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SB-1056 Violent posts. (2021-2022)

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Senate Bill No. 1056

CHAPTER 881

An act to add Title 1.81.46 (commencing with Section 1798.99.20) to Part 4 of Division 3 of the Civil Code, relating to social media.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, Umberg. Violent posts.

Existing law, the California Consumer Privacy Act of 2018, requires a business, as defined, that receives a verifiable consumer request from a consumer to delete the consumer's personal information, as defined, to delete the consumer's personal information from its records, as prescribed.

This bill would require a social media platform with 1,000,000 or more discrete monthly users, as defined, to clearly and conspicuously state whether it has a mechanism for reporting violent posts, as defined, that is available to users and nonusers of the platform. The bill would authorize a person who is the target of a violent post, or reasonably believes the person is the target of a violent post, to seek an order requiring the social media platform to remove the violent post and any related violent post the court determines shall be removed in the interests of justice, as prescribed.

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

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

SECTION 1. Title 1.81.46 (commencing with Section 1798.99.20) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.46. Online Violence Prevention Act

1798.99.20. For purposes of this section:

(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) "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.

(c) "Public or semipublic internet-based service or application" does not include a service or application used to facilitate communication with 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.

(d) "User" means a person with an account on a social media platform.

(e) "Violent post" means content on a social media platform that contains a true threat against a specific person that is not protected by the First Amendment to the United States Constitution.

1798.99.21. (a) A social media platform shall clearly and conspicuously state whether it has a mechanism for reporting violent posts that is available to users and nonusers of the platform.

(b) If the social media platform has a reporting mechanism, the statement required by this subdivision shall include a link to the reporting mechanism.

1798.99.22. (a) (1) (A) A person who is the target of a violent post, or reasonably believes the person is the target of a violent post, may seek an order requiring the social media platform to remove the violent post and any related violent post the court determines shall be removed in the interests of justice.

(B) (i) A person may bring an action pursuant to this paragraph before 48 hours have passed since providing notice to a social media platform pursuant to paragraph (2), but the court shall not rule on the request for an order until 48 hours have passed from the provision of notice.

(ii) The court may dismiss an action described by clause (i) if the social media platform deletes the post before 48 hours have passed from the provision of notice.

(C) Except as provided in subparagraph (D), a person may bring an action pursuant to this paragraph at any time, and the court may rule on the request at any time, if the social media platform does not have a reporting mechanism described in Section 1798.99.21.

(D) A person shall not bring an action pursuant to this paragraph, nor shall a court issue an order requiring a social media platform to remove a violent post or any related violent post, based upon content containing a true threat against a specific person if the date and time when the true threat that was threatened to occur has passed.

(2) If the social media platform has a reporting mechanism described in Section 1798.99.21, a person shall not bring an action pursuant to paragraph (1) until the person has notified the social media platform of the violent post and requested that it be removed through the reporting mechanism.

(b) (1) A court shall award court costs and reasonable attorney's fees to a prevailing plaintiff in an action brought pursuant to this section.

(2) Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

1798.99.23. This title does not apply to a social media platform with fewer than 1,000,000 discrete monthly users.