An act relating to online protections for minors; creating s. 501.1736, F.S.; defining terms; requiring certain social media platforms to prohibit certain minors from creating new accounts and to verify the age of account holders; specifying the age verification methods the social media platform is required and authorized to offer; requiring certain social media platforms to terminate certain accounts and provide additional options for termination of such accounts; authorizing the Department of Legal Affairs to bring actions for knowing or reckless violations under the Florida Deceptive and Unfair Trade Practices Act; providing penalties; authorizing punitive damages under certain circumstances; providing for private causes of action; providing that certain social media platforms are subject to the jurisdiction of state courts; providing that if a social media platform allows an account holder to use such platform, the parties have entered into a contract; providing construction; authorizing the department to adopt rules; creating s. 501.1737, F.S.; defining terms; requiring a commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on a website or application that
contains a substantial portion of such material to use
certain verification methods and prevent access to
such material by minors; providing applicability and
construction; authorizing the department to bring an
action for violations under the Florida Deceptive and
Unfair Trade Practices Act; providing civil penalties;
authorizing punitive damages under certain
circumstances; providing for private causes of action;
providing that certain commercial entities are subject
to the jurisdiction of state courts; providing
construction; authorizing the department to adopt
rules; creating s. 501.1738, F.S.; defining the term
"anonymous age verification method"; providing
requirements for a third party conducting age
verification pursuant to certain provisions; providing
for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.1736, Florida Statutes, is created
to read:

501.1736 Social media use for minors.—
(1) As used in this section, the term:
(a) "Account holder" means a resident who opens an account
or creates a profile or is identified by the social media
platform by a unique identifier while using or accessing a
social media platform when the social media platform knows or
has reason to believe the resident is located in this state.

(b) "Addictive features" means features associated with an
account holder having an excessive or compulsive need to use or
engage with the social media platform.

(c) "Anonymous age verification method" has the same
meaning as in s. 501.1738.

(d) "Daily active users" means the unique users in the
United States who used the social media platform at least 80
percent of the days during the previous 12 months, or if the
social media platform did not exist during the previous 12
months, the number of unique users in the United States who used
the social media platform at least 80 percent of the days during
the previous month.

(e) "Department" means the Department of Legal Affairs.

(f) "Resident" means a person who lives in this state for
more than 6 months of the year.

(g) "Social media platform" means an online forum, a
website, or an application offered by an entity which allows a
user to upload content or view the content or activity of other
users and which does any of the following:

1. Uses algorithms that analyze user data or information
on users to select content for users; or

2. Has any of the following addictive features:
The term does not include an online service, a website, or an application where the exclusive function is e-mail or direct messaging consisting of text, photographs, pictures, images, or videos shared only between the sender and the recipients, without displaying or posting publicly or to other users not specifically identified as the recipients by the sender.

(h) "Standard age verification method" means any commercially reasonable method of age verification approved by
the social media platform.

(2)(a) A social media platform that uses any of the design features specified in subparagraphs (1)(g)1. and 2. on the daily active users on the social media platform who are younger than 16 years of age and that has had 10 percent or more of such daily active users spend, on average, at least 2 hours per day on the social media platform shall do all of the following:

1. Prohibit a minor who is younger than 16 years of age from entering into a contract with a social media platform to become an account holder.

2. Verify the age of each account holder on the social media platform at the time a new account is created. If an account holder fails to verify his or her age, the social media platform must deny the account. Either an anonymous age verification method or a standard method must be used to verify age. The social media platform shall offer an anonymous age verification method and may offer a standard age verification method. If both methods are offered, a potential account holder may select which method will be used to verify his or her age.

3. If age verification is performed using an anonymous age verification method, ensure that the requirements of s. 501.1738 are met.

(b) A social media platform that uses any of the design features specified in subparagraphs (1)(g)1. and 2. on the daily active users on the social media platform who are younger than
16 years of age and that has had 10 percent or more of such
daily active users spend, on average, at least 2 hours per day
on the social media platform shall do the following for existing
accounts:
   1. Terminate any account that the social media platform
knows or has reason to believe is held by an account holder
younger than 16 years of age, including accounts that the social
media platform treats or categorizes as belonging to an account
holder who is likely younger than 16 years of age for purposes
of targeting content or advertising, and provide a minimum of 90
days for an account holder to dispute such termination by
verifying his or her age.
   2. Allow an account holder younger than 16 years of age to
request to terminate the account. Termination must be effective
within 5 business days after such request.
   3. Allow the confirmed parent or guardian of an account
holder younger than 16 years of age to request the minor's
account be terminated. Termination must be effective within 10
business days after such request.
   4. Permanently delete all personal information held by the
social media platform relating to the terminated account, unless
there are legal requirements to maintain such information.
   (3)(a) Any knowing or reckless violation of subsection (2)
is deemed an unfair and deceptive trade practice actionable
under part II of this chapter solely by the department against a
social media platform. If the department has reason to believe that a social media platform is in violation of subsection (2), the department, as the enforcing authority, may bring an action against such platform for an unfair or deceptive act or practice. For the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212 do not apply. In addition to other remedies under part II of this chapter, the department may collect a civil penalty of up to $50,000 per violation and reasonable attorney fees and court costs. When the social media platform's failure to comply with subsection (2) is a consistent pattern of knowing or reckless conduct, punitive damages may be assessed against the social media platform.

(b) A third party that knowingly or recklessly performs age verification for a social media platform in violation of s. 501.1738 is deemed to have committed an unfair and deceptive trade practice actionable under part II of this chapter solely by the department against such third party. If the department has reason to believe that the third party is in violation of s. 501.1738, the department, as the enforcing authority, may bring an action against such third party for an unfair or deceptive act or practice. For the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212 do not apply. In addition to other remedies under part II of this chapter, the department may collect a civil penalty of up to $50,000 per violation and reasonable attorney fees and court costs.
(4)(a) A social media platform that knowingly or recklessly violates subparagraph (2)(b)2. or subparagraph (2)(b)3. for failing to terminate an account within the required time after being notified to do so by the minor account holder or a confirmed parent or guardian is liable to such minor account holder for failing to terminate the account, including court costs and reasonable attorney fees as ordered by the court. Claimants may be awarded up to $10,000 in damages.

(b) A civil action for a claim under this subsection must be brought within 1 year after the violation.

(5) Any action brought under subsection (3) or subsection (4) may only be brought on behalf of a minor account holder.

(6) For purposes of bringing an action in accordance with subsection (3) or subsection (4), a social media platform that allows a minor account holder younger than 16 years of age to create an account on such platform is considered to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business and doing business in this state, and is therefore subject to the jurisdiction of the courts of this state.

(7) If a social media platform allows an account holder to use the social media platform, the parties have entered into a contract.

(8) This section does not preclude any other available remedy at law or equity.
(9) The department may adopt rules to implement this section.

Section 2. Section 501.1737, Florida Statutes, is created to read:

501.1737 Age verification for online access to materials harmful to minors.—

(1) As used in this section, the term:

(a) "Anonymous age verification method" has the same meaning as in s. 501.1738.

(b) "Commercial entity" includes a corporation, a limited liability company, a partnership, a limited partnership, a sole proprietorship, and any other legally recognized entity.

(c) "Department" means the Department of Legal Affairs.

(d) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmit, circulate, or disseminate by any means.

(e) "Material harmful to minors" means any material that:

1. The average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest;

2. Depicts or describes, in a patently offensive way, sexual conduct as specifically defined in s. 847.001(19); and

3. When taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

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

1. A newspaper, news publication, or news source, printed or published online or on a mobile platform, engaged in reporting current news and matters of public interest, and an employee thereof who can provide documentation of such employment.

2. A radio broadcast station, television broadcast station, cable television operator, or wire service, and an employee thereof who can provide documentation of such employment.

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

(h) "Resident" means a person who lives in this state for more than 6 months of the year.

(i) "Standard age verification method" means any commercially reasonable method of age verification approved by the commercial entity.

(j) "Substantial portion" means more than 33.3 percent of total material on a website or application.

(2) A commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on a website or application, if the website or application contains a substantial portion of material harmful to minors, must use either an anonymous age verification method or a standard age
verification method to verify that the age of a person attempting to access the material is 18 years of age or older and prevent access to the material by a person younger than 18 years of age. The commercial entity must offer an anonymous age verification method and may offer a standard age verification method. If both methods are offered, a person attempting to access the material may select which method will be used to verify his or her age.

(3) A commercial entity must ensure that the requirements of s. 501.1738 are met.

(4)(a) This section does not apply to any bona fide news or public interest broadcast, website video, report, or event and does not affect the rights of a news-gathering organization.

(b) An Internet service provider or its affiliates or subsidiaries, a search engine, or a cloud service provider does not violate this section solely for providing access or connection to or from a website or other information or content on the Internet or a facility, system, or network not under the provider's control, including transmission, downloading, intermediate storage, or access software, to the extent the provider is not responsible for the creation of the content of the communication which constitutes material harmful to minors.

(5)(a) Any violation of subsection (2) or subsection (3) is deemed an unfair and deceptive trade practice actionable under part II of this chapter solely by the department on behalf
of a resident minor against a commercial entity. If the department has reason to believe that a commercial entity is in violation of subsection (2) or subsection (3), the department, as the enforcing authority, may bring an action against the commercial entity for an unfair or deceptive act or practice. For the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212 do not apply. In addition to any other remedy under part II of this chapter, the department may collect a civil penalty of up to $50,000 per violation and reasonable attorney fees and court costs. When the commercial entity's failure to comply with subsection (2) or subsection (3) is a consistent pattern of conduct of the commercial entity, punitive damages may be assessed against the commercial entity.

(b) A third party that performs age verification for a commercial entity in violation of s. 501.1738 is deemed to have committed an unfair and deceptive trade practice actionable under part II of this chapter solely by the department against such third party. If the department has reason to believe that the third party is in violation of s. 501.1738, the department, as the enforcing authority, may bring an action against such third party for an unfair or deceptive act or practice. For the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212 do not apply. In addition to other remedies under part II of this chapter, the department may collect a civil penalty of up to $50,000 per violation and reasonable
attorney fees and court costs.

(c) A commercial entity that violates subsection (2) for failing to prohibit or block a minor from future access to material harmful to minors after a report of unauthorized or unlawful access is liable to the minor for such access, including court costs and reasonable attorney fees as ordered by the court. Claimants may be awarded up to $10,000 in damages. A civil action for a claim under this paragraph must be brought within 1 year after the violation.

(d) Any action under this subsection may only be brought on behalf of or by a resident minor.

(6) For purposes of bringing an action under subsection (5), a commercial entity that publishes or distributes material harmful to minors on a website or application, if the website or application contains a substantial portion of material harmful to minors and such website or application is available to be accessed in this state, is considered to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business and doing business in this state, and is therefore subject to the jurisdiction of the courts of this state.

(7) This section does not preclude any other available remedy at law or equity.

(8) The department may adopt rules to implement this section.
Section 3. Section 501.1738, Florida Statutes, is created to read:

501.1738 Anonymous age verification.—

(1) As used in this section, the term "anonymous age verification method" means a commercially reasonable method used by a government agency or a business for the purpose of age verification which is conducted by a nongovernmental, independent third party organized under the laws of a state of the United States which:

(a) Has its principal place of business in a state of the United States; and

(b) Is not owned or controlled by a company formed in a foreign country, a government of a foreign country, or any other entity formed in a foreign country.

(2) A third party conducting age verification pursuant to ss. 501.1736 and 501.1737:

(a) May not retain personal identifying information used to verify age once the age of an account holder or a person seeking an account has been verified.

(b) May not use personal identifying information used to verify age for any other purpose.

(c) Must keep anonymous any personal identifying information used to verify age. Such information may not be shared or otherwise communicated to any person.

(d) Must protect personal identifying information used to
verify age from unauthorized or illegal access, destruction, use, modification, or disclosure through reasonable security procedures and practices appropriate to the nature of the personal information.

Section 4. If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. This act shall take effect July 1, 2024.