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**587**  
**SENATE COMMITTEE ON APPROPRIATIONS**  
Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

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**AB 587 (Gabriel) - Social media companies: terms of service**

**Version:** June 30, 2022

**Urgency:** No

**Hearing Date:** August 1, 2022

**Policy Vote:** JUD. 9 - 0

**Mandate:** No

**Consultant:** Matthew Fleming

**Bill Summary:** AB 587 would require social media companies, as defined, to post their terms of service and to submit quarterly reports to the Attorney General on their terms of service and content moderation policies and outcomes.

**Fiscal Impact:**

- DOJ: The Department of Justice (DOJ) reports costs of \$414,000 in 2022-23 and \$711,000 annually thereafter in order to enforce the provisions of AB 587 and for IT resources to allow for submissions of terms of service (General Fund).
- Judicial Branch: Unknown cost pressures due to increased court workload (Special Fund – Trial Court Trust Fund, General Fund).

**Background:** In recent years, the clamor for more robust content moderation on social media has reached a fever pitch. This includes calls to control disinformation or “fake news,” hate speech, political interference, and other online harassment.

The 2016 election was a major breaking point for many. Investigations uncovered attempted interference in the United States Presidential election through a social media information warfare campaign designed to spread disinformation and societal division in the United States. The United States Senate Select Committee on Intelligence issued a report detailing how Russian operatives attempted to influence the U.S. presidential election.

This again became a threat in the 2020 election, with social media rife with misinformation such as the incorrect election date, and then social media became a hotbed of misinformation about the results of the election. The author points to investigations that have found the violent insurrectionists that stormed the Capitol on January 6, 2021, were abetted and encouraged by posts on social media sites.

Misinformation also poses a danger to public health: One study found that the more people rely on social media as their main news source, the more likely they are to believe misinformation about the COVID-19 pandemic. Another found that a mere 12 people are responsible for 65 percent of the false and misleading claims about COVID-19 vaccines on Facebook, Instagram, and Twitter. Misinformation hinders emergency responses to natural responses when social media posts contain incorrect or out-of-date information.

**Proposed Law:**

- Requires a social media company to post terms of service for each social media platform owned or operated by the company in a manner reasonably designed to inform all users of the social media platform of the existence and contents of the terms of service.
- Requires the terms of service to be available in all Medi-Cal threshold languages, as defined, in which the social media platform offers product features, including, but not limited to, menus and prompts.
- Requires social media companies to submit a terms of service report, quarterly, with the first report due July 1, 2022, to the Attorney General, who must post it on their website. Specifies the detail that is required to be included in the terms of service report.
- Subject companies in violation to penalties of up to \$15,000 per violation per day to be sought by specified public prosecutors.
- Provides that the duties and obligations imposed are cumulative to any others imposed under local, state, or federal law. The remedies or penalties provided are also cumulative to each other and to any others available.
- Defines terms for purposes of the bill's provisions.

**Related Legislation:**

- AB 2098 (Low, 2022) would designate COVID-19-related misinformation or disinformation spread by physicians as unprofessional conduct. AB 2098 is pending in this committee.
- AB 1628 (Ramos, 2022) requires online platforms to create and post a policy that includes policies regarding distribution of controlled substances and its prevention, reporting mechanisms, and resources. AB 1628 is pending on the Senate Floor
- AB 2273 (Wicks, 2022) establishes the California Age-Appropriate Design Code Act, placing a series of obligations and restriction on businesses that provide online services, products, or features likely to be accessed by a child. The bill tasks the California Privacy Protection Agency with establishing a taskforce to evaluate best practice and to adopt regulations. AB 2273 pending in this Committee.

**Staff Comments:**

- DOJ costs: The Consumer Protection Section within DOJ's Public Rights Division would be responsible for the enforcement of AB 587. To address the increase in workload, the Section anticipates requiring 1.0 Deputy Attorney General, 1.0 Associate Governmental Program Analyst, 1.0 Investigative Auditor, and the legal complement of 1.0 Legal Secretary beginning January 1, 2023 and ongoing.

- Court workload cost pressures: It is unknown how many additional civil actions would be brought by the AG as a result of the implementation of this bill. However, it generally costs about \$8,000 to operate a courtroom for one eight-hour day. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past five years. As a result, the 2022-23 budget includes an ongoing annual allocation of \$151.5 million and a one-time allocation of \$10.3 million from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

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