

By: Senator(s) Boyd, Williams, Hill,
Branning, Parker

To: Judiciary, Division B

SENATE BILL NO. 2346
(As Sent to Governor)

1 AN ACT TO REGULATE PORNOGRAPHIC MEDIA EXPOSURE TO CHILDREN;
2 TO PROVIDE THE LEGISLATIVE INTENT; TO PROVIDE DEFINITIONS; TO
3 REQUIRE COMMERCIAL ENTITIES THAT PROVIDE SUCH CONTENT TO HAVE AGE
4 VERIFICATION SYSTEMS; TO PROVIDE LIABILITY FOR THOSE COMMERCIAL
5 ENTITIES THAT DO NOT PROVIDE AN AGE VERIFICATION; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** The Legislature finds that pornography
9 contributes to:

10 (a) The hyper sexualization of teens and prepubescent
11 children and may lead to low self-esteem, body image disorders;

12 (b) An increase in problematic sexual activity at
13 younger ages, and increased desire among adolescents to engage in
14 risky sexual behavior;

15 (c) Difficulty in forming or maintaining positive,
16 intimate relationships, as well as promoting problematic or
17 harmful sexual behaviors and addiction; and

18 (d) A negative impact brain development and
19 functioning, contribute to emotional and medical illnesses, shape
20 deviant sexual arousal.



21 **SECTION 2.** The following words shall have the meanings
22 described herein:

23 (a) "Commercial entity" includes corporations, limited
24 liability companies, partnerships, limited partnerships, sole
25 proprietorships, or other legally recognized entities.

26 (b) "Distribute" means to issue, sell, give, provide,
27 deliver, transfer, transmute, circulate, or disseminate by any
28 means.

29 (c) "Internet" means the international computer network
30 of both federal and nonfederal interoperable packet switched data
31 networks.

32 (d) "Material harmful to minors" is defined as all of
33 the following:

34 (i) Any material that the average person, applying
35 contemporary community standards would find, taking the material
36 as a whole and with respect to minors, is designed to appeal to,
37 or is designed to pander to, the prurient interest.

38 (ii) Any of the following material that exploits,
39 is devoted to, or principally consists of descriptions of actual,
40 simulated, or animated display or depiction of any of the
41 following, in a manner patently offensive with respect to minors:

42 1. Pubic hair, anus, vulva, genitals, or
43 nipple of the female breast.

44 2. Touching, caressing, or fondling of
45 nipples, breasts, buttocks, anuses, or genitals.



46 3. Sexual intercourse, masturbation, sodomy,
47 bestiality, oral copulation, flagellation, excretory functions,
48 exhibitions, or any other sexual act.

49 (iii) The material taken as a whole lacks serious
50 literary, artistic, political, or scientific value for minors.

51 (e) "Minor" means any person under the age of eighteen
52 (18) years.

53 (f) "News-gathering organization" means any of the
54 following:

55 (i) An employee of a newspaper, news publication,
56 or news source, printed or on an online or mobile platform, of
57 current news and public interest, while operating as an employee
58 as provided in this subparagraph, who can provide documentation of
59 such employment with the newspaper, news publication, or news
60 source.

61 (ii) An employee of a radio broadcast station,
62 television broadcast station, cable television operator, or wire
63 service while operating as an employee as provided in this
64 subparagraph, who can provide documentation of such employment.

65 (g) "Publish" means to communicate or make information
66 available to another person or entity on a publicly available
67 internet website.

68 (h) "Reasonable age verification methods" include
69 verifying that the person seeking to access the material is



70 eighteen (18) years of age or older by using any of the following
71 methods:

72 (i) Provide a digitized identification card;

73 (ii) Require the person attempting to access the
74 material to comply with a commercial age verification system that
75 verifies in one or more of the following ways:

76 1. Government-issued identification; or

77 2. Any commercially reasonable method that
78 relies on public or private transactional data to verify the age
79 of the person attempting to access the information is at least
80 eighteen (18) years of age or older.

81 (i) "Substantial portion" means more than thirty-three
82 and one-third (33-1/3) percent of total material on a website,
83 which meets the definition of "material harmful to minors" as
84 defined by this section.

85 (j) "Transactional data" means a sequence of
86 information that documents an exchange, agreement, or transfer
87 between an individual, commercial entity, or third party used for
88 the purpose of satisfying a request or event. Transactional data
89 can include, but is not limited to, records from mortgage,
90 education, and employment entities.

91 **SECTION 3.** (1) Any commercial entity that knowingly and
92 intentionally publishes or distributes material harmful to minors
93 on the internet from a website that contains a substantial portion
94 of such material shall be held liable if the entity fails to



95 perform reasonable age verification methods to verify the age of
96 individuals attempting to access the material.

97 (2) Any commercial entity or third party that performs the
98 required age verification shall not retain any identifying
99 information of the individual after access has been granted to the
100 material.

101 (3) (a) Any commercial entity that is found to have
102 violated this section shall be liable to an individual for damages
103 resulting from a minor's accessing the material, including court
104 costs and reasonable attorney fees as ordered by the court.

105 (b) A commercial entity that is found to have knowingly
106 retained identifying information of the individual after access
107 has been granted to the individual shall be liable to the
108 individual for damages resulting from retaining the identifying
109 information, including court costs and reasonable attorney fees as
110 ordered by the court.

111 **SECTION 4.** (1) The provisions of this act shall not apply
112 to any bona fide news or public interest broadcast, website video,
113 report, or event and shall not be construed to affect the rights
114 of any news-gathering organizations.

115 (2) No internet service provider, or its affiliates or
116 subsidiaries, search engine, or cloud service provider shall be
117 held to have violated the provisions of this act for providing
118 access or connection to or from a website or other information or
119 content on the internet or a facility, system, or network not



120 under that provider's control, including transmission,
121 downloading, storage, access software, or other to the extent such
122 provider is not responsible for the creation of the content of the
123 communication that constitutes material harmful to minors.

124 **SECTION 5.** This act shall take effect and be in force from
125 and after July 1, 2023.

