



Bill Analysis

House Bill 18 - Updated

Securing Children Online Through Parental Empowerment (SCOPE) Act

Purpose

In April 2023, House Bill 18 passed the House by a vote of 125–20. Also known as the Securing Children Online Through Parental Empowerment (SCOPE) Act ([2023](#)), HB 18 proposes to protect children from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services. It provides enhanced online privacy protections, places a duty on digital service providers to limit access to harmful online content, and empowers parents with additional rights and tools to keep their children safe.

Background

Children in Texas are spending an increasing amount of time on digital services. With 35% of teenagers using at least one social media platform almost constantly ([Vogels et al., 2022](#)) and an average screen time of nine hours a day for teens, the majority of their waking hours are spent using digital services ([American Academy of Child & Adolescent Psychiatry, 2020](#)). While there may be benefits to teens using digital services that provide educational content, for example, the harms children experience online are growing at an alarming rate.

The list of harms children are exposed to and experience as a result of increased use of digital services is troubling and ever-growing—addiction, depression, loneliness, dissatisfaction with life, anxiety, self-harm, eating disorders, sex trafficking, cyberbullying, Child Sexual Abusive Material (CSAM), suicide, and more ([Whiting, 2023](#)). The unfortunate reality is that—for many of the physical, emotional, and psychological harms outlined above—there was a steady decrease in these symptoms from 1991 to 2011, with a sharp rise after 2011 ([Twenge et al., 2022](#); [Keyes, et al., 2019](#)). This is contemporaneous with the precipitous rise in digital usage that occurred during the mid- to late-2000s. Furthermore, it was revealed that certain digital service providers have been aware of the harms their products cause for children, are hiding internal research, and doubling down on getting users hooked at younger and younger ages ([Oremus, 2021](#)).

Texas parents are doing their best, but in many cases, they are denied the resources and power to properly protect their children online. A 1998 federal law, the Children’s Online Privacy Protection Act (COPPA), places limitations on online data collection on children under age 13 without verifiable parental consent ([Matecki, 2010](#)). However, COPPA is an outdated law with many flaws, chief of which is a preemption provision which limits the ability of states to protect all children online.

Additionally, despite the fact that children cannot enter into enforceable contracts, myriad digital service providers enter into agreements with children without parental consent. While parents continue to do their best by investing time and resources into improving the safety of their child online, many currently available resources on digital services are cumbersome, costly, and easy to circumvent. And parents say they need more help. Sixty-six percent say parenting is harder in the digital age and 71% feel anxious about the impact of children’s screentime ([Auxier, et al., 2020](#)).

Proposal

As amended, House Bill 18 would be the strongest law in the nation to keep children safe online and would empower Texas parents* concerning their children’s online activity. First, it prohibits digital service providers from entering into an agreement with a known minor unless they have verifiable parental consent. Therefore, parents get the ultimate say on whether to agree to terms of service agreements, user agreements, and digital service account creation for their children.

* The term parent includes guardian.

Second, the methods of obtaining verifiable parental consent are already well-recognized under COPPA and have been used by digital service providers for over 25 years. The bill also provides parents with the ability to register as a verified parent to give consent or perform other account related functions. Furthermore, expanding on COPPA, the bill applies to digital service providers who have “actual knowledge of, or willfully disregard[], a minor’s age.”

Third, before obtaining verifiable parental consent, digital service providers must provide parents with several tools to enable the strongest privacy settings; limit data collection, sharing, disclosure, or transfer; disable targeted advertisements; and restrict their child’s ability to purchase items.

Fourth, digital service providers are required to exercise “reasonable care” to prevent physical, emotional, and developmental harm to a known minor using that service. ** The bill specifies that this duty applies to exposure to harmful content including self-harm, suicide, eating disorders, bullying, sexual exploitation, trafficking, child pornography, and more, addressing core concerns over harmful content that has skyrocketed on digital services in the last decade.

Fifth, like numerous privacy bills considered this session, parents are given rights and control over their children’s data. This includes the rights to access all data, know the purpose for which it is processed, third parties to whom data has been disclosed, third party sources from whom the provider obtained data, how long the data will be held, and the rights to dispute, correct, and delete data about their child.

Sixth, digital service providers must provide clear and accessible disclosures on advertisement or marketing material, with additional information such as how and why a child was targeted with the advertisement. This provides a key transparency mechanism and would reduce the chance that children are deceived by content that appears to be objective or organic.

Seventh, the bill includes protections and transparency on the use of algorithms, which are the key driver behind harmful content being served to children. Digital service providers that use algorithms must exercise reasonable care to prevent exposure to harm and disclose how algorithms are used to serve content, including how a child’s data is used to inform the algorithm.

Eighth, it is important to note that the bill applies broadly to all digital services***—not just social media platforms. The bill does not apply to small businesses, covered entities governed by federally preemptive laws such as HIPPA and FERPA, state agencies and political subdivisions, institutions of higher education, employment information, and certain education service operators. It expressly protects the trade secrets of digital service providers. It is enforced by the Office of the Attorney General under the Deceptive Trade Practices-Consumer Protection Act and clarifies that a private right of action is not allowed under the bill. Finally, it includes a severability clause and takes effect on September 1, 2024.

** Reasonable care is “[t]he level of care that a reasonable person would exercise in such circumstances. Failure to exercise reasonable care may lead to liability, if such a failure caused an injury; while exercise of reasonable care can establish that a party acted reasonably and is not liable” ([Cornell, n.d., para. 1](#)).

*** The bill defines “digital service” as “a website, an application, a program, or software that performs collection or processing functions with Internet connectivity.”

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