

# ASSEMBLY, No. 5750

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED NOVEMBER 30, 2023

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman ELLEN J. PARK**

**District 37 (Bergen)**

**SYNOPSIS**

Requires age verification and parent or guardian consent for minor's use of social media platform; prohibits certain messaging between adults and minors on social media platform.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/30/2023)**

1 AN ACT requiring age verification and parent or guardian consent  
2 for a minor's use of a social media platform and supplementing  
3 Title 52 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in P.L. , c. (C. ) (pending before the  
9 Legislature as this bill):

10 "Account holder" means an individual who has or who creates an  
11 account or profile on a social media platform.

12 "Adding" means a distinction from other users concerning the  
13 interaction of two separate social media accounts, at the mutual  
14 election of the account holders, by which the two account holders'  
15 settings enable them to view one another's posts. The term may  
16 also include any designation that enables direct messaging between  
17 the two accounts when such accounts do not permit such messaging  
18 with other users generally. "Adding" includes, but is not limited to,  
19 friending, following, or similar actions.

20 "Director" means the Director of the Division of Consumer  
21 Affairs in the Department of Law and Public Safety.

22 "Division" means the Division of Consumer Affairs established  
23 within the Department of Law and Public Safety pursuant to  
24 P.L.1971, c.134 (C.52:17B-118 et seq.).

25 "Educational entity" means a school district, charter school,  
26 renaissance school, non-public school, or institution of higher  
27 education.

28 "Individual" means a natural person.

29 "Minor" means an individual who is under the age of 18.

30 "New Jersey account holder" means an individual who is a New  
31 Jersey resident and an account holder. "New Jersey account  
32 holder" includes a "New Jersey minor account holder."

33 "New Jersey minor account holder" means a New Jersey account  
34 holder who is a minor.

35 "Person" means any individual, business, or other legal entity  
36 and its agents, assignees, or representatives.

37 "Post" means content that an account holder makes available on  
38 a social media platform for other account holders or users to view.

39 "Social media company" means a person that provides or  
40 operates a social media platform with at least five million account  
41 holders worldwide.

42 "Social media platform" or "platform" means a public or  
43 semipublic internet-based service or application that has users in  
44 this State, which service or application: a. allows users to construct  
45 a public or semipublic profile for the purposes of using the  
46 platform, populate a list of other users with whom the user shares a  
47 social connection through the platform, and post content viewable  
48 by other users of the platform; and b. is designed to connect users

1 within the platform to facilitate social interactions, except that a  
2 service or application that provides email or direct messaging  
3 services shall not be considered to meet this criterion solely based  
4 on the existence of that functionality.

5 “User” means a person with access to view all or some of the  
6 posts on a social media platform, which person is not an account  
7 holder.

8

9 2. a. A social media company shall not permit a New  
10 Jersey resident who is a minor to be an account holder on the social  
11 media company’s social media platform unless the minor has  
12 obtained the express consent of a parent or guardian.

13 b. To provide express consent pursuant to subsection a. of this  
14 section, the parent or guardian of a minor shall provide the parent or  
15 guardian’s government-issued identification and credit card  
16 information to the social media company and consent to a fee of not  
17 more than 35 cents to be charged to the credit card provided.

18 c. Notwithstanding any provision of P.L. , c. (C. )  
19 (pending before the Legislature as this bill), a social media  
20 company shall not permit a New Jersey resident who is a minor to  
21 hold or open an account on a social media platform if the minor is  
22 ineligible to hold or open an account pursuant to any other  
23 provision of State or federal law.

24

25 3. a. A social media company shall verify the age of an  
26 existing or new New Jersey account holder and, if the existing or  
27 new account holder is a minor, confirm that a minor has obtained  
28 expressed consent from the parent or guardian of the minor pursuant  
29 to subsection a. of section 2 of P.L. , c. (C. ) (pending  
30 before the Legislature as this bill):

31 (1) for a new account, at the time the New Jersey resident opens  
32 the account; or

33 (2) for a New Jersey account holder who has not provided age  
34 verification as required pursuant to this section, within 14 calendar  
35 days of the New Jersey account holder's attempt to access the  
36 account.

37 b. If a New Jersey account holder fails to meet the age  
38 verification requirements of this section within the required time  
39 period, the social media company shall deny access to the account:

40 (1) upon the expiration of the time period; and

41 (2) until all verification requirements are met.

42

43 4. For a social media platform account held by a New Jersey  
44 minor account holder, a social media company:

45 a. shall prohibit direct messaging between the account and any  
46 other adult user that is not linked to the account through adding on  
47 the social media platform; and

1        b. shall not collect or use any personal information from the  
2 posts, content, messages, text, or usage activities of the account  
3 other than information that is necessary to comply with, and to  
4 verify compliance with, State or federal law, which information  
5 includes a parent or guardian's name, a birth date, and any other  
6 information required to be submitted pursuant to subsection b. of  
7 section 2 of P.L. , c. (C. ) (pending before the Legislature  
8 as this bill).

9  
10        5. a. The division shall receive consumer complaints  
11 alleging a violation of, investigate alleged violations of, and enforce  
12 P.L. , c. (C. ) (pending before the Legislature as this bill)  
13 as outlined in this section. All civil penalties in this section shall be  
14 collected by the director in a summary proceeding before a court of  
15 competent jurisdiction pursuant to the provisions of the "Penalty  
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

17        b. Subject to the conditions of subsection d. of this section, the  
18 director may impose a civil penalty in an amount not to exceed  
19 \$2,500 for each violation of P.L. , c. (C. ) (pending before  
20 the Legislature as this bill).

21        c. Subject to the conditions of subsection d. of this section, the  
22 director may initiate a civil action to enforce P.L. , c. (C. )  
23 (pending before the Legislature as this bill) in the Superior Court.

24        (1) A court presiding in an action initiated pursuant to this  
25 subsection may:

26        (a) declare that an act or practice constitutes a violation of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill);

28        (b) issue an injunction against further violation of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill);

30        (c) order disgorgement, for payment to an individual who is  
31 identified by the court as an injured user or injured account holder,  
32 of any money received in connection with a violation of P.L. ,  
33 c. (C. ) (pending before the Legislature as this bill);

34        (d) impose a civil penalty in an amount not to exceed \$2,500 for  
35 each violation of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill);

37        (e) award actual damages to an injured user or injured account  
38 holder; and

39        (f) award any other relief the court deems reasonable and  
40 necessary.

41        (2) If a court grants judgment or injunctive relief in an action  
42 initiated pursuant to this subsection, the court shall award the  
43 division reasonable attorney fees, court costs, and investigative  
44 fees.

45        d. (1) At least 30 days prior to initiating an enforcement action  
46 against a person pursuant to subsection b. or c. of this section, the  
47 division shall provide the person with a written notice identifying

1 and explaining the basis for each alleged violation of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill).

3 (2) Except as provided in paragraph (3) of this subsection, the  
4 division shall not initiate an enforcement action against a person  
5 pursuant to subsection b. or c. of this section if that person:

6 (a) cures the violation within 30 days after receiving notice  
7 pursuant to paragraph (1) of this subsection; and

8 (b) provides the division with a written statement that the person  
9 has cured the violation and that no further violation will occur.

10 (3) Notwithstanding any provision of this section to the  
11 contrary, the division may initiate a civil action pursuant to  
12 subsection c. of this section against a person that:

13 (a) fails to cure a violation after receiving notice pursuant to  
14 paragraph (1) of this subsection; or

15 (b) commits another violation of the same provision of P.L. ,  
16 c. (C. ) (pending before the Legislature as this bill) after  
17 meeting the conditions of paragraph (2) of this subsection for a  
18 prior noticed violation.

19 e. The division shall be entitled to such penalties, fines, or fees  
20 as may be authorized pursuant to this section in any successful  
21 enforcement action pursuant to this section for a violation of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill).

23

24 6. a. An individual may bring an action against a social  
25 media company that does not comply with any provision of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill). An  
27 action pursuant to this subsection shall be brought in the Superior  
28 Court of the county in which the individual bringing the action  
29 resides.

30 b. If a court finds that a person has failed to comply with any  
31 provision of P.L. , c. (C. ) (pending before the Legislature  
32 as this bill), the individual bringing an action pursuant to subsection  
33 a. of this section shall be entitled to:

34 (1) reasonable attorney fees and court costs; and

35 (2) an amount equal to the greater of:

36 (a) \$2,500 per instance of violation; or

37 (b) actual damages for financial, physical, or emotional harm  
38 incurred by the individual bringing the action pursuant to  
39 subsection a. of this section, if the court determines that the harm is  
40 a direct consequence of the violation or violations.

41

42 7. A waiver or limitation of any of the following shall be void  
43 as against public policy and shall not be enforced or given legal  
44 effect, notwithstanding any contract or choice-of-law provision  
45 therein:

46 a. any protection or requirement included in P.L. ,

47 c. (C. ) (pending before the Legislature as this bill);

- 1       b. the right to cooperate with the division and to file a  
2 complaint with the division in connection with an investigation,  
3 alleged violation, or other proceeding pursuant to any provision of  
4 P.L. , c. (C. ) (pending before the Legislature as this bill)  
5 and regulations established by the division pursuant to its authority;  
6 or  
7       c. the right to file a private right of action pursuant to section 6  
8 of P.L. , c. (C. ) (pending before the Legislature as this  
9 bill).

10

11       8. The division shall submit an annual report to the Governor,  
12 and to the Legislature pursuant to section 2 of P.L.1991, c.164  
13 (C.52:14-19.1), that evaluates the division's ability to reduce the  
14 unconsented use of social media platforms by minors and enforce  
15 the provisions of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill). The report shall include, at minimum, a list  
17 of the:

- 18       a. alleged violations the division has received during the year;  
19       b. administrative fines and civil penalties assessed during the  
20 year; and  
21       c. administrative fines and civil penalties collected during the  
22 year.

23

24       9. This act shall take effect immediately.

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#### STATEMENT

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29       This bill requires age verification and parent or guardian consent  
30 for a minor's use of a social media platform and prohibits certain  
31 messaging between adults and minors on a social media platform.

32       Specifically, the bill prohibits a social media company from  
33 permitting a New Jersey resident who is a minor to be an account  
34 holder on the social media company's social media platform unless  
35 the minor has obtained the express consent of a parent or guardian.  
36 To provide express consent, the parent or guardian of a minor is  
37 required to provide the parent or guardian's government-issued  
38 identification and credit card information to the social media  
39 company and consent to a fee of not more than 35 cents to be  
40 charged to the credit card provided. The bill's provisions do not  
41 permit a social media company to allow a New Jersey resident who  
42 is a minor to hold or open an account on a social media platform if  
43 the minor is ineligible to hold or open an account pursuant to any  
44 other provision of State or federal law.

45       The bill also requires a social media company to verify the age  
46 of an existing or new New Jersey account holder and, if the existing  
47 or new account holder is a minor, confirm that a minor has obtained  
48 express consent from a parent or guardian in accordance with the

1 bill's provisions: (1) for a new account, at the time the New Jersey  
2 resident opens the account; or (2) for a New Jersey account holder  
3 who has not provided age verification, within 14 calendar days of  
4 the New Jersey account holder's attempt to access the account. If a  
5 New Jersey account holder fails to meet the age verification  
6 requirements within the required time period, the social media  
7 company is required to deny access to the account: (1) upon the  
8 expiration of the time period; and (2) until all verification  
9 requirements are met.

10 The bill requires a social media company, for a social media  
11 platform account held by a New Jersey minor account holder, to: (1)  
12 prohibit direct messaging between the account and any other adult  
13 user that is not linked to the account through adding on the social  
14 media platform; and (2) not collect or use any personal information  
15 from the posts, content, messages, text, or usage activities of the  
16 account other than information that is necessary to comply with,  
17 and to verify compliance with, State or federal law, which  
18 information includes a parent or guardian's name, a birth date, and  
19 any other information required to be submitted to provide express  
20 consent.

21 The Division of Consumer Affairs (division) is responsible for  
22 enforcement of the bill's provisions. The division is required to  
23 receive consumer complaints related to, investigate alleged  
24 violation of, and enforce the provisions of this bill. The division is  
25 entitled to any penalties, fines, or fees collected for a violation.

26 Before initiating an enforcement action, the division is required  
27 to provide written notice identifying and explaining the basis for  
28 each alleged violation. A person receiving notice may prevent the  
29 need for an enforcement action by curing the violation within 30  
30 days of receiving notice and writing to the division that the  
31 violation is cured and will not be repeated. If the entity does not  
32 cure a violation, or if the same violation recurs after a prior cure,  
33 the division may initiate a civil action as provided in the bill.

34 The division is authorized to impose a civil penalty of up to  
35 \$2,500 for each violation or to initiate a civil suit in Superior Court.  
36 A court may declare a violation of the bill's provisions, issue an  
37 injunction against further violation, order payment of money  
38 received in connection with the violation to an injured social media  
39 platform user or account holder, and award actual damages to an  
40 injured user or account holder. The court may grant other  
41 reasonable and necessary relief. If the division proves a violation,  
42 the division is entitled to reasonable attorney fees, court costs, and  
43 investigative fees.

44 An individual may bring an action in the Superior Court of the  
45 county where the individual resides against a social media  
46 company, for failure to comply with the provisions of this bill. If  
47 the suit is successful, an individual is entitled to reasonable attorney

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1 fees and court costs. An individual is also entitled to either actual  
2 damages or \$2,500, whichever is greater.

3 Any waiver or limitation of a protection or requirement in this  
4 bill, the right to report to or cooperate with the division, or the right  
5 to file a private action as established in this bill is void as against  
6 public policy.

7 Finally, the bill requires the division to submit an annual report  
8 to the Governor and the Legislature that evaluates the division's  
9 ability to reduce the unconsented use of social media platforms by  
10 minors and enforce the bill's provisions. The report is required to  
11 include, at minimum, a list of the: (1) alleged violations the division  
12 has received during the year; (2) administrative fines and civil  
13 penalties assessed during the year; and (3) administrative fines and  
14 civil penalties collected during the year.