

CONCURRENCE IN SENATE AMENDMENTS

AB 2246 (Wicks)

As Amended August 21, 2026

Majority vote

SUMMARY

Establishes child privacy and design requirements for businesses providing online services, products, or features likely to be accessed by children. Replicates many provisions of the California Age-Appropriate Design Code Act (AADC) of 2022, while omitting and recasting the provisions enjoined or invalidated by the Ninth Circuit. Additionally requires that businesses subject to the AADC take reasonable steps to prevent specified risks, provides that any contract provision entered as the result of a design feature is voidable, and expands public enforcement, among other changes.

Senate Amendments

- 1) Repeal the existing AADC provisions.
- 2) Require a business that provides an online product or service likely to be accessed by children to take reasonable steps to prevent specified risks of harm to children.
- 3) Authorize a child to void any provision of a contract that was entered into by the child or their parent or guardian as a result of a design feature of the online product or service.
- 4) Authorize public prosecutors, in addition to the Attorney General, to bring a civil action for a violation of the bill's provisions.

COMMENTS

Background. In 2022, the Legislature, drawing on a similar law adopted in the United Kingdom, enacted the California Age-Appropriate Design Code Act (AADC), a bipartisan measure intended to protect the privacy, safety, and well-being of children when engaging with online products and services that children are likely to access. This Committee's analysis emphasized that the AADC is distinct from other federal and state efforts to protect children online because those statutes permit online platforms to treat all consumers as adults, unless there is actual knowledge that a consumer is a child, and therefore do not offer the highest privacy protections by design or default. The AADC inverted this scheme by instead requiring that if a platform is likely to be accessed by children, it should be safe for kids.

In broad strokes, the AADC requires covered businesses to perform data protection impact assessments (DPIA) and mitigate identified harms, estimate the age of users, and provide default privacy settings, among other protections. The law also prohibits businesses from using a child's personal information in a materially detrimental way, profiling the child, collecting and sharing more personal information than is necessary, collecting precise geolocation information, and using dark patterns. The AADC also provides for the creation of a Data Protection Working Group (DPWG) and is enforceable only by the Attorney General.

Shortly after the passage of the AADC, NetChoice, a trade association whose members include Google, Meta, and Amazon, initiated a litigation saga that continues to this day. Last month, however, the Ninth Circuit issued a decision that suggests that the bulk of the law's provisions

may be constitutional or can be so by excising vague language. This bill broadly replicates the provisions of the AADC, other than those governing the DPWG, while omitting and recasting the portions that the Ninth Circuit has deemed unconstitutional – namely, the DPIA and related provisions, and vague language in the data use restriction, prohibition on profiling, data minimization, and dark patterns prohibition.

According to the Author

As new technology continues to emerge and evolve, there needs to be comprehensive guardrails that protect children and their privacy while they are interacting and consuming content online. Providing more safeguards for children and their privacy is important because its misuse can expose children to harmful material, risks to their mental and physical health, and other challenges. AB 2246 would help make technology and online products safer for children and protect them from risks and features that may be harmful to them.

Arguments in Support

Children Now, a co-sponsor of the bill, writes:

Since the enactment of the California AADC, at least a dozen states have followed with similar legislation. Many of those states have had the benefit of adapting their legislation to align with the findings of the Ninth Circuit Court of Appeals. With the introduction of AB 2246, California can also adapt its most expansive child online protection law to similarly withstand constitutional scrutiny and continue to lead the country in preventing harms stemming from online activities.

Arguments in Opposition

A group of industry associations, including TechNet, writes:

Personalization is not simply a commercial feature — it is a critical tool that enables platforms to tailor experiences to individual users in ways that benefit teens and actively reduce their exposure to harmful or inappropriate content. Removing this capability as a default has real consequences:

- 1) Algorithmic filtering is a form of personalization that many platforms use to prevent harmful or borderline content from reaching minor users. Restricting this could make teens more, not less, likely to encounter age-inappropriate content. This is precisely the kind of safety tool parents want platforms to deploy.
- 2) Personalization helps teens connect with like-minded communities, including school friends, local religious organizations, and sports teams. A nonpersonalized experience undermines these connections and reduces the meaningful value these platforms offer young people.

We respectfully request that this provision be amended to restore an exception consistent with the existing AADC, or alternatively that it be struck from the bill.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

Estimated \$840,000 in FY 2026-27, increasing to \$1.5 million annually to the Consumer Protection Section of the Department of Justice (DOJ) to conduct legal research, prepare

documents for appeals, writs, trials and arbitration proceedings, including discovery, court appearances, and conducting complex and sensitive investigations. (Consumer Privacy Fund, General Fund)

Potentially significant costs to the courts to adjudicate civil actions. Expanding civil penalties could lead to lengthier and more complex court proceedings with attendant workload and resource costs to the court. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources. The FY 2026-27 Budget appropriated \$70 million General Fund for this purpose (Trial Court Trust Fund, General Fund).

VOTES:

ASM PRIVACY AND CONSUMER PROTECTION: 13-0-2

YES: Bauer-Kahan, Aguiar-Curry, Bryan, Hoover, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Petrie-Norris, Ward, Wicks, Wilson

ABS, ABST OR NV: Macedo, DeMaio

ASM JUDICIARY: 11-0-1

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ABS, ABST OR NV: Macedo

ASM APPROPRIATIONS: 13-0-2

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Ta, Tangipa

ASSEMBLY FLOOR: 71-1-8

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO: DeMaio

ABS, ABST OR NV: Jeff Gonzalez, Johnson, Lackey, Macedo, Muratsuchi, Celeste Rodriguez, Ta, Tangipa

UPDATED

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