

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1315: Pornographic media materials; regulate access to minors and require age verification.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

5 **SECTION 1.** The following shall be codified as Section
6 37-11-81, Mississippi Code of 1972:
7 37-11-81. (1) The state, or any of its agencies, a school
8 district, charter school, the Mississippi School of the Arts, the
9 Mississippi School for Mathematics and Science, the Mississippi
10 Virtual Public School, the Mississippi School for the Deaf or the
11 Mississippi School for the Blind (hereafter, "the contracting
12 party") may offer digital or online resources or databases to
13 students in kindergarten through twelfth grade only if the vendor
14 or other person or entity providing the resources verifies that
15 all the resources will comply with the provisions of subsection
16 (2) of this section.



17 (2) A vendor or other person or entity providing digital or
18 online resources or databases under the authority of this section
19 must have safety policies and technology protection measures that:

20 (a) Prohibit and prevent a person from sending,
21 receiving, viewing or downloading materials that are:

22 (i) Child pornography;

23 (ii) Materials that depict or promote child sexual
24 exploitation or trafficking;

25 (iii) Obscene materials, as defined in this act;

26 (iv) Inappropriate materials depicting or dealing
27 with matters of sex, cruelty and violence in a manner likely to be
28 injurious or harmful to a child; or

29 (v) Materials that are sexually oriented, as
30 defined in Section 97-5-27(2); and

31 (b) Block, or otherwise prohibit and prevent, access to
32 obscene materials, inappropriate materials, materials that are
33 sexually oriented or materials that depict, describe or promote
34 child pornography or child sexual exploitation.

35 (c) For the purposes of this act, material is obscene,
36 if:

37 (i) To the average person, applying contemporary
38 community standards, taken as a whole, it appeals to the prurient
39 interest, that is, a lustful, erotic, shameful, or morbid interest
40 in nudity, sex or excretion; and



41 (ii) The material taken as a whole lacks serious
42 literary, artistic, political or scientific value; and

43 (iii) The material depicts or describes in a
44 patently offensive way, sexual contact specifically defined in
45 items 1 through 5 below:

46 1. Acts of sexual intercourse of any kind,
47 normal or perverted, actual or simulated;

48 2. Acts of masturbation;

49 3. Acts involving excretory functions or lewd
50 exhibition of the genitals;

51 4. Acts of bestiality or the fondling of sex
52 organs of animals; or

53 5. Sexual acts of flagellation, torture or
54 other violence indicating a sadomasochistic sexual relationship.

55 (3) (a) The provisions of this section shall take
56 precedence over any other provision of law to the contrary in a
57 contract between the contracting party and a vendor or other
58 person or entity providing digital or online resources or
59 databases. Notwithstanding any other provision of law to the
60 contrary, in a contract between the contracting party and a
61 provider to the contrary, if a provider of digital or online
62 resources or databases fails to comply with the requirements of
63 this section, the contracting party shall withhold further
64 payments, if any, to the provider pending verification of
65 compliance.



66 (b) The provisions of this section apply to a vendor or
67 other person or entity that provisions instances of Internet
68 infrastructure for the purpose of publishing content. A cloud
69 service provider shall not be held to have violated the provisions
70 of this act solely for providing noncontent provisioning services,
71 including Infrastructure-as-a-Service (IaaS) and
72 Platform-as-a-Service (PaaS).

73 (c) The provisions of this section do not apply to the
74 use of digital or online resources or databases by a student
75 enrolled in a Mississippi institution of higher education or a
76 Mississippi community or junior college, including dual-enrolled
77 students.

78 (d) Upon a first uncured occurrence by a provider of
79 digital or online resources or databases of noncompliance with
80 subsection (2) of this section and failure to verify within thirty
81 (30) days of receiving notice of the noncompliance from the
82 contracting party that the provider is in compliance with this
83 section, the contracting party shall consider the provider's
84 noncompliance to be a breach of contract.

85 (e) Upon a second uncured occurrence by a provider of
86 noncompliance with subsection (2) and failure to verify within
87 thirty (30) days of receiving notice of the noncompliance from the
88 contracting party that the provider is in compliance with the
89 requirements of this section, the contracting party is entitled to
90 a reduction in the amount of ten percent (10%) of the agreed upon



91 price in the contract to be paid by the contracting party to the
92 provider. The contracting party shall adjust any future payments
93 due to the provider under the contract accordingly to effectuate
94 the ten percent (10%) reduction. However, if the contract price
95 has been paid in full, or if the balance owed on the contract
96 price is equal to less than ten percent (10%) of the contract
97 price, the provider must return to the contracting party such
98 amount that is required to effectuate a ten percent (10%)
99 reduction of the contract price.

100 (f) Upon a third uncured occurrence by a provider of
101 noncompliance with subsection (2) and failure to verify within
102 thirty (30) days of receiving notice of the noncompliance from the
103 contracting party that the provider is in compliance with the
104 requirements of this section, the contract must be considered
105 terminated and the contracting party is entitled to a complete
106 refund of the agreed upon price in the contract to be paid by the
107 contracting party to the provider. The contracting party shall
108 withhold any future payments that may be due to the provider, and
109 the provider must return to the contracting party all amounts
110 previously paid to the provider under the contract.

111 (4) The Attorney General may investigate compliance with
112 this section. The contracting party must report to the Attorney
113 General a provider's failure to comply with subsection (2) of this
114 section no later than thirty (30) days after the contracting party
115 learns of the provider's noncompliance. Such a report shall



116 constitute a public record under the Mississippi Public Records
117 Act.

118 **SECTION 2.** The following shall be codified as Section
119 39-3-25, Mississippi Code of 1972:

120 39-3-25. (1) The state, or any of its agencies, or a public
121 library (hereafter, "the contracting party") may offer digital or
122 online resources or databases to minors only if the vendor or
123 other person or entity providing the resources verifies that all
124 the resources will comply with the provisions of subsection (2) of
125 this section.

126 (2) A vendor or other person or entity providing digital or
127 online resources or databases under the authority of this section
128 must have safety policies and technology protection measures that:

129 (a) Prohibit and prevent a minor from sending,
130 receiving, viewing or downloading materials that are:

131 (i) Child pornography;

132 (ii) Materials that depict or promote child sexual
133 exploitation or trafficking;

134 (iii) Obscene materials, as defined in this act;

135 (iv) Inappropriate materials depicting or dealing
136 with matters of sex, cruelty and violence in a manner likely to be
137 injurious or harmful to a child; or

138 (v) Materials that are sexually oriented, as
139 defined in Section 97-5-27(2); and



140 (b) Block, or otherwise prohibit and prevent, a minor
141 from accessing obscene materials, inappropriate materials,
142 materials that are sexually oriented or materials that depict,
143 describe or promote child pornography or child sexual
144 exploitation.

145 (3) (a) The provisions of this section take precedence over
146 any provision in a contract between the contracting party and a
147 vendor or other person or entity providing digital or online
148 resources or databases to the contrary. Notwithstanding any
149 provision in a contract between the contracting party and a
150 provider to the contrary, if a provider of digital or online
151 resources or databases fails to comply with the requirements of
152 this section, the contracting party shall withhold further
153 payments, if any, to the provider pending verification of
154 compliance.

155 (b) The provisions of this section shall apply to a
156 vendor or other person or entity that provisions instances of
157 Internet infrastructure for the purpose of publishing content. A
158 cloud service provider shall not be held to have violated the
159 provisions of this act solely for providing noncontent
160 provisioning services, including Infrastructure-as-a-Service
161 (IaaS) and Platform-as-a-Service (PaaS).

162 (c) The provisions of this section do not apply to the
163 use of digital or online resources or databases by a student
164 enrolled in a Mississippi institution of higher education or a



165 Mississippi community or junior college, including dual-enrolled
166 students.

167 (d) Upon a first uncured occurrence by a provider of
168 digital or online resources or databases of noncompliance with
169 subsection (2) of this section and failure to verify within thirty
170 (30) days of receiving notice of the noncompliance from the
171 contracting party that the provider is in compliance with this
172 section, the contracting party shall consider the provider's
173 noncompliance to be a breach of contract.

174 (e) Upon a second uncured occurrence by a provider of
175 noncompliance with subsection (2) and failure to verify within
176 thirty (30) days of receiving notice of the noncompliance from the
177 contracting party that the provider is in compliance with the
178 requirements of this section, the contracting party is entitled to
179 a reduction in the amount of ten percent (10%) of the agreed upon
180 price in the contract to be paid by the contracting party to the
181 provider. The contracting party shall adjust any future payments
182 due to the provider under the contract accordingly to effectuate
183 the ten percent (10%) reduction. However, if the contract price
184 has been paid in full, or if the balance owed on the contract
185 price is equal to less than ten percent (10%) of the contract
186 price, the provider must return to the contracting party such
187 amount that is required to effectuate a ten percent (10%)
188 reduction of the contract price.



189 (f) Upon a third uncured occurrence by a provider of
190 noncompliance with subsection (2) and failure to verify within
191 thirty (30) days of receiving notice of the noncompliance from the
192 contracting party that the provider is in compliance with the
193 requirements of this section, the contract must be considered
194 terminated and the contracting party is entitled to a complete
195 refund of the agreed upon price in the contract to be paid by the
196 contracting party to the provider. The contracting party shall
197 withhold any future payments that may be due to the provider, and
198 the provider must return to the contracting party all amounts
199 previously paid to the provider under the contract.

200 (4) Prior to withholding any payment for noncompliance under
201 this act, any contracting party must provide to the database
202 vendor:

203 (i) Written notice of the nature of the violation,
204 including reasonable identification of the prohibited material and
205 the manner of its access.

206 (ii) Thirty (30) days to present evidence that the
207 acts alleged to constitute a violation are not a breach of the
208 provider's obligation.

209 (iii) Thirty (30) days to cure any occurrence of
210 noncompliance.

211 (iv) After having exhausted the administrative
212 remedies referenced in subparagraphs (i) - (iii), the opportunity
213 to tender the disputed contract funds into the registry of a court



214 of competent jurisdiction and to seek a judicial determination of
215 the rights under the contract.

216 (5) The Attorney General may investigate compliance with
217 this section. The contracting party must report to the Attorney
218 General a provider's failure to comply with subsection (2) of this
219 section no later than thirty (30) days after the contracting party
220 learns of the provider's noncompliance. Such a report shall
221 constitute a public record under the Mississippi Public Records
222 Act.

223 **SECTION 3.** If any section, paragraph, sentence, clause,
224 phrase or any part of this act passed on or after the effective
225 date of this act is declared to be unconstitutional or void, or if
226 for any reason is declared to be invalid or of no effect, the
227 remaining sections, paragraphs, sentences, clauses, phrases or
228 parts of this act shall be in no manner affected thereby but shall
229 remain in full force and effect.

230 Unless the contrary intent shall clearly appear in the
231 particular act in question, each and every act passed hereafter
232 shall be read and construed as though the provisions of the first
233 paragraph of this section form an integral part thereof, whether
234 expressly set out therein or not.

235 **SECTION 4.** This act shall take effect and be in force from
236 and after July 1, 2023.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**



1 AN ACT TO REGULATE PORNOGRAPHIC MEDIA EXPOSURE TO CHILDREN IN
2 K-12; TO REGULATE DIGITAL AND ONLINE RESOURCES PROVIDED BY K-12
3 VENDORS; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)
Bain

X (SIGNED)
Ford (73rd)

X (SIGNED)
Newman

CONFEREES FOR THE SENATE

X (SIGNED)
Fillingane

X (SIGNED)
Wiggins

X (SIGNED)
Hill

