

HOUSE RESEARCH

Bill Summary

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Subject: Establishing the Minnesota Child, Family and School Communications Protection Act

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Overview

Proposes to establish a process for regulating electronic messages that minors and others receive and imposes criminal and civil penalties for violations of the process.

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1 Minnesota Child, Family and School Communications Protection Act.

Subd. 1. Citation. Cites the section as the Minnesota Child, Family and School Communications Protection Act.

Subd. 2. Definitions. Defines contact point, Internet domain name, minor, person and service for purposes of this section.

Subd. 3. Minnesota child, family and school communications protection service.

(a) Directs the education department to establish and operate, or contract with a qualified provider to establish and operate the Minnesota child, family and school communications protection service.

(b) Allows Minnesota residents and entities under paragraph (d) to register a contact

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point with the department.

(c) Limits registration to three years. Allows registrations to be revoked and renewed.

(d) Allows schools and other entities serving minor children to register contact points with the department. Allows entities to register all contact points and an Internet domain name using one registration.

(e) Prohibits the department from assessing fees or charges for registering a person's contact point.

(f) Directs a person sending a message under subdivision 4 to pay the department a fee of \$.001 for each contact point checked using the mechanism available to verify compliance with the service.

(g) Requires the service to be fully operational by July 1, 2007.

Subd. 4. Messages to contact points. (a) Prohibits a person from sending a message to a contact point that has been registered with the service for at least 30 days if the purpose of the message is to advertise or sell a product or service that a minor is prohibited by law from receiving.

(b) Requires a person sending a message to use the mechanism described in subdivision 3, paragraph (f).

(c) Grants immunity from liability for inadvertent violations committed by senders acting in good faith that use the mechanism under subdivision 3, paragraph (f), to remove contact points from their sending lists at least every 30 days.

(d) Declares that, with certain exceptions, consent to receiving a message is not a defense to a violation of this section.

(e) Declares that a person who serves as an intermediary in the transmission of an electronic message or unknowingly transmits an electronic message does not violate this section.

(f) Declares that sending a message is prohibited only if it is a crime for a minor to receive the product or service.

(g) Assumes senders' notice of jurisdiction over contact points registered for at least 30 days. Declares that sending a message to an address registered for at least 30 days subjects the sender to the state's long arm jurisdiction.

(h) Does not prohibit the sending of a message if the sender received consent from an adult whose age the sender verified. Requires the sender under this paragraph to use a valid photo identification to verify that the person consenting to receive the message

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at the contact point is an adult, obtain and retain the recipient's written consent, indicate in each message sent to the recipient that the recipient may rescind consent and opt not to receive subsequent messages and notify the department of the sender's intent to transmit messages.

Allows the department to audit the sender's records to verify the sender's compliance with this section.

Subd. 5. Prohibition. (a) Prohibits persons from releasing information about others or provide access to contact points or other information contained on the service and obtained through using the service, selling or using service contents, and accessing or attempting to access the service.

(b) Declares service records and documents to be private data.

Subd. 6. Violations; penalty. Declares that a violation of this section is a computer crime and a felony that is punishable by up to five years' imprisonment and a \$100,000 fine. Allows a treble fine if a minor views the message. Makes each violation a separate offense.

Subd. 7. Civil action. (a) Allows an individual or registrant of a contact point, a person through whose facility an impermissible message is transmitted and the attorney general to bring actions under this section.

(b) Allows the prevailing party to be award reasonable attorneys fees. Lists the amounts a person bringing an action may recover.

(c) Makes a person's failure to revoke consent an affirmative defense in a civil action but not in a criminal action and not if the person bringing the action is the attorney general or the person through whose facility a message is transmitted.

(d) Allows the attorney general to investigate the business transactions of a person the attorney general believes has violated this section. Allows the attorney general to require the person to appear, give information under oath and produce documents and evidence to show whether the person complied with this section.

Subd. 8. Rules. Directs the education commissioner to adopt rules to implement this section.