

1 AN ACT relating to online protections for minors.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 6 of this Act:*

6 *(1) "Account holder" means a resident of Kentucky who:*

7 *(a) Opens an account or creates a profile on a social media platform; or*

8 *(b) Is identified by a social media platform by a unique identifier while using or*
9 *accessing the social media platform when the social media platform knows*
10 *or has reason to believe that the individual is located in Kentucky;*

11 *(2) "Daily active users" means the number of unique users in the United States who*
12 *used a social media platform on at least eighty percent (80%) of the days during*
13 *the previous twelve (12) months, or during the previous thirty (30) days if the*
14 *social media platform did not exist for twelve (12) months;*

15 *(3) "Infinite scrolling" means:*

16 *(a) Content that loads as a user scrolls down the page without the need to open*
17 *a separate page; or*

18 *(b) The use of pages with no visible or apparent end or page breaks;*

19 *(4) "Resident" means a person who lives in Kentucky for more than six (6) months*
20 *of the year; and*

21 *(5) "Social media platform":*

22 *(a) Means any online forum, website, or application that:*

23 *1. Allows users to upload content or view the content or activity of other*
24 *users;*

25 *2. Ten percent (10%) or more of the daily active users of which are*
26 *younger than sixteen (16) years old who spend on average two (2)*
27 *hours per day or longer on the online forum, website, or application*

- 1 on the days when using the online forum, website or application
2 during:
3 a. The previous twelve (12) months; or
4 b. The previous thirty (30) days if the online forum, website, or
5 application did not exist for twelve (12) months;
6 3. Employs algorithms that analyze user data or information on users to
7 select content for users; and
8 4. Has any of the following addictive features:
9 a. Infinite scrolling;
10 b. Push notifications or alerts sent by the online forum, website, or
11 application to inform the user about specific activities or events
12 related to the user's account;
13 c. Displays personal interactive metrics that indicate the number of
14 times other users have clicked a button to indicate their reaction
15 to content or have shared or reposted the content;
16 d. Video that begins to play without the user first clicking on the
17 video or on a play button for the video; or
18 e. Livestreaming or a function that allows a user or advertiser to
19 broadcast live video content in real-time; and
20 (b) Does not include an online service, website, or application where the
21 exclusive function is email or direct messaging consisting of text,
22 photographs, pictures, images, or videos shared only between the sender
23 and the recipients without displaying or posting publicly or to other users
24 not specifically identified as the recipients by the sender.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
26 READ AS FOLLOWS:

27 A social media platform shall:

- 1 (1) Prohibit a minor who is younger than fourteen (14) years old from entering into
2 a contract with the social media platform to become an account holder;
- 3 (2) Terminate any account held by an account holder who is younger than fourteen
4 (14) years old, including accounts that the social media platform treats or
5 categorizes as belonging to an account holder who is likely younger than
6 fourteen (14) years old for purposes of targeting content or advertising. In
7 terminating accounts under this subsection, the social media platform shall:
- 8 (a) Provide ninety (90) days for an account holder to dispute the termination;
9 and
- 10 (b) Terminate the account upon the expiration of the ninety (90) day period if
11 the account holder fails to effectively dispute the termination;
- 12 (3) Allow any account holder who is younger than fourteen (14) years old to request
13 to terminate his or her account. In terminating accounts under this subsection,
14 the social medial platform shall terminate the account within five (5) business
15 days after the request;
- 16 (4) Allow the confirmed parent or guardian of an account holder who is younger
17 than fourteen (14) years old to request that the minor's account be terminated. In
18 terminating accounts under this subsection, the social media platform shall
19 terminate the account within (10) business days after the request; and
- 20 (5) Unless otherwise required by law, permanently delete all personal information
21 held by the social media platform relating to an account that is terminated under
22 this section.

23 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
24 READ AS FOLLOWS:

25 A social media platform shall:

- 26 (1) Prohibit a minor who is fourteen (14) or fifteen (15) years old from entering into
27 a contract with the social media platform to become an account holder, unless the

1 minor's parent or guardian provides consent for the minor to become an account
2 holder;

3 (2) Terminate any account held by an account holder who is fourteen (14) or fifteen
4 (15) years old, including accounts that the social media platform treats or
5 categorizes as belonging to an account holder who is likely fourteen (14) or
6 fifteen (15) years old for purposes of targeting content or advertising, unless the
7 account holder's parent or guardian has provided consent for the minor to create
8 or maintain the account. In terminating accounts under this subsection, the
9 social media platform shall:

10 (a) Provide ninety (90) days for an account holder to dispute the termination;
11 and

12 (b) Terminate the account upon the expiration of the ninety (90) day period if
13 the account holder fails to effectively dispute the termination;

14 (3) Allow any account holder who is fourteen (14) or fifteen (15) years old to request
15 to terminate his or her account. In terminating accounts under this subsection,
16 the social medial platform shall terminate the account within five (5) business
17 days after the request;

18 (4) Allow the confirmed parent or guardian of an account holder who is fourteen
19 (14) or fifteen (15) years old to request that the minor's account be terminated. In
20 terminating accounts under this subsection, the social media platform shall
21 terminate the account within (10) business days after the request; and

22 (5) Unless otherwise required by law, permanently delete all personal information
23 held by the social media platform relating to an account that is terminated under
24 this section.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
26 READ AS FOLLOWS:

27 (1) If a court enjoins the enforcement of Section 3 of this Act, or any other

1 provisions of Sections 1 to 6 of this Act due to Section 3 of this Act, Section 3 of
2 this Act shall be severed and subsection (2) of this section shall apply:

3 (2) A social media platform shall:

4 (a) Prohibit a minor who is fourteen (14) or fifteen (15) years old from entering
5 into a contract with the social media platform to become an account holder;

6 (b) Terminate any account held by an account holder who is fourteen (14) or
7 fifteen (15) years old, including accounts that the social media platform
8 treats or categorizes as belonging to an account holder who is likely
9 fourteen (14) or fifteen (15) years old for purposes of targeting content or
10 advertising. In terminating accounts under this subsection, the social media
11 platform shall:

12 1. Provide ninety (90) days for an account holder to dispute the
13 termination; and

14 2. Terminate the account upon the expiration of the ninety (90) day
15 period if the account holder fails to effectively dispute the termination;

16 (c) Allow any account holder who is fourteen (14) or fifteen (15) years old to
17 request to terminate his or her account. In terminating accounts under this
18 subsection, the social medial platform shall terminate the account within
19 five (5) business days after the request;

20 (d) Allow the confirmed parent or guardian of an account holder who is
21 fourteen (14) or fifteen (15) years old to request that the minor's account be
22 terminated. In terminating accounts under this subsection, the social media
23 platform shall terminate the account within (10) business days after the
24 request; and

25 (e) Unless otherwise required by law, permanently delete all personal
26 information held by the social media platform relating to an account that is
27 terminated under this section.

1 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) A violation of Sections 1 to 6 of this Act shall be deemed an unfair, false,
4 misleading or deceptive act or practice in the conduct of trade or commerce in
5 violation of KRS 367.170.

6 (2) All of the remedies, powers, and duties provided to the Attorney General or any
7 other person under KRS 367.110 to 367.300, and the penalties provided in KRS
8 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall
9 apply with equal force and effect to a violation of Sections 1 to 6 of this Act.

10 (3) This section shall not be construed to limit or restrict the remedies, powers,
11 duties, or penalties available to the Attorney General, the Commonwealth, or any
12 other person under any other statutory or common law.

13 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) Any minor injured by a violation of Sections 1 to 6 of this Act shall have a civil
16 cause of action in Circuit Court to:

17 (a) Enjoin further violations;

18 (b) Recover actual damages sustained up to ten thousand dollars (\$10,000);

19 and

20 (c) Recover the costs of the action including reasonable attorney's fees.

21 (2) A civil action filed under this section shall be brought within one (1) year from
22 the date the complainant knew or reasonably should have known of the alleged
23 violation.

24 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
25 READ AS FOLLOWS:

26 As used in Sections 7 to 13 of this Act:

27 (1) "Age category" means a category of an individual based on age, including child,

- 1 younger teenager, older teenager, and adult. As used in this subsection:
- 2 (a) "Child" means an individual who is younger than thirteen (13) years old;
- 3 (b) "Younger teenager" means an individual who is thirteen (13) to fifteen (15)
- 4 years old;
- 5 (c) "Older teenager" means an individual who is sixteen (16) to eighteen (18)
- 6 years old; and
- 7 (d) "Adult" means an individual who is eighteen (18) years of age or older;
- 8 (2) "Age category data" means information about a user's age category that is
- 9 collected by an app store provider and shared with a developer;
- 10 (3) "Age rating" means a classification that provides an assessment of the suitability
- 11 of an app's content for different age groups;
- 12 (4) "App" means a software application or electronic service that a user may
- 13 operate, run, or direct on a mobile device;
- 14 (5) "App store" means a publicly available website, software application, or
- 15 electronic service that distributes apps from third-party developers to users;
- 16 (6) "App store provider" means a person that owns, operates, or controls an app
- 17 store;
- 18 (7) "Content description" means a description of the specific content elements that
- 19 informed the age rating of an app;
- 20 (8) "Developer" means a person that owns or controls an app made available
- 21 through an app store;
- 22 (9) "Minor" means an individual under eighteen (18) years old;
- 23 (10) "Minor account" means an account with an app store provider that:
- 24 (a) Is established by an individual who the app store provider has determined is
- 25 a minor through the app store provider's age verification methods; and
- 26 (b) Requires affiliation with a parent account;
- 27 (11) "Mobile device" means a portable computing device that:

- 1 (a) Provides cellular or wireless connectivity;
2 (b) Is capable of connecting to the internet;
3 (c) Runs a mobile operating system; and
4 (d) Is capable of operating or running apps through the mobile operating
5 system;

6 (12) "Mobile operating system" means software that:

- 7 (a) Manages mobile device hardware resources;
8 (b) Provides common services for mobile device programs;
9 (c) Controls memory allocation; and
10 (d) Provides interfaces for applications to access device functionality;

11 (13) "Office" means the Office of Consumer Protection in the Office of the Attorney
12 General, established by KRS 367.120;

13 (14) "Parent" means an adult who has legal authority to make decisions on behalf of
14 a minor;

15 (15) "Parent account" means an account with an app store provider that:

- 16 (a) Is verified to be established by an individual who the app store provider has
17 determined is at least eighteen (18) years old through the app store
18 provider's age verification methods; and
19 (b) May be affiliated with one (1) or more minor accounts;

20 (16) "Parental consent disclosure" means information that an app store provider is
21 required to provide to a parent before obtaining parental consent, and includes:

- 22 (a) The age rating of the app or in-app purchase, if one exists;
23 (b) The content description of the app or in-app purchase, if one exists; and
24 (c) A description of:
25 1. The personal data the app collects;
26 2. The personal data the app shares with a third party; and
27 3. The app developer's method to protect the personal data the app

1 collects;

2 (17) "Significant change" means a material modification to an app's terms of service
 3 or privacy policy that:

4 (a) Changes the categories of data collected, stored, or shared;

5 (b) Alters the app's age rating or content descriptions;

6 (c) Adds new monetization features including in-app purchases or
 7 advertisements; or

8 (d) Materially changes the app's functionality or user experience; and

9 (18) "Verifiable parental consent" means authorization that:

10 (a) Is provided by an individual who the app store provider has verified is at
 11 least eighteen (18) years old;

12 (b) Is given after the app store provider has clearly and conspicuously provided
 13 the parental consent disclosure to the individual; and

14 (c) Requires the parent to make a choice to grant or decline consent.

15 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) An app store provider shall:

18 (a) At the time an individual who is located in the Commonwealth creates an
 19 account with the app store provider:

20 1. Request age information from the individual; and

21 2. Verify the individual's age using:

22 a. Commercially available methods that are reasonably designed to
 23 ensure accuracy; or

24 b. An age verification method or process that complies with
 25 administrative regulations promulgated by the office under
 26 Section 10 of this Act;

27 (b) If the age verification method or process described in paragraph (a)2 of this

- 1 subsection determines the individual is a minor:
- 2 1. Require the account to be affiliated with a parent account; and
- 3 2. Obtain verifiable parental consent from the holder of the affiliated
- 4 parent account before allowing the minor to:
- 5 a. Download any app;
- 6 b. Purchase any app; or
- 7 c. Make any in-app purchase;
- 8 (c) After receiving notice of any significant change from a developer:
- 9 1. Notify the user of any significant change; and
- 10 2. For a minor account:
- 11 a. Notify the holder of the affiliated parent account; and
- 12 b. Obtain renewed verifiable parental consent;
- 13 (d) Provide to a developer, in connection to a request authorized under Section
- 14 3 of this Act:
- 15 1. Age category data for a user located in the Commonwealth; and
- 16 2. The status of verified parental consent for a minor located in the state;
- 17 (e) Notify a developer when a parent revokes parental consent; and
- 18 (f) Protect personal age verification data by:
- 19 1. Limiting collection and processing to data necessary for:
- 20 a. Verifying a user's age;
- 21 b. Obtaining parental consent; or
- 22 c. Maintaining compliance records; and
- 23 2. Transmitting personal age verification data using industry standard
- 24 encryption protocols that ensure data integrity and data
- 25 confidentiality.
- 26 (2) An app store provider shall not:
- 27 (a) Enforce a contract or terms of service against a minor unless the app store

- 1 provider has obtained verifiable parental consent;
 2 (b) Knowingly misrepresent the information in the parental consent disclosure;
 3 or
 4 (c) Share personal age verification data except:
 5 1. Between an app store provider and a developer as required by Sections
 6 7 to 13 of this Act; or
 7 2. As otherwise required by law.

8 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 9 READ AS FOLLOWS:

- 10 (1) A developer shall:
 11 (a) Verify through the app store's data sharing methods:
 12 1. The age category of users located in this state; and
 13 2. For a minor account, whether verifiable parental consent has been
 14 obtained;
 15 (b) Notify app store providers of a significant change to the app;
 16 (c) Only use age category data received from an app store or other entity to:
 17 1. Enforce age-related restrictions and protections;
 18 2. Ensure compliance with applicable laws and administrative
 19 regulations; or
 20 3. Implement safety-related features or defaults; and
 21 (d) Request personal age verification data or parental consent:
 22 1. At the time a user downloads or purchases an app;
 23 2. When implementing a significant change to the app; or
 24 3. To comply with any applicable law or administrative regulation.
 25 (2) A developer may request personal age verification data or parental consent:
 26 (a) No more than once during each one (1) year period to verify accuracy of
 27 user age data and continued account use within the verified age category;

1 (b) When there is reasonable suspicion of account transfer or misuse outside
 2 the verified age category; or

3 (c) At the time a user creates a new account with the developer.

4 (3) A developer shall not:

5 (a) Enforce a contract or terms of service against a minor unless the developer
 6 has verified through the app store that verifiable parental consent has been
 7 obtained;

8 (b) Knowingly misrepresent any information in the parental consent disclosure;
 9 or

10 (c) Share age category data with any person.

11 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 12 READ AS FOLLOWS:

13 Before January 1, 2027, the office shall:

14 (1) Establish the processes and means by which an app store provider may verify
 15 whether an account holder is a minor in accordance with subsection(1)(a)2.b. of
 16 Section 8 of this Act; and

17 (2) Promulgate administrative regulations in accordance with KRS Chapter 13A to
 18 implement this section.

19 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) A violation of Section 7 to 13 of this Act shall be deemed an unfair, false,
 22 misleading or deceptive act or practice in the conduct of trade or commerce in
 23 violation of KRS 367.170.

24 (2) All of the remedies, powers, and duties provided to the Attorney General or any
 25 other person under KRS 367.110 to 367.300, and the penalties provided in KRS
 26 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall
 27 apply with equal force and effect to a violation of Sections 7 to 13 of this Act.

1 (3) This section shall not be construed to limit or restrict the remedies, powers,
 2 duties, or penalties available to the Attorney General, the Commonwealth, or any
 3 other person under any other statutory or common law.

4 (4) Any parent of a minor injured by a violation of Sections 7 to 13 of this Act, shall
 5 have a civil cause of action in Circuit Court to:

6 (a) Enjoin further violations;

7 (b) Recover actual damages sustained or up to one thousand dollars (\$1,000)
 8 for each violation, whichever is greater; and

9 (c) Recover the costs of the action including reasonable attorney's fees.

10 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 11 READ AS FOLLOWS:

12 (1) A developer is not liable for a violation under Section 9 of this Act if the
 13 developer demonstrates that the developer:

14 (a) Relied in good faith on:

15 1. Personal age verification data provided by an app store provider; and

16 2. Notification from an app store provider that verifiable parental
 17 consent was obtained if the personal age verification data indicates
 18 that the user is a minor; and

19 (b) Complied with Section 9 of this Act.

20 (2) Notwithstanding subsection (1) of this section, the safe harbor described in this
 21 section:

22 (a) Applies only to actions brought under Sections 7 to 13 of this Act; and

23 (b) Does not limit a developer or app store provider's liability under any other
 24 applicable law.

25 (3) Sections 7 to 13 of this Act shall not displace any other available remedies or
 26 rights authorized under the laws of this Commonwealth or the United States.

27 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO

1 READ AS FOLLOWS:

2 Sections 7 to 13 of this Act shall not be construed to:

3 (1) Prevent an app store provider from taking reasonable measures to:

4 (a) Block, detect, or prevent distribution of unlawful, obscene, or harmful
5 material;

6 (b) Block of filter spam;

7 (c) Prevent criminal activity; or

8 (d) Protect app or app store security;

9 (2) Require an app store provider to disclose user information to a developer beyond
10 age category or verification of parental consent status;

11 (3) Allow an app store provider to implement measures required by Section 8 of this
12 Act in a manner that is arbitrary, capricious, anticompetitive, or unlawful;

13 (4) Require an app store provider to obtain parental consent for an app that:

14 (a) Provides direct access to emergency services including 911, crisis hotlines,
15 or any other emergency assistance services legally available to minors;

16 (b) Limits data collection to information necessary to provide emergency
17 services in compliance with the Children's Online Privacy Protection Act,
18 15 U.S.C. sec. 6501 et seq.;

19 (c) Provides access without requiring account creation or collection of
20 unnecessary personal information; or

21 (d) Is operated by or in partnership with an authorized emergency service
22 provider, governmental entity, or nonprofit organization; or

23 (5) Require a developer to collect, retain, reidentify, or link any information beyond
24 what is:

25 (a) Necessary to verify age categories and parental consent status as required
26 by this chapter; and

27 (b) Collected, retained, reidentified, or linked in the developer's ordinary course

1 *of business.*

2 ➔Section 14. If any provision of this Act or the application thereof to any person
3 or circumstance is held invalid, the invalidity shall not affect other provisions or
4 applications of the Act that can be given effect without the invalid provision or
5 application, and to this end the provisions of this Act are severable.