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SB-1504 Cyberbullying Protection Act. (2023-2024)

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Senate Bill No. 1504

CHAPTER 900

An act to amend Sections 22589, 22589.1, 22589.2, and 22589.3 of the Business and Professions Code, relating to social media platforms.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1504, Stern. Cyberbullying Protection Act.

Existing law, commonly known as the Cyberbullying Protection Act, requires a social media platform, as defined, to disclose all cyberbullying reporting procedures in the social media platform's terms of service and 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 content that violates the existing terms of service. The act defines "cyberbullying" to mean any severe or pervasive conduct made by an electronic act, as specified, committed by a pupil or group of pupils directed toward one or more pupils that has, or can reasonably be predicted to have, certain effects, including placing a reasonable pupil in fear of harm to that pupil's person or property. The act makes a social media platform that violates its provisions liable for a civil penalty of not more than \$7,500 for each intentional violation to be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The act also authorizes a court to order injunctive relief to obtain compliance with these provisions.

This bill would generally apply the act's provisions to minors rather than pupils. The bill would define the phrase "severe or pervasive conduct" to include only content that has, or can be reasonably predicted to have, specified harmful, detrimental, or substantially interfering effects. The bill would provide that "severe conduct" may also include conduct that, among other things, calls for self-injury or suicide of a minor or a specific person or of a group of individuals related to a minor. The bill would additionally require the mechanism required by the act to meet additional criteria, including that the mechanism provides, within 36 hours of receipt of a report, written confirmation to the reporting individual that the social media platform received that individual's report. The bill would authorize civil actions for relief only by a parent, legal guardian, or administrator who submits a report of cyberbullying to the social media platform, a city attorney, a district attorney, a county counsel, or the Attorney General. The bill would increase the civil liability for violating the act to \$10,000 and would make a social media platform that violates the act's provisions liable for compensatory and punitive damages, as provided. The bill would authorize a court to award reasonable attorney's fees and costs to the prevailing plaintiff, as specified.

This bill would state that its provisions are severable. The bill would also make a nonsubstantive change.

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

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

SECTION 1. Section 22589 of the Business and Professions Code is amended to read:

22589. For purposes of this chapter:

(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, as defined in paragraph (2) of subdivision (r) of Section 48900 of the Education Code, committed by a person or group of people directed toward one or more minors that has, or can be reasonably predicted to have, the effect of any of the following:

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

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

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

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

(c) (1) "Severe or pervasive conduct" includes only content that has, or can be reasonably predicted to have, the harmful, detrimental, or substantially interfering effects described in paragraphs (1) to (4), inclusive, of subdivision (b).

(2) "Severe conduct" includes conduct that has, or can be reasonably predicted to have, the harmful, detrimental, or substantially interfering effects described in paragraphs (1) to (4), inclusive, of subdivision (b). Severe conduct may also include content that does any of the following:

(A) Calls for self-injury or suicide of a minor or a specific person or of a group of individuals related to a minor.

(B) Attacks a minor based on the minor's experience of sexual assault, sexual exploitation, sexual harassment, or domestic abuse.

(C) Includes statements of intent to engage in a sexual activity or advocating to engage in a sexual activity with a minor.

(D) Threatens to release a minor's telephone number, residential address, images, or email address.

(E) Calls for, or statements of intent to engage in, threats of violence, humiliation, or criminal activity against a minor.

(F) Degrades, or expresses disgust toward, a minor who is depicted in the process of, or right after, menstruating, urinating, vomiting, or defecating.

(G) The identification in this paragraph of particular bases of severe conduct is illustrative rather than restrictive.

(d) "Social media platform" has the same meaning as defined in Section 22675.

(e) "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.

(f) "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.

SEC. 2. Section 22589.1 of the Business and Professions Code is amended to read:

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

(b) (1) A social media platform shall establish a prominent 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 related to cyberbullying.

(2) The mechanism required by this subdivision shall meet all of the following criteria:

(A) The mechanism shall allow, but not require, an individual to upload a screenshot of the content that contains cyberbullying or violates the terms of service related to cyberbullying and collect basic identifying information, such as an account identifier, sufficient to permit the social media platform to locate the reported material.

(B) The mechanism shall include, but not be limited to, a method of contacting a reporting individual in writing by a method, including a telephone number for purposes of sending text messages, an email address, or other reasonable electronic method of communication.

(C) A social media platform may offer any other reasonable electronic method of communication in addition to those described in subparagraph (B). A social media platform shall inform a reporting individual of all options for a platform to contact the reporting individual in writing regarding their report, including, but not limited to, the methods listed in subparagraph (B). The reporting individual shall choose the method of communication.

(D) The mechanism provides, within 36 hours of receipt of a report, written confirmation to the reporting individual that the social media platform received that individual's report.

(E) (i) The mechanism provides periodic written updates to the reporting individual as to the status of the social media platform's handling of the reported material using the reporting individual's chosen method of communication, pursuant to subparagraph (C).

(ii) The first written update required by clause (i) shall be provided as soon as reasonably feasible but no later than 14 days after the date on which the written confirmation required under subparagraph (D) is provided. Subsequent written updates shall be provided as soon as reasonably feasible but no later than every 14 days thereafter, until the final written determination required by subparagraph (F).

(F) (i) Except as provided in clause (ii), the mechanism issues a final written determination to the reporting user within 30 days of receiving the report stating one of the following:

(I) The reported material has been determined to be cyberbullying that was displayed, stored, or hosted on the social media platform and has been blocked from being viewable on the social media platform because it violates the platform's existing terms of service related to cyberbullying.

(II) The reported material has been determined to be cyberbullying that was displayed, stored, or hosted on the social media platform and has not been, or will not be, blocked on the social media platform because it does not violate the platform's existing terms of service related to cyberbullying.

(III) The reported material has not been determined to be cyberbullying or to violate the platform's existing terms of service related to cyberbullying and the reported material has not been, or will not be, blocked on the social media platform.

(IV) The reported material has not been determined to be cyberbullying or to violate the platform's existing terms of service related to cyberbullying, but the reported material has been blocked from being viewable on the social media platform for reasons unrelated to the platform's existing terms of service related to cyberbullying.

(V) The reported material has been determined not to be displayed, stored, or hosted on the social media platform.

(ii) If the social media platform cannot comply with clause (i) within 30 days due to circumstances beyond the reasonable control of the social media platform, the social media platform shall comply with clause (i) no later than 60 days after the date on which the covered material was first reported. If this subparagraph applies, the social media platform shall promptly provide written notice of the delay, no later than 48 hours from the time the social media platform knew the delay was likely to occur, to the reporting individual.

SEC. 3. Section 22589.2 of the Business and Professions Code is amended to read:

22589.2. Notwithstanding that any individual may report cyberbullying, or any content that violates a platform's existing terms of service related to cyberbullying, as described in paragraph (1) of subdivision (b) of Section 22589.1, actions for relief pursuant to this chapter may be brought only in a civil action by any of the following persons:

(a) A parent or legal guardian of a minor, or an administrator in the school that the minor attends, who submits a report of cyberbullying to the social media platform.

(b) A city attorney, a district attorney, or a county counsel.

(c) The Attorney General, in the name of the people of the State of California.

SEC. 4. Section 22589.3 of the Business and Professions Code is amended to read:

22589.3. (a) (1) Any social media platform that violates a requirement of this chapter shall be liable for ten thousand dollars (\$10,000) for each violation and for compensatory damages, punitive damages, and any civil remedies, penalties, or sanctions for harms caused by the social media platform's failure to comply with this chapter, which damages shall be adjudicated and awarded apart from any harms attributable to the existence of the reported content alone and which shall be assessed and recovered in a civil action brought by any person set forth in Section 22589.2.

(2) In a successful action brought to enforce this chapter, the court may order injunctive relief to obtain compliance with this chapter and may award reasonable attorney's fees and costs to the prevailing plaintiff.

(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) (1) The remedies provided by this section are in addition to any other civil, criminal, and administrative remedies, penalties, or sanctions provided by law and do not supplant, but are cumulative to, other remedies, penalties, or sanctions.

(2) The duties and obligations imposed by this section are cumulative with any other duties or obligations imposed under other law and shall not be construed to relieve any party from any duties or obligations imposed under other law.

(3) This section does not impose liability on a social media platform if such liability is prohibited by Section 230 of Title 47 of the United States Code.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.