

CHAPTER 89

LABOR AND INDUSTRY

HOUSE BILL 26-1058

BY REPRESENTATIVE(S) Slauch and Lukens, Camacho, Clifford, Duran, Froelich, Hamrick, Lieder, Lindsay, Nguyen, Paschal, Rutinel, Smith, McCluskie, Brown, Joseph, Marshall, McCormick, Phillips;
also SENATOR(S) Ball and Wallace, Benavidez, Cutter, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Kolker, Snyder, Weissman, Coleman.

AN ACT**CONCERNING PROTECTIONS FOR MINORS WHO ARE FEATURED IN DIGITAL CONTENT.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 12.5 to title 8 as follows:

ARTICLE 12.5
Protection for Minors Featured in Digital Content

8-12.5-101. Definitions.

AS USED IN THIS ARTICLE 12.5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BANK" HAS THE MEANING SET FORTH IN SECTION 11-101-401 (5).

(2) (a) "CONTENT CREATOR" MEANS A PARENT OR LEGAL GUARDIAN WHO CREATES ONLINE CONTENT IN EXCHANGE FOR COMPENSATION, INCLUDING A PARENT OR LEGAL GUARDIAN WHO IS A VLOGGER, PODCASTER, ONLINE INFLUENCER, OR STREAMER.

(b) "CONTENT CREATOR" DOES NOT INCLUDE A MINOR WHO PRODUCES THEIR OWN ONLINE CONTENT.

(3) "MINOR" MEANS AN INDIVIDUAL UNDER EIGHTEEN YEARS OLD.

(4) "NEWS ORGANIZATION" MEANS AN ENTITY WHOSE PRIMARY PURPOSE IS THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

PUBLICATION OR DISSEMINATION OF NEWS, SPORTS, OR OTHER EDITORIAL CONTENT SELECTED BY THE PUBLISHER, RATHER THAN USER-GENERATED CONTENT.

(5) "ONLINE CONTENT" MEANS CONTENT IN AN AUDIO, IMAGE, OR VIDEO FORMAT SHARED ON AN ONLINE HOSTING PLATFORM IN EXCHANGE FOR COMPENSATION.

(6) (a) "ONLINE HOSTING PLATFORM" MEANS A PUBLIC OR SEMIPUBLIC INTERNET-BASED SERVICE OR APPLICATION THAT HAS ACCOUNT HOLDERS IN COLORADO AND THAT MEETS THE FOLLOWING CRITERIA WITH RESPECT TO ACCOUNT HOLDERS:

(I) THE SERVICE OR APPLICATION CONNECTS ACCOUNT HOLDERS TO ALLOW THEM TO INTERACT WITH EACH OTHER WITHIN THE SERVICE OR APPLICATION;

(II) THE SERVICE OR APPLICATION PERMITS PUBLIC POSTING OF ACCOUNT HOLDER-GENERATED CONTENT WITHOUT VISIBILITY BEING LIMITED TO A PARTICULAR SOCIAL GRAPH; AND

(III) THE SERVICE OR APPLICATION PERMITS INTERACTION WITH OTHER ACCOUNT HOLDERS' CONTENT OUTSIDE A LIMITED SOCIAL GRAPH, INCLUDING CONTENT RECOMMENDED FROM PERSONS THAT THE ACCOUNT HOLDER DOES NOT FOLLOW.

(b) "ONLINE HOSTING PLATFORM" DOES NOT INCLUDE:

(I) AN INTERNET-BASED SERVICE OR APPLICATION OPERATED BY A NEWS ORGANIZATION IN FURTHERANCE OF THE NEWS ORGANIZATION'S PRIMARY PURPOSE;

(II) A TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47 U.S.C. SEC. 153 (53); OR

(III) A BROADBAND INTERNET ACCESS SERVICE, AS DEFINED IN 47 CFR 54.400 (I).

(7) "SOCIAL GRAPH" MEANS THE LIST OF PERSONS THAT AN ACCOUNT HOLDER IS CONNECTED TO USING A FRIENDING FUNCTION OR SIMILAR FUNCTION ON AN ONLINE HOSTING PLATFORM. SUBSCRIBING TO CONTENT FROM ANOTHER ACCOUNT HOLDER DOES NOT CONSTITUTE A FRIENDING FUNCTION.

(8) "TRUST COMPANY" HAS THE MEANING SET FORTH IN SECTION 11-109-101 (11).

(9) "UNIQUELY IDENTIFIABLE" MEANS THAT AN INDIVIDUAL, OTHER THAN THE INDIVIDUAL SUBMITTING A PRIVACY REMOVAL REQUEST, COULD IDENTIFY THE INDIVIDUAL SUBMITTING THE REQUEST AS DISTINCT FROM OTHER INDIVIDUALS BASED ON PERSONAL IDENTIFYING INFORMATION, INCLUDING IMAGE, VOICE, NAME, OR CONTACT INFORMATION.

8-12.5-102. Compensation for content creation - minors engaged in content creation - minor's own content creation - required records - trust account.

(1) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A MINOR IS CONSIDERED ENGAGED IN THE WORK OF CONTENT CREATION WHEN THE FOLLOWING CRITERIA ARE MET AT ANY TIME DURING THE PREVIOUS TWELVE-MONTH PERIOD:

(I) AT LEAST THIRTY PERCENT OF THE CONTENT CREATOR'S ONLINE CONTENT PRODUCED WITHIN A THIRTY-DAY PERIOD INCLUDES THE LIKENESS, NAME, OR PHOTOGRAPH OF THE MINOR. ONLINE CONTENT PERCENTAGE IS MEASURED BY THE PERCENTAGE OF TIME THE LIKENESS, NAME, OR PHOTOGRAPH OF THE MINOR VISUALLY APPEARS OR IS THE SUBJECT OF AN ORAL NARRATIVE IN ONLINE CONTENT, AS COMPARED TO THE TOTAL LENGTH OF TIME OF THE ONLINE CONTENT.

(II) THE NUMBER OF VIEWS RECEIVED PER SEGMENT OF ONLINE CONTENT ON AN ONLINE HOSTING PLATFORM MEETS THE ONLINE HOSTING PLATFORM'S THRESHOLD FOR THE GENERATION OF COMPENSATION OR THE CONTENT CREATOR RECEIVES ACTUAL COMPENSATION, INCLUDING COMPENSATION FROM SPONSORSHIPS, FOR ONLINE CONTENT EQUAL TO OR GREATER THAN TEN CENTS PER VIEW; AND

(III) THE CONTENT CREATOR RECEIVES ACTUAL COMPENSATION FOR ONLINE CONTENT IN AN AMOUNT OF AT LEAST FORTY THOUSAND DOLLARS.

(b) A MINOR WHO IS FOURTEEN YEARS OLD OR OLDER MAY PRODUCE, CREATE, AND PUBLISH THEIR OWN ONLINE CONTENT AND IS ENTITLED TO ALL COMPENSATION FOR THEIR OWN CONTENT CREATION.

(2) (a) ALL CONTENT CREATORS WHOSE ONLINE CONTENT FEATURES A MINOR ENGAGED IN THE WORK OF CONTENT CREATION AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION SHALL MAINTAIN THE FOLLOWING RECORDS UNTIL THE MINOR TURNS EIGHTEEN YEARS OLD:

(I) THE NAME AND DOCUMENTARY PROOF OF THE AGE AT WHICH THE MINOR WHO IS ENGAGED IN THE WORK OF CONTENT CREATION STARTED ONLINE CONTENT CREATING;

(II) THE NUMBER OF POSTS FEATURING ONLINE CONTENT THAT GENERATED COMPENSATION DURING THE REPORTING PERIOD;

(III) THE TOTAL NUMBER OF MINUTES OF THE POSTS FEATURING ONLINE CONTENT THAT THE CONTENT CREATOR RECEIVED COMPENSATION FOR DURING THE REPORTING PERIOD;

(IV) THE TOTAL NUMBER OF MINUTES THE MINOR WAS FEATURED IN POSTS FEATURING ONLINE CONTENT DURING THE REPORTING PERIOD;

(V) THE TOTAL COMPENSATION GENERATED FROM POSTS FEATURING ONLINE CONTENT THAT FEATURE THE MINOR DURING THE REPORTING PERIOD; AND

(VI) THE AMOUNT DEPOSITED INTO THE TRUST ACCOUNT FOR THE BENEFIT OF THE MINOR ENGAGED IN THE WORK OF CONTENT CREATION, AS REQUIRED BY SUBSECTION (3) OF THIS SECTION.

(b) THE RECORDS REQUIRED BY THIS SUBSECTION (2) MUST BE READILY ACCESSIBLE TO THE MINOR FOR REVIEW. THE CONTENT CREATOR SHALL PROVIDE NOTICE TO THE MINOR OF THE EXISTENCE OF THE RECORDS.

(c) IF A CONTENT CREATOR WHOSE POSTS FEATURING ONLINE CONTENT FEATURE

A MINOR ENGAGED IN THE WORK OF CONTENT CREATION FAILS TO MAINTAIN THE RECORDS AS PROVIDED IN THIS SUBSECTION (2), A CIVIL ACTION IN DISTRICT COURT MAY BE FILED ON BEHALF OF THE MINOR TO ENFORCE THIS SECTION. THE COURT MAY AWARD A MINOR WHO PREVAILS IN AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION THE FOLLOWING:

- (I) INJUNCTIVE RELIEF;
- (II) ACTUAL DAMAGES;
- (III) PUNITIVE DAMAGES; AND
- (IV) THE COSTS OF THE ACTION, INCLUDING ATTORNEY FEES AND COURT COSTS.

(3) (a) A CONTENT CREATOR SHALL COMPENSATE A MINOR WHO IS ENGAGED IN THE WORK OF CONTENT CREATION AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION BY SETTING ASIDE GROSS EARNINGS ON ONLINE CONTENT THAT INCLUDES THE LIKENESS, NAME, OR PHOTOGRAPH OF THE MINOR INTO A TRUST ACCOUNT TO BE PRESERVED FOR THE BENEFIT OF THE MINOR UPON REACHING THE AGE OF MAJORITY OR UPON A DECLARATION THAT THE MINOR IS EMANCIPATED, EXCEPT FOR ANY MONEY DISTRIBUTED PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION. THE GROSS EARNINGS SHALL BE SET ASIDE ACCORDING TO THE FOLLOWING DISTRIBUTION:

(I) IF ONLY ONE MINOR MEETS THE ONLINE CONTENT THRESHOLD DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION, THE PERCENTAGE OF GROSS EARNINGS ON ANY ONLINE CONTENT THAT INCLUDES THE LIKENESS, NAME, OR PHOTOGRAPH OF THE MINOR THAT IS EQUAL TO OR GREATER THAN FORTY PERCENT OF THE ONLINE CONTENT THAT INCLUDES THE MINOR, AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION; OR

(II) IF MORE THAN ONE MINOR MEETS THE CONTENT THRESHOLD DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION AND ANY SEGMENT OF ONLINE CONTENT INCLUDES MORE THAN ONE OF THE MINORS, THE PERCENTAGE DESCRIBED IN SUBSECTION (3)(a)(I) OF THIS SECTION FOR ALL MINORS IN ANY SEGMENT SHALL BE EQUALLY DIVIDED BETWEEN THE MINORS, REGARDLESS OF DIFFERENCES IN PERCENTAGE OF CONTENT PROVIDED BY THE INDIVIDUAL MINORS, AND PAID INTO A SEPARATE TRUST ACCOUNT FOR EACH MINOR.

(b) A CONTENT CREATOR SHALL ENSURE THAT A TRUST ACCOUNT REQUIRED UNDER THIS SECTION MEETS THE FOLLOWING REQUIREMENTS:

(I) THE MONEY IN THE ACCOUNT IS MADE AVAILABLE ONLY TO THE MINOR ENGAGED IN THE WORK OF CONTENT CREATION;

(II) THE TRUST ACCOUNT IS HELD BY A BANK OR TRUST COMPANY;

(III) THE MONEY IN THE TRUST ACCOUNT WILL BECOME AVAILABLE TO THE MINOR ENGAGED IN THE WORK OF CONTENT CREATION UPON THE MINOR TURNING EIGHTEEN YEARS OLD OR UPON A DECLARATION THAT THE MINOR IS EMANCIPATED;

(IV) THE TRUST IS NOT REVOCABLE BY THE CONTENT CREATOR WITHOUT THE CONSENT OF THE MINOR ENGAGED IN THE WORK OF CONTENT CREATION; AND

(V) THE ACCOUNT MEETS THE REQUIREMENTS OF THE "COLORADO UNIFORM TRANSFERS TO MINORS ACT", ARTICLE 50 OF TITLE 11.

(c) IF A CONTENT CREATOR KNOWINGLY OR RECKLESSLY VIOLATES THIS SECTION, A CIVIL ACTION IN DISTRICT COURT MAY BE FILED ON BEHALF OF THE MINOR TO ENFORCE THIS SECTION. THE COURT MAY AWARD A MINOR WHO PREVAILS IN AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION THE FOLLOWING:

(I) INJUNCTIVE RELIEF;

(II) ACTUAL DAMAGES;

(III) PUNITIVE DAMAGES; AND

(IV) THE COSTS OF THE ACTION, INCLUDING ATTORNEY FEES AND COURT COSTS.

(d) IF, IN THE PRECEDING CALENDAR YEAR, A MINOR IS ENGAGED IN THE WORK OF CONTENT CREATION AND MEETS THE CRITERIA DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION FOR THE FIRST TIME, THE CONTENT CREATOR SHALL ESTABLISH THE TRUST REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION ON OR BEFORE JANUARY 30 OF THE CALENDAR YEAR.

(e) A COURT OF COMPETENT JURISDICTION MAY DISTRIBUTE MONEY FROM A TRUST ACCOUNT REQUIRED BY SUBSECTION (3)(a) OF THIS SECTION TO A CONTENT CREATOR PRIOR TO THE MINOR WHO IS THE BENEFICIARY OF THE TRUST ACCOUNT REACHING THE AGE OF MAJORITY OR A DECLARATION THAT THE MINOR IS EMANCIPATED UPON:

(I) PETITION OF THE TRUSTEE; AND

(II) A SUBSEQUENT FINDING BY THE COURT THAT THE MONEY WILL ONLY BE USED FOR SPECIFIC EXPENSES THAT SOLELY BENEFIT THE MINOR WHO IS THE BENEFICIARY OF THE TRUST ACCOUNT.

(f) THIS SECTION DOES NOT AFFECT A RIGHT OR REMEDY AVAILABLE UNDER ANY OTHER LAW OF THE STATE.

(g) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT A PARTY THAT IS NEITHER THE CONTENT CREATOR NOR THE MINOR ENGAGED IN THE WORK OF CONTENT CREATION.

8-12.5-103. Privacy removals - private right of action.

(1) AN ADULT OR AN EMANCIPATED MINOR WHO WAS FEATURED IN A CONTENT CREATOR'S POST FEATURING ONLINE CONTENT AS A MINOR ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION MAY REQUEST THAT THE CONTENT CREATOR DELETE THE POST FROM THE ONLINE HOSTING PLATFORM OR EDIT THE POST TO

REMOVE THE INDIVIDUAL'S PRIVATE INFORMATION IF THE INDIVIDUAL IS UNIQUELY IDENTIFIABLE.

(2) (a) AN ONLINE HOSTING PLATFORM SHALL PROVIDE AN EASILY ACCESSIBLE MECHANISM THROUGH WHICH AN INDIVIDUAL CAN SUBMIT A REQUEST PURSUANT TO SUBSECTION (1) OF THIS SECTION FOR THE CONTENT CREATOR TO DELETE A POST FEATURING ONLINE CONTENT FROM THE ONLINE HOSTING PLATFORM OR EDIT THE POST FEATURING ONLINE CONTENT TO REMOVE THE INDIVIDUAL'S PRIVATE INFORMATION IF THE INDIVIDUAL IS UNIQUELY IDENTIFIABLE. THE MECHANISM MAY INCLUDE TOOLS THAT ENABLE AN INDIVIDUAL TO SUBMIT A REQUEST DIRECTLY TO THE CONTENT CREATOR.

(b) AN INDIVIDUAL SUBMITTING A REMOVAL REQUEST PURSUANT TO THIS SECTION MUST INCLUDE ALL INFORMATION REASONABLY REQUESTED TO IDENTIFY THE MINOR AND THE POST FEATURING ONLINE CONTENT, INCLUDING INFORMATION TO VERIFY THAT THE INDIVIDUAL MAKING THE REMOVAL REQUEST IS THE INDIVIDUAL FEATURED IN THE ONLINE CONTENT.

(c) AN ONLINE HOSTING PLATFORM THAT DOES NOT PROVIDE A MECHANISM TO ENABLE INDIVIDUALS TO SUBMIT A REQUEST DIRECTLY TO THE CONTENT CREATOR SHALL NOTIFY THE RESPONSIBLE CONTENT CREATOR WITHIN A REASONABLE TIME PERIOD AFTER THE SUBMITTAL OF A REMOVAL REQUEST, AS SET BY THE ONLINE HOSTING PLATFORM, WHICH TIME PERIOD MUST NOT EXCEED THIRTY DAYS.

(d) A CONTENT CREATOR SHALL DELETE A POST FEATURING ONLINE CONTENT FROM AN ONLINE HOSTING PLATFORM OR EDIT THE POST TO REMOVE THE INDIVIDUAL'S UNIQUELY IDENTIFIABLE INFORMATION WITHIN SEVENTY-TWO HOURS.

(3) (a) IF A CONTENT CREATOR FAILS TO COMPLY WITH SUBSECTION (2)(d) OF THIS SECTION WITHIN THIRTY DAYS AFTER RECEIVING THE REMOVAL REQUEST, THE INDIVIDUAL WHO SUBMITTED THE REMOVAL REQUEST MAY INITIATE A CIVIL ACTION AGAINST THE CONTENT CREATOR IN DISTRICT COURT TO ENFORCE THIS SECTION. AN ONLINE HOSTING PLATFORM IS NOT LIABLE FOR A VIOLATION OF SUBSECTION (2)(d) OF THIS SECTION IF THE ONLINE HOSTING PLATFORM COMPLIES WITH SUBSECTIONS (2)(a) AND (2)(c) OF THIS SECTION. THE COURT MAY AWARD AN INDIVIDUAL WHO PREVAILS IN AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION THE FOLLOWING:

- (I) INJUNCTIVE RELIEF;
- (II) ACTUAL DAMAGES;
- (III) PUNITIVE DAMAGES; AND
- (IV) THE COSTS OF THE ACTION, INCLUDING ATTORNEY FEES AND COURT COSTS.

(b) (I) IF A CONTENT CREATOR FAILS TO COMPLY WITH SUBSECTION (2)(d) OF THIS SECTION WITHIN THIRTY DAYS AFTER RECEIVING THE REMOVAL REQUEST, THE ONLINE HOSTING PLATFORM SHALL REVIEW AND TAKE ALL REASONABLE STEPS CONSISTENT WITH THE ONLINE HOSTING PLATFORM'S POLICIES TO REMOVE THE ONLINE CONTENT FROM THE ONLINE HOSTING PLATFORM UNLESS:

(A) THE INDIVIDUAL WHO WAS FEATURED IN THE CONTENT CREATOR'S POST AS A MINOR DOES NOT SUBMIT SUFFICIENT, ACCURATE INFORMATION IN THE REQUEST TO REMOVE THE CONTENT; OR

(B) THE ONLINE HOSTING PLATFORM FINDS THAT THE POST FEATURING ONLINE CONTENT IS SUFFICIENTLY NEWSWORTHY OR OF OTHER PUBLIC INTEREST TO OUTWEIGH THE PRIVACY INTERESTS OF THE INDIVIDUAL WHO WAS FEATURED IN THE ONLINE CONTENT AS A MINOR. FOR THE PURPOSES OF THIS SUBSECTION (3)(b)(II), CONTENT PUBLISHED BY A NEWS ORGANIZATION IS PRESUMED TO BE NEWSWORTHY OR OF OTHER PUBLIC INTEREST.

(II) AN ONLINE HOSTING PLATFORM IS NOT LIABLE FOR A GOOD FAITH DETERMINATION MADE IN RESPONSE TO THIS SUBSECTION (3)(b).

(III) AN ONLINE HOSTING PLATFORM IS NOT LIABLE FOR ACTIONS TAKEN IN RESPONSE TO THIS SUBSECTION (3)(b) BASED ON THE ONLINE HOSTING PLATFORM'S GOOD FAITH RELIANCE ON THE INFORMATION SUBMITTED AND REMOVAL OF CONTENT IDENTIFIED BY THE REQUESTING INDIVIDUAL, REGARDLESS OF WHETHER THE INDIVIDUAL MADE THE REQUEST IN ERROR OR BAD FAITH.

(4) (a) THIS SECTION DOES NOT AFFECT A RIGHT OR REMEDY AVAILABLE UNDER ANY OTHER LAW OF THE STATE.

(b) THIS SECTION SHALL NOT BE CONSTRUED TO IMPOSE LIABILITY IN A MANNER THAT IS INCONSISTENT WITH THE FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC. 230.

8-12.5-104. Intentional sexualization of minors featured in content creation - exceptions - private right of action - risk-based strategy.

(1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A PERSON SHALL NOT FINANCIALLY BENEFIT FROM KNOWINGLY PRODUCING OR DISTRIBUTING PUBLICLY, INCLUDING BY COMPUTER, ONLINE CONTENT OF A MINOR WITH THE INTENT TO SEXUALLY GRATIFY OR ELICIT A SEXUAL RESPONSE IN THE VIEWER OR ANOTHER PERSON.

(2) (a) THIS SECTION DOES NOT APPLY TO:

(I) LAWFULLY AUTHORIZED INVESTIGATIVE, PROTECTIVE, OR INTELLIGENCE ACTIVITY OF A LAW ENFORCEMENT AGENCY OF THE UNITED STATES, A STATE, OR A POLITICAL SUBDIVISION OF A STATE OR OF AN INTELLIGENCE AGENCY OF THE UNITED STATES;

(II) AN INDIVIDUAL WHO, ACTING IN GOOD FAITH:

(A) REPORTS UNLAWFUL ACTIVITY; OR

(B) ACTS IN PURSUANCE OF A LEGAL OR PROFESSIONAL OR OTHER LAWFUL OBLIGATION;

(III) A DOCUMENT PRODUCTION OR FILING ASSOCIATED WITH A LEGAL PROCEEDING; OR

(IV) AN ONLINE HOSTING PLATFORM WITH REGARD TO ONLINE CONTENT PROVIDED BY CONTENT CREATORS UNLESS THE ONLINE HOSTING PLATFORM INTENTIONALLY SOLICITS, OR KNOWINGLY AND PREDOMINANTLY DISTRIBUTES, SUCH CONTENT.

(b) THIS SECTION SHALL NOT BE CONSTRUED TO IMPOSE LIABILITY IN A MANNER THAT IS INCONSISTENT WITH THE FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC. 230.

(c) THIS SECTION DOES NOT IMPOSE LIABILITY ON AN ONLINE HOSTING PLATFORM FOR CONTENT CREATED BY A THIRD PARTY AND DOES NOT REQUIRE PROACTIVE MONITORING OF USER-GENERATED CONTENT.

(3) (a) IF A PERSON VIOLATES OR ATTEMPTS OR CONSPIRES TO VIOLATE SUBSECTION (1) OF THIS SECTION, A CIVIL ACTION IN DISTRICT COURT MAY BE FILED ON BEHALF OF THE MINOR AGGRIEVED BY THE VIOLATION TO ENFORCE THIS SECTION. THE COURT MAY AWARD A MINOR WHO PREVAILS IN AN ACTION BROUGHT IN ACCORDANCE WITH THIS SECTION THE FOLLOWING:

(I) ACTUAL DAMAGES;

(II) PUNITIVE DAMAGES; AND

(III) THE COSTS OF THE ACTION, INCLUDING ATTORNEY FEES AND COURT COSTS.

(b) THIS SECTION DOES NOT AFFECT A RIGHT OR REMEDY AVAILABLE UNDER ANY OTHER LAW OF THE STATE.

(4) (a) AN ONLINE HOSTING PLATFORM SHALL DEVELOP AND IMPLEMENT A RISK-BASED STRATEGY TO HELP MITIGATE RISKS RELATED TO MONETIZATION OF THE INTENTIONAL SEXUALIZATION OF KNOWN MINORS ENGAGED IN CONTENT CREATION. AN ONLINE HOSTING PLATFORM MAY LEVERAGE EXISTING TRUST AND SAFETY SYSTEMS AND POLICIES TO SATISFY THE REQUIREMENTS OF THIS SUBSECTION (4)(a).

(b) AN ONLINE HOSTING PLATFORM SHALL DOCUMENT AND REASSESS THE RISK-BASED STRATEGY DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION ON A REASONABLE RECURRING BASIS AND MAY INCLUDE AT THE SOLE DISCRETION OF THE ONLINE HOSTING PLATFORM COMMERCIALY REASONABLE:

(I) POLICIES THAT GOVERN CONTENT AND RELATED MONETIZATION;

(II) RESTRICTIONS OF FEATURES ON ONLINE CONTENT FEATURING MINORS;

(III) AUTOMATED SYSTEMS TO IDENTIFY AND ENFORCE AGAINST POTENTIALLY PROBLEMATIC ONLINE CONTENT AND ACCOUNTS;

(IV) GUARDRAILS TO MITIGATE AGAINST A RECOMMENDATION SYSTEM UTILIZED

BY AN ONLINE HOSTING PLATFORM RECOMMENDING ONLINE CONTENT CONTAINING SEXUALIZATION OF KNOWN MINORS; AND

(V) QUALITY ASSURANCE PROCESSES RECURRING AT REASONABLE INTERVALS TO ENSURE THAT THE RISK-BASED STRATEGY DEVELOPED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION IS WORKING AS INTENDED.

(c) AN ONLINE HOSTING PLATFORM SHALL ENSURE THAT INFORMATION ABOUT ITS ONLINE CONTENT POLICIES, SETTINGS, AND BEST PRACTICES FOR ONLINE CONTENT FEATURING MINORS IS PUBLICLY AVAILABLE, UNDERSTANDABLE TO BOTH ADULTS AND MINORS, AND INFORMED BY RESEARCH AND OUTSIDE EXPERTISE. THE INFORMATION MUST INFORM CONTENT CREATORS THAT THEY MAY BE SUBJECT TO VARIOUS LEGAL REQUIREMENTS AND EXPLAIN RISKS AND STEPS TO PROTECT MINORS APPEARING IN POSTS FEATURING ONLINE CONTENT FROM EXPLOITATION.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect June 1, 2027; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect June 1, 2027.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: May 4, 2026