

Notice of Proposed Rule

DEPARTMENT OF LEGAL AFFAIRS

RULE NOS.:RULE TITLES:

2-43.002 Social Media Use for Minors– Age Verification; Parental Verification; Enforcement.

2-43.003 Permanent Deletion of Personal Information.

PURPOSE AND EFFECT: The rules are being promulgated to implement Section 501.1736(9), Florida Statutes.

SUMMARY: The proposed rule promulgations implement Section 501.1736(9), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Upon consideration of the economic impact of these rules, the agency determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule promulgation will not require ratification by the Legislature. The proposed rulemaking will not have an adverse impact or affect regulatory costs in excess of \$1 million within five years as established in Sections 120.541(2)(a)1., 2., and 3., F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 501.1736(11) FS.

LAW IMPLEMENTED: 501.1736 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn Inman, General Counsel, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, FL 32399-1050 or Edward Tellechea, Chief Assistant Attorney General, PL-01 The Capitol, Tallahassee, FL 32399-1050 or by email at Ed.Tellechea@myfloridalegal.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

2-43.002 Social Media Use for Minors– Age Verification; Parental Verification; Enforcement.

(1) Age Verification -- A social media platform's process for age verification is sufficient if it consists of completing:

(a) standard age verification as defined at Section 501.1737(1)(i), F. S.;

(b) anonymous age verification as defined at Section 501.1738, F. S.; or

(c) any method of verifying age that is regularly used by the government or businesses for the purpose of age and identity verification.

(2) Determination of a Parent – In determining whether someone is a parent entitled to exercise rights under Section 501.1736, F.S., for a known child, a social media platform shall conduct reasonable parental verification before allowing the exercise of any right.

(3) Willful disregard of a person's age constitutes a knowing or reckless violation of Section 501.1736(2), (3), or (4), F.S.

(a) A social media platform willfully disregards a person's age if it, based on the facts or circumstance readily available to the respondent, should reasonably have been aroused to question whether the person was a child and thereafter failed to perform reasonable age verification.

(b) The department will not find willful disregard of a person's age has occurred if a social media platform establishes it has utilized a reasonable age verification method with respect to all who access the social media platform and that reasonable age verification method determined that the person was not a child unless the social media platform later obtained actual knowledge that the person was a child and failed to act.

2-43.003 Permanent Deletion of Personal Information.

Permanent deletion of all personal information held by a social media platform relating to an account must occur within 14 business days of termination of the account.

Rulemaking Authority 501.1736(11), F.S. Law Implemented 501.1736, F.S. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Matthew Pruiett, Assistant Attorney General

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Ashley Moody

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 5, 2024

Notice of Proposed Rule

DEPARTMENT OF LEGAL AFFAIRS

RULE NO.: RULE TITLE:

2-43.001 Social Media Use for Minors– Definitions; Computation of Time.

PURPOSE AND EFFECT: The rule is being promulgated to implement Section 501.1736(9), Florida Statutes.

SUMMARY: The proposed rule promulgation implements Section 501.1736(9), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Upon consideration of the economic impact of these rules, the agency determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule promulgation will not require ratification by the Legislature. The proposed rulemaking will not have an adverse impact or affect regulatory costs in excess of \$1 million within five years as established in Sections 120.541(2)(a)1., 2., and 3., F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 501.1736(11) FS.

LAW IMPLEMENTED: 501.1736 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn Inman, General Counsel, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, FL 32399-1050 or Edward Tellechea, Chief Assistant Attorney General, PL-01 The Capitol, Tallahassee, FL 32399-1050 or by email at Ed.Tellechea@myfloridalegal.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

2-43.001 Social Media Use for Minors– Definitions; Computation of Time.

Definitions – As used in this rule chapter and Section 501.1736, F.S.:

(1) “Algorithm” means a mathematical set of rules that specifies how a group of data behaves and that will assist in ranking search results and maintaining order or that is used in sorting or ranking material based on relevancy or other factors instead of using published time or chronological order of such content or material.

(2) “Auto-play video” includes automatically playing videos in succession as a default setting, in the absence of prior solicitation or approval.

(3) “Commercially reasonable method of age verification” means a method of verifying age that is regularly used by the government or businesses for the purpose of age and identity verification.

(4) “Consistent pattern” means the undertaking of three or more instances of conduct described at Section 501.1736(2), (3), or (4), F.S. as part of a routine.

(5) “E-mail” messaging means transmission of “electronic mail messages” as defined at Section 668.602(7), F.S.

(6) “Exclusive function” means the social media platform does not offer any features other than allowing users to send messages consisting of text, photographs, pictures, images, or videos that are only visible to the sender and the recipient or recipients and are not posted publicly.

(7) “Guardian” means a relative, nonrelative, next of kin, or fictive kin who is awarded physical custody of a child in a proceeding pursuant to Section 39.01(30), F.S.

(8) “Month” means a time period that is the lesser of a calendar month or a continuous period of 30 days.

(9) “Parent” means a legal guardian or an individual with legal custody over a child.

(10) “Permanently delete all personal information” means destroy from all repositories all content the social media platform holds or that is held on behalf of the social media platform about a person. Such content includes information that includes, but is not limited to, a person’s name, identifying characteristics about a person, the person’s location, or the person’s electronic material that could be used to identify the person. Destruction from all repositories means permanent removal of data or information the platform created, received, processed, archived, maintained, or transmitted about a person.

(11) “Push notifications” includes photographs, written statements, video recordings, or other visible content that appears unsolicited on a person’s screen when the person accesses the social media platform.

(12) “Reasonable parental verification” means any method that is reasonably calculated at determining that a person is a parent of a child that also verifies the age and identity of that parent by commercially reasonable means. Reasonable parental verification may include, but is not limited to, a social media platform:

(a) requesting from a child the child’s parent’s name, address, phone number, and e-mail address;

(b) contacting the name provided by the child and confirming that the parent is the child’s parent by obtaining documents or information sufficient to evidence that relationship; and

(c) utilizing any commercially reasonable method regularly used by the government or business to verify that parent’s identity and age.

Rulemaking Authority 501.1736(11), F.S. Law Implemented 501.1736, F.S. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Matthew Pruiett, Assistant Attorney General

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Ashley Moody

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 17, 2024

Notice of Proposed Rule

DEPARTMENT OF LEGAL AFFAIRS

RULE NOS.:RULE TITLES:

2-44.001Age Verification for Online Access to Materials Harmful to Minors – Definitions; Calculation of Proportion of Material.

2-44.002Age Verification for Online Access to Materials Harmful to Minors – Enforcement.

PURPOSE AND EFFECT: The rules are being promulgated to implement Section 501.1737(8), Florida Statutes.

SUMMARY: The proposed rule promulgations implement Section 501.1737(8), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Upon consideration of the economic impact of these rules, the agency determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule promulgation will not require ratification by the Legislature. The proposed rulemaking will not have an adverse impact or affect regulatory costs in excess of \$1 million within five years as established in Sections 120.541(2)(a)1., 2., and 3., F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 501.1737(9) FS.

LAW IMPLEMENTED: 501.1737 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn Inman, General Counsel, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, FL 32399-1050 or Edward Tellechea, Chief Assistant Attorney General, PL-01 The Capitol, Tallahassee, FL 32399-1050 or by email at Ed.Tellechea@myfloridalegal.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

2-44.001 Age Verification for Online Access to Materials Harmful to Minors – Definitions; Calculation of Proportion of Material.

(1) Definitions – As used in this rule chapter and Section 501.1737, F.S.:

(a) “Commercially reasonable method of age verification” means a method of verifying age that is regularly used by the government or businesses for the purpose of age and identity verification.

(b) “Material on a website or application” means all documents, photographs, films, recordings of any type, data processing software, or other items that are subject to recording, sharing, or transmitting that exist on a website or application that is visible or could be visible to a user who accesses the website or application, regardless of whether any user actually views the material.

(c) “Total” means the complete amount based on a quantifiable unit of measurement, including, but not limited to, number of files, occurrences, gigabytes, regardless of the amount of time taken to view or observe the content.

(d) “Website” includes any portion of material/webpage available only by way of account.

(2) Proportion of Material – As used in this rule and Section 501.1737, F.S.:

(a) Commercial entities must calculate the proportion of 33.3% of total material on a website or application such that it measures the total material on a website or application that is available to any minor, regardless of the medium in which it is available.

(b) The proportion must be based on measuring all content posted on a website or application. Any portion of harmful material on a single piece of content renders the entire piece of content harmful.

(c) The proportion must be calculated regardless of the existence of any framework that entails creation of an account to access any material. Webpage includes any portion of website available only by way of account.

Rulemaking Authority 501.1737(9), F.S. Law Implemented 501.1737, F.S. History-New _____.

2-44.002 Age Verification for Online Access to Materials Harmful to Minors – Enforcement.

(1) Willful disregard of a person’s age constitutes a knowing or intentional violation of Section 501.1737, F.S.

(a) A commercial entity willfully disregards a person’s age if it, based on the facts or circumstance readily available to the respondent, should reasonably have been aroused to question whether the person was a child and thereafter failed to perform reasonable age verification.

(b) The department will not find willful disregard of a person’s age has occurred if a commercial entity establishes it has utilized a reasonable age verification method with respect to all who access the social media platform and that reasonable age verification method determined that the person was not a child unless the social media platform later obtained actual knowledge that the person was a minor and failed to act.

(2) The department will take action under part II of chapter 501, F.S., against a third party that performs age verification in violation of Section 501.1738, F.S.

Rulemaking Authority 501.1737(9), F.S. Law Implemented 501.1737, F.S. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Matthew Pruiett, Assistant Attorney General

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Ashley Moody

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 27, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 5, 2024