: Senators J. Boyd, C. Tucker

For An Act To Be Entitled

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

Subtitle

TO CREATE THE ARKANSAS CHILDREN AND
TEENS' ONLINE PRIVACY PROTECTION ACT.

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

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

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

4-88-1501. Title.

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

4-88-1502. Definitions.

As used in this subchapter:

(1) "Child" means an individual twelve (12) years of age or
younger in the State of Arkansas;

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

(3)(A) "Disclosure" means making personal information that is
collected from a child or teen by a website, online service, online



1 application, or mobile application targeted toward children or teens or that
2 collect with actual knowledge the personal information from a child or teen,
3 publicly available in an identifiable form to a third party not affiliated
4 with the operator.

5 (B) "Disclosure" does not include information provided to
6 a person other than an operator who provides support for the internal
7 operations of the website, online service, online application, or mobile
8 application of the operator, excluding any activity related to individual-
9 specific advertising to children or teens;

10 (4) "Internet" means collectively a system of interconnected
11 computer networks that comprise the interconnected world-wide network of
12 networks and employ without limitation the Transmission Control
13 Protocol/Internet Protocol, or any predecessor or successor protocols to such
14 protocol, or the User Datagram Protocol to communicate information of all
15 kinds by wire or radio;

16 (5) "Mobile application" means:

17 (A) A software program that runs on the operating system
18 of:

19 (i) A cellular telephone;

20 (ii) A tablet computer; or

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

23 (B) Includes without limitation a service or application
24 offered via a connected device;

25 (6) "Online application" means an Internet-connected software
26 program and includes without limitation a service or application offered via
27 a connected device;

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

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

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

1 (b) Allows another person to collect personal
2 information directly from users of that website, service, or application, in
3 which case, the operator is deemed to have collected the information.

4 (B) "Operator" does not include:

5 (i) Any nonprofit entity that would otherwise be
6 exempt from coverage under section 5 of the Federal Trade Commission Act, 15
7 U.S.C. § 45 et seq.;

8 (ii) An interactive gaming platform that complies
9 with the requirements of the Children's Online Privacy Act, 15 U.S.C. § 6501,
10 and the rules, guidance, and exemptions under that act;

11 (iii) An agency, board, commission, institution, or
12 other instrumentality of the State of Arkansas or its political subdivisions;
13 or

14 (iv) A public educational entity of the State of
15 Arkansas, including without limitation a school district and an institution
16 of higher learning;

17 (9) "Parent" means a natural parent, adoptive parent, legal
18 guardian, or legal custodian of an individual who is sixteen (16) years of
19 age or younger;

20 (10) "Person" means any individual, partnership, corporation,
21 trust, estate, cooperative, association, or other entity;

22 (11)(A) "Personal information" means individually identifiable
23 information about an individual collected online, including without
24 limitation:

25 (i) A first and last name;

26 (ii) A home or other physical address including
27 street name and name of the city or town of residence;

28 (iii) An e-mail address;

29 (iv) A telephone number;

30 (v) A Social Security number;

31 (vi) Any other identifier that permits the physical
32 or online contacting of a specific individual;

33 (vii) Geolocation information sufficient to identify
34 a street name and a city or town;

35 (viii) Information generated from the measurement or
36 technological processing of an individual's biological, physical, or

1 physiological characteristics that is used to identify an individual,
2 including without limitation:

3 (a) Fingerprints;

4 (b) Voice prints;

5 (c) Iris or retina imagery scans;

6 (d) Facial templates;

7 (e) Deoxyribonucleic acid (DNA) information;

8 or

9 (f) Gait;

10 (ix) Information linked or reasonably linkable to a
11 child or teen; or

12 (x) Information linked or reasonably linkable to a
13 child or teen or the parents of that child or teen, including without
14 limitation any unique identifier, that an operator collects online from the
15 child or teen and combines with an identifier described in this subdivision
16 (11)(A).

17 (B) "Personal information" does not include an audio file
18 that contains a child or teen's voice so long as the operator:

19 (i) Does not request information via voice that
20 would otherwise be considered personal information under subdivision (11)(A)
21 of this section;

22 (ii) Provides clear notice of its collection and use
23 of the audio file and its deletion policy in its privacy policy;

24 (iii) Only uses the voice within the audio file
25 solely as a replacement for written words, to perform a task, or engage with
26 a website, online service, online application, or mobile application, such as
27 to perform a search or fulfill a verbal instruction or request; and

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

31 (12)(A) "Social media platform" means a public or semipublic
32 Internet-based service or application that:

33 (i) Is used by a consumer in this state;

34 (ii) Is primarily intended to connect and allow
35 users to socially interact within that service or application; and

36 (iii) Enables a user to:

1 (a) Construct a public or semipublic profile
2 for the purposes of signing into and using the service or application;

3 (b) Populate a public list of other users with
4 whom the user shares a social connection within that service or application;
5 and

6 (c) Create or post content that is viewable by
7 other users, including without limitation on message boards, in chat rooms,
8 or through a landing page or main feed that presents the user with content
9 that is generated by other users.

10 (B) "Social media platform" does not include a public or
11 semipublic Internet-based service or application that:

12 (i) Exclusively provides electronic mail or direct
13 messaging services;

14 (ii) Primarily consists of news, sports,
15 entertainment, interactive video games, electronic commerce, or content that
16 is preselected by the provider or for which any chat, comments, or
17 interactive functionality is incidental to, directly related to, or dependent
18 or a student engagement program; or

19 (iv) Primarily provides career development
20 opportunities, including without limitation professional networking, job
21 skills, learning certifications, and job posting and application services;

22 (iii) Is used by and under the direction of an
23 educational entity, including without limitation a learning management system
24 or a student engagement program;

25 (13)(A) "Targeted advertising" means displaying advertisements
26 to a consumer where the advertisement is selected based on personal data
27 obtained from that consumer's activities over time and across nonaffiliated
28 websites or online applications to predict that consumer's preferences or
29 interests.

30 (B) "Targeted advertising" does not include:

31 (i) Advertising based on activities within a
32 controller's own websites or online applications;

33 (ii) Advertising based on the context of a
34 consumer's current search query or visit to a website or online application;

35 (iii) Advertising directed to a consumer in response
36 to the consumer's request for information or feedback; or

1 (iv) Processing of personal data that is processed
2 solely for measuring or reporting advertising performance, reach, or
3 frequency;

4 (14) "Teen" means an individual located in the State of Arkansas
5 who is:

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

7 (B) Younger than seventeen (17) years of age; and

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

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

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

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

18 (ii) Any subsequent use of that personal
19 information.

20
21 4-88-1503. Personal information from and about children and teens -
22 Online collection and use.

23 (a)(1) Except as provided in subdivision (a)(2) of this section, it
24 is unlawful for an operator of a website, online service, online application,
25 or mobile application directed to children or for any operator of a website,
26 online service, online application, or mobile application with actual
27 knowledge that it is collecting personal information from children or teens:

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

30 (B) To collect, use, disclose to third parties, or compile
31 personal information of a child or teen for purposes of targeted advertising
32 to children or teens, or to allow another person to collect, use, disclose,
33 or compile this information for targeted advertising to children or teens;

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

36 (i) Consistent with the context of a particular

1 service or the relationship of the child or teen with the operator, including
2 without limitation collection that is necessary to fulfill a transaction or
3 provide a product or service requested by the child or teen; or

4 (ii) Required or specifically authorized by law; or
5 (D) To retain the personal information of a child or teen
6 for longer that is reasonably necessary to fulfill a transaction or provide a
7 service requested by the child or teen except as required for the safety or
8 integrity of the service or specifically authorized by law.

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

14 (b) An operator of a website, online service, online application, or
15 mobile application that has actual knowledge that it is collecting personal
16 information from children or teens shall:

17 (1) Provide clear and conspicuous notice of:

18 (A) What information is collected from children or teens
19 by the operator;

20 (B) The purpose for processing personal data;

21 (C) The operator's disclosure practices for such
22 information;

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

25 (E) The categories of personal data that the controller
26 shares with third parties, if any; and

27 (F) The categories of third parties, if any, with whom the
28 controller shares personal data;

29 (2) Obtain verifiable consent for the collection, use, or
30 disclosure of personal information from a child or teen from a:

31 (A) Parent or legal guardian of a child, except to the
32 extent the processing is permitted under 15 U.S.C. § 6502, and its
33 implementing regulations; or

34 (B) A teen, except when the processing is for:

35 (i) Providing or maintaining a specific product or
36 service requested by the teen;

1 (ii) Conducting the operator's internal business
2 operations, including without limitation identifying and repairing technical
3 errors that impair existing or intended functionality;

4 (iii) Protecting against malicious, fraudulent, or
5 illegal activity or detecting, responding to, or preventing security
6 incidents or threats;

7 (iv) Investigating, establishing, exercising,
8 preparing for, or defending legal claims;

9 (v) Complying with federal, state, or local laws,
10 rules, or regulations;

11 (vi) Complying with a civil, criminal, or regulatory
12 inquiry, investigation, subpoena, or a summons by federal, state, local, or
13 other governmental authorities; or

14 (vii) Protecting the vital interests of a natural
15 person;

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

19 (A)(i) A description of the specific categories of
20 personal information collected from the child by that operator;

21 (ii) The purposes for which the operator, collects,
22 uses, discloses, and retains the personal information;

23 (B) The opportunity to:

24 (i) Request at any time the deletion of the account
25 of the child or content or information submitted by the child to a website,
26 online service, online application, or mobile application and to refuse at
27 any time to permit the operator's further use or maintenance in retrievable
28 form, or future online collection, of personal information from that child;
29 and

30 (ii) Challenge the accuracy of the personal
31 information and, if the parent of the child establishes the inaccuracy of the
32 personal information, to have the inaccurate personal information corrected;
33 and

34 (C) A means that is reasonable under the circumstances for
35 the parent to obtain any personal information collected from that child, if
36 that information is available to the operator at the time the parent makes

1 the request;

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

5 (A) A description of the specific categories of personal
6 information collected from the teen by the operator, the method by which the
7 operator obtained the personal information, and the purposes for which the
8 operator collects, uses, discloses, and retains the personal information;

9 (B) The opportunity at any time to delete personal
10 information collected from the teen or content or information submitted by
11 the teen to a website, online service, online application, or mobile
12 application;

13 (C) The opportunity to challenge the accuracy of the
14 personal information and, if the teen establishes the inaccuracy of the
15 personal information, to have the inaccurate personal information corrected;
16 and

17 (D) A means that is reasonable under the circumstances for
18 the teen to obtain any personal information collected from the teen, if the
19 information is available to the operator at the time the teen makes the
20 request;

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

23 (A) A game;

24 (B) The offering of a prize; or

25 (C) Another activity; and

26 (6) Establish, implement, and maintain reasonable security
27 practices to protect the confidentiality, integrity, and accessibility of
28 personal information of children or teens collected by the operator, and
29 protect the personal information against unauthorized access.

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

32 (1) Online contact information collected from a child or teen
33 that is used only to respond directly on a one-time basis to a specific
34 request from the child or teen and is not used to recontact the child or teen
35 or to contact another child or teen and is not maintained in retrievable form
36 by the operator;

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

6 (3) Online contact information collected from a child or teen
7 that is used only to respond more than once directly to a specific request
8 from the child or teen and is not used to recontact the child or teen beyond
9 the scope of that request if, before any additional response after the
10 initial response to the child or teen, the operator uses reasonable efforts
11 to provide a parent or teen notice of the online contact information
12 collected from the child or teen, the purposes for which it is to be used,
13 and an opportunity for the parent or teen to request that the operator make
14 no further use of the information and that it not be maintained in
15 retrievable form; and

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

19 (A) Used only for the purpose of protecting such safety;

20 (B) Not used to recontact the child or teen or for any
21 other purpose; and

22 (C) Not disclosed on the site, if the operator uses
23 reasonable efforts to provide a parent or teen notice of the name and online
24 contact information collected from the child or teen, the purposes for which
25 it is to be used, and an opportunity for the parent or teen to request that
26 the operator make no further use of the information and that it not be
27 maintained in retrievable form; or

28 (5) The collection, use, or dissemination of such information by
29 the operator necessary to:

30 (A) Protect the security or integrity of its website;

31 (B) Take precautions against liability;

32 (C) Respond to judicial process;

33 (D) Protect the security or safety of the user on the
34 service; or

35 (E) Provide information to law enforcement agencies or for
36 an investigation on a matter related to public safety.

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

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

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

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

17 (B) Require an operator or third party to delete
18 information that:

19 (i) Another law requires the operator or third party
20 to maintain;

21 (ii) Was submitted to the website, online service,
22 online application, or mobile application of the operator by any person other
23 than the user who is attempting to erase or otherwise eliminate the content
24 or information, including without limitation content or information submitted
25 by the user that was republished or resubmitted by another person; or

26 (iii) Prohibit an operator from retaining a record
27 of the deletion request and the minimum information necessary for the
28 purposes of ensuring compliance with a request made under subsection (b) of
29 this section or ensuring that the child or teen's information remains
30 deleted.

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

35
36 4-88-1504. Enforcement.

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

- (1) Enjoin that practice;
- (2) Enforce compliance with the rule;
- (3) Obtain damages, restitution, or other compensation on behalf of residents of the state; or
- (4) Obtain such other relief as the court finds appropriate.

4-88-1505. Construction.

This subchapter shall not be construed to require an operator to:

- (1) Affirmatively collect any personal information regarding the age of a child or teen that an operator is not already collecting in the normal course of business; or
- (2) Implement an age-gating or age verification functionality.

SECTION 2. DO NOT CODIFY. SEVERABILITY CLAUSE.

If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.

SECTION 3. DO NOT CODIFY. EFFECTIVE DATE.

This act shall be effective on and after July 1, 2026.

/s/Gramlich