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**SOCIAL MEDIA AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Jordan D. Teuscher**  
Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill concerns harm to minors from social media.

**Highlighted Provisions:**

This bill:

- defines terms;
- amends the criminal offense of electronic communication harassment and creates a civil cause of action to address certain conduct involving minors;
- enacts legislative findings regarding potential harms of excessive social media use by minors;
- allows a private right of action related to harms to minors from excessive social media use and establishes related provisions;
- establishes an affirmative defense for a social media company to defend against the private right of action;
- prohibits waivers of rights and protections; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**76-9-201 (Effective 05/01/24)**, as last amended by Laws of Utah 2023, Chapter 111

ENACTS:

**78B-3-1101 (Effective 10/01/24)**, Utah Code Annotated 1953

28 **78B-3-1102 (Effective 10/01/24)**, Utah Code Annotated 1953

29 **78B-3-1103 (Effective 10/01/24)**, Utah Code Annotated 1953

30 **78B-3-1104 (Effective 10/01/24)**, Utah Code Annotated 1953

31 **78B-3-1105 (Effective 10/01/24)**, Utah Code Annotated 1953

32 **78B-3-1106 (Effective 10/01/24)**, Utah Code Annotated 1953

33 REPEALS:

34 **13-63-101 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapters 477, 498

35 **13-63-102 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

36 **13-63-103 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

37 **13-63-104 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

38 **13-63-105 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

39 **13-63-201 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

40 **13-63-202 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

41 **13-63-203 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

42 **13-63-301 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 498

43 **13-63-401 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 477

44 **13-63-501 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapter 477

45 **13-63-601 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapters 477, 498

46 **13-63-701 (Effective 05/01/24)**, as enacted by Laws of Utah 2023, Chapters 477, 498

47

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

49 Section 1. Section **76-9-201** is amended to read:

50 **76-9-201 (Effective 05/01/24). Electronic communication harassment --**

51 **Definitions -- Penalties.**

52 (1) As used in this section:

53 (a) (i) "Adult" means an individual 18 years old or older.

54 (ii) "Adult" does not include an individual who is 18 years old and enrolled in high  
55 school.

56 (b) "Electronic communication" means a communication by electronic,  
57 electro-mechanical, or electro-optical communication device for the transmission and  
58 reception of audio, image, or text but does not include broadcast transmissions or  
59 similar communications that are not targeted at a specific individual.

60 (c) "Electronic communication device" includes a telephone, a facsimile machine,  
61 electronic mail, a pager, a computer, or another device or medium that can be used to

- 62           communicate electronically.
- 63           (d) (i) "Minor" means an individual who is younger than 18 years old.
- 64           (ii) "Minor" includes an individual who is 18 years old and enrolled in high school.
- 65           (e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).
- 66           [(e)] (f) "Personal identifying information" means the same as that term is defined in
- 67           Section 76-6-1101.
- 68           (2) Except to the extent the person's conduct constitutes an offense under Section 76-9-203,
- 69           a person is guilty of electronic communication harassment and subject to prosecution in
- 70           the jurisdiction where the communication originated or was received if with intent to
- 71           intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of
- 72           another, the person:
- 73           (a) (i) makes repeated contact by means of electronic communications, regardless of
- 74           whether a conversation ensues; or
- 75           (ii) after the recipient has requested or informed the person not to contact the
- 76           recipient, and the person repeatedly or continuously:
- 77           (A) contacts the electronic communication device of the recipient; or
- 78           (B) causes an electronic communication device of the recipient to ring or to
- 79           receive other notification of attempted contact by means of electronic
- 80           communication;
- 81           (b) makes contact by means of electronic communication and insults, taunts, or
- 82           challenges the recipient of the communication or any person at the receiving location
- 83           in a manner likely to provoke a violent or disorderly response;
- 84           (c) makes contact by means of electronic communication and threatens to inflict injury,
- 85           physical harm, or damage to any person or the property of any person; or
- 86           (d) causes disruption, jamming, or overload of an electronic communication system
- 87           through excessive message traffic or other means utilizing an electronic
- 88           communication device.
- 89           (3) A person is guilty of electronic communication harassment if the person:
- 90           (a) electronically publishes, posts, or otherwise discloses personal identifying
- 91           information of another individual in a public online site or forum with the intent to
- 92           abuse, threaten, or disrupt the other individual's electronic communication and
- 93           without the other individual's permission; or
- 94           (b) sends a communication by electronic mail, instant message, or other similar means,
- 95           if:

- 96 (i) the communication references personal identifying information of another  
 97 individual;
- 98 (ii) the person sends the communication:  
 99 (A) without the individual's consent; and  
 100 (B) with the intent to cause a recipient of the communication to reasonably believe  
 101 that the individual authorized or sent the communication; and  
 102 (iii) with the intent to:  
 103 (A) cause an individual physical, emotional, or economic injury or damage; or  
 104 (B) defraud an individual.

105 (4) A person is guilty of electronic communication harassment if:

106 (a) the person:

- 107 (i) is an adult;  
 108 (ii) electronically publishes, posts, or otherwise discloses in a public online site or  
 109 forum personal identifying information of a minor who is unrelated by blood,  
 110 marriage, or adoption to the person; and  
 111 (iii) knows of, but consciously disregards, a substantial and unjustifiable risk that  
 112 performing the action described in Subsection (4)(a)(ii) will result in the minor  
 113 being the victim of an offense described in Title 76, Chapter 5, Offenses Against  
 114 the Individual; and

115 (b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described  
 116 in Subsection (4)(a)(ii).

117 ~~[(4)]~~ (5) (a) ~~[Electronic communication harassment]~~ Except as provided in Subsection  
 118 (5)(b), a violation of Subsection (2) or (3) is a class B misdemeanor.

119 (b) A second or subsequent ~~[offense of electronic communication harassment]~~ violation  
 120 of Subsection (2) or (3) is a class A misdemeanor.

121 (c) A violation of Subsection (4) is a class A misdemeanor.

122 ~~[(5)]~~ (6) (a) Except as provided under Subsection ~~[(5)(b)]~~ (6)(b), criminal prosecution  
 123 under this section does not affect an individual's right to bring a civil action for  
 124 damages suffered as a result of the commission of an offense under this section.

125 (b) This section does not create a civil cause of action based on electronic  
 126 communications made for legitimate business purposes.

127 (7) (a) A minor victim has a civil right of action against an actor who violates  
 128 Subsection (4).

129 (b) A minor victim who brings a successful civil action under Subsection (7)(a) is

- 130 entitled to recover from the actor:
- 131 (i) damages resulting from the violation of Subsection (4);
- 132 (ii) reasonable attorney fees; and
- 133 (iii) court costs.

134 Section 2. Section **78B-3-1101** is enacted to read:

135 **Part 11. Harm to Minors by Algorithmically Curated Social Media Service**

136 **78B-3-1101 (Effective 10/01/24). Definitions.**

137 As used in this part:

- 138 (1) "Account holder" means a person who has, creates, or opens an account or profile to use
- 139 an algorithmically curated social media service.
- 140 (2) (a) "Adverse mental health outcome" means a condition affecting a minor's mental
- 141 health that is:
- 142 (i) diagnosable by a licensed mental health care provider; and
- 143 (ii) acknowledged by professional mental health experts as having a negative impact
- 144 on a minor's well-being.
- 145 (b) "Adverse mental health outcome" includes depression, anxiety, suicidal thoughts or
- 146 behaviors, and self-harm thoughts or behaviors.
- 147 (3) "Algorithmically curated social media service" means a social media service that drives
- 148 user engagement primarily through the use of:
- 149 (a) a curation algorithm; and
- 150 (b) engagement driven design elements.
- 151 (4) "Content" means any information, visual depiction, or other material that appears on or
- 152 is available or enabled through a social media service.
- 153 (5) (a) "Curation algorithm" means a computational process or set of rules used by a
- 154 social media platform that determines, influences, or personalizes, designed to
- 155 encourage prolonged or frequent engagement:
- 156 (i) the content a user views;
- 157 (ii) the order in which content is displayed;
- 158 (iii) how prominently content is displayed; or
- 159 (iv) the manner in which content is displayed.
- 160 (b) "Curation algorithm" does not include the curation of:
- 161 (i) responses to specific user queries or user prompts requesting content related to
- 162 defined topics or interests selected by the user; or

- 163            (ii) content to ensure only age appropriate material is provided to a user based on the  
164            user's age;
- 165            (iii) content that prevents a minor from viewing violent, bullying, threatening, or  
166            harassing content; or
- 167            (iv) content to comply with any state or federal law restricting the display of material  
168            harmful to minors.
- 169 (6) "Engagement driven design elements" means:
- 170            (a) autoplay features that continuously play content without requiring user interaction;  
171            (b) scroll or pagination that loads additional content as long as the user continues  
172            scrolling; or
- 173            (c) push notifications.
- 174 (7) "Excessive use" means the use of a social media service by a minor to an extent that the  
175            use substantially interferes with the minor's normal functioning in:
- 176            (a) academic performance;  
177            (b) sleep;  
178            (c) in-person relationships;  
179            (d) mental health; or  
180            (e) physical health.
- 181 (8) "Minor" means an individual who is under 18 years old that:
- 182            (a) has not been emancipated as that term is defined in Section 80-7-102; or  
183            (b) has not been married.
- 184 (9) "Parent" includes a legal guardian.
- 185 (10) "Push notification" means an automatic electronic message displayed on an account  
186            holder's device, when the user interface for the social media service is not actively open  
187            or visible on the device, that prompts the account holder to repeatedly check and engage  
188            with the social media service.
- 189 (11) "Resident" means the same as that term is defined in Section 53-3-102.
- 190 (12) "Social media company" means an entity that owns or operates a social media service.
- 191 (13) (a) "Social media service" means a public website or application that:
- 192            (i) displays content that is primarily generated by account holders and not by the  
193            social media company;
- 194            (ii) permits an individual to register as an account holder and create a profile that is  
195            made visible to the general public or a set of other users defined by the account  
196            holder;

- 197            (iii) connects account holders to allow users to interact socially with each other  
198            within the website or application;
- 199            (iv) makes available to each account holder a list or lists of other account holders  
200            with whom the account holder shares a connection within the system; and  
201            (v) allows account holders to post content viewable by other users.
- 202        (b) "Social media service" does not include:
- 203            (i) email;
- 204            (ii) cloud storage; or
- 205            (iii) document viewing, sharing, or collaboration services.
- 206        (14) "User" means an individual who accesses or uses an algorithmically curated social  
207            media service.
- 208        (15) (a) "Utah account holder" means a person who is a Utah resident and an account  
209            holder.
- 210            (b) "Utah account holder" includes a Utah minor account holder.
- 211        (16) "Utah minor account holder" means a Utah account holder who is a minor.
- 212            Section 3. Section **78B-3-1102** is enacted to read:
- 213            **78B-3-1102 (Effective 10/01/24). Legislative findings.**
- 214            The Legislature finds that:
- 215        (1) social media services utilize curation algorithms and engagement driven design  
216            elements to maximize user engagement;
- 217        (2) minors are particularly vulnerable to manipulation by the use of curation algorithms and  
218            engagement driven design elements;
- 219        (3) a minor's excessive use of an algorithmically curated social media service is likely to  
220            cause adverse mental health outcomes in minors, regardless of the content being viewed;
- 221        (4) the risk of an adverse mental health outcome resulting from the excessive use of an  
222            algorithmically curated social media service increases when a minor uses the service for  
223            more than three hours per day, or during regular sleeping hours;
- 224        (5) algorithmically curated social media services are designed without sufficient tools to  
225            allow adequate parental oversight, exposing minors to risks that could be mitigated with  
226            additional parental control;
- 227        (6) protecting minors from the risks associated with the use of algorithmically curated  
228            social media services requires intervention at a societal level, informed by expertise in  
229            technology, psychology, and youth mental health;
- 230        (7) the state has a long-established role and responsibility in implementing protections and

- 231 regulations to safeguard the health and welfare of minors;  
 232 (8) the state has enacted safeguards around products and activities that pose risks to minors,  
 233 including regulations on motor vehicles, medications, and products and services targeted  
 234 to children;  
 235 (9) any adverse mental health outcomes for minors that are linked to the excessive use of  
 236 algorithmically curated social media services are a serious public health concern for the  
 237 state; and  
 238 (10) the state has a compelling interest to protect minors in the state against adverse mental  
 239 health outcomes.

240 Section 4. Section **78B-3-1103** is enacted to read:

241 **78B-3-1103 (Effective 10/01/24). Private right of action.**

- 242 (1) A Utah minor account holder or a Utah minor account holder's parent may bring a cause  
 243 of action against a social media company in court for an adverse mental health outcome  
 244 arising, in whole or in part, from the minor's excessive use of the social media  
 245 company's algorithmically curated social media service.  
 246 (2) To recover damages in a cause of action brought under this section, a person bringing  
 247 the cause of action must demonstrate:  
 248 (a) that the Utah minor account holder has been diagnosed by a licensed mental health  
 249 care provider with an adverse mental health outcome; and  
 250 (b) that the adverse mental health outcome was caused by the Utah minor account  
 251 holder's excessive use of an algorithmically curated social media service.  
 252 (3) Except as provided in Subsection (4), a person who brings an action described in  
 253 Subsection (1), is entitled to a rebuttable presumption that:  
 254 (a) the Utah minor account holder's adverse mental health outcome was caused, in whole  
 255 or in part, by the Utah minor account holder's excessive use of the algorithmically  
 256 curated social media service; and  
 257 (b) the Utah minor account holder's excessive use of the algorithmically curated social  
 258 media service was caused, in whole or in part, by the algorithmically curated social  
 259 media service's curation algorithm and engagement driven design elements.  
 260 (4) A social media company that complies with the provisions of Section 78B-11-1104 is  
 261 entitled to a rebuttable presumption that:  
 262 (a) the Utah minor account holder's adverse mental health outcome was not caused, in  
 263 whole or in part, by the Utah minor account holder's excessive use of the  
 264 algorithmically curated social media service; and



- 265 (b) the Utah minor account holder's excessive use of the algorithmically curated social  
266 media service was not caused, in whole or in part, by the algorithmically curated  
267 social media service's curation algorithm and engagement driven design elements.
- 268 (5) If a court or fact finder finds that a Utah minor account holder suffered any adverse  
269 mental health outcome as a result of the Utah minor account holder's use of a social  
270 media company's algorithmically curated social media service, the person seeking relief  
271 is entitled to:
- 272 (a) an award of reasonable attorney fees and court costs; and  
273 (b) an amount equal to the greater of:
- 274 (i) \$10,000 for each adverse mental health outcome incidence; or  
275 (ii) the amount of actual damages.
- 276 (6) A social media company may not be held liable under this part:
- 277 (a) based on the content of material posted by users of the algorithmically curated social  
278 media service; or
- 279 (b) for declining to restrict access to or modify user posts based solely on the content of  
280 those posts.
- 281 (7) Nothing in this part shall displace any other available remedies or rights authorized  
282 under the laws of this state or the United States.

283 Section 5. Section **78B-3-1104** is enacted to read:

284 **78B-3-1104 (Effective 10/01/24). Affirmative defense.**

- 285 (1) A person is not entitled to the rebuttable presumption described in Subsection  
286 78B-11-1103(3), and a social media company is entitled to the rebuttable presumption  
287 described in Subsection 78B-11-1103(4), if the social media company demonstrates to  
288 the court that the social media company:
- 289 (a) limits a Utah minor account holder's use of the algorithmically curated social media  
290 service to no more than three hours in a 24 hour period across all devices;  
291 (b) restricts a Utah minor account holder from accessing the algorithmically curated  
292 social media service between the hours of 10:30 p.m. and 6:30 a.m.;  
293 (c) requires the parent or legal guardian of the minor to consent to a Utah minor account  
294 holder's use of the algorithmically curated social media service; and  
295 (d) disables engagement driven design elements for a Utah minor account holder's  
296 account.
- 297 (2) A social media company may utilize settings that are enabled at the device level to  
298 impose the requirements described in Subsection (1).

299 (3) Notwithstanding Subsection (2), a social media company remains liable to ensure that  
 300 the Utah minor account holder's account is subject to the restrictions of Subsection (1).

301 Section 6. Section **78B-3-1105** is enacted to read:

302 **78B-3-1105 (Effective 10/01/24). Waiver prohibited.**

303 A waiver or limitation, or a purported waiver or limitation, of any of the following  
 304 is void as unlawful, is against public policy, and a court or arbitrator may not enforce or  
 305 give effect to the waiver, notwithstanding any contract or choice-of-law provision in a  
 306 contract:

307 (1) a protection or requirement provided under this chapter;

308 (2) the right to cooperate with or file a complaint with a government agency;

309 (3) the right to a private right of action as provided under this chapter; or

310 (4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees as  
 311 allowed by this chapter.

312 Section 7. Section **78B-3-1106** is enacted to read:

313 **78B-3-1106 (Effective 10/01/24). Severability.**

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

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

319 Section 8. **Repealer.**

320 This bill repeals:

321 Section **13-63-101, (Effective 05/01/24)Definitions.**

322 Section **13-63-102, (Effective 05/01/24)Age requirements for use of social media**  
 323 **platform -- Parental consent -- Rulemaking authority of division.**

324 Section **13-63-103, (Effective 05/01/24)Prohibition on data collection for certain**  
 325 **accounts -- Prohibition on advertising -- Use of information -- Search results -- Directed**  
 326 **content.**

327 Section **13-63-104, (Effective 05/01/24)Parental access to social media account.**

328 Section **13-63-105, (Effective 05/01/24)Limited hours of access for minors -- Parental**  
 329 **access and options.**

330 Section **13-63-201, (Effective 05/01/24)Investigative powers of the division.**

331 Section **13-63-202, (Effective 05/01/24)Enforcement powers of the division.**

332 Section **13-63-203, (Effective 05/01/24)Division report.**

- 333           Section **13-63-301**, (Effective 05/01/24)**Private right of action.**
- 334           Section **13-63-401**, (Effective 05/01/24)**Social media platform design regulations --**
- 335 **Enforcement and auditing authority -- Penalties.**
- 336           Section **13-63-501**, (Effective 05/01/24)**Private right of action for harm to a minor --**
- 337 **Rebuttable presumption of harm and causation.**
- 338           Section **13-63-601**, (Effective 05/01/24)**Waiver prohibited.**
- 339           Section **13-63-701**, (Effective 05/01/24)**Severability.**
- 340           Section 9. **Effective date.**
- 341   (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.
- 342   (2) The actions affecting the following sections take effect on October 1, 2024:
- 343       (a) Section 78B-3-1101;
- 344       (b) Section 78B-3-1102;
- 345       (c) Section 78B-3-1103;
- 346       (d) Section 78B-3-1104;
- 347       (e) Section 78B-3-1105; and
- 348       (f) Section 78B-3-1106.