



## **BILL ANALYSIS OF HOUSE BILL 18, THE SECURING CHILDREN ONLINE THROUGH PARENTAL EMPOWERMENT (SCOPE) ACT (ENROLLED)**

### **PURPOSE**

House Bill 18, the Securing Children Online Through Parental Empowerment (SCOPE) Act (2023), protects children from harmful, deceptive, or unfair trade practices in connection with the use of certain digital services. It provides enhanced online privacy protections, places a duty on digital service providers to limit access to harmful online content, and empowers parents with additional rights and tools to keep their children safe.

### **BACKGROUND**

Children in Texas are spending an increasing amount of time on digital services. With 35% of teenagers using at least one social media platform almost constantly ([Vogels et al., 2022](#)) and an average screen time of nine hours a day for teens, the majority of their waking hours are spent using digital services ([American Academy of Child & Adolescent Psychiatry, 2020](#)). While there may be benefits to teens using digital services that provide educational content, for example, the harms children experience online are growing at an alarming rate.

The list of harms children are exposed to and experience as a result of increased use of digital services is troubling and ever-growing—addiction, depression, loneliness, dissatisfaction with life, anxiety, self-harm, eating disorders, sex trafficking, cyberbullying, Child Sexual Abusive Material (CSAM), suicide, and more ([Whiting, 2023](#)). The unfortunate reality is that—for many of the physical, emotional, and psychological harms outlined above—there was a steady decrease in these symptoms from 1991 to 2011, with a sharp rise after 2011 ([Twenge, et al., 2022](#); [Keyes, et al., 2019](#)). This is contemporaneous with the precipitous rise in digital service usage that occurred during the mid- to late-2000s. Furthermore, it was revealed that certain digital service providers have been aware of the harms their products cause for children, are hiding internal research, and doubling down on getting users hooked at younger and younger ages ([Oremus, 2021](#)).



Additionally, despite the fact that children cannot enter into enforceable contracts, myriad digital service providers enter into agreements with children without parental consent. While parents continue to do their best by investing time and resources into improving the safety of their child online, many currently available resources on digital services are cumbersome, costly, and easy to circumvent. And parents say they need more help. Sixty-six percent say parenting is harder in the digital age and 71% feel anxious about the impact of children’s screentime ([Auxier, et al., 2020](#)).

## **THE SCOPE ACT**

The SCOPE Act was the Texas Legislature’s first major response to parents crying out for help protecting their own children in the face of digital service providers that intentionally serve harmful and addictive products to underage users. The law accomplishes a number of important policy objectives.

### *Duty to Register Age*

Before creating an account, users are required to register their age with the digital service provider. For persons under 18, service providers must note them as a “known minor,” which then provides basic protections. For existing accounts, parents are empowered to notify a provider that their child is under 18 to have them receive the protections under the known minor classification.

### *Digital Service Provider Duties to Protect “Known Minors”*

Providers shall limit the collection of personally identifying information (PII) to the absolute bare minimum needed to provide the service (with an explicit ban on collecting precise geolocation data) and only use obtained PII for the purpose it was collected. Providers may not let known minors make financial transactions, nor share their PII or display targeted ads to them.

### *Duty to Prevent Harm*

Digital service providers are required to develop and implement a strategy to prevent minors from being exposed to harmful material, such as content promoting suicide, self-harm, eating disorders, bullying, grooming, child pornography, and more. Certain tools are required by this law to be included in the strategy, with more yet enumerated as optional.

### *Duty to Create Parental Tools*

Digital service providers are required to create and provide tools to parents that empower them to have better control over how their child uses the service, including tools to control privacy and account settings, enforcement of the aforementioned duties to protect known minors, and the ability to monitor or limit the amount of time their child spends using the digital service.



### *Other Duties*

Digital service providers must adhere to other duties, including ensuring that the use of algorithms does not infringe on child protections, prohibiting minors from entering into an agreement with services that contain 1/3 or more harmful or obscene content, and the ability of a parent to verify that they are the parent of a minor, thus giving them access to the aforementioned tools and supervisory controls.

### *Enforcement*

The Attorney General is given sole enforcement authority through the consumer protection division under deceptive trade practice law.

### *Modifications to Texas Education Code*

The SCOPE Act also includes Section 3, which includes protections for children at school by amending Texas Education Code. The Texas Education Agency is tasked with setting standards for devices and software applications used in schools, focusing on minimizing data collection, ensuring parental consent for software use (except for necessary assessments), prohibiting unauthorized mental health or unrelated assessments, providing parents with cybersecurity education, specifying device deactivation periods for safety, adjusting device use by age, restricting social media access, requiring secure alternatives to social media for educational purposes, and mandating Internet filters to block inappropriate content while notifying school officials and parents of concerning student searches. Additionally, it assigns responsibilities for handling complaints about device use and ensures compliance with privacy standards when contracting with software providers.

### *Continued Study on Effects of Media on Minors*

Section 4 of House Bill 18 mandates that a joint legislative committee study the effects of media on minors. This committee, composed of members from both the House of Representatives and the Senate, will consult with experts to investigate how different media forms, ranging from social media and software applications to virtual reality and other media formats, impact the health and development of minors.

### *Effective Date*

HB 18 was set to take effect September 1, 2024, but, as of this publication, a federal judge issued a preliminary injunction of several sections stemming from a lawsuit. However, the Texas Education Code modifications took effect September 1, 2023.



## Conclusion

The codification of HB 18 was a crucial step in the direction of giving more power to parents in the digital age, positioning Texas as a national leader in the effort to protect children online. Given the intentionally incremental nature of the SCOPE Act, more policy is likely to come stemming from the joint legislative committee and new, incontrovertible research findings that increased social media and digital device use is linked with negative health effects in minors. The Foundation supports several policies to augment HB 18, including categorizing social media as a harmful, addictive product that should require age verification just like that of cigarettes.

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