

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: SB 2-D

INTRODUCER: Senator Brodeur

SUBJECT: Artificial Intelligence Bill of Rights

DATE: April 24, 2026

REVISED: \_\_\_\_\_

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| ANALYST            | STAFF DIRECTOR | REFERENCE | ACTION             |
|--------------------|----------------|-----------|--------------------|
| 1. <u>McMillan</u> | <u>Kruse</u>   | <u>RC</u> | <u>Pre-meeting</u> |

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**I. Summary:**

SB 2-D creates the “Artificial Intelligence Bill of Rights” to provide that Floridians are entitled to certain rights with respect to the use of artificial intelligence. The bill provides definitions and defines “artificial intelligence” to mean a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.

The “Artificial Intelligence Bill of Rights” includes the following consumer protections:

- A companion chatbot platform must prohibit a minor from entering into a contract with the platform to become an account holder or from maintaining an existing account, unless the minor’s parent or guardian provides consent. If consent is provided, the platform must authorize the consenting parent or guardian to receive certain controls over the minor’s account. Upon request, the platform must permanently delete all personal information held by the platform relating to the terminated account.
- A companion chatbot platform must provide certain disclosures to an account holder, as well as remind the account holder to take a break and that the companion chatbot is artificially generated and not human. The platform is also required to institute reasonable measures to prevent its companion chatbot from producing or sharing materials harmful to minors.
- At the beginning of an interaction between a user and a bot, and at least once every hour during the interaction, an operator is required to notify or inform users that they are not engaging in dialogue with a human counterpart. This requirement does not apply to a bot that is used solely by employees within a business for its internal operational purposes.
- An artificial intelligence technology company is prohibited from selling or disclosing personal information of users unless such information is deidentified data.
- The Department of Legal Affairs is given rulemaking and enforcement authority.

The bill places limitations on government contracting with entities for artificial intelligence technology, software, or products if such entities have certain ties to a government of a foreign country of concern.

The bill amends the section of law regulating the unauthorized publication of name or likeness to prohibit a person from publishing, printing, displaying, or otherwise publicly using for trade or for any commercial or advertising purpose the name, portrait, photograph, image, or other likeness of an individual created through generative artificial intelligence without the express written or oral consent to such use.

The bill creates s. 1006.1495, F.S., to establish a statewide framework for artificial intelligence instructional tools used by educational entities, including definitions, parent notice, opt-outs, parent or eligible student read-only account access, and construction. An educational entity is prohibited from providing students with access to an artificial intelligence instructional tool before grade 6 unless certain criteria are met. Additionally, private schools are required to comply with s. 1006.1495, F.S., when providing student access to an AI instructional tool.

The bill may have a workload impact on the Department of Legal Affairs. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2026.

## II. Present Situation:

### Government Contracting and Procurement

Currently, when state agencies wish to procure commodities or contractual services that cost more than \$35,000, a competitive solicitation<sup>1</sup> is required.<sup>2</sup> Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods:

- Invitation to bid (ITB): An agency must use an ITB when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency can establish precise specifications defining the actual commodity or group of commodities required.<sup>3</sup>
- Request for proposals (RFP): An agency must use an RFP when the purposes and uses for which the commodity, group of commodities, or contractual service being sought can be specifically defined and the agency can identify necessary deliverables.<sup>4</sup>
- Invitation to negotiate (ITN): An ITN is a solicitation used by an agency that is intended to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the agency may negotiate to receive the best value.<sup>5</sup>

The Department of Management Services (DMS) is designated as the primary state agency overseeing procurement,<sup>6</sup> and the responsibilities of DMS include creating uniform agency

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<sup>1</sup> Section 287.012(6), F.S., defines “competitive solicitation” as the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

<sup>2</sup> See ss. 287.057 and 287.017, F.S.

<sup>3</sup> Section 287.057(1)(a), F.S.

<sup>4</sup> Section 287.057(1)(b), F.S.

<sup>5</sup> Section 287.057(1)(c), F.S.

<sup>6</sup> See ss. 287.032 and 287.042, F.S.

procurement rules,<sup>7</sup> implementing the online procurement program,<sup>8</sup> and procuring state term contracts.<sup>9</sup> The DMS is also responsible for registering vendors that wish to provide goods or services to the state<sup>10</sup> and maintaining lists of vendors who may not submit bids, proposals, or replies to agency solicitations, such as the suspended vendor list,<sup>11</sup> the convicted vendor list,<sup>12</sup> the discriminatory vendor list,<sup>13</sup> and the antitrust violator vendor list.<sup>14</sup>

### ***Scrutinized List of Prohibited Companies***

Companies on the Scrutinized Companies or Other Entities that Boycott Isreal List are prohibited from bidding on, submitting a proposal for, or entering or renewing a contract with an agency or local governmental entity for goods and services of \$100,000 or more.<sup>15</sup> Similarly, companies on the Scrutinized Companies with Activities in Sudan list, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector list, or engaged in business operations in Cuba or Syria are prohibited from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or a local governmental entity for goods or services of \$1 million or more.<sup>16</sup> The State Board of Administration is charged with maintaining a complete list of scrutinized companies.<sup>17</sup>

### ***Foreign Countries of Concern***

In 2023, the Legislature prohibited state and local governmental entities from contracting with certain foreign affiliated entities if such contracts would grant access to individuals' personal identifying information.<sup>18</sup> Specifically, contracts with entities that are owned by, significantly controlled by, or organized under, the following foreign countries of concern are prohibited: China, Russia, Iran, North Korea, Cuba, Venezuela (Maduro regime), and Syria.<sup>19</sup>

Beginning January 1, 2024, entities must submit a sworn affidavit confirming that they do not meet these criteria before bidding on or entering into contracts involving personal data.<sup>20</sup> Starting

<sup>7</sup> See ss. 287.032(2) and 287.042(3), (4), and (12), F.S.

<sup>8</sup> See s. 287.057(24), F.S.

<sup>9</sup> See ss. 287.042(2) and 287.056, F.S.

<sup>10</sup> See ss. 287.032 and 287.042, F.S.; see also Department of Management Services, *Vendor Registration and Vendor Lists*, available at

[https://www.dms.myflorida.com/business\\_operations/state\\_purchasing/state\\_agency\\_resources/vendor\\_registration\\_and\\_vendor\\_lists](https://www.dms.myflorida.com/business_operations/state_purchasing/state_agency_resources/vendor_registration_and_vendor_lists) (last visited April, 15, 2026).

<sup>11</sup> Section 287.1351, F.S., provides that the "suspended vendor list" includes vendors who are in default on a contract or have repeatedly failed to fulfill the terms of state contracts. Contracts cannot be awarded to such vendors until the vendor reimburses the agency for the costs of re-procurement and the agency is satisfied that further default will not occur.

<sup>12</sup> Section 287.133, F.S., provides that the "convicted vendor list" includes vendors who have been disqualified due to conviction of a public entity crime, which includes fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation related to a contract for services to be provided to a public entity.

<sup>13</sup> Section 287.134, F.S., provides that the "discriminatory vendor list" includes vendors who have been disqualified for violating any state or federal law prohibiting discrimination based on race, gender, national origin, disability, or religion.

<sup>14</sup> Section 287.137, F.S., provides that the "antitrust violator vendor list" includes vendors who have been disqualified due to being convicted or held civilly liable for an antitrust violation.

<sup>15</sup> Section 287.135(2)(a), F.S.

<sup>16</sup> Section 287.135(2)(b), F.S.

<sup>17</sup> See ss. 215.4725, and 215.473, F.S.

<sup>18</sup> Ch. 2023-33, L.O.F.

<sup>19</sup> Section 287.138 (2), F.S.

<sup>20</sup> Section 287.138(4)(a), F.S.

July 1, 2025, this restriction extends to contract renewals and extensions.<sup>21</sup> Violations may result in civil penalties, contract and license ineligibility for up to five years, and placement on the suspended vendor list.<sup>22</sup>

## Artificial Intelligence

### *Generally*

Artificial intelligence (AI) is the development of computer systems to perform tasks that normally require human intelligence, such as learning and decision-making.<sup>23</sup> It enables computer systems to receive information that is either provided to them by others or gathered by them (e.g. through camera lenses or other sensors), which they can then process and respond to in some meaningful way. To a certain extent, AI systems can adapt their behavior by analyzing the effects of previous actions and working autonomously.<sup>24</sup>

Investments in AI have led to many of the transformative advancements that U.S. consumers rely upon every day,<sup>25</sup> including mapping technologies, voice-assisted smartphones, handwriting recognition for mail delivery, financial trading, smart logistics, spam filtering, and language translation. AI advances have also provided significant social benefits in areas such as precision medicine, environmental sustainability, education, and public welfare.<sup>26</sup>

### *Types of AI*

AI may be generally classified in one of three classes based on its capabilities or its functionalities:<sup>27</sup>

- *Artificial Narrow AI*. Also known as Weak AI, machines using Weak AI can only perform specific tasks using human-like capabilities. They can do nothing more than what they are programmed to do. Examples of Artificial Narrow AI include Siri, Alexa, and ChatGPT.<sup>28</sup>
- *General AI*. Also known as Strong AI, and any machine or application using Strong AI in the future would be able to use what they have learned in the past to accomplish new tasks in different contexts without the need for additional training by human beings. In other words, they would be able to learn, perceive, understand, and function completely like human beings.<sup>29</sup>

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<sup>21</sup> Section 287.138(4)(b), F.S.

<sup>22</sup> Section 287.138(5), F.S.

<sup>23</sup> National Conference of State Legislatures (NCSL), *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, available at <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation> (last visited April 15, 2026).

<sup>24</sup> European Parliament, *What is artificial intelligence and how is it used?*, E.U. News, Jun. 20, 2023, available at <https://www.europarl.europa.eu/topics/en/article/20200827STO85804/what-is-artificial-intelligence-and-how-is-it-used> (last visited April 15, 2026).

<sup>25</sup> U.S. Department of State, *Artificial Intelligence (AI)*, available at <https://www.state.gov/artificial-intelligence/> (last visited April 15, 2026).

<sup>26</sup> *Id.*

<sup>27</sup> Naveen Joshi, *7 Types of Artificial Intelligence*, Jun. 19, 2019, Forbes, available at <https://www.forbes.com/sites/cognitiveworld/2019/06/19/7-types-of-artificial-intelligence/?sh=7b5ddf4d233e> (last visited April 15, 2026).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

- *Super AI* Also known as artificial superintelligence, Super AI is strictly theoretical. If ever realized, machines using Super AI would think, reason, learn, make judgments, and possess cognitive abilities surpassing those of human beings. Machines possessing Super AI capabilities would have evolved beyond the point of understanding human sentiments and experiences to feeling emotions, having needs, and possessing beliefs and desires of their own.<sup>30</sup>

Under the umbrella of Artificial Narrow AI or Weak AI, there are four kinds of AI based upon functionalities:<sup>31</sup>

- *Reactive Machine AI*. Reactive machines are AI systems with no memory. They are designed to perform very specific tasks. They can only work with presently available data because they cannot recollect previous outcomes or decisions. Reactive Machine AI stems from statistical math and can analyze vast amounts of data to produce a seemingly intelligent output. Examples of machines and applications that rely upon Reactive Machine AI include IBM Deep Blue (IBM's chess-playing supercomputer) and the Netflix recommendation engine.<sup>32</sup>
- *Limited Memory AI*. In addition to having the capabilities of purely reactive machines, Limited Memory AI machines and applications are also capable of learning from historical data to make decisions. Almost all present-day Limited Memory AI applications, including Generative AI tools (e.g. chatbots and virtual assistants) and self-driving vehicles, are Limited Memory AI machines and applications.<sup>33</sup>
- *Theory of Mind AI*. Theory of Mind AI is a kind of General AI that exists only in concept. It is the "next level" of AI systems that researchers are currently developing. Machines and applications using Theory of Mind level AI will be able to understand the thoughts and emotions of other entities. In theory, this will allow them to simulate humanlike relationships and to contextualize artwork and essays, which today's Generative AI tools are unable to do.<sup>34</sup>
- *Self-Aware AI*. Self-Aware AI is a kind of Super AI that exists only in concept. It is strictly theoretical. If ever achieved, it will have the ability to understand its own internal conditions and traits along with human emotions and thoughts. It will also have its own set of emotions, needs, and beliefs.<sup>35</sup>

### ***Generative AI***

Generative AI is a type of Limited Memory AI technology that can produce high-quality content, including text, images, audio, or video, within seconds when prompted by a user.<sup>36</sup> Although it

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; (last visited April 15, 2026). George Lawton, *What is generative AI? Generative AI Explained*, TechTarget, March 13, 2025, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited April 15, 2026).

was first introduced in the 1960s, it was not until 2014, with the introduction of generative adversarial networks, or GANs (a type of machine learning algorithm),<sup>37</sup> that Generative AI could convincingly create authentic images, videos, and audio of real people.<sup>38</sup>

Generative AI systems learn patterns and relationships from massive amounts of data, which enables them to process and create new content that may be similar, but not identical, to the underlying training data. Such systems rely upon sophisticated machine learning algorithms and statistical models to work.<sup>39</sup>

In order to generate new content, Generative AI users are required to submit prompts that guide the generation of new content. Many iterations may be required to produce the intended result because Generative AI is sensitive to the wording of prompts.<sup>40</sup>

Because Generative AI can do so much, it has many potential applications, including in education, government, medicine, and law. Applications include:

- Writing a speech in a particular tone.
- Summarizing complex research.
- Assessing legal documents.
- Creating images for different applications.
- Composing music.
- Composing poems.
- Designing molecules for new drugs.
- Generating programming codes.
- Translating languages.
- Implementing chatbots.
- Deploying “deepfakes.”
- Improving dubbing for movies.
- Designing physical products and buildings.<sup>41</sup>

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<sup>37</sup> “A generative adversarial network (GAN) is a deep learning architecture. It trains two neural networks to compete against each other to generate more authentic new data from a given training dataset. For instance, you can generate new images from an existing image database or original music from a database of songs. A GAN is called adversarial because it trains two different networks and pits them against each other. One network generates new data by taking an input data sample and modifying it as much as possible. The other network tries to predict whether the generated data output belongs in the original dataset. In other words, the predicting network determines whether the generated data is fake or real. The system generates newer, improved versions of fake data values until the predicting network can no longer distinguish fake from original.” Amazon Web Services (AWS), *What is a GAN?*, available at <https://aws.amazon.com/what-is/gan/> (last visited April 15, 2026). GAN can generate images, training data for other models, complete missing information, and generate 3D models from 2D data. *Id.*

<sup>38</sup> George Lawton, *What is generative AI? Generative AI Explained*, TechTarget, March 13, 2025, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited April 15, 2026).

<sup>39</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf> (last visited April 15, 2026). Training data can include opensource information, such as text and images from the internet. *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; (last visited April 15, 2026). George Lawton, *What is generative AI? Generative AI Explained*, TechTarget, March 13, 2025, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited April 15, 2026).

The U.S. Government Accountability Office has identified several opportunities and challenges in connection with the proliferation of Generative AI systems.<sup>42</sup> With respect to opportunities, Generative AI can quicken access to ideas and knowledge by helping people more efficiently gather new information; help automate a wide variety of administrative and repetitive tasks; and enhance the productivity of many industries.<sup>43</sup> With respect to challenges, because Generative AI systems can respond to harmful instructions, they can increase the speed and scale of many real world harms, such as facilitating the development and proliferation of false information; facilitating the use of copyrighted, proprietary, or sensitive data, without the owner's or subject's knowledge; reducing privacy for users, including minors, through the retention of personally identifiable information without consent; and facilitating the storage and use of sensitive information by foreign adversaries.<sup>44</sup>

### ***Companion Chatbots***

AI companions are an application of Generative AI that use natural language processing and emotional recognition to simulate human relationships by mimicking human characteristics, emotions, and intentions.<sup>45</sup> These systems are generally designed to communicate like a friend or a confidant, which may prompt users, especially children and teens, to trust and form relationships with such systems.<sup>46</sup>

### **Regulation of AI**

Concerns about the potential misuse or unintended consequences of AI have prompted efforts to examine and develop standards at the federal and state levels.<sup>47</sup>

### ***Companion Chatbot Regulation***

States including Colorado, Maine, Texas, and Utah have recently enacted legislation to require certain disclosures to be provided to consumers who interact with AI systems.<sup>48</sup> These disclosure laws aim to provide notice (and reminders) to consumers that they are interacting with an AI chatbot and not a human counterpart.<sup>49</sup>

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<sup>42</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf> (last visited April 15, 2026).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> See Jenny Lyons-Cunha, *AI Companions are on the Rise, Offering Intimacy that Feels Real – But is it?*, available at <https://builtin.com/artificial-intelligence/ai-companions> (last visited April 15, 2026). See also Federal Trade Commission, *FTC Launches Inquiry into AI Chatbots Acting as Companions*, available at <https://www.ftc.gov/news-events/news/press-releases/2025/09/ftc-launches-inquiry-ai-chatbots-acting-companions#:~:text=AI%20chatbots%20may%20use%20generative.and%20form%20relationships%20with%20chatbots> (last visited April 15, 2026).

<sup>46</sup> *See id.*

<sup>47</sup> NCSL, *Artificial Intelligence 2024 Legislation*, Sep. 9, 2024, available at <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2024-legislation> (last visited April 15, 2026).

<sup>48</sup> See C.R.S. § 6-1-1701 et seq. See also Maine Revised Statutes, Title 10, §1500-DD. See also Texas Business & Commerce Code, Chapter 551. See also U.C.A. § 13-2-12.

<sup>49</sup> *See id.*

Recently, California also passed a law that regulates the use of AI chatbots.<sup>50</sup> Notably, the law seeks to protect minors by requiring AI operators<sup>51</sup> to provide the following notifications to minors:

- Disclose to the minor that they are interacting with AI;
- At least every three hours, provide a clear and conspicuous notice that reminds the minor to take a break and that the companion chatbot is AI and not a human;
- Institute reasonable measures to prevent its companion chatbot from producing visual material of sexually explicit conduct or directly stating that the minor should engage in such conduct; and
- Disclose on the application, the browser, or any other format that a user can use to access the companion chatbot platform that companion chatbots may not be suitable for some minors.<sup>52</sup>

The California law further requires an operator to maintain a protocol for preventing the production of suicidal ideation, suicide, or self-harm content to the user, as well as requiring an operator to refer a user expressing suicidal ideation, suicide, or self-harm to crisis service providers. The operator must also publish details on such protocol on the operator’s website.<sup>53</sup>

Currently, the United States does not have a comprehensive federal AI law, however in December of 2025, President Trump issued Executive Order (EO) 14365 entitled “Ensuring a National Policy Framework for Artificial Intelligence.”<sup>54</sup> The EO states that it is designed to promote the US policy of sustaining and enhancing the United States’ global AI dominance through a minimally burdensome national policy framework for AI, and gives instructions to the United States Attorney General, the Secretary of Commerce, the Federal Communications Commission, and the Federal Trade Commission.<sup>55</sup>

### ***Deidentified Data***

In 2023, the Legislature passed the “Florida Digital Bill of Rights,” which requires controllers<sup>56</sup> in possession of deidentified data to do the following:

<sup>50</sup> See CA SB 243 (2025-2026).

<sup>51</sup> See *id.* CA SB 243 defines “operator” as a person who makes a companion chatbot platform available to a user in the state.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> See 90 FR 58499.

<sup>55</sup> See *id.* The EO does the following: (1) instructs the US Attorney General to create an AI Task Force within 30 days to challenge state AI laws that are inconsistent with US policy; (2) instructs the Secretary of Commerce to conduct an evaluation of existing state AI laws and publish the results; (3) takes steps to make states with onerous AI laws ineligible for certain federal funds; (4) directs the Federal Communication Commission to determine whether a federal reporting and disclosure standard for AI models should be adopted; and (5) directs the Federal Trade Commission to issue a policy statement on whether state laws that require alterations to truthful outputs of AI models are preempted by federal law. Additionally, the EO directs the Special Advisor for AI and Crypto, along with the Assistant to the President for Science and Technology, to jointly prepare a legislative recommendation to establish a uniform AI policy framework – the EO states that such framework must ensure that children are protected, censorship is prevented, copyrights are respected, and communities are safeguarded. Additionally, on March 20, 2026, the White House issued a National Policy Framework for AI, which provides Congress with recommendations on how to create a minimally burdensome national AI framework. See The White House, *National Policy Framework – Artificial Intelligence*, available at <https://www.whitehouse.gov/wp-content/uploads/2026/03/03.20.26-National-Policy-Framework-for-Artificial-Intelligence-Legislative-Recommendations.pdf> (last visited April 15, 2026).

<sup>56</sup> Section 501.702(9), F.S., defines “controller” as a sole proprietorship, partnership, limited liability company, corporation, association, or legal entity that meets the following requirements: (1) is organized or operated for the profit or financial

- Take reasonable measures to ensure that the data cannot be associated with an individual.
- Maintain and use the data in deidentified form. A controller may not attempt to reidentify the data, except that the controller may attempt to reidentify the data solely for the purpose of determining whether its deidentification processes satisfy the requirements of s. 501.714, F.S.
- Contractually obligate any recipient of the deidentified data to comply with the Florida Digital Bill of Rights.
- Implement business processes to prevent the inadvertent release of deidentified data.

Section 501.702(13), F.S., defines “deidentified data” as data that cannot reasonably be linked to an identified or identifiable individual or a device linked to that individual.

The Florida Digital Bill of Rights may not be construed to require a controller or processor<sup>57</sup> to do any of the following:

- Re-identify deidentified data or pseudonymous data.
- Maintain data in an identifiable form or obtain, retain, or access any data or technology for the purpose of allowing the controller or processor to associate a consumer request with personal data.
- Comply with an authenticated consumer rights request under s. 501.705, F.S.,<sup>58</sup> if the controller:
  - Is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;
  - Does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and
  - Does not sell the personal data to a third party or otherwise voluntarily disclose the personal data to a third party other than a processor, except as otherwise authorized.

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benefit of its shareholders or owners; (2) conducts business in Florida; (3) collects personal data about consumers, or is the entity on behalf of which such information is collected; (4) determines the purposes and means of processing personal data about consumers alone or jointly with others; (5) makes in excess of \$1 billion in global gross annual revenues; and (5) satisfies at least one of the following: (a) derives 50 percent or more of its global gross annual revenues from the sale of advertisements online, including providing targeted advertising or the sale of ads online; (b) operates a consumer smart speaker and voice command component service with an integrated virtual assistant connected to a cloud computing service that uses hands-free verbal activation. For purposes of this sub-subparagraph, a consumer smart speaker and voice command component service does not include a motor vehicle or speaker or device associated with or connected to a vehicle which is operated by a motor vehicle manufacturer or a subsidiary or affiliate thereof; or (c) operates an app store or a digital distribution platform that offers at least 250,000 different software applications for consumers to download and install.

<sup>57</sup> Section 501.702(24), F.S., defines “processor” as a person who processes personal data on behalf of a controller.

<sup>58</sup> Section 501.705, F.S., provides that a consumer is entitled to the following upon request: (1) to confirm whether a controller is processing the consumer’s personal data and to access the personal data; (2) to correct inaccuracies in the consumer’s personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer’s personal data; (3) to delete any or all personal data provided by or obtained about the consumer; (4) to obtain a copy of the consumer’s personal data in a portable and, to the extent technically feasible, readily usable format if the data is available in a digital format; (5) to opt out of the processing of the personal data for purposes of targeted advertising, the sale of personal data, or profiling in furtherance of a decision that produces a legal or similarly significant effect concerning a consumer; (6) to opt out of the collection of sensitive data, including precise geolocation data, or the processing of sensitive data; and (7) to opt out of the collection of personal data collected through the operation of a voice recognition or facial recognition feature.

Additionally, a controller that discloses deidentified data must exercise reasonable oversight to monitor compliance with any contractual commitments to which the data or information is subject and must take appropriate steps to address any breach of contractual commitments.<sup>59</sup>

### ***Unauthorized Publication of Name or Likeness***

Section 540.08, F.S., prohibits a person from publishing, printing, displaying or otherwise publicly using for purposes of trade or any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the express written or oral consent to such use given by:

- Such person; or
- Any other person, firm or corporation authorized in writing by such person to license the commercial use of her or his name or likeness; or
- If such person is deceased, any person, firm or corporation authorized in writing to license the commercial use of her or his name or likeness, or if no person, firm or corporation is authorized, then by any one from among a class composed of her or his surviving spouse and surviving children.<sup>60</sup>

If the appropriate consent is not obtained, the person whose name, portrait, photograph, or other likeness is so used, or any person, firm, or corporation authorized by such person in writing to license the commercial use of her or his name or likeness, or, if the person whose likeness is used is deceased, any person, firm, or corporation having the right to give such consent, as provided hereinabove, may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.<sup>61</sup>

If a person uses the name, portrait, photograph, or other likeness of a member of the armed forces without obtaining the appropriate consent, a court may impose a civil penalty of up to \$1,000 per violation in addition to the other applicable civil remedies.<sup>62</sup>

The provisions of s. 540.08, F.S., do not apply to:

- The publication, printing, display, or use of the name or likeness of any person in any newspaper, magazine, book, news broadcast or telecast, or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such name or likeness is not used for advertising purposes;
- The use of such name, portrait, photograph, or other likeness in connection with the resale or other distribution of literary, musical, or artistic productions or other articles of merchandise or property where such person has consented to the use of her or his name, portrait, photograph, or likeness on or in connection with the initial sale or distribution thereof; or

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<sup>59</sup> Section 540.714(4), F.S.

<sup>60</sup> Section 540.08(1), F.S.

<sup>61</sup> Section 540.08(2), F.S.

<sup>62</sup> Section 540.08(3), F.S. Each commercial transaction constitutes a violation.

- Any photograph of a person solely as a member of the public and where such person is not named or otherwise identified in or in connection with the use of such photograph.<sup>63</sup>

## Florida's AI Laws

### *Election-Related Use of Artificial Intelligence*

The proliferation of Generative AI use and its outpacing of government regulation has created concern among policymakers about its potentially negative effect on the electoral process. Specific concerns include, but are not limited to, voter misinformation by chatbots,<sup>64</sup> phishing scams on election officials through AI-generated voices, and the use of deepfakes<sup>65</sup> to deceive voters and damage political rivals. Over time, the use of AI may also erode trust in authentic information.<sup>66</sup>

In 2024, the Legislature enacted a law to regulate the use of AI in political advertising.<sup>67</sup> If a political advertisement, an electioneering communication, or other miscellaneous advertisement of a political nature contains images, video, audio, graphics, or other digital content created in whole or in part with the use of Generative AI, if the generated content appears to depict a real person performing an action that did not actually occur, and if the generated content was created with intent to injure a candidate or to deceive regarding a ballot issue, the political advertisement, electioneering communication, or other miscellaneous advertisement must prominently state the following disclaimer: “Created in whole or in part with the use of Generative Artificial Intelligence (AI).”<sup>68</sup> Additionally, the disclaimer must:

- For a printed communication, be stated in bold font with a font size of at least 12 points.
- For a television or video communication, be clearly readable throughout the communication and occupy at least 4 percent of the vertical picture height.
- For an Internet public communication that includes text or graphic components, be viewable without the user taking any action and be large enough to be clearly readable.
- For any audio component of a communication, be at least 3 seconds in length and spoken in a clearly audible and intelligible manner at either the beginning or the end of the audio component of the communication.
- For a graphic communication, be large enough to be clearly readable but no less than 4 percent of the vertical height of the communication.<sup>69</sup>

<sup>63</sup> Section 540.08(4), F.S. Additionally, s. 540.08(5), F.S., prohibits an action by reason of any publication, printing, display, or other public use of the name or likeness of a person occurring after the expiration of 40 years from and after the death of such person.

<sup>64</sup> IBM defines “chatbot” to mean a computer program that simulates human conversation with an end user (*see What is a Chatbot?*, available at <https://www.ibm.com/topics/chatbots> (last visited April 15, 2026)).

<sup>65</sup> Although exact definitions of “deepfake” vary, all reflect a depiction of something that has not actually occurred. Merriam-Webster, for example, defines “deepfake” to mean an image or recording that has been convincingly altered and manipulated to misrepresent someone as doing or saying something that was not actually said or done (*see https://www.merriam-webster.com/dictionary/deepfake*, last visited April 15, 2026).

<sup>66</sup> National Conference of State Legislatures, *Challenges Ahead for Lawmakers Seeking to Legislate AI in Campaigns*, available at [https://www.ncsl.org/state-legislatures-news/details/challenges-ahead-for-lawmakers-seeking-to-legislate-ai-in-campaigns?utm\\_source=national+conference+of+state+legislatures&utm\\_term=0\\_-61bealf450-%5blist\\_email\\_id%5d&utm\\_campaign=8fbf8e40e8-canvass-jan-4&utm\\_medium=email](https://www.ncsl.org/state-legislatures-news/details/challenges-ahead-for-lawmakers-seeking-to-legislate-ai-in-campaigns?utm_source=national+conference+of+state+legislatures&utm_term=0_-61bealf450-%5blist_email_id%5d&utm_campaign=8fbf8e40e8-canvass-jan-4&utm_medium=email) (last visited April 15, 2026).

<sup>67</sup> Ch. 2024-126, Laws of Fla.

<sup>68</sup> Section 106.145(2), F.S.

<sup>69</sup> Section 106.145(3), F.S.

### ***Florida Elections Commission***

The Florida Elections Commission (commission) has jurisdiction<sup>70</sup> to investigate and determine violations of campaign finance laws and other specified provisions of the Florida Election Code<sup>71</sup> upon receipt of a report by the Division of Elections<sup>72</sup> or a sworn complaint.<sup>73</sup> Upon a finding of a violation of one of the laws under its jurisdiction, the commission, or in cases referred to the Division of Administrative Hearings, an administrative law judge, may impose fines up to \$2,500 per count.<sup>74</sup>

### **Florida’s Age Verification Law**

In 2024, the Legislature enacted laws to require age verification for online access to materials that are harmful to minors.<sup>75</sup>

Florida law requires 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 to use either anonymous age verification or standard age verification 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.<sup>76</sup>

“Material harmful to minors” means any material that:

- The average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest;
- Depicts or describes, in a patently offensive way, sexual conduct as specifically defined in s. 847.001(19), F.S.; and
- When taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

“Standard age verification” means any commercially reasonable method of age verification approved by the commercial entity.<sup>77</sup>

Any violation of the age verification law is deemed an unfair and deceptive trade practice, and the Department of Legal Affairs (department) has enforcement authority. In addition to the remedies under the Florida Deceptive and Unfair Trade Practices Act, the department may collect a civil penalty of up to \$50,000 per violation and reasonable attorney fees and court costs

<sup>70</sup> For the purposes of commission jurisdiction, a violation means the willful performance of an act prohibited by ch. 104 or 106, F.S., or the willful failure to perform an act required by such chapters. Willfulness is a determination of fact. Section 106.25(3), F.S.

<sup>71</sup> Section 106.25(2), F.S. The commission is housed within the Department of Legal Affairs, but is not subject to the department’s control, supervision, or direction. Section 106.24(1), F.S.

<sup>72</sup> The Division of Elections is an administrative unit of the Department of State. Section 97.021(9), F.S.

<sup>73</sup> Section 106.25(4), F.S.

<sup>74</sup> Section 106.265, F.S. The fine may be multiplied by a factor of 3, not to exceed \$7,500, after a person commits three counts of the same category of offense. If applicable, the commission or administrative law judge may instead impose a civil penalty as provided in s. 104.271 or s. 106.19, F.S.

<sup>75</sup> Ch. 2024-42, Laws of Fla.

<sup>76</sup> Section 501.1737, F.S.

<sup>77</sup> Section 501.1737, F.S., defines “commercial entity” as a corporation, a limited liability company, a partnership, a limited partnership, a sole proprietorship, and any other legally recognized entity.

for a violation by a third party.<sup>78</sup> A commercial entity that violates the age verification requirement 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 from the date the complainant knew, or reasonably should have known, of the alleged violation.<sup>79</sup>

Florida law defines the term “anonymous age verification” as 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:

- Has its principal place of business in a state of the United States; and
- 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.<sup>80</sup>

A third party conducting anonymous age verification:

- 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;
- May not use personal identifying information used to verify age for any other purpose;
- Must keep anonymous any personal identifying information used to verify age; and
- 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.<sup>81</sup>

### **Protection of Children in Online Spaces Law**

Florida law provides that any online service, product, game, or feature likely to be predominantly accessed by children under 18 years of age may not, except under certain situations:

- Process the personal information of any child if the platform has actual knowledge or willfully disregards that the processing may result in substantial harm or privacy risk to children.
- Profile a child.
- Collect, sell, share, or retain any personal information that is not necessary to provide an online service, product, or feature with which a child is actively and knowingly engaged.
- Use a child’s personal information for any unstated reason.
- Collect, sell, or share any precise geolocation of data of children.
- Use dark patterns to:
  - Lead or encourage children to provide personal information beyond what personal information would otherwise be reasonably expected to be provided for that online service, product, game or feature.
  - Forego privacy protections.
  - Take any action that the online platform has actual knowledge of or willfully disregards that may result in substantial harm or privacy risk to children.

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<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Section 501.1738, F.S.

<sup>81</sup> *Id.*

- Use collected information to estimate age or age range for any other purpose or retain that personal information longer than necessary to estimate age.<sup>82</sup>

In 2024, the Legislature enacted a law to prohibit children under the age of 14 from creating a social media account.<sup>83</sup> A social media platform must do the following:

- Terminate any account held by an account holder younger than 14 years of age, including accounts that the social media platform treats or categorizes as belonging to an account holder who is likely younger than 14 years of age for purposes of targeting content or advertising, and provide 90 days for an account holder to dispute such termination.
- Allow an account holder younger than 14 years of age to request to terminate the account.
- Allow the confirmed parent or guardian of an account holder younger than 14 years of age to request that the minor's account be terminated. Termination must be effective within 10 business days after such request.
- 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.<sup>84</sup>

A social media platform must prohibit a minor who is 14 or 15 years of age from entering into a contract with a social media platform to become an account holder, unless the minor's parent or guardian provides consent for the minor to become an account holder.<sup>85</sup>

A social media platform must do the following:

- Terminate any account held by an account holder who is 14 or 15 years of age, including accounts that the social media platform treats or categorizes as belonging to an account holder who is likely 14 or 15 years of age for purposes of targeting content or advertising, if the account holder's parent or guardian has not provided consent for the minor to create or maintain the account. The social media platform must provide 90 days for an account holder to dispute such termination. Termination must be effective upon the expiration of the 90 days if the account holder fails to effectively dispute the termination.
- Allow an account holder who is 14 or 15 years of age to request to terminate the account. Termination must be effective within 5 business days after such request.
- Allow the confirmed parent or guardian of an account holder who is 14 or 15 years of age to request that the minor's account be terminated. Termination must be effective within 10 business days after such request.
- 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.<sup>86</sup>

Any knowing or reckless violation of s. 501.1736(2) or (3), F.S., is deemed an unfair and deceptive trade practice, and the department has enforcement authority.<sup>87</sup> In addition to the remedies under the Florida Deceptive and Unfair Trade Practices Act, the department may

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<sup>82</sup> Section 501.1735, F.S.

<sup>83</sup> Ch. 2024-42, Laws of Fla.

<sup>84</sup> Section 501.1736, F.S.

<sup>85</sup> *Id.*

<sup>86</sup> Section 501.1736(4), F.S., provides that if a court enjoins the enforcement of this section, then this section should be severed and s. 501.1736(4), F.S., will take effect, which prohibits a minor who is 14 or 15 years of age from entering into a contract with a social media platform to become an account holder.

<sup>87</sup> Section 501.1736, F.S.

collect a civil penalty of up to \$50,000 per violation and reasonable attorney fees and court costs for a violation by a third party.<sup>88</sup> When the social media platform's failure to comply with the requirements is a consistent pattern of knowing or reckless conduct, punitive damages may be assessed against the social media platform.<sup>89</sup>

A social media platform that knowingly or recklessly violates s. 501.1736(2) or (3), F.S., is liable to the minor account holder, 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 must be brought within 1 year from the date the complainant knew, or reasonably should have known, of the alleged violation.<sup>90</sup>

### ***Litigation Status***

In October of 2024, the Computer and Communications Industry Association and NetChoice (Association) filed a lawsuit in the U.S. District Court for the Northern District of Florida to challenge Florida's social media law that among other requirements, requires certain social media platforms to prohibit minors under age 14 from becoming an account holder or maintaining an account on such platforms, and in June of 2025, the district court granted the Association's motion for a preliminary injunction.<sup>91</sup> Florida appealed this decision and requested that the Eleventh Circuit "stay" the injunction to allow the law to take effect while the appeal continues.<sup>92</sup> In November of 2025, the Eleventh Circuit granted Florida's motion for a "stay," which allows Florida to enforce the law while the appeal proceeds.<sup>93</sup> The case is currently pending before the Eleventh Circuit.<sup>94</sup>

### **Florida Deceptive and Unfair Trade Practices Act (FDUTPA)**

The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, and unconscionable, deceptive, or unfair acts or practices in the conduct of trade or commerce.<sup>95</sup> The FDUTPA was modeled after the Federal Trade Commission Act.<sup>96</sup>

The Department of Legal Affairs (DLA) or the state attorney's office in the judicial circuit affected or where the violation occurs may bring actions on behalf of consumers or governmental entities when it serves the public interest.<sup>97</sup> The state attorney's office may enforce violations of the FDUTPA if the violations take place within its jurisdiction.

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<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *CCIA & NetChoice v. Uthmeier*, 2025 WL 1570007 (N.D. Fla. June 3, 2025).

<sup>92</sup> *CCIA & NetChoice v. Uthmeier*, 2025 WL 3458571 (11th Cir. 2025).

<sup>93</sup> *Id.*

<sup>94</sup> *Id.* Oral arguments were held on March 10, 2026.

<sup>95</sup> Section 501.202, F.S.

<sup>96</sup> *See* 15 U.S.C. s. 45.

<sup>97</sup> Sections 501.203(2) and 501.207(1)(c) and (2), F.S.; *see also* David J. Federbush, *FDUTPA for Civil Antitrust Additional Conduct, Party, and Geographic Coverage; State Actions for Consumer Restitution*, 76 FLA. BAR J. 52 (Dec. 2002), available at <https://www.floridabar.org/the-florida-bar-journal/fdutpa-for-civil-antitrust-additional-conduct-party-and-geographic-coverage-state-actions-for-consumer-restitution/> (analyzing the merits of FDUTPA and the potential for deterrence of anticompetitive conduct in Florida) (last visited April 15, 2026).

The DLA has enforcement authority when:

- The violation is multi-jurisdictional;
- The state attorney defers to the DLA in writing; or
- The state attorney fails to act within 90 days after a written complaint is filed.<sup>98</sup>

In certain circumstances, consumers may also file suit through private actions.<sup>99</sup>

The DLA and the state attorney's office have powers to investigate the FDUTPA claims, which include:<sup>100</sup>

- Administering oaths and affirmations;
- Subpoenaing witnesses or matter; and
- Collecting evidence.

The DLA and the state attorney's office may seek the following remedies:<sup>101</sup>

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders;<sup>102</sup> and
- Civil penalties of up to \$10,000 per willful violation.<sup>103</sup>

The FDUTPA may not be applied to certain entities in certain circumstances, including:<sup>104</sup>

- Any person or activity regulated under laws administered by the Office of Insurance Regulation or the Department of Financial Services; and
- Banks, credit unions, and savings and loan associations regulated by the Office of Financial Regulation or federal agencies.

### **Artificial Intelligence in Education**

Artificial intelligence (AI) provides opportunities to customize and accelerate learning for students and reduce teacher workload.<sup>105</sup> School districts are moving from policy guidance to deployment through major instructional platforms. For example, Miami-Dade Schools provides no-cost AI tools in the classroom and related supports for teachers and students.<sup>106</sup> Some districts are piloting AI tools for instructional support and personalization. Pasco County Schools has described using AI-driven tools to help staff identify student needs and support differentiated

<sup>98</sup> Section 501.203(2), F.S.

<sup>99</sup> Section 501.211, F.S.

<sup>100</sup> Section 501.206(1), F.S.

<sup>101</sup> Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

<sup>102</sup> Section 501.208, F.S.

<sup>103</sup> Section 501.2075, F.S.

<sup>104</sup> Section 501.212(4), F.S.

<sup>105</sup> Ch. 2024-162, Laws of Fla., codified as s. 1002.321(3), F.S.

<sup>106</sup> Miami-Dade County Public Schools, Innovation and Advancement, *Gemini in Classroom | AI Features* (Jun. 30, 2025), <https://mdcpsinnovation.com/gemini-in-classroom-ai-features/> (last visited Apr. 16, 2026); see also Google, *Miami-Dade County Public Schools uses Gemini for Education for 100,000 high school students and teachers* (Aug. 13, 2025), <https://blog.google/products-and-platforms/products/education/miami-dade-county-public-schools-uses-gemini-for-education-for-100000-high-school-students-and-teachers/> (last visited Apr. 16, 2026).

instruction.<sup>107</sup> However, school districts in Florida implement AI differently and are using different AI tools for educators and students. The AI tools most used by school districts are Microsoft Copilot, Canva, and Magicschool.ai, and the AI tools most used by students are Gemini for students, Khanmigo, Canva, and Microsoft Copilot.<sup>108</sup>

In 2024, the Legislature created the Florida Tutoring Advantage, administered by the University of Florida Lastinger Center for Learning to support school districts with tutoring programs that include virtual tutoring and automated tutoring software for students in kindergarten through grade 5.<sup>109</sup> A school district may receive grant funds for subscription fees and professional learning to support and accelerate learning for students in grades 6 through 12 during the school day. Grant recipients must select an AI platform that:

- Uses large language models based on GPT-4, its equivalent, or a successor, and is on a closed system.
- Provides professional learning to teachers.
- Provides one-on-one tutoring aligned to the Benchmarks for Excellent Student Thinking (B.E.S.T.) Standards for reading and mathematics.
- Provides standards-aligned lesson plans and provides insights on student progress. Provides district-and school-level reporting and parental access to artificial intelligence interactions.<sup>110</sup>

### **K-12 Student and Parent Rights**

The Legislature has determined that it is a fundamental right of parents to direct the upbringing, education, and care of their minor children. Important information relating to a minor child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the minor child's health, well-being, and education, while the minor child is in the custody of the school district.<sup>111</sup> Parents of public school students are required by law to receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child succeed in school.<sup>112</sup> K-12 students and their parents are afforded numerous statutory rights pertaining to student education,<sup>113</sup> which includes the right for a parent to object to instructional materials and other materials used in the classroom,<sup>114</sup> and the right to access their students' educational records.<sup>115</sup>

<sup>107</sup> GovTech, *Pasco County, Fla., Schools to Personalize Education With AI* (Jul. 10, 2025), <https://www.govtech.com/education/k-12/pasco-county-fla-schools-to-personalize-education-with-ai> (last visited Apr. 16, 2026).

<sup>108</sup> Dr. Maya Isreal, University of Florida, *Overview of AI in Florida Schools*, Presentation to the Student Academic Success Subcommittee, The Florida House of Representatives (Dec. 10, 2025), available at <https://www.flhouse.gov/Sections/Documents/loaddoc.aspx?MeetingId=14953&PublicationType=Committees&DocumentType=Meeting%20Packets> (last visited Jan. 26, 2026).

<sup>109</sup> Chapter 2024-162, s. 9, Laws of Fla.

<sup>110</sup> Section 1002.321(3), F.S.

<sup>111</sup> Section 1014.02, F.S.

<sup>112</sup> Section 1002.20, F.S.

<sup>113</sup> *Id.*

<sup>114</sup> Section 1014.05(1)(c), F.S.

<sup>115</sup> Section 1002.22(2), F.S.

### ***Instructional Materials***

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>116</sup> School districts may purchase instructional materials from a list of state-reviewed and adopted instructional materials or establish their own review and adoption program.<sup>117</sup> District school boards receive state funding for instructional materials through the instructional materials allocation.<sup>118</sup>

Each district school board is responsible for the content of all instructional materials and any other materials used in the classroom, made available in a school library, or included on a reading list. Each district school board must maintain on its website a current list of instructional materials, purchased by the district, separated by grade level. Florida law establishes that the parent of a public school student has the right to receive effective communication from the school principal about the manner in which instructional materials are used to implement curricular objectives.<sup>119</sup>

### ***Student Online Personal Information Protection***

Online service operators that have actual knowledge their product is used for K-12 school purposes, or that are designed and marketed for K-12 school purposes, are subject to student online information protection requirements governing the collection, use, maintenance, and disclosure of student “covered information” obtained through K-12 school purpose use.<sup>120</sup>

“Covered information” includes student personal identifying information and other specified student data created, provided, or gathered through use of an operator’s site, service, or application for K-12 school purposes.<sup>121</sup> “K-12 school purposes” includes instruction in the classroom or at home, administrative activities, and collaboration among students, school personnel, or parents.<sup>122</sup>

Such operators are prohibited from using covered information for targeted advertising, creating or compiling student profiles except in furtherance of K-12 school purposes, and selling, renting, or sharing covered information.<sup>123</sup> Operators must take specified protective steps, including limiting collection and use to what is needed for K-12 school purposes, implementing reasonable security procedures and practices, and deleting covered information at the conclusion of the course or corresponding program and no later than 90 days after a student is no longer enrolled in a school within the district when the district provides notice, unless a parent expressly consents to retention.<sup>124</sup>

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<sup>116</sup> Section 1006.28, F.S.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Section 1006.28(4)(a), F.S.

<sup>120</sup> Section 1006.1494, F.S.

<sup>121</sup> Section 1006.1494(1)(a), F.S.

<sup>122</sup> Section 1006.1494(1)(d), F.S.

<sup>123</sup> Section 1006.1494(2), F.S.

<sup>124</sup> Section 1006.1494(3), F.S.

### ***Parent Opt-out***

Parent consent is required for a number of educational provisions. Alternatively, parents are authorized to opt-out for the following:

- The teaching of reproductive health or any disease, including HIV/AIDS.<sup>125</sup>
- Any portion of the school district's comprehensive health education that relates to sex education instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality.<sup>126</sup>
- Any district-level data collection.<sup>127</sup>

## **III. Effect of Proposed Changes:**

### **Government Contracting**

**Section 1** amends s. 287.138, F.S., which prohibits a governmental entity from contracting with entities of foreign countries of concern under certain circumstances. The bill defines “artificial intelligence” as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that influence physical or virtual environments.

Beginning July 1, 2026, a governmental entity may not extend or renew a contract with an entity for artificial intelligence technology, software, or products, including as a portion or an option to the products or services provided under contracts if:

- The entity is owned by the government of a foreign country of concern;
- A government of a foreign country of concern has a controlling interest in the entity; or
- The entity is organized under the laws of, or has its principal place of business in, a foreign country of concern.

Beginning July 1, 2026, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into a contract with, an entity to provide artificial intelligence technology software, or products, including as a portion or an option to the products or services provided under the contract, unless the entity provides the governmental entity with a signed affidavit that is signed by an officer or representative of the entity under penalty of perjury attesting that the entity is not owned by the government of a foreign country of concern, a government of a foreign country of concern does not have a controlling interest in the entity, or the entity is not organized under the laws or have its principle place of business in a foreign country of concern.

### **The Artificial Intelligence Bill of Rights**

**Sections 2 and 3** creates part IX of ch. 501, F.S., to be entitled the “Artificial Intelligence Bill of Rights.”

**Section 4** creates s. 501.9982, F.S., to enumerate the rights Floridians have relating to the use of artificial intelligence:

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<sup>125</sup> Section 1002.20, F.S.

<sup>126</sup> Section 1014.05, F.S.

<sup>127</sup> *Id.*

- The right to use artificial intelligence to improve their own lives and the lives of family members, fellow residents, and the world at large in accordance with the law.
- The right to supervise, access, limit, and control their minor children’s use of artificial intelligence.
- The right to know whether they are communicating with a human being or an artificial intelligence system, program, or chatbot.
- The right to know if artificial intelligence technology companies are collecting personal information or biometric data, and the right to expect artificial technology companies to protect and deidentify that information or data in accordance with the law.
- The right to pursue civil remedies authorized by law against persons who use artificial intelligence to appropriate the name, image, or likeness of others for commercial purposes without consent.
- The right to be protected by law from criminal acts, such as fraud, exploitation, identity theft, stalking, and cyberbullying, regardless of whether artificial intelligence is used in the commission of those acts.
- The right to be protected by law from criminal acts relating to the alteration of existing images to create sexual or lewd or lascivious images or child pornography, regardless of whether artificial technology is used in the commission of those acts.
- The right to know whether political advertisements, electioneering communications, or similar advertisements were created in whole or in part with the use of artificial intelligence.
- The right to pursue civil remedies authorized by law against others who use artificial intelligence to slander, libel, or defame them.
- The right to prevent a companion chatbot from engaging with a user as a character that is protected by federal copyright law without the express written consent of the copyright owner.
- The right to prevent a companion chatbot from engaging with a user as a character that is a living individual without the express written consent of that individual.
- The right to prevent generative artificial intelligence from using a character that is protected by federal copyright law without the express written consent of the copyright owner.

The bill provides that “residents may exercise the aforementioned rights in accordance with existing law, and such rights may not be construed as creating new or independent rights or entitlements.”

## Definitions

**Section 5** provides the following definitions, which apply to the sections of law that create the “Artificial Intelligence Bill of Rights:”

- “Account holder” means an individual who opens an account or creates a profile or is identified by the companion chatbot platform by a unique identifier while he or she is using or accessing the platform, if the platform knows or has reason to believe the individual is a resident of Florida.
- “Artificial Intelligence” means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.

- “Artificial intelligence technology company” means a business or organization that produces, develops, creates, designs, or manufactures artificial intelligence technology or products, collects data for use in artificial intelligence products, or implements artificial intelligence technology.
- “Bot” means an automated online software application in which all or substantially all of the actions or posts of the account are not the result of a natural person.
- “Companion chatbot” means an artificial intelligence system with a natural language interface that provides adaptive, human-like responses to user inputs and is capable of meeting a user’s social needs by retaining information on prior interactions or user sessions and user preferences to personalize the interaction and facilitate ongoing engagement, asking unprompted or unsolicited emotion-based questions that go beyond a direct response to a user prompt, and sustaining an ongoing dialogue personalized to the user. The term does not include:
  - A chatbot used only for customer service; a business’s internal operational purposes, productivity and analysis; or uses related to source information, internal research, or technical assistance;
  - A chatbot that is a feature of a video game or theme park and is limited to replies related to the video game or theme park experience and does not discuss topics related to mental health, self-harm, or material harmful to minors or maintain a dialogue on other topics unrelated to the video game or theme park;
  - A stand-alone consumer electronic device that functions as a speaker and voice command interface, acts as a voice activated virtual assistant, and does not sustain a relationship across multiple interactions or generate outputs likely to elicit emotional responses in the user; or
  - An artificial intelligence instructional tool, as defined in s. 1006.1495.
- “Companion chatbot platform” means a platform that allows a user to engage with companion chatbots.
- “Deidentified data” means data that cannot reasonably be linked to an identified or identifiable individual or a device linked to that individual.
- “Department” means the Department of Legal Affairs (DLA).
- “Material harmful to minors” has the same meaning as in s. 501.1737(1), F.S.
- “Operator” means a person who owns, operates, or otherwise makes available a bot to individuals in Florida.
- “Pop-up” means a visible notification on the computer, tablet, or smartphone screen of a user which may be resolved if the user interacts with or responds to the notification.
- “Resident” means an individual who has resided in Florida for more than 6 months during the preceding 12-month period.
- “Theme park” has the same meaning as theme park or entertainment complex in s. 509.013.<sup>128</sup>
- “User” means an individual who resides or is domiciled in Florida and who accesses an Internet website, online or cloud-computing service, online application, or mobile application.

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<sup>128</sup> Section 509.013(9), F.S., provides that “theme park or entertainment complex” means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

- “Video game” means a game played on an electronic amusement device that uses a computer, microprocessor, or similar electronic circuitry and its own monitor, or is designed to be used with a television set or a computer monitor, to interact with the user of the device.

### **Companion Chatbot Use for Minors**

**Section 6** creates s. 501.9984, F.S., which provides regulations pertaining to the use of companion chatbots by minors.

The bill requires a companion chatbot platform to prohibit a minor from entering into a contract with the platform to become an account holder or from maintaining an existing account, unless the minor’s parent or guardian provides consent for the minor to become an account holder or maintain an existing account.

If the parent or guardian of a minor provides consent for the minor to become an account holder or maintain an existing account, the companion chatbot platform must allow the consenting parent or guardian of the minor account holder to:

- Receive copies of all past or present interactions between the account holder and the companion chatbot;
- Limit the amount of time that the account holder may interact with the companion chatbot each day;
- Limit the days of the week and the times during the day when the account holder may interact with the companion chatbot;
- Disable any of the interactions between the account holder and third-party account holders on the companion chatbot platform; and
- Receive timely notifications if the account holder expresses to the companion chatbot a desire or an intent to engage in self-harm or to harm others.

The bill requires a companion chatbot platform to do all of the following;

- Terminate any account or identifier belonging to an account holder who is a minor if the companion chatbot platform treats or categorizes the account or identifier as belonging to a minor for purposes of targeting content or advertising and if the minor’s parent or guardian has not provided consent for the minor to become an account holder or to maintain an existing account;<sup>129</sup>
- Allow an account holder who is a minor to request to terminate the account;<sup>130</sup>
- Allow the consenting parent or guardian of an account holder who is a minor to request the minor’s account or identifier be terminated;<sup>131</sup> and
- Permanently delete all personal information held by the companion chatbot platform relating to the terminated account, unless state or federal law requires the platform to maintain the information.

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<sup>129</sup> The bill requires the companion chatbot platform to provide 90 days for the account holder to dispute the termination. Termination must be effective upon the expiration of the 90 days if the account holder fails to effectively dispute the termination.

<sup>130</sup> The bill provides that termination must be effective within 5 business days after the request.

<sup>131</sup> The bill requires to termination to be effective within 10 business days after the request.

In connection with all accounts or identifiers held by account holders who are minors, the bill requires a companion chatbot platform to do all of the following:

- Disclose to the account holder that he or she is interacting with artificial intelligence;
- Provide by default a clear and conspicuous notification to the account holder, at the beginning of companion chatbot interactions and at least once every hour during continuing interactions, reminding the minor to take a break and that the companion chatbot is artificially generated and not human; and
- Institute reasonable measures to prevent its companion chatbot from producing or sharing materials harmful to minors or encouraging the account holder to engage in any of the content described or depicted in materials harmful to minors.

### **Right to Cure**

After the DLA has notified a companion chatbot platform in writing of an alleged violation, the DLA may grant the companion chatbot platform 45 calendar days to cure the alleged violation and may issue a letter of guidance stating that the companion chatbot platform will not be given another 45-calendar-day cure period for any future violation. The DLA may consider the number and frequency of violations, the substantial likelihood of injury to the public, and the safety of persons or property in determining whether to grant the companion chatbot platform the ability to cure a violation and issue a letter of guidance.

The cure period does not apply to an alleged violation where the companion chatbot platform willfully or knowingly disregarded the account holder's age.

The companion chatbot platform may provide for the DLA's consideration information that shows that the reasonable measures taken by the platform include controls aligned with the latest versions of the National Institute of Standards and Technology AI Risk Management Framework, ISO 42001.<sup>132</sup> Such information may include structured interaction logs, status of parental access controls, harm-signal detection and response procedures enacted, and verified deletion events.

If the alleged violation is cured to the satisfaction of the DLA, and proof of such cure is provided to the DLA, the DLA may not bring an action for the alleged violation, but may issue a letter of guidance stating that the companion chatbot platform will not be offered a 45-calendar-day cure period for any future violation of this section. However, if the companion chatbot platform fails to cure the alleged violation within 45 calendar days, the DLA may bring an action against such platform for the alleged violation.

### **Enforcement and Penalties**

The bill establishes that a knowing or reckless violation of the section regulating companion chatbot use for minors is deemed a deceptive or unfair trade practice or act actionable under part II of ch. 501, F.S., solely by the DLA against a companion chatbot platform. The DLA is also given enforcement authority.

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<sup>132</sup> This is a standard for managing AI risks and provides a framework for establishing, implementing, maintaining, and improving AI management systems.

In addition to the other remedies under the FDUTPA, the DLA is authorized to collect a civil penalty of up to \$50,000 per violation and reasonable attorney fees and court costs. If there is a consistent pattern of knowing or reckless conduct, punitive damages may be assessed against a companion chatbot platform.

A companion chatbot platform that knowingly or recklessly violates this section is liable to a minor account holder for up to \$10,000 in damages, as well as court costs and reasonable attorney fees as ordered by the court.<sup>133</sup> A civil claim must be brought within 1 year after the date the complainant knew, or reasonably should have known, of the alleged violation.

For the purposes of bringing an action under the section of the bill regulating companion chatbot use for minors, a companion chatbot platform that allows a minor account holder in Florida to create an account on the platform is considered to be both in substantial and not isolated activities within Florida and operating, conducting, engaging in, or carrying on business in Florida, and is therefore subject to the jurisdiction of the courts of Florida.

The bill establishes that if a companion chatbot platform allows a minor account holder to use the companion chatbot platform, the parties have entered into a contract.

The bill grants rulemaking authority to the DLA.

### **Consumer Protections Regarding Bots**

**Section 7** creates s. 501.9985, F.S., to provide protection to consumers that engage with bots.

The bill requires an operator to display a pop-up message or other prominent notification notifying the user, or if the interaction is not through a device with a screen, otherwise inform the user, that they are not engaging with a human counterpart at the beginning of an interaction between a user and a bot, and at least once every hour during the interaction. This section does not apply to a bot that is used solely by employees within a business for its internal operational purposes.

### **Right to Cure**

After the DLA has notified an operator in writing of an alleged violation, the DLA may grant the operator 45 calendar days to cure the alleged violation and may issue a letter of guidance stating that the companion chatbot platform will not be offered another 45-day cure period for any future violations. The DLA may consider the number and frequency of violations, the substantial likelihood of injury to the public, and the safety of persons or property in determining whether to grant an operator 45 calendar days to cure and issue the letter of guidance.

The operator may provide for the DLA's consideration, information that demonstrates that the operator provides persistent and conspicuous identity indicators and accessible disclosures which

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<sup>133</sup> The bill provides that an action brought under s. 501.9984(4), F.S., may only be brought on behalf of a minor account holder.

are in conformity with the latest versions of the National 351 Institute of Standards and Technology AI Risk Management 352 Framework, ISO 42001.<sup>134</sup>

If the alleged violation is cured to the satisfaction of the DLA and proof of such cure is provided to the DLA, the DLA may not bring an action for the alleged violation but may issue a letter of guidance that indicates that the operator will not be offered a 45-calendar day cure period for any future violations. However, if the operator fails to cure the alleged violation within 45 calendar days, the DLA may bring an action against such platform for the alleged violation.

### **Enforcement and Penalties**

A violation of the section of the bill providing protection to consumers that engage with bots is deemed a deceptive or unfair trade practice or act actionable under part II of ch. 501, F.S., solely by the DLA on behalf of a user of a bot.<sup>135</sup> The DLA is also given enforcement authority, and in addition to any other remedy under part II of ch. 501, F.S., the DLA may collect a civil penalty of up to \$50,000 per violation, as well as reasonable attorney fees and court costs.

For the purpose of bringing an action pursuant to the section of the bill providing protection to consumers that engage with bots, a person who meets the definition of an operator that owns, operates, or otherwise makes available a bot to individuals in Florida is considered to be both engaged in substantial and not isolated activities within Florida and operating, conducting, engaging in, or carrying on a business and doing business in Florida, and is therefore subject to the jurisdiction of the courts of Florida.

The bill grants rulemaking authority to the DLA.

### **Deidentified Data**

**Section 8** prohibits an artificial technology company from selling or disclosing personal information of users unless the information is deidentified data. However, this does not prohibit the sale or disclosure of information specifically authorized by federal law.

The bill defines “deidentified data” as data that cannot reasonably be linked to an identified or identifiable individual or device linked to that individual.

The bill requires an artificial intelligence technology company in possession of deidentified data to do all of the following:

- Take reasonable measures to ensure that the data cannot be associated with an individual;
- Maintain and use the data in deidentified form;<sup>136</sup>

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<sup>134</sup> This is a standard for managing AI risks and provides a framework for establishing, implementing, maintaining, and improving AI management systems.

<sup>135</sup> The bill provides that for the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212, F.S., do not apply. Section 501.211, F.S., provides for individual remedies under the FDUTPA, and s. 501.212, F.S., provides for application of the FDUTPA.

<sup>136</sup> The bill provides that an artificial intelligence technology company may not attempt to reidentify the data, except the company may attempt to reidentify the data solely for the purpose of determining whether its deidentification processes satisfy the requirements of this section of the bill.

- Contractually obligate a recipient of the deidentified data to comply with the section of the bill prohibiting the sell or disclosure of user's information unless such information is deidentified data; and
- Implement business processes to prevent the inadvertent release of deidentified data.

### **Right to Cure**

After the DLA has notified an artificial intelligence technology company in writing of an alleged violation, the DLA may grant the artificial intelligence technology company 45 calendar days to cure the alleged violation and may issue a letter of guidance stating that the artificial intelligence technology company will not be offered another 45-calendar-day cure period for any future violations. The DLA may consider the number and frequency of violations, the substantial likelihood of injury to the public, and the safety of persons or property in determining whether to grant the artificial intelligence technology company 45 calendar days to cure and issue the letter of guidance.

The artificial intelligence technology company may provide to the DLA for their consideration, information that shows the company maintains a risk management program that:

- Validates the company's information security and privacy controls against a recognized framework aligned with the latest versions of the National Institute of Standards and Technology AI Risk Management Framework, ISO 42001,<sup>137</sup> and
- Includes assessed controls for deidentification, contractual flow-down, non-reidentification, inadvertent release prevention, monitoring, and auditing sufficient to demonstrate that the company is taking reasonable measures to meet the requirements of this section.

If the alleged violation is cured to the satisfaction of the DLA and proof of such cure is provided to the DLA, the DLA may not bring an action for the alleged violation but may issue a letter of guidance that indicates that the artificial intelligence technology company will not be offered another 45-calendar-day cure period for any future violations. However, if the artificial intelligence technology company fails to cure the alleged violation within the 45-calendar-day cure period, the DLA may bring an action against such company for the alleged violation.

### **Enforcement and Penalties**

A violation of the section of the bill prohibiting the sell or disclosure of user's information unless such information is deidentified data is deemed a deceptive or unfair trade practice or act actionable under part II of ch. 501, F.S., solely by the DLA.<sup>138</sup> The DLA is also given enforcement authority, and in addition to any other remedy under part II of ch. 501, F.S., the DLA may collect a civil penalty of up to \$50,000 per violation, as well as reasonable attorney fees and court costs.

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<sup>137</sup> This is a standard for managing AI risks and provides a framework for establishing, implementing, maintaining, and improving AI management systems.

<sup>138</sup> The bill provides that for the purpose of bringing an action pursuant to this section, ss. 501.211 and 501.212, F.S., do not apply. Section 501.211, F.S., provides for individual remedies under the FDUTPA, and s. 501.212, F.S., provides for application of the FDUTPA.

For the purpose of bringing an action pursuant to the section of the bill prohibiting the sell or disclosure of user's information unless such information is deidentified data, a person who meets the definition of an artificial intelligence technology company that produces, develops, creates, designs, or manufacturers artificial intelligence technology or products, collects data for use in artificial intelligence products, or implements artificial technology in Florida is considered to be both engaged in substantial and not isolated activities within Florida and operating, conducting, engaging in, or carrying on a business, and doing business in Florida, and is therefore subject to the jurisdiction of the courts of Florida.

The bill grants rulemaking authority to the DLA.

### **Investigations by the DLA**

**Section 9** creates s. 501.9987, F.S., to provide guidelines for investigations by the DLA. If, by its own inquiry or as a result of complaints, the DLA has reason to believe that a person has engaged in, or is engaging in, a practice or an act that violates the Artificial Intelligence Bill of Rights, the DLA may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.

Within 5 days, excluding weekends and legal holidays, after service of a subpoena or at any time before the return date specified in the subpoena, whichever time period is longer, the party served may file a petition for an order modifying or setting aside the subpoena. The petitioner may raise any objection or privilege that would be available upon service of a subpoena in a civil action. Additionally, the subpoena must inform the party served of the party's rights under the section of the bill providing guidelines for investigations by the DLA.

If the matter that the DLA seeks to obtain by subpoena is located outside of Florida, the person subpoenaed may make the matter available to the DLA or its representative at the place where it is located. The DLA may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf and respond to similar requests from officials of other states.

The bill also authorizes the DLA to request that a person who refuses to comply with a subpoena on the grounds that the testimony or matter may be self-incriminating be ordered by the court to provide the testimony or matter. Except for prosecution for perjury, a person who complies with a court order to provide testimony or matter after asserting a valid privilege against self-incrimination may not have the testimony or matter so provided, or evidence deprived from the testimony or matter, received against the person in any criminal investigation or proceeding.

A person whom a subpoena is served pursuant to an investigation under the Artificial Intelligence Bill of Rights must comply with its terms unless otherwise provided by order of the court. A person who fails to appear, with the intent to avoid, evade, or prevent compliance in whole or in part with an investigation under the Artificial Intelligence Bill of Rights, or who removes from any place, conceals, withholds, mutilates, alters, or destroys, or by any other means falsifies any documentary material in the possession, custody, or control of a person subject to subpoena, or who knowingly conceals relevant information with the intent to avoid,

evade, or prevent compliance, is liable for a civil penalty of not more than \$5,000 per week in violation, reasonable attorney fees, and costs.

The bill grants rulemaking authority to the DLA.

### **Unauthorized Publication of Name, Image, or Likeness**

**Section 10** amends s. 540.08, F.S., to prohibit a person from publishing, printing, displaying, or otherwise publicly using for trade or for any commercial or advertising purpose the name, portrait, photograph, image, or other likeness of an individual created through generative artificial intelligence without the express written or oral consent to such use. Such consent may be given by any of the following:

- The individual;
- Any other person authorized in writing by the individual to license the commercial use of the individual’s name, image, or likeness; or
- If the individual is deceased, a person authorized in writing to license the commercial use of the individual’s name, image, or likeness, or if a person is not authorized, any one individual from a class composed of the deceased individual’s surviving spouse and surviving children.<sup>139</sup>

The bill provides the following definitions:

- “Generative artificial intelligence” means a machine-based system that can, for a given set of human-defined objectives, emulate the structure and characteristics of input data in order to generate derived synthetic content, including images, videos, audio, text, and other digital content.
- “Person” has the same meaning as in s. 1.01(3), F.S.<sup>140</sup>
- “Servicemember” has the same meaning as in s. 250.01, F.S., and includes any officer or enlisted member who died from service-connected causes while on active duty.<sup>141</sup>
- “Surviving children” means an individual’s immediate offspring and any children legally adopted by the individual.
- “Surviving spouse” means an individual’s surviving spouse under the law of the individual’s domicile at the time of the individual’s death, regardless of whether the spouse later remarried.

The bill adds “image” throughout s. 540.08, F.S., to provide that a person is prohibited from publishing, printing, displaying, or otherwise publicly using for the purpose of trade or for any commercial or advertising purpose the name, portrait, photograph, image, or other likeness of an individual without express written or oral consent.

The bill changes “person” to “individual” throughout s. 540.08, F.S.

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<sup>139</sup> The bill provides that a legal parent or guardian may give consent on behalf of a minor surviving child.

<sup>140</sup> Section 1.01(3), F.S., defines “person” as including individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

<sup>141</sup> Section 250.01, F.S., defines “servicemember” as any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

The bill provides that this section does not apply to the publication, printing, display, or use of the name, portrait, photograph, image, or other likeness of an individual created through generative artificial intelligence in a newspaper, magazine, book, news broadcast or telecast, radio broadcast, or other news medium or publication if the generative artificial intelligence is used as part of a bona fide news report or presentation and that report or presentation contains a clear acknowledgement of speculation regarding the authenticity of the materials which are the subject of the report or presentation.

The bill clarifies that a legal parent or guardian may give consent on behalf of a minor surviving child.

### **Artificial Intelligence Instructional Tools**

**Section 12** creates s. 1006.1495, F.S., which establishes a statewide framework for artificial intelligence instructional tools used by educational entities, including definitions, parent notice, opt-outs, parent or eligible student read-only account access, and construction. The bill excludes an artificial intelligence instructional tool from the definition of “companion chatbot,” thereby exempting such tools from the companion chatbot platform requirements in the bill.

The bill provides the following definitions:

- “Artificial intelligence instructional tool” means a software application or service that uses artificial intelligence, including machine learning, which is made available to a student by an educational entity for educational purposes, including instruction, tutoring, practice, feedback, or completing educator-directed assignments, and that is not designed, marketed, or configured to:
  - Meet a student’s social needs;
  - Simulate friendship, companionship, or an emotional relationship with a student; or
  - Employ relationship-building or anthropomorphic design features for the purpose of encouraging a student to continue interacting with the system.
- “Educational entity” means a school district, a public school, or a private school. The term includes a VPK provider meaning a private prekindergarten provider or a public school prekindergarten provider, as those terms are defined in s. 1002.51, F.S., which delivers the Voluntary Prekindergarten Education Program under part V of chapter 1002, F.S.
- “Operator” means a person who operates an artificial intelligence instructional tool and collects, receives, maintains, or uses student information or student-generated content through the tool.
- “Parent” includes a parent, guardian, or other person with legal authority to make educational decisions for a student.
- “Private school” has the same meaning as in s. 1002.01(3), F.S.<sup>142</sup>

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<sup>142</sup> Section 1002.01(3), F.S., defines “private school” as a nonpublic school defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(16), F.S., or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 1005, F.S. A

- “Public school” means a component described in s. 1000.04(2), (4), (5), or (6), F.S.<sup>143</sup>

An educational entity is prohibited from providing students with access to an artificial intelligence instructional tool before grade 6 unless such use is:

- Directed and supervised by school personnel;
- For translation or similar support necessary for a student identified as an English language learner; or
- For accommodations, assistive technology, or similar support necessary for a student with a documented disability.

Before a student is provided access credentials for an artificial intelligence instructional tool, the educational entity must provide the parent of a minor student with notice that:

- Identifies the tool and its educational purpose;
- Describes, in general terms, how the tool will be used by students;
- Explains how the parent may exercise the opt-out process; and
- Explains how the parent may access the student’s account or request access to information and account activity, including the method for submitting a written request.

A parent of a minor student must be provided the opportunity to opt out of the student’s use of an artificial intelligence instructional tool. The opt-out process must align with the educational entity’s existing policies for parental notice, consent, objection, or opt-out for instructional materials, digital tools, or online accounts, as applicable. If a parent opts out and the student is enrolled in a Florida public school, the school district or public school must provide an alternative instructional activity that allows the student to meet a comparative educational requirement without penalty.

At the time an operator provides a student’s access credentials or otherwise provides or enables student access to an educational entity for an artificial intelligence instructional tool, the operator must simultaneously provide to the educational entity a means to authorize the parent of a minor student to access information and account activity maintained within the artificial intelligence instructional tool. The operator may satisfy this requirement by:

- Providing the parent of a minor student credentials or another method for read-only access to the student’s account; or
- Upon written request from the parent of a minor student, providing access to the information and account activity maintained within the tool, in accordance with applicable state and federal law, within 30 days after receipt of the request. The educational entity must inform the parent of the right to make such a request and the method for submitting the request.

If an educational entity satisfies the parent-access requirement by using the read-only credential or access-method option, the educational entity must provide the credentials or other access method at the time the educational entity provides the student access credentials or otherwise enables student access.

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private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41, F.S.

<sup>143</sup> This includes Public K-12 schools, the Florida School for the Deaf and the Blind, The Florida Virtual School, and the Florida Scholars Academy.

Section 1006.1495(4), F.S., does not require an operator or an educational entity to create or retain a transcript or record of student interactions beyond information otherwise maintained in the ordinary course of providing access to the tool.

Section 1006.1495, F.S., does not alter a parent's rights under state or federal law to access student education records or an educational entity's obligations under applicable state and federal student privacy laws.

### **Private Schools**

The bill requires private schools to comply with s. 1006.1495, F.S., when providing student access to an artificial intelligence instructional tool.

### **Incorporating Changes and Effective Date**

**Sections 13 and 14** reenact ss. 540.10 and 743.08, F.S., respectively, to incorporate the changes made to s. 540.08, F.S.

**Section 15** of the bill provides an effective date of July 1, 2026.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

Article VI, Paragraph 2 of the U.S. Constitution, commonly referred to as the Supremacy Clause, establishes that the federal constitution, and federal law generally, take precedence over state laws and constitutions. The Supremacy Clause also prohibits states from interfering with the federal government's exercise of its constitutional powers and from assuming any functions that are exclusively entrusted to the federal government. It

does not, however, allow the federal government to review or veto state laws before they take effect.<sup>144</sup>

The First Amendment to the U.S. Constitution guarantees that “Congress shall make no law ... abridging the freedom of speech.”<sup>145</sup> Generally, “government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.”<sup>146</sup> The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.<sup>147</sup>

In most circumstances, these protections “are no less applicable when government seeks to control the flow of information to minors”<sup>148</sup> as states do not possess “a free-floating power to restrict the ideas to which children may be exposed.”<sup>149</sup>

Many of the questions regarding the constitutionality of age verification laws may concern whether such laws are sufficiently narrow to avoid inhibiting more speech than necessary. The degree of tailoring required may vary depending on whether a given law is content-based or content-neutral. In both circumstances, a law’s constitutionality depends on several factors, including the:

- Strength of the government’s interest.
- Amount of protected speech that the law directly or indirectly restricts.
- Availability of less speech-restrictive alternatives.<sup>150</sup>

Content-neutral regulations on free speech are legitimate if they advance important governmental interests that are not related to suppression of free speech, do so in a way that is substantially related to those interests, and do not substantially burden more speech than necessary to further those interests.<sup>151</sup>

The U.S. Supreme Court regards content-based laws, which limit communication because of the message it conveys, as presumptively unconstitutional.<sup>152</sup> Such a law may be justified only if the government shows that the law is required to promote a compelling state interest and that the least restrictive means have been chosen to further that articulated interest.<sup>153</sup>

In general, the U.S. Supreme Court has held that requiring adults to prove their age to access certain content is an unconstitutional, content-based limit on free speech, when

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<sup>144</sup> Cornell Law School, Legal Information Institute, *Supremacy Clause*, [https://www.law.cornell.edu/wex/supremacy\\_clause](https://www.law.cornell.edu/wex/supremacy_clause) (last visited Feb. 19, 2026).

<sup>145</sup> U.S. CONST. amend. I.

<sup>146</sup> *Police Dept. of City of Chicago v. Mosley*, 408 U.S. 92, 95 (1972).

<sup>147</sup> U.S. CONST. amend. XIV; *see also* FLA. CONST., art. I.

<sup>148</sup> *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 214 (1975).

<sup>149</sup> *Brown v. Ent. Merchants Ass’n*, 564 U.S. 786, 794 (2011).

<sup>150</sup> Eric N. Holmes, Congressional Research Service, *Online Age Verification (Part III): Select Constitutional Issues* (CRS Report No. LSB11022, August 17, 2023), available at <https://crsreports.congress.gov/product/pdf/LSB/LSB11022>.

<sup>151</sup> *Turner Broadcasting System, Inc. v. F.C.C.*, 520 U.S. 180, 189 (U.S. 1997).

<sup>152</sup> *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

<sup>153</sup> *Sable Commc’s of California, Inc. vs. F.C.C.*, 492 U.S. 115, 126 (1989).

there are less restrictive means to curb access to minors, such as filters and parental controls.<sup>154</sup>

According to Justice O’Connor’s *Reno* dissent, because technology was insufficient for ensuring that minors could be excluded while still providing adults full access to protected content, the age verification provision was viewed as ultimately unconstitutional; however, she contemplated the possibility that future technological advances may allow for a constitutionally sound age verification law.<sup>155</sup>

In June of 2025, the U.S. Supreme Court upheld a Texas law that requires commercial pornography websites to verify the age of their users.<sup>156</sup> The court applied intermediate scrutiny and upheld the law as constitutional because it merely imposes an incidental burden on adults’ protected speech while serving the state’s important interest in shielding children from harmful content.<sup>157</sup>

Experts assert that age verification systems have progressed considerably from a generation ago when the U.S. Supreme Court held that age verification methods often failed and were too burdensome for law-abiding adults.<sup>158</sup> Currently, there are numerous minimally invasive verification techniques that do not require sharing any age verification information at all with social media platforms.<sup>159</sup>

Additionally, in determining whether laws requiring age verification to access social media platforms unconstitutionally restrict free speech, courts have found that even if “the state has the power to enforce parental prohibitions it does not follow that the state has the power to prevent children from hearing or saying anything without their parents’ prior consent.”<sup>160</sup> Moreover:

[A]ge-verification requirements are more restrictive than policies enabling or encouraging users (or their parents) to control their own access to information, whether through user-installed devices and filters or affirmative requests to third-party companies. “Filters impose selective restrictions on speech at the receiving end, not universal restrictions at the source.” And “[u]nder a filtering regime,

<sup>154</sup> *Reno v. Am. C. L. Union*, 521 U.S. 844, 874 (1997); *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 666 (2004); Ronald Kahn, *Reno v. American Civil Liberties Union (1997)*, Free Speech Center at Middle Tennessee State University, Dec. 15, 2023, <https://firstamendment.mtsu.edu/article/reno-v-american-civil-liberties-union/>.

<sup>155</sup> *Reno*, 521 U.S. at 886-91 (O’Connor concurring in part and dissenting in part). The court also considered overbreadth and vagueness arguments, and determined that the Communications Decency Act of 1996 was too broad and vague. *Id.* at 883-84.

<sup>156</sup> *Free Speech Coalition, Inc. v. Paxton*, 606 U.S. 461 (2025).

<sup>157</sup> *Id.* See also *Computer & Communications Industry Association v. Uthmeier*, 95 F.4th 1022 (11th Cir. 2025), where the U.S. Court of Appeals for the Eleventh Circuit stayed the district court’s preliminary injunction, and thus Florida’s law that prohibits minors under 14 from having social media accounts and requires parental consent for 14- and 15-year-olds can be enforced while the appeal proceeds.

<sup>158</sup> Broadband Breakfast, *Improved Age Verification Allows States to Consider Restricting Social Media*, Nov. 20, 2023, <https://broadbandbreakfast.com/2023/11/improved-age-verification-allows-states-to-consider-restricting-social-media/>; *Reno*, 521 U.S. at 886 (1997); *Ashcroft*, 542 U.S. at 666.

<sup>159</sup> The Federalist Society, *Age Verification for Social Media: A Constitutional and Reasonable Regulation*, Aug. 7, 2023, <https://fedsoc.org/commentary/fedsoc-blog/age-verification-for-social-media-a-constitutional-and-reasonable-regulation>.

<sup>160</sup> *NetChoice, LLC v. Yost*, 2024 WL 104336, \*8 (S.D. Ohio Jan. 9, 2024) (internal citations and quotations omitted).

adults ... may gain access to speech they have a right to see without having to identify themselves[.]” Similarly, the State could always “act to encourage the use of filters ... by parents” to protect minors.<sup>161</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Companion chatbot platforms, operators, and artificial intelligence technology companies will be required to implement the provisions of the bill.

C. Government Sector Impact:

The bill may have a workload impact on the Department of Legal Affairs due to the department’s enforcement authority provided in this bill. It is anticipated that the department has sufficient existing resources for this workload impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 501.9981, 501.9982, 501.9983, 501.9984, 501.9985, 501.9986, 501.9987, and 1006.1495.

The bill substantially amends the following sections of the Florida Statutes: 287.138, 540.08, 540.10, 743.08, and 1002.42.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>161</sup> *NetChoice, LLC v. Griffin*, 2023 WL 5660155, \*21 (W.D. Ark. Aug. 31, 2023) (internal citations omitted).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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