



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2879 Online content: cyberbullying. (2021-2022)

SHARE THIS:  

Date Published: 09/29/2022 02:00 PM

Assembly Bill No. 2879

CHAPTER 700

An act to add Chapter 22.2.9 (commencing with Section 22589) to Division 8 of the Business and Professions Code, relating to online content.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2879, Low. Online content: cyberbullying.

Existing law, the Safe Place to Learn Act, requires the State Department of Education to assess whether local educational agencies have taken certain actions related to educational equity, including adopting a policy that prohibits discrimination, harassment, intimidation, and bullying based on specified characteristics. Existing law requires local educational agencies, as defined, to adopt procedures for preventing acts of bullying, including cyberbullying. Existing law also prohibits a pupil from being suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed a specified act, including, among other acts, engaging in an act of bullying, which includes communications made in writing or by means of an electronic act, as defined.

This bill would require a social media platform, as defined, and subject to specified exceptions, to disclose all cyberbullying, as defined, reporting procedures in the social media platform's terms of service, and would require a social media platform to establish a mechanism within its internet-based service that allows an individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service, as specified.

Beginning September 1, 2023, this bill would make a social media platform that intentionally violates these provisions subject to specified civil penalties or injunction, to be prosecuted in a court of competent jurisdiction by the Attorney General. The bill would specify that its provisions do not create a private right of action or limit any existing private right of action.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 22.2.9 (commencing with Section 22589) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 22.2.9. Cyberbullying Protection Act

22589. For purposes of this chapter, the following definitions apply:

(a) (1) "Content" means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application.

(2) "Content" does not include media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.

(b) "Cyberbullying" means any severe or pervasive conduct made by an electronic act or acts, as defined in paragraph (2) of subdivision (r) of Section 48900 of the Education Code, committed by a pupil or group of pupils directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(1) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(2) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil's physical or mental health.

(3) Causing a reasonable pupil to experience substantial interference with the pupil's academic performance.

(4) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.

(c) "Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(1) (A) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(B) A service or application that provides email or direct messaging services shall not be considered to meet this criterion on the basis of that function alone.

(2) The service or application allows users to do all of the following:

(A) Construct a public or semipublic profile for purposes of signing into and using the service or application.

(B) Populate a list of other users with whom an individual shares a social connection within the system.

(C) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(d) "Public or semipublic internet-based service or application" excludes a service or application used to facilitate communication within a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

(e) "Terms of service" means a public-facing policy or set of policies adopted by a social media platform that specifies, at least, the user behavior and activities that are permitted on the social media platform and the user behavior and activities that may result in the social media platform taking action against the user or content.

22589.1. (a) A social media platform shall disclose all cyberbullying reporting procedures in the social media platform's terms of service.

(b) A social media platform shall establish a mechanism within its internet-based service that allows any individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service. The reporting mechanism shall allow, but not require, an individual to upload a screenshot of the content that contains cyberbullying or violates the terms of service.

22589.2. Actions for relief pursuant to this chapter may be prosecuted exclusively in a court of competent jurisdiction in a civil action brought in the name of the people of the State of California by the Attorney General. This chapter shall not be deemed to create a private right of action or limit any existing private right of action.

22589.3. (a) (1) Any social media platform that violates a requirement of this chapter shall be liable for a civil penalty of not more than seven thousand five hundred dollars (\$7,500) for each intentional violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General.

(2) In a successful action brought by the Attorney General to enforce this chapter, the court may order injunctive relief to obtain compliance with this chapter.

(b) For purposes of this section, each day a social media platform is in violation of a requirement of this chapter constitutes a separate violation.

(c) This section shall become operative September 1, 2023.

22589.4. This chapter shall not apply to either of the following:

(a) A social media platform that is controlled by a business entity that generated less than one hundred million dollars (\$100,000,000) in gross revenue during the preceding calendar year.

(b) A social media platform whose primary function is to allow users to play video games.