

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 644
PROPOSED COMMITTEE SUBSTITUTE H644-PCS10434-TC-22

Short Title: Social Media Algorithmic Control in IT Act.

(Public)

Sponsors:

Referred to:

April 18, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO COMBAT SOCIAL MEDIA ADDICTION BY REQUIRING THAT SOCIAL
3 MEDIA PLATFORMS RESPECT THE PRIVACY OF NORTH CAROLINA USERS'
4 DATA AND NOT USE A NORTH CAROLINA MINOR'S DATA FOR ADVERTISING
5 OR ALGORITHMIC RECOMMENDATIONS AND TO MAKE WILLFUL VIOLATIONS
6 OF DATA USER PRIVACY AN UNFAIR PRACTICE UNDER G.S. 75-1.1.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Effective October 1, 2024, Chapter 75 of the General Statutes is
9 amended by adding a new Article to read:

10 "Article 2B.

11 "Social Media Algorithmic Control in Information Technology Act.

12 **"§ 75-70. Title; definitions.**

13 (a) This Article shall be known and may be cited as the "Social Media Algorithmic
14 Control in Information Technology Act."

15 (b) Definitions. – The following definitions apply in this Article:

16 (1) Algorithmic recommendation. – A recommendation of suggested, promoted,
17 or ranked information.

18 (2) Algorithmic recommendation system. – A fully or partially automated system
19 used to suggest, promote, or rank information.

20 (3) Minor. – An individual who is under 18 years of age.

21 (4) North Carolina platform user. – An individual who resides in North Carolina
22 who uses a social media platform.

23 (5) Operator. – As defined in section 1302 of the Children's Online Privacy
24 Protection Act of 1998, 15 U.S.C. § 6501.

25 (6) Social media algorithm. – The software used by social media platforms to
26 prioritize content and direct the prioritized content to the user.

27 (7) Social media platform or platform. – An electronic medium with more than
28 1,000,000 monthly active users in the United States, including a
29 browser-based or application-based interactive computer service, telephone
30 network, or data network, that allows users to create, share, and view
31 user-generated content. The term does not include any of the following:

32 a. Internet search providers.

33 b. Internet service providers.

34 c. Electronic mail.

35 d. Communications services as defined in G.S. 160A-340(3).



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- 1 e. Community forums where the primary purpose of the forum is for
2 customer self-service support related to products, sellers, services,
3 events, or places, or any combination thereof.
4 f. Interactive video game services.
5 g. Online shopping or e-commerce.

6 (8) User data. – Any data collected directly or indirectly from or concerning a
7 North Carolina platform user.

8 **"§ 75-71. User data privacy; targeting minors prohibited; registry.**

9 (a) Privacy Requirements. – The General Assembly finds that unhealthy social media use
10 has been linked to depression, anxiety, eating disorders, and suicidal ideation, especially among
11 young people. Exploitation of user data can result in users being targeted in ways that increase
12 unhealthy social media use. It is the policy of this State that user data shall be respected by
13 platforms. Special protections are warranted for users who are minors. Therefore, the operator of
14 a social media platform shall comply with all of the following requirements for North Carolina
15 platform users:

- 16 (1) The platform's privacy policy must be accessible on the platform's website
17 with the disclosure of how user data will be used by the platform stated in a
18 succinct and easy to understand statement that communicates the true intent
19 of the use in less than 250 words.
20 (2) User data may be used in algorithmic recommendations only when the user
21 has been notified and consents to the use of the data in such manner.
22 (3) Requests for data access that will be used to inform algorithmic
23 recommendations shall require full disclosure of the use of the data, including
24 third-party use. This notification shall be separate and distinct from the
25 platform's terms of service notification.
26 (4) The platform must be fully functional for a user without the user having to
27 give consent for their user data to be used to inform algorithmic
28 recommendations.
29 (5) The platform must use an age verification system that requires a user to
30 self-attest to their age.

31 (b) Targeting Minors Prohibited. – The operator of a social media platform must control
32 algorithmic recommendation systems so that no user data from a North Carolina platform user
33 who is a minor is used:

- 34 (1) To inform content recommendations to the minor. This requirement is not
35 intended to prevent content recommendations from being shown as a direct
36 result of explicit actions, such as showing posts from accounts a user follows
37 in a chronological feed, but it is intended to prevent any data, including
38 follows, from being used in an algorithm to generate algorithmic
39 recommendations.
40 (2) To inform what advertisements or promotions are shown to minors. This
41 requirement is not intended to prevent the showing of advertisements or
42 promotions that are shown to the user based upon explicit actions, such as
43 being based on the results of a search initiated by the user on the platform.

44 (c) The operator of a social media platform may be held liable for violating subsection
45 (b) of this section if the operator of the social media platform knew or had reason to know that
46 the user was a minor. The operator of a social media platform that has made an estimation of a
47 user's age based upon the user's self-attestation is not liable if the user was a minor who falsely
48 attested to not being a minor.

49 (d) Exceptions. – A social media algorithm that is intended to block access to
50 inappropriate or harmful content to an account holder that is a minor is exempt from the
51 requirements of this section.

1 (e) Registry. – Beginning October 1, 2024, and then annually thereafter, a social media
2 platform shall provide the Consumer Protection Division of the North Carolina Department of
3 Justice (Division) with a digital copy of the platform's privacy policy and certification that the
4 platform has complied with the requirements of this section. Platforms shall provide notice of
5 substantive privacy policy changes to the registry. The Division shall maintain a registry of these
6 policies and certifications on its internet website.

7 **"§ 75-72. Investigation; enforcement; private right of action.**

8 (a) Violations. – Effective January 1, 2025, a platform's violation of this Article is an
9 unfair or deceptive act or practice under G.S. 75-1.1.

10 (b) Investigations. – The Attorney General shall monitor social media platforms for
11 compliance with this Article.

12 (c) Complaints. – A North Carolina platform user may make a complaint to the Attorney
13 General alleging that a social media platform has failed to comply with the requirements of this
14 Article. The Attorney General may bring a civil action in any case in which the Attorney General
15 has reason to believe that the interest of the residents of this State has been or is threatened due
16 to noncompliance with this Article.

17 (d) Private Right of Action. – No private right of action may be brought by an individual
18 for a violation of this Article unless the individual is harmed as a result of the violation.

19 **"§ 75-73. North Carolina Data Privacy Task Force.**

20 (a) There is created the North Carolina Data Privacy Task Force (Task Force) within the
21 Department of Justice for budgetary purposes only.

22 (b) The Task Force shall be composed of 21 members. The ex officio members listed in
23 subdivisions (1) through (6) of this subsection may designate representatives from their particular
24 departments, divisions, or offices to represent them on the Task Force. In making appointments
25 or designating representatives, appointing authorities and ex officio members shall use best
26 efforts to select members or representatives with sufficient knowledge and experience to
27 effectively contribute to the issues examined by the Task Force and, to the extent possible, to
28 reflect the geographical, political, gender, and racial diversity of this State. The members shall
29 be as follows:

30 (1) The Attorney General.

31 (2) The State Chief Information Officer.

32 (3) The Secretary of the Department of Health and Human Services.

33 (4) The Director of the State Bureau of Investigation.

34 (5) The Director of the Maternal and Child Health Section of the Department of
35 Health and Human Services.

36 (6) The Director of the Division of Mental Health, Developmental Disabilities,
37 and Substance Abuse Services.

38 (7) A representative from NC Child, appointed by the Governor upon
39 recommendation of the President of the organization.

40 (8) A representative from a private group, other than NC Child, that advocates for
41 children, appointed by the Governor upon recommendation of private child
42 advocacy organizations.

43 (9) A pediatrician, licensed to practice medicine in North Carolina, appointed by
44 the President Pro Tempore of the Senate.

45 (10) A psychiatrist, licensed to practice medicine in North Carolina, appointed by
46 the Speaker of the House of Representatives.

47 (11) Two public members, one of whom is an educator, appointed by the Speaker
48 of the House of Representatives.

49 (12) Two public members, one of whom is a social worker, appointed by the
50 President Pro Tempore of the Senate.

1 (13) Two members of the Senate, appointed by the President Pro Tempore of the
2 Senate, and two members of the House of Representatives, appointed by the
3 Speaker of the House of Representatives.

4 (14) A representative from the North Carolina Young People's Alliance, appointed
5 by the Governor upon recommendation of the head of the organization.

6 (15) Two youth representatives under the age of 21 appointed by the Secretary of
7 the Department of Health and Human Services after conducting an
8 application-based selection process.

9 (c) All members of the Task Force are voting members. Vacancies in the appointed
10 membership shall be filled by the appointing officer who made the initial appointment. Terms
11 shall be two years. The members shall elect a chair who shall preside for the duration of the
12 chair's term as member. In the event a vacancy occurs in the chair before the expiration of the
13 chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired
14 term.

15 (d) Beginning March 15, 2024, and then annually thereafter, the Task Force shall report
16 to the General Assembly on its work, with a special focus on mental health issues related to social
17 media, along with findings, recommendations, and any legislative proposals."

18 **SECTION 2.** Effective July 1, 2023, there is appropriated from the General Fund to
19 the Department of Justice the sum of one hundred thousand dollars (\$100,000) for the 2023-2024
20 fiscal year to develop the registry created in G.S. 75-71, as enacted by this act.

21 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
22 law.