

1 AN ACT relating to addictive online platforms.

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 8 of this Act:*

6 *(1) "Account holder" means a natural person who is a resident of the*
7 *Commonwealth of Kentucky who has an account or a profile with a unique*
8 *identifier on a covered AI companion platform or covered social media platform*
9 *during any period in which a covered social media platform knows or should*
10 *reasonably know the person is physically located in Kentucky;*

11 *(2) "Addictive feature" includes:*

12 *(a) Infinite scrolling, including:*

13 *1. Continuously loading content, or content that loads as the account*
14 *holder scrolls down the page without the need to open a separate page;*

15 *or*

16 *2. Seamless content, or the use of pages with no visible or apparent end*
17 *or page breaks;*

18 *(b) Display of a profile-exploiting feed;*

19 *(c) Push notifications, whether audible, visual, or tactile:*

20 *1. Designed to:*

21 *a. Call the attention of the account holder to newly posted content*
22 *or to user responses to content posted by the account holder; or*

23 *b. Inform the account holder about other specific activities or*
24 *events related to the account holder's account; and*

25 *2. Not including notifications for the purposes of alerting the account*
26 *holder to incoming calls, text messages, email messages, or similar*
27 *messages sent by human contacts and delivered by means of any*

1 application;

2 (d) Autoplay video or video that begins to play without the account holder first
3 clicking on the video or on a play button for that video;

4 (e) Display of personal metrics that indicate the number of times other users
5 have clicked a button or taken other action to indicate their reaction to
6 content posted by the account holder or have shared or reposted content
7 posted by the account holder; and

8 (f) Display of awards, badges, tiers, or any form of recognition of the account
9 holder based on hours spent by the account holder on the social media
10 platform, numbers of followers, numbers of postings, frequency or
11 regularity of postings, or any other metric of usage or performance on the
12 social media platform;

13 (3) "AI companion chatbot" means a generative artificial intelligence system or
14 application that simulates interpersonal interactions with a user, including but
15 not limited to:

16 (a) Using anthropomorphic features such as exhibiting a distinct personality,
17 voice, character, or persona, including but not limited to acting as a friend,
18 companion, romantic or sexual partner, mentor, celebrity, fictional
19 character, advisor, or spiritual being;

20 (b) Personalizing interactions or facilitating ongoing user engagement with the
21 AI companion chatbot, including by utilizing emotional recognition
22 algorithms or information from user interactions, preferences, or data;

23 (c) Providing unprompted or unsolicited questions, topics, ideas, or advice that
24 go beyond a factual response to a user prompt; and

25 (d) Engaging in an interaction concerning matters personal to the user;

26 (4) "AI companion platform" means any online service that simulates interpersonal
27 interactions with a user, including but not limited to offering emotional support,

1 entertainment, roleplay, and enterprise tools;

2 (5) "Child" means an individual under the age of thirteen (13) as defined in 15
3 U.S.C. sec. 6501(1);

4 (6) "Covered AI companion platform" means an AI companion platform, including
5 any parent company, subsidiary, or affiliate of that AI companion platform, that
6 collectively has more than ten million (10,000,000) registered users worldwide
7 and owns or operates a website, mobile application, or digital service providing
8 AI companion chatbot services to users;

9 (7) "Covered social media platform" means a social media platform, including any
10 parent company, subsidiary, or affiliate of the social media platform that
11 collectively generated at least one billion dollars (\$1,000,000,000) in gross
12 revenues annually, worldwide, in one (1) or more of the preceding three (3)
13 years;

14 (8) "Emotional recognition algorithms" means artificial intelligence that detects and
15 interprets human emotional signals in text, video, audio, or a combination of
16 media;

17 (9) "First trigger date" means, with respect to each account holder and each covered
18 AI companion platform or covered social media platform, the date upon which
19 the account holder has been on the covered AI companion platform or covered
20 social media platform for twenty-five (25) hours or more within a six (6) month
21 period following the effective date of this Act;

22 (10) "Minor" means an individual under the age of eighteen (18);

23 (11) "Notice to a parent" has the same meaning as established in the Children's
24 Online Privacy Protection Act, 15 U.S.C. sec. 6501 et seq., and 16 C.F.R. sec.
25 312.4;

26 (12) "Paid commercial advertising" is advertising;

27 (a) For which the social media platform receives any compensation in return

1 for displaying the advertising; and

2 (b) That seeks to encourage the account holder to:

3 1. Purchase a product or service or otherwise engage in a commercial
4 transaction; or

5 2. Follow a link to a website that encourages the account holder to
6 engage in a commercial transaction;

7 (13) "Parent" includes any legal guardian of a minor resident of the Commonwealth
8 of Kentucky;

9 (14) "Personal information" means:

10 (a) Information about an account holder collected online that comprises
11 personal information as defined in the Children's Online Privacy Protection
12 Act, 15 U.S.C. sec. 6501(8);

13 (b) Any record of or information derived from online activity or history, search
14 history, or online communications of an account holder with respect to any
15 application, website, or social media platform;

16 (c) Any photograph or biometric information that is used or could reasonably
17 be used to identify the account holder, including but not limited to
18 fingerprints, voiceprints, iris or retina imagery scans, facial templates, and
19 gait imagery or metric; or

20 (d) Any geolocation information associated with an account holder or with a
21 device of an account holder;

22 (15) "Profile-based paid commercial advertising" means paid commercial advertising
23 that has been selected or prioritized for display to an account holder based in
24 whole or in part on the personal information of the account holder;

25 (16) "Profile-exploiting feed" means an addictive feature or the practice of using
26 social media algorithms that leverage personal data for engagement and potential
27 harm to a user;

1 (17) "Second trigger date" means, with respect to each account holder and each
2 covered AI companion platform or covered social media platform, the date upon
3 which the account holder has been on the covered AI companion platform or
4 covered social media platform for fifty (50) hours or more within a six (6) month
5 period following the effective date of this Act;

6 (18) "Social media platform" means any online service that:

7 (a) Displays content that is primarily generated by account holders; and

8 (b) Permits an individual to register as an account holder and create a profile
9 that is made visible to the general public or a set of other users defined by
10 the account holder; and

11 (19) "Verifiable parental consent" means authorization that:

12 (a) Is provided by an individual who the covered AI companion platform or
13 covered social media platform has verified is at least eighteen (18) years old;

14 (b) Is given after the covered AI companion platform or covered social media
15 platform has clearly and conspicuously provided the parental consent
16 disclosure to the individual; and

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

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

20 (1) (a) Within fourteen (14) days of the first trigger date, the covered AI
21 companion platform or covered social media platform shall use reasonable
22 means and efforts, taking into consideration available technology and the
23 data in the possession of the covered AI companion platform or covered
24 social media platform, to estimate the age of the account holder.

25 (b) If the covered AI companion platform or covered social media platform is
26 able to conclude with eighty percent (80%) confidence that the account
27 holder is over sixteen (16) years of age, the covered AI companion platform

1 or covered social media platform shall treat the account holder as an
2 individual other than a child. Otherwise, the covered AI companion
3 platform or covered social media platform shall treat the account holder as
4 a child for purposes of Sections 1 to 8 of this Act.

5 (2) (a) Within fourteen (14) days of the second trigger date, the covered AI
6 companion platform or covered social media platform shall use reasonable
7 means and efforts to revise its estimate of the account holder's age.

8 (b) If the covered AI companion platform or covered social media platform is
9 able to conclude with ninety percent (90%) confidence that the account
10 holder is over sixteen (16) years of age, the covered AI companion platform
11 may treat the account holder as an individual other than a child. Otherwise,
12 the covered AI companion platform or covered social media platform shall
13 treat the account holder as a child for purposes of Sections 1 to 8 of this
14 Act.

15 (3) A covered AI companion platform or covered social media platform shall update
16 its estimate of the age of each account holder after every additional one hundred
17 (100) hours spent by the account holder on the platform, or as often as the
18 covered AI companion platform or covered social media platform applies any
19 form of data analytics or artificial intelligence to update its estimate of any other
20 demographic characteristic of the account holder for any reason, whichever
21 period is shorter.

22 (4) This section shall not be construed to create any duty on the part of a covered AI
23 companion platform or covered social media platform to request, collect, or retain
24 any information from or about any account holder. The age estimate required by
25 this section shall be derived based on information collected and retained in the
26 ordinary course of operation of the covered social media platform or covered
27 social media platform.

1 (5) A covered AI companion platform or covered social media platform shall not
2 have any obligation under Sections 1 to 8 of this Act to estimate the age of an
3 account holder or take any action with respect to any account if the account
4 holder had the account with the covered social media platform continuously for
5 at least seven (7) years prior to the effective date of this Act.

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

8 (1) A covered AI companion platform or covered social media platform shall require
9 any applicant for an account to provide his or her birth date as part of the
10 account application process.

11 (2) A covered AI companion platform or covered social media platform shall not
12 create or maintain an account for a child, or change the terms and conditions of
13 an account for a child, without first obtaining verifiable parental consent.
14 Information collected for the purpose of obtaining verifiable parental consent
15 shall not be used for any purpose other than obtaining verifiable parental consent
16 and shall be deleted immediately after an attempt to obtain verifiable parental
17 consent, except to the extent necessary to comply with any other applicable state
18 or federal law or regulation.

19 (3) An account for a child shall have all privacy settings set by default at the most
20 private level. A covered AI companion platform or covered social media platform
21 shall not change the privacy settings of an account of a child without first
22 obtaining verifiable parental consent for the change until the account holder is
23 no longer a child.

24 (4) In the course of obtaining verifiable parental consent for the establishment or
25 continuation of an account for a child, a covered AI companion platform or a
26 covered social media platform shall prominently provide and explain an option
27 for a parent to make his or her consent conditional on receipt by the parent of a

1 separate password that enables the parent to:

2 (a) Monitor the amount of time the child spends using the covered AI
3 companion platform or covered social media platform;

4 (b) Set daily and weekly time limits on use of the covered AI companion
5 platform or covered social media platform; and

6 (c) Set limits on the time of day when the covered AI companion platform or
7 covered social media platform can be accessed by the child.

8 (5) A covered AI companion platform or covered social media platform shall not
9 present addictive features in the display or feed of any child.

10 (6) A covered AI companion platform or covered social medial platform shall not
11 present profile-based paid commercial advertising in the display or feed of any
12 child.

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

15 (1) A covered AI companion platform or covered social media platform shall
16 terminate an account if it concludes, or obtains information from which it should
17 reasonably conclude pursuant to its obligations under Section 2 of this Act, that
18 the account holder is a child, unless verifiable parental consent has been
19 obtained for the account.

20 (2) A covered AI companion platform or covered social media platform shall
21 terminate an account of a minor within seven (7) days after a request for
22 termination from the account holder.

23 (3) A covered AI companion platform or covered social media platform shall
24 terminate the account of a minor within fourteen (14) days after receipt of a
25 request for termination from a parent of the minor. Upon receipt of a request for
26 termination, the covered AI companion platform or covered social media
27 platform shall verify that the requesting party is a parent of the account holder by

1 the verification means used by the covered AI companion platform or covered
2 social media platform for ascertaining the validity of the verifiable parental
3 consent.

4 (4) A covered AI companion platform or covered social media platform shall provide
5 clear, simple, and efficient means for the parent of any minor to request
6 termination of any account of a minor.

7 (5) If a covered AI companion platform or covered social media platform makes a
8 determination that it must terminate an account because the account holder has
9 been classified as a child and verifiable parental consent has not been obtained,
10 the covered AI companion platform or covered social media platform shall notify
11 the account holder of its intent to terminate the account within seven (7) days of
12 making the determination and shall provide the reason for the termination. The
13 account holder shall have thirty (30) days from the date of the notice to dispute
14 the age classification and complete an age verification process, or to provide
15 verifiable parental consent to the covered AI companion platform or covered
16 social media platform.

17 (6) If an account holder disputes his or her classification as a child, a covered AI
18 companion platform or covered social media platform may rely on any
19 commercially reasonable age verification process to resolve the dispute. A
20 covered AI companion platform or covered social media platform shall make a
21 reasonable determination within thirty (30) days of the completion of the age
22 verification process. If a covered AI companion platform or covered social media
23 platform concludes it is obligated to terminate an account, it shall terminate that
24 account within seven (7) days of that determination.

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

27 Sections 1 to 8 of this Act shall not be construed to limit in any way beyond any limits

1 imposed by other law the:

2 (1) Content parents may show their children; or

3 (2) Results an online search engine may return in response to a query by a child.

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

6 (1) If a covered AI companion platform or covered social media platform permits a
7 child to open an account or continue to be an account holder without parental
8 consent sufficient for the formation of a binding contract with a minor under
9 ordinary principles of contract law under the laws of the Commonwealth of
10 Kentucky, any contract pertaining to the account is invalid and unenforceable as
11 contrary to public policy, including but not limited to any arbitration provision,
12 limitation of liability, or limitation of remedies, without regard to whether the
13 covered AI companion platform or covered social media platform had actual or
14 constructive knowledge that the account holder was a child.

15 (2) A child or parent shall have a private right of action for declaratory or injunctive
16 relief, damages, including harm to mental health and emotional distress, court
17 costs, reasonable attorney's fees, and any other appropriate relief as a result of
18 any negligent, reckless, or intentional violation of Sections 1 to 8 of this Act.

19 (3) A covered AI companion platform or covered social media platform that
20 recklessly or intentionally violates any provision of Sections 1 to 8 of this Act
21 shall be assessed a civil penalty of ten thousand dollars (\$10,000) or of actual
22 damages established at trial, whichever is greater.

23 (4) A covered AI companion platform or covered social media platform shall not be
24 liable for any violation of Sections 1 to 8 of this Act if it has used reasonable
25 means and efforts, including but not limited to using available technology and
26 any data in possession of the covered AI companion platform or covered social
27 media platform, to comply with the requirements of Sections 1 to 8 of this Act.

1 (5) (a) A civil action for damages for a violation of Sections 1 to 8 of this Act shall
2 be brought within three (3) years of the date the plaintiff knew or
3 reasonably should have known of the alleged violation.

4 (b) The limitation period for this action shall be tolled during the minority of
5 the plaintiff pursuant to KRS 413. 170.

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

8 (1) Any waiver or limitation of any prohibition, limitation, requirement, or right to
9 remedies established by Sections 1 to 8 of this Act is unlawful, contrary to public
10 policy, void ab initio, and of no effect, and a court or arbitrator shall not enforce
11 or give effect to any waiver, notwithstanding any choice of law provision in a
12 contract.

13 (2) If any provision of Sections 1 to 8 of this Act or the application thereof to any
14 person or circumstance is held invalid, the invalidity shall not affect other
15 provision other provisions or applications of the Act that can be given effect
16 without the invalid provision or application, and to this end the provisions of
17 Sections 1 to 8 of this Act are severable.

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

20 (1) Any violation of Sections 1 to 8 of this Act shall be considered an unlawful
21 practice under KRS 367.170. The Attorney General may enforce Sections 1 to 8
22 of this Act by bringing an action in the name of the Commonwealth of Kentucky
23 or on behalf of persons residing in this Commonwealth. The Attorney General
24 shall have all powers and duties granted under KRS Chapter 15 to investigate and
25 prosecute any violation of Sections 1 to 8 of this Act. The Attorney General may
26 demand any information, documentary material, or physical evidence from any
27 covered AI companion platform or covered social media platform believed to be

1 engaged in, or about to engage in, any violation of Sections 1 to 8 of this Act.

2 (2) Prior to initiating any action for violation of Sections 1 to 8 of this Act, the
3 Attorney General shall provide a covered AI companion platform or covered
4 social media platform thirty (30) days written notice identifying the specific
5 provisions of Sections 1 to 8 of this Act, the Attorney General alleges have been
6 violated. If the covered AI companion platform or covered social media platform
7 cures the noticed violation within thirty (30) days and provides the Attorney
8 General an express written statement that the alleged violations have been cured
9 and that no further violations will occur, an action for damages shall not be
10 initiated against the controller or processor.

11 (3) If the covered AI companion platform or covered social media platform continues
12 to violate Sections 1 to 8 of this Act following the cure period or breaches an
13 express written statement provided to the Attorney General under the subsection
14 (2) of this section, the Attorney General may initiate a civil action and seek
15 damages for up to five thousand dollars (\$5,000) for each continued violation.

16 (4) Any covered AI companion platform or covered social media platform that
17 intentionally or recklessly violates Sections 1 to 8 of this Act shall be assessed a
18 civil penalty of not more than five thousand dollars (\$5,000) for each offense in
19 addition to the damages in subsection (3) of this section.

20 (5) The Attorney General may recover reasonable expenses incurred in investigating
21 and preparing the case, court costs, attorney's fees, and any other relief ordered
22 by the court in any action initiated under Sections 1 to 8 of this Act.