

By: Representatives Eubanks, Williamson

To: Judiciary B

HOUSE BILL NO. 1091

1 AN ACT TO REQUIRE A COMMERCIAL ENTITY THAT PUBLISHES MATERIAL  
 2 HARMFUL TO MINORS ON THE INTERNET TO BE HELD CIVILLY LIABLE  
 3 WHENEVER THE ENTITY FAILS TO PERFORM REASONABLE AGE VERIFICATION  
 4 METHODS ON PERSONS SEEKING ACCESS TO THE MATERIAL; TO PROHIBIT A  
 5 COMMERCIAL ENTITY FROM RETAINING IDENTIFYING INFORMATION OF  
 6 PERSONS SEEKING ACCESS TO THE MATERIAL; TO DECLARE LEGISLATIVE  
 7 FINDINGS; TO DEFINE CERTAIN TERMS; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** (1) The Legislature finds and declares the  
 10 following:

11 (a) Pornography is creating a public health crisis and  
 12 having a corroding influence on minors.

13 (b) Due to advances in technology, the universal  
 14 availability of the Internet, and limited age verification  
 15 requirements, minors are exposed to pornography earlier in age.

16 (c) Pornography contributes to the sexualization of  
 17 teens and prepubescent children and may lead to low self-esteem,  
 18 body image disorders, an increase in problematic sexual activity  
 19 at younger ages, and increased desire among adolescents to engage  
 20 in risky sexual behavior.



21 (d) Pornography also may impact brain development and  
22 functioning, contribute to emotional and medical illnesses, shape  
23 deviant sexual arousal, and lead to difficulty in forming or  
24 maintaining positive, intimate relationships, as well as promoting  
25 problematic or harmful sexual behaviors and addiction.

26 (2) The purpose of this section is to provide a civil remedy  
27 for damages against commercial entities that distribute material  
28 harmful to minors.

29 (3) For purposes of this section, the following words and  
30 phrases have the meaning ascribed in this subsection unless the  
31 context clearly requires otherwise:

32 (a) "Commercial entity" means a corporation, limited  
33 liability company, partnership, limited partnership, sole  
34 proprietorship or other legally recognized entity.

35 (b) "Distribute" means to issue, sell, give, provide,  
36 deliver, transfer, transmute, circulate or disseminate by any  
37 means.

38 (c) "Internet" means the international computer network  
39 of both federal and non-federal interoperable packet switched data  
40 networks.

41 (d) "Material harmful to minors" means all of the  
42 following:

43 (i) Material that the average person would find,  
44 applying contemporary community standards and taking the material



45 as a whole and with respect to minors, is designed to appeal to,  
46 or is designed to pander to, the prurient interest;

47 (ii) Material that exploits, is devoted to, or  
48 principally consists of descriptions of actual, simulated, or  
49 animated display or depiction of any of the following in a manner  
50 patently offensive with respect to minors:

51 1. Pubic hair, anus, vulva, genitals or  
52 nipple of the female breast;

53 2. Touching, caressing or fondling of  
54 nipples, breasts, buttocks, anuses or genitals; or

55 3. Sexual intercourse, masturbation, sodomy,  
56 bestiality, oral copulation, flagellation, excretory functions,  
57 exhibitions or any other sexual act; and

58 (iii) Material, when taken as a whole, lacking  
59 serious literary, artistic, political or scientific value for  
60 minors.

61 (e) "Minor" means a person under the age of eighteen  
62 (18) years.

63 (f) "News-gathering organization" means any of the  
64 following:

65 (i) A news publication or news source of current  
66 news and public interest, whether printed or on an online or  
67 mobile platform; or

68 (ii) A radio broadcast station, television  
69 broadcast station, cable television operator or wire service.



70 (g) "Publish" means to communicate or make information  
71 available to another person or entity on a publicly available  
72 Internet website.

73 (h) "Reasonable age verification method" means a method  
74 to verify that the person seeking to access the material is  
75 eighteen (18) years of age or older by using one (1) of the  
76 following methods:

77 (i) Provide an identification card in electronic  
78 format, as provided for in Section 45-35-3; or

79 (ii) Require the person attempting to access the  
80 material to comply with a commercial age verification system that  
81 verifies in one or more of the following ways:

82 1. Government-issued identification; or

83 2. A commercially reasonable method that  
84 relies on public or private transactional data to verify that the  
85 age of the person attempting to access the information is at least  
86 eighteen (18) years.

87 (i) "Substantial portion" means more than thirty-three  
88 and one-third percent (33 1/3%) of total material on a website  
89 which is material harmful to minors.

90 (j) "Transactional data" means a sequence of  
91 information that documents an exchange, agreement or transfer  
92 between an individual, commercial entity or third party used for  
93 the purpose of satisfying a request or event. Transactional data



94 includes, but is not limited to, records from mortgage, education  
95 and employment entities.

96 (4) (a) A commercial entity that knowingly and  
97 intentionally publishes or distributes material harmful to minors  
98 on the internet from a website that contains a substantial portion  
99 of such material must be held liable if the entity fails to  
100 perform reasonable age verification methods to verify the age of  
101 individuals attempting to access the material.

102 (b) A commercial entity or third party that performs  
103 the required age verification may not retain any identifying  
104 information of the individual after access has been granted to the  
105 material.

106 (c) (i) A commercial entity that is found to have  
107 violated this section is liable to an individual for damages  
108 resulting from a minor's accessing the material, including court  
109 costs and reasonable attorney fees as ordered by the court.

110 (ii) A commercial entity that is found to  
111 knowingly have retained identifying information of the individual  
112 after access has been granted to the individual is liable to the  
113 individual for damages resulting from retaining the identifying  
114 information, including court costs and reasonable attorney fees as  
115 ordered by the court.

116 (5) (a) This section does not apply to a bona fide news or  
117 public interest broadcast, website video, report, or event and may



118 not be construed to affect the rights of a news-gathering  
119 organization.

120 (b) An Internet service provider or its affiliates or  
121 subsidiaries, search engine, or cloud service provider may not be  
122 held to have violated this section solely for providing access or  
123 connection to or from a website or other information or content on  
124 the Internet or a facility, system or network not under that  
125 provider's control, including transmission, downloading,  
126 intermediate storage, access software or other, to the extent the  
127 provider is not responsible for the creation of the content of the  
128 communication that constitutes material harmful to minors.

129 **SECTION 2.** This act shall take effect and be in force from  
130 and after July 1, 2023.

