



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1186/1
JAM:wlj

2023 BILL

1 **AN ACT to create** 100.75 of the statutes; **relating to:** use of social media
2 platforms by minors, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates requirements related to social media companies' and social media platforms' treatment of minor account holders.

Under the bill, social media companies must within 21 days of the creation of an account or of an attempt to access an account, depending on when the account is created, do the following: 1) verify the age of Wisconsin resident adults holding a social media platform account created on or after January 1, 2019, and 2) obtain the consent of a minor account holder's parent or guardian before permitting the minor to access his or her account. In addition, the bill requires social media companies to ensure that minors' accounts on their social media platforms have certain safeguards relating to privacy, advertising, parental access, and hours of use. A violation of the requirements of this bill may result in the social media platform being required to forfeit \$100 per violation per day, an award of damages to an injured account holder, and an injunction preventing further violations.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL**SECTION 1**

1 **SECTION 1.** 100.75 of the statutes is created to read:

2 **100.75 Social media company requirements. (1) DEFINITIONS.** In this
3 section:

4 (a) “Account” means a social media platform account or profile.

5 (b) “Account holder” means a person who has, or opens, an account.

6 (c) “Adult” means a person who is not a minor.

7 (d) “Educational entity” means any of the following:

8 1. A public school, as defined in s. 115.01 (1).

9 2. A charter school, as defined in s. 115.001 (1).

10 3. A tribal school, as defined in s. 115.001 (15m).

11 4. A private school participating in a program in s. 118.60 or 119.23.

12 5. The Wisconsin Center for the Blind and Visually Impaired.

13 6. The Wisconsin Educational Services Program for the Deaf and Hard of
14 Hearing.

15 7. A school of a parochial or denominational character that offers a course with
16 a sectarian objective.

17 8. A technical college under the authority of a district board, as defined in s.
18 38.01 (6).

19 9. A college campus, as defined in s. 36.05 (6m).

20 10. An institution, as defined in s. 36.05 (9).

21 11. A tribally controlled college located in this state.

22 12. A private, nonprofit postsecondary institution that is a member of the
23 Wisconsin Association of Independent Colleges and Universities.

24 (e) “Interactive computer service” means an information service, an
25 information system, or information access software that provides access to the

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1 Internet or provides or enables computer access by multiple users to a computer
2 server. “Interactive computer service” includes a web service, a web system, a
3 website, a web application, and a web portal.

4 (f) “Minor” means a resident under the age of 18. “Minor” does not include an
5 emancipated minor, as defined in s. 48.375 (2) (e).

6 (g) “Post” means content that an account holder or user makes available on a
7 social media platform for other account holders or users to view.

8 (h) “Resident” means an individual who resides in this state.

9 (i) “Social media company” means an interactive computer service that makes
10 available a social media platform that has 5,000,000 or more account holders.

11 (j) 1. “Social media platform” means an online forum that a social media
12 company makes available for an account holder to open a profile, upload a post, view
13 a post of another account holder, or interact with other account holders or users.

14 2. Notwithstanding subd. 1., “social media platform” does not include an online
15 service, website, or application for which the predominant or exclusive function is
16 any of the following:

17 a. Electronic mail.

18 b. The direct messaging of text, photo, or video messages that are sent between
19 devices by electronic means, in which the messages shared between the sender and
20 the recipient are visible only to the sender and the recipient and are not posted
21 publicly.

22 c. A streaming service that provides only licensed media in a continuous flow
23 from itself to the end user and that does not obtain a license to the media from an
24 account holder or user by agreement to its terms of service.

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1 d. News, sports, entertainment, or other content that is preselected by a social
2 media platform that is not user-generated, on which any provided chat, comment,
3 or other interactive functionality is incidental to, directly related to, or dependent
4 upon the provision of the content.

5 e. Online shopping or e-commerce if an account holder's or user's interaction
6 with other account holders or users is generally limited to the ability to upload a post
7 or comment on reviews, the ability to display lists or collections of goods for sale, and
8 other functions that are focused on online shopping or e-commerce rather than on
9 interaction between account holders or users.

10 f. Interactive gaming, virtual gaming, or an online service that allows the
11 creating and uploading of content for the purpose of interactive gaming, educational
12 entertainment, or entertainment associated with interactive gaming or educational
13 entertainment, and the communication related to that content.

14 g. Photo editing associated with a photo hosting service if an account holder's
15 or user's interaction with other account holders or users is generally limited to liking
16 or commenting.

17 h. A professional creative network for showcasing and discovering artistic
18 content if the content is required to be non-pornographic.

19 i. Single-purpose community groups for public safety if interaction between
20 account holders or users is generally limited to the single purpose and the
21 community has guidelines or policies against illegal content.

22 j. Providing career development opportunities, including professional
23 networking, job skills, learning certificates, and job posting and application services.

24 k. Business-to-business software.

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1 L. A teleconferencing or videoconferencing service that allows reception and
2 transmission of audio and video signals for real-time communication.

3 m. Cloud storage.

4 n. Shared document collaboration.

5 o. Cloud computing services.

6 p. Providing access to or interfacing with data visualization platforms,
7 libraries, or hubs.

8 q. Permitting comments on a digital news website if the news content is posted
9 only by the provider of the digital news website.

10 r. Providing or obtaining technical support for a platform, product, or service.

11 s. Academic or scholarly research.

12 t. Genealogical research.

13 u. Providing content to account holders or users if any ability of account holders
14 or users to chat, comment, or interact with other account holders or users is directly
15 related to the provider's content.

16 v. A classified ad service that permits only the sale of goods and prohibits the
17 solicitation of personal services.

18 w. Use by and under the direction of an educational entity, including a learning
19 management system, a student engagement program, and a subject or skill-specific
20 program.

21 (k) "User" means a person who is not an account holder and who has access to
22 view or create a post on a social media platform.

23 (L) "Youth account" means an account on a social media platform for use by a
24 minor.

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1 **(2) AGE VERIFICATION.** Beginning on August 1, 2024, a social media company
2 shall ensure that all accounts created on or after January 1, 2019, are held by either
3 an adult or a minor whose parent or guardian has provided express consent for the
4 minor to be an account holder. Each account shall be by default a youth account until
5 the social media company has either verified the age of the adult account holder or
6 the parent or guardian of a minor account holder has opted the minor's account out
7 of the youth account designation as provided under sub. (4) (f). In order to comply
8 with this subsection, a social media company shall do all of the following:

9 (a) For a resident account holder whose account is created on or after August
10 1, 2024, the social media company shall within 21 days of account creation either
11 verify that the account holder is an adult or receive express consent from a minor's
12 parent or guardian for the minor to be an account holder. If the time requirement
13 under paragraph is not met, the social media company shall deny the resident access
14 to the resident's account until the social media company has either verified that the
15 account holder is an adult or received express consent from a minor's parent or
16 guardian for the minor to be an account holder.

17 (b) For a resident account holder whose account is created on or after January
18 1, 2019, and before August 1, 2024, the social media company shall within 21 days
19 of the account holder's first attempt to access the account on or after August 1, 2024,
20 verify that the account holder is an adult or receive express consent from a minor's
21 parent or guardian for the minor to be an account holder. If the time requirement
22 under paragraph is not met, the social media company shall deny the resident access
23 to the resident's account until the social media company has either verified that the
24 account holder is an adult or received express consent from a minor's parent or
25 guardian for the minor to be an account holder.

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1 **(3) YOUTH ACCOUNTS.** Subject to sub. (4) (f), a social media company shall ensure
2 that a minor's account on a social media platform is a youth account. A social media
3 company shall do all of the following regarding a youth account:

4 (a) Prevent direct messaging between the account holder and any other account
5 holder or user that is not linked to the account through friending or another process
6 through which 2 persons add each other to a list of contacts associated with the
7 account holder.

8 (b) Refrain from showing the account or information about the account in
9 search results provided to any other account holder or user that is not linked to the
10 account through friending or another process through which 2 persons add each
11 other to a list of contacts associated with the account holder.

12 (c) Prevent advertising from being shown to the account holder.

13 (d) Refrain from collecting or using personal information from the account or
14 the account holder's posts, messages, text, usage activities, or entered information,
15 other than information that is necessary to comply with state or federal law.

16 (e) Refrain from the use of targeted or suggested groups, accounts, users,
17 services, posts, and products on the account.

18 **(4) PARENTAL ACCESS.** A social media company shall provide to a parent or
19 guardian of a minor account holder a password or other means for the parent or
20 guardian to access the minor's account until the account holder is no longer a minor.
21 The parent or guardian access required under this subsection shall include all of the
22 following:

23 (a) Access to posts that the minor has made on the social media platform.

24 (b) Access to all messages and responses sent by or to the minor on the social
25 media platform.

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1 (c) The ability to change or eliminate the time restrictions required under sub.
2 (5).

3 (d) The ability to set a limit of total time per day that the minor may use or
4 access the minor's youth account.

5 (e) The ability to access the minor's youth account without time restrictions.

6 (f) The ability to opt the minor's account out of the youth account designation
7 and youth account requirements provided under sub. (3).

8 **(5) TIME RESTRICTIONS.** Subject to sub. (4) (c), a social media platform shall
9 ensure that a minor may not use or access the minor's youth account between the
10 hours of 10 p.m. and 7 a.m. The time of day under this subsection shall be calculated
11 on the basis of the Internet protocol address being used by the youth account at the
12 time of attempted access. The social media company shall ensure that a minor youth
13 account holder does not change or bypass the time restrictions under this subsection.

14 **(6) PRIVACY.** (a) A social media company and its agents may use and retain
15 information and data obtained under this section only for the purpose of complying
16 with this section and may not use that information or data for any other purpose.

17 (b) A social media company may not use or employ a person to process
18 verification requirements for the social media company unless the person's principal
19 place of business is located in the United States of America.

20 **(7) WAIVER PROHIBITED.** A social media company may not include a provision
21 in an agreement or contract, and a finder of fact or court may not enforce or give effect
22 to a provision in an agreement or contract, that waives, limits, or purports to waive
23 or limit any of the following:

24 (a) A protection or requirement of this section.

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1 (b) The right of a person to cooperate with the department or to file a complaint
2 with the department.

3 (c) A private cause of action as provided in sub. (10).

4 **(8) NOTICE AND ENFORCEMENT.** (a) The department shall receive consumer
5 complaints alleging violations of this section, and shall investigate alleged violations
6 of this section. Subject to par. (b), the department, or the department of justice in
7 consultation with the department, may bring an action for temporary or permanent
8 injunctive or other relief for any violation of this section or an action for the penalties
9 authorized in sub. (9).

10 (b) 1. At least 30 days before the day on which an action against a social media
11 company is initiated under par. (a), the department or the department of justice shall
12 provide the social media company with written notice that identifies each alleged
13 violation, and an explanation of the basis for each allegation.

14 2. An action may not be initiated under par. (a) if, within 30 days after the day
15 on which the social media company was provided notice under subd. 1., the social
16 media company cures the violation and the social media company provides to the
17 department a written statement that the violation has been cured and that no
18 further violation will occur.

19 3. Notwithstanding subd. 2., the department may initiate an action under par.
20 (a) if the social media company does not cure a violation or provide a written
21 statement as provided in subd. 2., or, if after curing a noticed violation and providing
22 a written statement in accordance with subd. 2., the social media company commits
23 another violation of the same provision of this section as a previous violation.

24 **(9) PENALTIES.** A social media company that violates this section is subject to
25 all of the following:

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1 (a) A forfeiture of \$100 for each violation. Each day of continued violation
2 constitutes a separate offense.

3 (b) An award of damages to an injured account holder.

4 (c) Disgorgement of the money the social media company received in the course
5 of violating this section's requirements and payout of the disgorged money to all
6 injured account holders.

7 (d) Notwithstanding s. 814.04 (1), the department's reasonable attorney fees,
8 court costs, and investigative fees.

9 (e) Any other relief or course of action the court deems reasonable and
10 necessary.

11 **(10) PRIVATE CAUSE OF ACTION.** (a) A resident has a civil cause of action against
12 a social media company if the resident suffers harm as a result of the social media
13 company's violation of this section.

14 (b) If a finder of fact determines that a resident has suffered harm as a result
15 of a social media company's violation of this section in an action brought under par.

16 (a), the court shall award to the resident who brought the action all of the following:

17 1. Either \$100 for each violation, with each day of continued violation
18 constituting a separate offense, or actual damages for financial, physical, or
19 emotional harm experienced by the resident, whichever is greater.

20 2. Notwithstanding s. 814.04 (1), reasonable attorney fees and court costs.

21 **(11) RULE MAKING.** The department shall promulgate rules establishing all of
22 the following:

23 (a) Processes by which a social media company may meet the requirements of
24 this section.

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1 (b) Acceptable forms or methods of identification that are not limited to a valid
2 identification card issued by a government entity.

3 (c) Requirements for providing confirmation of the receipt of any information
4 provided by a person seeking to verify age under this section.

5 (d) Processes to confirm that a parent or guardian has provided consent for a
6 minor to open or use an account as required under this section.

7 (e) Requirements for social media companies regarding the retaining,
8 protecting, and securely disposing of any information obtained by a social media
9 company or one of its agents as a result of compliance with the requirements of this
10 section.

11 (f) Processes by which the department ensures that it appropriately retains,
12 protects, and securely disposes of any forms of identification or documents it obtains
13 in the course of enforcing this section.

14 (g) Such rules as are necessary to effectively enforce this section.

15 **(12) DEPARTMENT REPORT.** (a) The department shall, on July 1, 2025, and
16 annually thereafter, submit a report to the governor and the appropriate standing
17 committees of the legislature under s. 13.172 (3) that includes all of the following
18 information:

19 1. An evaluation of the liability and enforcement provisions of this section,
20 including the effectiveness of the department's efforts to enforce this section and any
21 recommendations for changes to this section.

22 2. A summary of the consumer interactions that are protected and not protected
23 by this section, including a list of alleged violations of this section that the
24 department has received.

