



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 644: Social Media Algorithmic Control in IT Act.

2023-2024 General Assembly

<b>Committee:</b>	House Judiciary 3. If favorable, re-refer to Appropriations. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 25, 2023
<b>Introduced by:</b>	Reps. McNeely, K. Hall, Humphrey, Pickett	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	PCS to First Edition H644-CSTC-22		Staff Attorney

**OVERVIEW:** *HB 644 would create a new unfair and deceptive trade practice related to social media platforms use of user data.*

*The PCS would clarify definitions and limit application of the bill to social media platforms with a million of more users and to user data for North Carolina residents.*

**BILL ANALYSIS:** HB 644 would create a new unfair and deceptive trade practice related to social media platforms, effective January 1, 2025.

- Social media platforms would be defined as an electronic medium with more than 1,000,000 monthly active users in the United States that allows users to create, share, and view user-generated content. It would not include internet search providers, internet service providers, or electronic mail.
- Operators of social media platforms (platform) would be required to do the following for individuals who reside in North Carolina who use the social media platform:
  - Disclose how user data will be used on the platform in a succinct and easy to understand 250 word statement.
    - Use user data in algorithmic recommendations only when the user consents.
    - Disclose fully the use of data, including third party use, in requests for data access used to inform algorithmic recommendations, separate from the terms of service notification.
    - Allow the user full functionality of the platform without consent to use of user data for algorithmic recommendations.
    - Use an age verification system that requires users to self-attest to their age.
    - Prevent the use of a North Carolina minor's user data in an algorithmic recommendation to inform content recommendations to a minor or inform what advertisements or promotions are shown to a minor, if the platform knew or had reason to know the user was a minor. The platform would not be liable if the minor falsely attested to the minor's age. Platforms would be permitted to use algorithmic recommendations to block access to inappropriate or harmful content to a minor.
    - Provide a copy of the platform's privacy policy and certification of compliance with these requirements to the Consumer Protection Division of the NC Department of Justice (CPD), beginning October 1, 2024 and annually thereafter. Notice of substantive privacy policy changes would also be required to be submitted.

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# House 644 PCS

Page 2

- The CPD would be required to maintain a registry of all submitted policies and certifications on its website.
- The Attorney General would be required to monitor social platforms for compliance and receive complaints from users. The Attorney General would be authorized to bring civil actions if the interests of the resident of NC are threatened due to noncompliance.
- Individuals would be limited to private rights of actions for violations resulting in harm.

HB 644 also creates a North Carolina Data Privacy Task Force, comprised of the following 21 members appointed for 2 year terms:

- The Attorney General or designee.
- The State Chief Information Officer or designee.
- The Secretary of the Department of Health and Human Services or designee.
- The Director of the State Bureau of Investigation or designee.
- The Director of the Maternal and Child Health Section of the Department of Health and Human Services or designee.
- The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or designee.
- A representative from NC Child, appointed by the Governor upon recommendation of the NC Child President.
- A representative from a private group, other than NC Child, that advocates for children, appointed by the Governor upon recommendation of private child advocacy organizations.
- A NC licensed pediatrician appointed by the President Pro Tempore of the Senate.
- A NC licensed psychiatrist appointed by the Speaker of the House of Representatives.
- Two public members, one of whom is an educator, appointed by the Speaker of the House of Representatives.
- Two public members, one of whom is a social worker, appointed by the President Pro Tempore of the Senate.
- Two members of the Senate, appointed by the President Pro Tempore of the Senate, and two members of the House of Representatives, appointed by the Speaker of the House of Representatives.
- A representative from the North Carolina Young People's Alliance, appointed by the Governor upon recommendation of the head of that organization.
- Two youth representatives under the age of 21 appointed by the Secretary of the Department of Health and Human Services after conducting an application based selection process.

The Task Force would be required to report annually, beginning March 15, 2024, on its work to the General Assembly, with a special focus on mental health issues related to social media.

\$100,000 would be appropriated to the Department of Justice for the 2023-2024 fiscal year to create the Consumer Protection Division Registry for social media platform policies, effective July 1, 2023.

**EFFECTIVE DATE:** Except as otherwise provided, HB 644 would become effective when it becomes law.