
UNFINISHED BUSINESS

Bill No: SB 1018
Author: Pan (D)
Amended: 8/24/22
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 4/26/22

AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern,
Wieckowski, Wiener

NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22

AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski

NOES: Bates, Jones

SENATE FLOOR: 30-9, 5/25/22

AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd,
Durazo, Eggman, Glazer, Gonzalez, Hueso, Hurtado, Kamlager, Laird, Leyva,
Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern,
Umberg, Wieckowski, Wiener

NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh,
Wilk

NO VOTE RECORDED: Hertzberg

ASSEMBLY FLOOR: Not available

SUBJECT: Platform Accountability and Transparency Act

SOURCE: ProtectUS

DIGEST: This bill requires a social media platform, as defined, to disclose to the public on or before October 1, 2024, and annually thereafter, statistics regarding the extent to which, during the third and fourth quarters of the preceding calendar year and the first and second quarters of the current calendar year, items of content that the platform determined violated its policies were recommended or otherwise

amplified by platform algorithms before and after those items were identified as in violation of the platform's policies, disaggregated by category of policy violated.

Assembly Amendments modify certain definitions; narrow the disclosure requirement; and add a delayed implementation date.

ANALYSIS:

Existing law:

- 1) Prohibits, through the United States Constitution, the enactment of any law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. (U.S. Const., 1st amend.)
- 2) Provides, through the California Constitution, the right of every person to freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of this right. Existing law further provides that a law may not restrain or abridge liberty of speech or press. (Cal. Const., art. I, § 2(a).)
- 3) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(2).)
- 4) Provides that a provider or user of an interactive computer service shall not be held liable on account of any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected or any action taken to enable or make available to information content providers or others the technical means to restrict access to such material. (47 U.S.C. § 230(c)(2).)
- 5) Defines “interactive computer service” as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions. (47 U.S.C. § 230(f)(2).)
- 6) Requires certain businesses to disclose the existence and details of specified policies, including:

- a) Operators of commercial websites or online services that collect personally identifiable information about individual consumers residing in California who use or visit the website must conspicuously post its privacy policy. (Bus. & Prof. Code, § 22575.)
- b) Retailers and manufacturers doing business in this state and having annual worldwide gross receipts over \$100,000,000 must disclose online whether the business has a policy to combat human trafficking and, if so, certain details about that policy. (Civ. Code, § 1714.43.)
- c) End-users of automated license plate recognition technology must post its usage and privacy policy on its website. (Civ. Code, § 1798.90.53.)
- d) Campus bookstores at public postsecondary educational institutions must post in-store or online a disclosure of its retail pricing policy on new and used textbooks. (Ed. Code, § 66406.7(f).)

This bill:

- 1) Defines certain relevant terms, including “content,” “social media platform,” and “user.”
- 2) Requires a social media platform to disclose to the public, on or before October 1, 2024, and annually thereafter, statistics regarding the extent to which, during the third and fourth quarters of the preceding calendar year and the first and second quarters of the current calendar year, items of content that the platform determined violated its policies were recommended or otherwise amplified by platform algorithms before and after those items were identified as in violation of the platform's policies, disaggregated by category of policy violated.
- 3) Provides that 2) does not require the dissemination of confidential business information or trade secrets.
- 4) Provides that a social media platform that violates 2) shall be liable for a civil penalty of up to \$100,000 for each violation, by any district attorney, by any city attorney of a city having a population in excess of 750,000, by a county counsel of any county within which a city has a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor.

- 5) Provides that 1)-4) do not apply to a social media platform with fewer than one million discrete monthly users.

Comments

Author's comment. According to the author, "The detrimental effects of these policies result in the proliferation of disinformation as well as a myriad of mental health issues that are affecting our most vulnerable... The pandemic has only exacerbated these issues. During the last two years, an unprecedented level of medical misinformation has proliferated and undermined the messaging from public health officials... Addressing the many public policy concerns regarding social media begins with more transparency."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- 1) Costs (General Fund (GF)) of \$221,000 in fiscal year (FY) 2022-23, \$388,000 in FY 2023-24, and annually thereafter in additional legal staff to file injunctive relief against any social media platform that violates the requirements of this bill.
- 2) Cost pressures (Trial Court Trust Fund (TCTF)) to the trial courts in the low-to-mid-hundreds of thousands of dollars to hear and adjudicate civil actions against social media platforms that do not provide annual statistics about content that violates platform policies before and after that content was amplified to users. It is unclear how many new claims will be filed statewide, but if 10 cases are filed in state civil court annually requiring three to five days, or 24 to 40 hours, of court time, at an average cost per hour of \$1,000 in workload costs, the cost to the trial courts would be between \$240,000 and \$400,000 annually. Although courts are not funded on the basis of workload, increased pressure on the TCTF and staff workload may create a need for increased funding for courts from the GF to perform existing duties.

SUPPORT: (Verified 8/29/22)

ProtectUs (source)
Media Alliance
Oakland Privacy

OPPOSITION: (Verified 8/29/22)

CalChamber

NetChoice
TechNet

ARGUMENTS IN SUPPORT: According to Oakland Privacy:

While the bill does present some administrative burden to the platforms, we believe that burden is minimal compared to the overall burden and responsibility that they face in developing and enforcing their own content moderation policies. SB 1081 merely asks for transparency to the public about how they are doing that to allow users of the platforms to better understand what is going on under the hood, and how their accounts are affected as content creators and as content viewers.

ARGUMENTS IN OPPOSITION: According to CalChamber:

SB 1018 requires social media platforms to report statistics regarding items of content that were determined to have violated our policies both before and after they were identified as violative. While reporting whether items of content were recommended or amplified after they were identified as violative of one of our policies will be burdensome but possible for most social media platforms, reporting that information before will be extremely burdensome for even the largest platforms and nearly impossible for smaller platforms. Hundreds of millions of new items of content are added to social media platforms every day. This bill would require companies to engineer new data tracking and reporting processes for every piece of content that hits their site, rather than just for items that violate their policies, which will likely cost platforms tens of millions and significant employee-hours.

Prepared by: Allison Meredith / JUD. / (916) 651-4113
8/30/22 18:39:06

**** END ****