

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1126**

**BY: Committee**

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

14        **SECTION 1.** This act shall be known and may be cited as the  
15 "Walker Montgomery Protecting Children Online Act."

16        **SECTION 2.** For purposes of this act, the following words  
17 shall have the meanings ascribed herein unless the context clearly  
18 requires otherwise:

19           (a) "Digital service" means a website, an application,  
20 a program, or software that collects or processes personal  
21 identifying information with internet connectivity.

22           (b) "Digital service provider" means a person who:

23               (i) Owns or operates a digital service;



24 (ii) Determines the purpose of collecting and  
25 processing the personal identifying information of users of the  
26 digital service; and

27 (iii) Determines the means used to collect and  
28 process the personal identifying information of users of the  
29 digital service.

30 (c) "Harmful material" means material that is harmful  
31 to minors as defined by Section 11-77-3(d).

32 (d) "Known minor" means a child who is younger than  
33 eighteen (18) years of age who has not had the disabilities of  
34 minority removed for general purposes, and who the digital service  
35 provider knows to be a minor.

36 (e) "Personal identifying information" means any  
37 information, including sensitive information, that is linked or  
38 reasonably linkable to an identified or identifiable individual.  
39 The term includes pseudonymous information when the information is  
40 used by a controller or processor in conjunction with additional  
41 information that reasonably links the information to an identified  
42 or identifiable individual. The term does not include  
43 deidentified information or publicly available information.

44 **SECTION 3.** (1) This act applies only to a digital service  
45 provider who provides a digital service that:

46 (a) Connects users in a manner that allows users to  
47 socially interact with other users on the digital service;



48           (b) Allows a user to create a public, semi-public or  
49 private profile for purposes of signing into and using the digital  
50 service; and

51           (c) Allows a user to create or post content that can be  
52 viewed by other users of the digital service, including sharing  
53 content on:

54                   (i) A message board;

55                   (ii) A chat room; or

56                   (iii) A landing page, video channel or main feed  
57 that presents to a user content created and posted by other users.

58           (2) This act does not apply to:

59                   (a) A digital service provider who processes or  
60 maintains user data in connection with the employment, promotion,  
61 reassignment or retention of the user as an employee or  
62 independent contractor, to the extent that the user's data is  
63 processed or maintained for that purpose;

64                   (b) A digital service provider's provision of a digital  
65 service that facilitates email or direct messaging services, if  
66 the digital service facilitates only those services; or

67                   (c) A digital service provider's provision of a digital  
68 service that:

69                           (i) Primarily functions to provide a user with  
70 access to news, sports, commerce, online video games or content  
71 primarily generated or selected by the digital service provider;  
72 and



73 (ii) Allows chat, comment or other interactive  
74 functionality that is incidental to the digital service.

75 (3) The internet service provider, internet service  
76 provider's affiliate or subsidiary, search engine or cloud service  
77 provider is not considered to be a digital service provider or to  
78 offer a digital service if the internet service provider or  
79 provider's affiliate or subsidiary, search engine or cloud service  
80 provider solely provides access or connection, including through  
81 transmission, download, intermediate storage, access software or  
82 other service, to an internet website or to other information or  
83 content:

84 (a) On the internet; or

85 (b) On a facility, system or network not under the  
86 control of the internet service provider, provider's affiliate or  
87 subsidiary, search engine or cloud service provider.

88 **SECTION 4.** (1) A digital service provider may not enter  
89 into an agreement with a person to create an account with a  
90 digital service unless the person has registered the person's age  
91 with the digital service provider. A digital service provider  
92 shall make commercially reasonable efforts to verify the age of  
93 the person creating an account with a level of certainty  
94 appropriate to the risks that arise from the information  
95 management practices of the digital service provider.

96 (2) A digital service provider shall not permit an account  
97 holder who is a known minor to be an account holder unless the



98 known minor has the express consent from a parent or guardian.  
99 Acceptable methods of obtaining express consent of a parent or  
100 guardian include any of the following:

101 (a) Providing a form for the minor's parent or guardian  
102 to sign and return to the digital service provider by common  
103 carrier, facsimile or electronic scan;

104 (b) Providing a toll-free telephone number for the  
105 known minor's parent or guardian to call to consent;

106 (c) Coordinating a call with a known minor's parent or  
107 guardian over video conferencing technology;

108 (d) Collecting information related to the  
109 government-issued identification of the known minor's parent or  
110 guardian and deleting that information after confirming the  
111 identity of the known minor's parent or guardian;

112 (e) Allowing the known minor's parent or guardian to  
113 provide consent by responding to an email and taking additional  
114 steps to verify the identity of the known minor's parent or  
115 guardian; or

116 (f) Any other commercially reasonable method of  
117 obtaining consent in light of available technology.

118 **SECTION 5.** (1) A digital service provider that enters into  
119 an agreement with a known minor for access to a digital service  
120 shall:



121 (a) Limit collection of the known minor's personal  
122 identifying information to information reasonably necessary to  
123 provide the digital service; and

124 (b) Limit use of the known minor's personal identifying  
125 information to the purpose for which the information was  
126 collected.

127 (2) A digital service provider that enters into an agreement  
128 with a known minor for access to a digital service may not:

129 (a) Use the digital service to collect the known  
130 minor's precise geolocation data;

131 (b) Use the digital service to display targeted  
132 advertising involving harmful material to the known minor; or

133 (c) Share, disclose or sell the known minor's personal  
134 identifying information unless required to:

135 (i) Comply with a civil, criminal or regulatory  
136 inquiry, investigation, subpoena or summons by a governmental  
137 entity;

138 (ii) Comply with a law enforcement investigation;

139 (iii) Detect, block or prevent the distribution of  
140 unlawful, obscene or other harmful material to a known minor;

141 (iv) Block or filter spam;

142 (v) Prevent criminal activity; or

143 (vi) Protect the security of a digital service.

144 **SECTION 6.** (1) Except as provided by subsection (2) of this  
145 section, this act may not be construed as providing a basis for,



146 or being subject to, a private right of action for a violation of  
147 this act.

148 (2) If a digital service provider violates this act, the  
149 parent or guardian of a known minor affected by that violation may  
150 bring a cause of action seeking:

151 (a) A declaratory judgment under Rule 57 of Mississippi  
152 Rules of Civil Procedure;

153 (b) An injunction against the digital service provider;  
154 or

155 (c) A monetary judgment or award not to exceed One  
156 Hundred Thousand Dollars (\$100,000.00) per violation.

157 (3) A court may not certify an action brought under this  
158 section as a class action.

159 **SECTION 7.** Section 75-24-5, Mississippi Code of 1972, is  
160 amended as follows:

161 75-24-5. (1) Unfair methods of competition affecting  
162 commerce and unfair or deceptive trade practices in or affecting  
163 commerce are prohibited. Action may be brought under Section  
164 75-24-5(1) only under the provisions of Section 75-24-9.

165 (2) Without limiting the scope of subsection (1) of this  
166 section, the following unfair methods of competition and unfair or  
167 deceptive trade practices or acts in the conduct of any trade or  
168 commerce are hereby prohibited:

169 (a) Passing off goods or services as those of another;



170 (b) Misrepresentation of the source, sponsorship,  
171 approval, or certification of goods or services;

172 (c) Misrepresentation of affiliation, connection, or  
173 association with, or certification by another;

174 (d) Misrepresentation of designations of geographic  
175 origin in connection with goods or services;

176 (e) Representing that goods or services have  
177 sponsorship, approval, characteristics, ingredients, uses,  
178 benefits, or quantities that they do not have or that a person has  
179 a sponsorship, approval, status, affiliation, or connection that  
180 he does not have;

181 (f) Representing that goods are original or new if they  
182 are reconditioned, reclaimed, used, or secondhand;

183 (g) Representing that goods or services are of a  
184 particular standard, quality, or grade, or that goods are of a  
185 particular style or model, if they are of another;

186 (h) Disparaging the goods, services, or business of  
187 another by false or misleading representation of fact;

188 (i) Advertising goods or services with intent not to  
189 sell them as advertised;

190 (j) Advertising goods or services with intent not to  
191 supply reasonably expectable public demand, unless the  
192 advertisement discloses a limitation of quantity;

193 (k) Misrepresentations of fact concerning the reasons  
194 for, existence of, or amounts of price reductions;





195           (1) Advertising by or on behalf of any licensed or  
196 regulated health care professional which does not specifically  
197 describe the license or qualifications of the licensed or  
198 regulated health care professional;

199           (m) Charging an increased premium for reinstating a  
200 motor vehicle insurance policy that was cancelled or suspended by  
201 the insured solely for the reason that he was transferred out of  
202 this state while serving in the United States Armed Forces or on  
203 active duty in the National Guard or United States Armed Forces  
204 Reserve. It is also an unfair practice for an insurer to charge  
205 an increased premium for a new motor vehicle insurance policy if  
206 the applicant for coverage or his covered dependents were  
207 previously insured with a different insurer and canceled that  
208 policy solely for the reason that he was transferred out of this  
209 state while serving in the United States Armed Forces or on active  
210 duty in the National Guard or United States Armed Forces Reserve.  
211 For purposes of determining premiums, an insurer shall consider  
212 such persons as having maintained continuous coverage. The  
213 provisions of this paragraph (m) shall apply only to such  
214 instances when the insured does not drive the vehicle during the  
215 period of cancellation or suspension of his policy;

216           (n) Violating the provisions of Section 75-24-8; \* \* \*

217           (o) Violating the provisions of Section 73-3-38 \* \* \*;

218 and



219           (p) Violating the provisions of Sections 1 through 6 of  
220 this act.

221           **SECTION 8.** Section 97-5-31, Mississippi Code of 1972, is  
222 amended as follows:

223           97-5-31. As used in Sections 97-5-33 through 97-5-37, the  
224 following words and phrases shall have the meanings given to them  
225 in this section:

226           (a) "Child" means any individual who has not attained  
227 the age of eighteen (18) years and is an identifiable child.

228           (b) "Sexually explicit conduct" means actual, morphed  
229 or simulated:

230           (i) Oral genital contact, oral anal contact, or  
231 sexual intercourse as defined in Section 97-3-65, whether between  
232 persons of the same or opposite sex;

233           (ii) Bestiality;

234           (iii) Masturbation;

235           (iv) Sadistic or masochistic abuse;

236           (v) Lascivious exhibition of the genitals or pubic  
237 area of any person; or

238           (vi) Fondling or other erotic touching of the  
239 genitals, pubic area, buttocks, anus or breast.

240           (c) "Producing" means producing, directing,  
241 manufacturing, issuing, publishing, morphing or advertising.

242           (d) "Visual depiction" includes, without limitation,  
243 developed or undeveloped film and video tape or other visual



244 unaltered, altered or morphed reproductions by computer and  
245 technology.

246 (e) "Computer" has the meaning given in Title 18,  
247 United States Code, Section 1030.

248 (f) "Morphed image" means any visual depiction or  
249 representation, including any photograph, film, video, picture, or  
250 computer or computer-generated image or picture, whether made or  
251 produced by electronic, mechanical, simulated or other means, of  
252 sexually explicit conduct, where such visual depiction or  
253 representation has been created, adapted, or modified to appear an  
254 identifiable minor is engaging in sexual conduct or sexually  
255 explicit activity to appearing in a state of sexually explicit  
256 nudity.

257 ( \* \* \*g) "Simulated" means any depicting of the  
258 genitals or rectal areas that gives the appearance of sexual  
259 conduct or incipient sexual conduct.

260 (h) "Identifiable child" means a child who was a minor  
261 at the time the image was created, adapted, or modified or whose  
262 image as a child was used in the creating, adapting or modifying  
263 of the image; and is recognizable as an actual child by the  
264 child's face, likeness, or other distinguishing characteristic,  
265 such as a unique birthmark or other recognizable feature. The  
266 provisions of this paragraph (h) shall not be construed to require  
267 proof of the actual identity of the identifiable child.



268           **SECTION 9.** This act shall take effect and be in force from  
269 and after July 1, 2024, and shall stand repealed on June 30, 2024.

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

1           AN ACT TO CREATE THE "WALKER MONTGOMERY PROTECTING CHILDREN  
2 ONLINE ACT" FOR THE PURPOSE OF PROTECTING MINOR CHILDREN FROM  
3 ONLINE HARMFUL MATERIAL AND ACCESS TO SUCH MATERIAL; TO REQUIRE  
4 DIGITAL SERVICE USERS TO REGISTER THEIR AGE; TO LIMIT THE  
5 COLLECTION AND USE OF MINOR USERS' PERSONAL IDENTIFYING  
6 INFORMATION; TO AMEND SECTION 75-24-5, MISSISSIPPI CODE OF 1972,  
7 TO PROVIDE THAT A VIOLATION OF THIS ACT IS AN UNFAIR AND DECEPTIVE  
8 TRADE PRACTICE THAT IS ENFORCEABLE BY THE OFFICE OF THE ATTORNEY  
9 GENERAL; TO AMEND SECTION 97-5-31, MISSISSIPPI CODE OF 1972, TO  
10 INCLUDE MORPHED IMAGES OF DEPICTING MINOR CHILDREN IN EXPLICIT  
11 NATURE IN THE CRIME OF CHILD EXPLOITATION; AND FOR RELATED  
12 PURPOSES.

