

Jefferson Moss proposes the following substitute bill:

**Artificial Intelligence Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jefferson Moss**

Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to the regulation of mental health chatbots that use artificial intelligence technology.

**Highlighted Provisions:**

This bill:

- defines terms;
- establishes protections for users of mental health chatbots that use artificial intelligence technology;
- prohibits certain uses of personal information by a mental health chatbot;
- requires a mental health chatbot to make certain disclosures to users;
- provides enforcement authority to the Division of Consumer Protection;
- establishes requirements for creating and maintaining policies for mental health chatbots;
- creates rebuttable presumptions for suppliers who comply with policy requirements; and
- provides a severability clause.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-2-1**, as last amended by Laws of Utah 2024, Chapter 132

ENACTS:

**13-72a-101**, Utah Code Annotated 1953

**13-72a-201**, Utah Code Annotated 1953

**13-72a-202**, Utah Code Annotated 1953

- 29        **13-72a-203**, Utah Code Annotated 1953  
30        **13-72a-204**, Utah Code Annotated 1953  
31        **13-72a-301**, Utah Code Annotated 1953  
32        **58-60-118**, Utah Code Annotated 1953

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34    *Be it enacted by the Legislature of the state of Utah:*

35        Section 1. Section **13-2-1** is amended to read:

36        **13-2-1 . Consumer protection division established -- Functions.**

37    (1) There is established within the Department of Commerce the Division of Consumer  
38        Protection.

39    (2) The division shall administer and enforce the following:

- 40        (a) Chapter 10a, Music Licensing Practices Act;  
41        (b) Chapter 11, Utah Consumer Sales Practices Act;  
42        (c) Chapter 15, Business Opportunity Disclosure Act;  
43        (d) Chapter 20, New Motor Vehicle Warranties Act;  
44        (e) Chapter 21, Credit Services Organizations Act;  
45        (f) Chapter 22, Charitable Solicitations Act;  
46        (g) Chapter 23, Health Spa Services Protection Act;  
47        (h) Chapter 25a, Telephone and Facsimile Solicitation Act;  
48        (i) Chapter 26, Telephone Fraud Prevention Act;  
49        (j) Chapter 28, Prize Notices Regulation Act;  
50        (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter  
51        Transaction Information Act;  
52        (l) Chapter 34, Utah Postsecondary School and State Authorization Act;  
53        (m) Chapter 41, Price Controls During Emergencies Act;  
54        (n) Chapter 42, Uniform Debt-Management Services Act;  
55        (o) Chapter 49, Immigration Consultants Registration Act;  
56        (p) Chapter 51, Transportation Network Company Registration Act;  
57        (q) Chapter 52, Residential Solar Energy Disclosure Act;  
58        (r) Chapter 53, Residential, Vocational and Life Skills Program Act;  
59        (s) Chapter 54, Ticket Website Sales Act;  
60        (t) Chapter 56, Ticket Transferability Act;  
61        (u) Chapter 57, Maintenance Funding Practices Act;  
62        (v) Chapter 61, Utah Consumer Privacy Act;

- 63 ~~[(w) Chapter 63, Utah Social Media Regulation Act;]~~  
 64 ~~[(x)]~~ (w) Chapter 64, Vehicle Value Protection Agreement Act;  
 65 ~~[(y)]~~ (x) Chapter 65, Utah Commercial Email Act;  
 66 ~~[(z)]~~ (y) Chapter 67, Online Dating Safety Act;  
 67 ~~[(aa)]~~ (z) Chapter 68, Lawyer Referral Consultants Registration Act;  
 68 ~~[(bb)]~~ (aa) Chapter 70, Automatic Renewal Contracts Act~~[-and]~~ ;  
 69 ~~[(ee)]~~ (bb) Chapter 71, Utah Minor Protection in Social Media Act~~[-]~~ ; and  
 70 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health.  
 71 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 72 division may make rules to establish:  
 73 (a) a public list that identifies a person who:  
 74 (i) violates a chapter described in Subsection (2);  
 75 (ii) without proper legal justification, fails to comply with an order, subpoena,  
 76 judgment, or other legal process issued by:  
 77 (A) the division; or  
 78 (B) a court of competent jurisdiction; or  
 79 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance,  
 80 or similar instrument signed by the person and the division; and  
 81 (b) a process by which a person may be removed from the list the division establishes as  
 82 described in Subsection (3)(a).

83 Section 2. Section **13-72a-101** is enacted to read:

84 **CHAPTER 72a. ARTIFICIAL INTELLIGENCE APPLICATIONS RELATING TO**

85 **MENTAL HEALTH.**

86 **Part 1. General Provisions**

87 **13-72a-101 . Definitions.**

88 As used in this chapter:

- 89 (1) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.  
 90 (2) "Artificial intelligence technology" means the same as that term is defined in Section  
 91 13-72-101.  
 92 (3) "Confidential communications" means the same as that term is defined in Section  
 93 58-60-102.  
 94 (4) "Division" means the Division of Consumer Protection created in Section 13-2-1.

- 95 (5) "Generative artificial intelligence" means an artificial system that:  
96 (a) is trained on data;  
97 (b) interacts with a person using text, audio, or visual communication; and  
98 (c) generates non-scripted outputs similar to outputs created by a human, with limited or  
99 no human oversight.
- 100 (6) "Health care plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 101 (7) "Health care provider" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 102 (8) "Individually identifiable health information" means any information, whether oral or  
103 recorded in any form or medium, that relates to the physical or mental health or  
104 condition of an individual.
- 105 (9)(a) "Mental health chatbot" means an artificial intelligence technology that:  
106 (i) uses generative artificial intelligence to engage in interactive conversations with a  
107 user of the mental health chatbot similar to the confidential communications that  
108 an individual would have with a licensed mental health therapist; and  
109 (ii) a supplier represents, or a reasonable person would believe, can or will provide  
110 mental health therapy or help a user manage or treat mental health conditions.
- 111 (b) "Mental health chatbot" does not include artificial intelligence technology that only:  
112 (i) provides scripted output, such as guided meditations or mindfulness exercises; or  
113 (ii) analyzes an individual's input for the purpose of connecting the individual with a  
114 human mental health therapist.
- 115 (10) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 116 (11) "Scientific research development" means research:  
117 (a) conducted by a researcher affiliated with:  
118 (i) an institution of higher education;  
119 (ii) a research organization; or  
120 (iii) a healthcare facility; and  
121 (b) that is:  
122 (i) approved by an institutional review board; and  
123 (ii) conducted in accordance with applicable ethics requirements for human subject  
124 research.
- 125 (12) "Supplier" means the same as that term is defined in Section 13-11-3.
- 126 (13) "Utah user" means an individual located in the state at the time the individual accesses  
127 or uses a mental health chatbot.
- 128 (14) "User input" means content provided to a mental health chatbot by a Utah user.

129 Section 3. Section **13-72a-201** is enacted to read:

130 **Part 2. Protections for Users of Mental Health Chatbots**

131 **13-72a-201 . Protection of personal information.**

132 (1) A supplier of a mental health chatbot may not sell to or share with any third party any:

133 (a) individually identifiable health information of a Utah user; or

134 (b) user input of a Utah user.

135 (2) Subsection (1) does not apply to individually identifiable health information:

136 (a) requested by a health care provider with consent of the Utah user; or

137 (b) provided to a health plan of a Utah user upon request of the Utah user.

138 Section 4. Section **13-72a-202** is enacted to read:

139 **13-72a-202 . Restrictions on advertising.**

140 (1) A supplier may not use a mental health chatbot to advertise a specific product or service  
141 to a Utah user in a conversation between the Utah user and the mental health chatbot  
142 unless the mental health chatbot:

143 (a) clearly and conspicuously identifies the advertisement as an advertisement; and

144 (b) clearly and conspicuously discloses to the Utah user any:

145 (i) sponsorship;

146 (ii) business affiliation; or

147 (iii) agreement that the supplier has with a third party to promote, advertise, or  
148 recommend the product or service.

149 (2) A supplier of a mental health chatbot may not use a Utah user's input to:

150 (a) determine whether to display an advertisement for a product or service to the Utah  
151 user, unless the advertisement is for the mental health chatbot itself;

152 (b) determine a product, service, or category of product or service, to advertise to the  
153 Utah user; or

154 (c) customize how an advertisement is presented to the Utah user.

155 (3) This section does not prohibit a mental health chatbot from recommending that a Utah  
156 user seek counseling, therapy, or other assistance from a licensed professional, including  
157 a specific licensed professional.

158 Section 5. Section **13-72a-203** is enacted to read:

159 **13-72a-203 . Disclosure requirements.**

160 (1) A supplier of a mental health chatbot shall cause the mental health chatbot to clearly  
161 and conspicuously disclose to a Utah user that the mental health chatbot is an artificial  
162 intelligence technology and not a human.

- 163 (2) The disclosure described in Subsection (1) shall be made:  
164 (a) before the Utah user may access the features of the mental health chatbot;  
165 (b) at the beginning of any interaction with the Utah user if the Utah user has not  
166 accessed the mental health chatbot within the previous seven days; and  
167 (c) any time a Utah user asks or otherwise prompts the mental health chatbot about  
168 whether artificial intelligence is being used.
- 169 Section 6. Section **13-72a-204** is enacted to read:  
170 **13-72a-204 . Violations -- Enforcement authority.**
- 171 (1) The division shall administer and enforce the provisions of this chapter in accordance  
172 with Chapter 2, Division of Consumer Protection.
- 173 (2) The attorney general shall:  
174 (a) upon request, give legal advice to the division; and  
175 (b) act as counsel for the division in the exercise of the division's responsibilities under  
176 this chapter.
- 177 (3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer  
178 Protection:  
179 (a) the division director may impose an administrative fine of up to \$2,500 for each  
180 violation of this chapter; and  
181 (b) the division may bring an action in a court of competent jurisdiction to enforce a  
182 provision of this chapter.
- 183 (4) In a court action by the division to enforce a provision of this chapter, the court may:  
184 (a) declare that an act or practice violates a provision of this chapter;  
185 (b) issue an injunction for a violation of this part;  
186 (c) order disgorgement of money received in violation of this chapter;  
187 (d) order payment of disgorged money to an injured purchaser or consumer;  
188 (e) impose a fine of up to \$2,500 for each violation of this chapter; or  
189 (f) award other relief that the court determines reasonable and necessary.
- 190 (5) If a court awards judgment or injunctive relief to the division, the court shall award the  
191 division:  
192 (a) reasonable attorney fees;  
193 (b) court costs; and  
194 (c) investigative fees.
- 195 (6) A court may impose a civil penalty of no more than \$5,000 for each violation of an  
196 administrative or court order issued for a violation of this chapter.

197 (7) The attorney general may bring a civil action on behalf of the division to collect a civil  
 198 penalty imposed under this section.

199 (8) The division shall deposit all fines and civil penalties collected under this section into  
 200 the Consumer Protection Education and Training Fund created in Section 13-2-8.

201 Section 7. Section **13-72a-301** is enacted to read:

202 **Part 3. Severability**

203 **13-72a-301 . Severability.**

204 (1) If any provision of this chapter or the application of any provision of this chapter to any  
 205 person or circumstance is held invalid by a final decision of a court of competent  
 206 jurisdiction, the remainder of this chapter shall be given effect without the invalid  
 207 provision or application.

208 (2) The provisions of this chapter are severable.

209 Section 8. Section **58-60-118** is enacted to read:

210 **58-60-118 . Mental health chatbots -- Affirmative defense.**

211 (1) As used in this section:

212 (a) "Mental health chatbot" means the same as that term is defined in Section 13-72a-101.

213 (b) "Supplier" means the same as that term is defined in Section 13-11-3.

214 (2) It is an affirmative defense to liability in an action brought under Subsection 58-1-501(1)  
 215 or Subsection 58-1-501(2) if the supplier demonstrates that the supplier:

216 (a) created, maintained, and implemented a policy that meets the requirements of  
 217 Subsection (3);

218 (b) maintains documentation regarding the development and implementation of the  
 219 mental health chatbot that describes:

220 (i) foundation models used in development;

221 (ii) training data used;

222 (iii) compliance with federal health privacy regulations;

223 (iv) user data collection and sharing practices; and

224 (v) ongoing efforts to ensure accuracy, reliability, fairness, and safety;

225 (c) filed the policy with the division as described in Subsection (4); and

226 (d) complied with all requirements of the filed policy at the time of the alleged violation.

227 (3) A policy described in Subsection (2)(a) must:

228 (a) be in writing;

229 (b) clearly state:

230 (i) the intended purposes of the mental health chatbot; and

- 231           (ii) the abilities and limitations of the mental health chatbot; and
- 232       (c) describe the procedures by which the supplier:
- 233           (i) ensures that licensed mental health therapists are involved in the development and
- 234                 review process;
- 235           (ii) ensures the mental health chatbot is developed and monitored in a manner
- 236                 consistent with clinical best practices;
- 237           (iii) conducts testing, prior to making the mental health chatbot publicly available and
- 238                 regularly thereafter, to ensure that the output of the mental health chatbot poses no
- 239                 greater risk to a user than that posed to an individual in therapy with a licensed
- 240                 mental health therapist;
- 241           (iv) identifies reasonably foreseeable adverse outcomes to, and potentially harmful
- 242                 interactions with, users that could result from using the mental health chatbot;
- 243           (v) provides a mechanism for a user to report any potentially harmful interactions
- 244                 from use of the mental health chatbot;
- 245           (vi) implements protocols to assess and respond to risk of harm to users or other
- 246                 individuals;
- 247           (vii) details actions taken to prevent or mitigate any such adverse outcomes or
- 248                 potentially harmful interactions;
- 249           (viii) implements protocols to respond in real time to acute risk of physical harm;
- 250           (ix) reasonably ensures regular, objective reviews of safety, accuracy, and efficacy,
- 251                 which may include internal or external audits;
- 252           (x) provides users any necessary instructions on the safe use of the mental health
- 253                 chatbot;
- 254           (xi) ensures users understand they are interacting with artificial intelligence;
- 255           (xii) ensures users understand the intended purpose, capabilities, and limitations of
- 256                 the mental health chatbot;
- 257           (xiii) prioritizes user mental health and safety over engagement metrics or profit;
- 258           (xiv) implements measures to prevent discriminatory treatment of users; and
- 259           (xv) ensures compliance with the security and privacy provisions of 45 C.F.R. Part
- 260                 160 and 45 C.F.R. Part 164, Subparts A, C, and E, as if the supplier were a
- 261                 covered entity as defined in 45 C.F.R. Part 160.103, and applicable consumer
- 262                 protection requirements, including Sections 13-72a-201, 13-72a-202, and
- 263                 13-72a-203.
- 264       (4) To file a policy with the division under this section, a supplier of a mental health



- 265 chatbot:
- 266 (a) shall provide to the division:
- 267 (i) the name and address of the supplier;
- 268 (ii) the name of the mental health chatbot supplied by the supplier;
- 269 (iii) the written policy described in Subsection (3); and
- 270 (iv) a fee set in accordance with Section 63J-1-504;
- 271 (b) shall file in a manner established by the division; and
- 272 (c) may provide to the division:
- 273 (i) any revisions to a policy filed under this section; or
- 274 (ii) any other documentation the supplier elects to provide.
- 275 (5) The division:
- 276 (a) shall provide a means for a supplier of a mental health chatbot to file under this
- 277 section; and
- 278 (b) may impose an annual filing fee set in accordance with Section 63J-1-504.
- 279 (6) The affirmative defense described in this section applies only in an administrative or
- 280 civil action alleging a violation of:
- 281 (a) Subsection 58-1-501(1); or
- 282 (b) Subsection 58-1-501(2).
- 283 (7) Nothing in this section shall be construed to:
- 284 (a) bar the division from bringing an action under Subsection 58-1-501(1) or Subsection
- 285 58-1-501(2) against the supplier of a mental health chatbot; or
- 286 (b) recognize a mental health chatbot as a licensed mental health therapist.
- 287 **Section 9. Effective Date.**
- 288 This bill takes effect on May 7, 2025.