

File No. 230142

Committee Item No. _____

Board Item No. 33

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: February 14, 2023

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER

- SB 287 020223
- CSAC/LCC Confirmation 020723
- _____
- _____
- _____
- _____

Prepared by: Arthur Khoo

Date: February 9, 2023

Prepared by: _____

Date: _____

1 [Supporting California Senate Bill No. 287 (Skinner) - Features that Harm Child Users: Civil
2 Penalty]

3 **Resolution supporting California State Senate Bill No. 287, introduced by Senator**
4 **Nancy Skinner, that would prohibit a social media platform, as defined, from using a**
5 **design, algorithm, or feature that the platform knows, or which by the exercise of**
6 **reasonable care should have known, causes child users to harmful practices and/or**
7 **behaviors, including experience addiction to the social media platform.**

8
9 WHEREAS, Algorithms are designed and used on social media platforms to sort
10 content in a user’s feed, prioritizing content that the user sees, which can in turn increase the
11 likelihood that the user will want to see and engage with that algorithm-selected content; and

12 WHEREAS, Research demonstrates that social media companies’ algorithms direct
13 their users to specific content, including content that promotes dangerous and harmful
14 practices; and

15 WHEREAS, Research also shows that algorithms do not particularly respond to
16 content desired or relevant to the user, rather target the user with content chosen by the
17 algorithm; and

18 WHEREAS, An analysis of YouTube found that videos got millions of views even
19 though they were not relevant to the user but were chosen by the algorithm and that 64
20 percent of users came across videos that seemed false or untrue, while 60 percent
21 encountered videos with people taking part in dangerous or troubling behavior; and

22 WHEREAS, Studies have shown that social media has a powerful effect on the brain,
23 and it can create stimulating effects similar to addiction; and

24
25

1 WHEREAS, Adolescence is the second biggest period of growth in the brain, which
2 makes teens particularly susceptible to addictiveness of social media, as their brains and
3 social skills are rapidly developing; and

4 WHEREAS, A recent study published in the Journal of the American Medical
5 Association (JAMA) revealed that teens who use social media more than three hours per day
6 may be at heightened risk for mental health problems; and

7 WHEREAS, Since the pandemic there has been an uptick in depression and anxiety
8 among teens, specifically low self-esteem, disordered eating, body image issues and suicidal
9 thoughts; and

10 WHEREAS, A survey published by the nonprofit research organization Common Sense
11 Media found that overall screen use among teens and tweens increased by 17 percent from
12 2019 to 2021 - growing more rapidly than in the four years prior; and

13 WHEREAS, The Drug Enforcement Administration (DEA) published the abuse of social
14 media by criminal drug networks to expand their reach, create new markets, and target new
15 clientele, including the sale of deadly fake fentanyl and methamphetamine pills, often to
16 unsuspecting teenagers; and

17 WHEREAS, The DEA has also identified that drug traffickers advertise on social media
18 platforms like Facebook, Instagram, Snapchat, TikTok, Twitter and YouTube with secret
19 codes and emojis that make it easier to evade; and

20 WHEREAS, In 2021, the California Department of Public Health reported 5,722
21 fentanyl-related overdose deaths in California, 224 of which were teens ages 15-19 years old;
22 and

23 WHEREAS, SB 287 bill would prohibit social media companies from using algorithms
24 that could lead children to buy fentanyl, harm themselves or others, die by suicide, or develop
25

1 an eating disorder as well as algorithms that would lead anyone to buy illegal firearms,
2 including ghost guns; and

3 WHEREAS, SB 287 would also hold social media companies accountable for using
4 algorithms that influence children to harm themselves or others and that prompt people to buy
5 illegal guns or substances; now therefore, be it

6 RESOLVED, That the City and County of San Francisco and the San Francisco Board
7 of Supervisors supports Senate Bill No. 287 which would prohibit a social media platform, as
8 defined, from using a design, algorithm, or feature that the platform knows, or which by the
9 exercise of reasonable care should have known, causes child users to do any of certain
10 things, including experience addiction to the social media platform; and, be it

11 FURTHER RESOLVED, That the Clerk of the Board of Supervisors of the City and
12 County of San Francisco distribute this resolution to San Francisco's State Legislative
13 Delegation and to California Governor Gavin Newsom.

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SB-287 Features that harm child users: civil penalty. (2023-2024)

SHARE THIS:



Date Published: 02/02/2023 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 287

Introduced by Senator Skinner

February 02, 2023

An act to add Section 1714.48 to the Civil Code, relating to social media platforms.

LEGISLATIVE COUNSEL'S DIGEST

SB 287, as introduced, Skinner. Features that harm child users: civil penalty.

Existing law, the California Consumer Privacy Act of 2018, prohibits a business from selling the personal information of a consumer if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, in the case of a consumer at least 13 years of age and less than 16 years of age, or the consumer's parent or guardian, in the case of a consumer who is less than 13 years of age, has affirmatively authorized the sale of the consumer's personal information.

Existing law, the California Age-Appropriate Design Code Act, requires, beginning July 1, 2024, a business that provides an online service, product, or feature likely to be accessed by children to comply with specified requirements, including a requirement to configure all default privacy settings offered by the online service, product, or feature to the settings that offer a high level of privacy, as prescribed, and requires a business, before any new online services, products, or features are offered to the public, to complete a Data Protection Impact Assessment for any online service, product, or feature likely to be accessed by children and maintain documentation of this assessment as long as the online service, product, or feature is likely to be accessed by children.

This bill would prohibit a social media platform, as defined, from using a design, algorithm, or feature that the platform knows, or which by the exercise of reasonable care should have known, causes child users to do any of certain things, including experience addiction to the social media platform.

This bill would provide that a social media platform is not in violation of the bill if the social media platform instituted and maintained a program of at least quarterly audits, as defined, of its designs, algorithms, and features to detect designs, algorithms, or features that have the potential to cause or contribute to violations of the provision described above, and the social media platform corrected, within 30 days of the completion of the

audit, any design, algorithm, or feature discovered by the audit to present more than a de minimis risk of violating the provision described above.

This bill would subject a social media platform that knowingly and willfully violates these provisions to a civil penalty not to exceed \$250,000 per violation, an injunction, and an award of litigation costs and attorney's fees.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1714.48 is added to the Civil Code, immediately following Section 1714.45, to read:

1714.48. (a) A social media platform shall not use a design, algorithm, or feature that the platform knows, or which by the exercise of reasonable care should have known, causes child users to do any of the following:

- (1) Receive content or messages that facilitate the purchase of fentanyl.
- (2) Inflict harm on themselves or others.
- (3) Develop an eating disorder.
- (4) Receive content or messages that facilitate suicide by offering information on how to die by suicide.
- (5) Receive content or messages offering diet pills, diet products, or ways to reduce eating, purge food that has been eaten, or lose weight.
- (6) Experience addiction to the social media platform.

(b) A social media platform is not in violation of this section if both of the following are true:

- (1) The social media platform instituted and maintained a program of at least quarterly audits of its designs, algorithms, and features to detect designs, algorithms, or features that have the potential to cause or contribute to violations of subdivision (a).
- (2) The social media platform corrected, within 30 days of the completion of an audit described in paragraph (1), any design, algorithm, or feature discovered by the audit to present more than a de minimis risk of violating subdivision (a).

(c) A social media platform that has knowingly and willfully violated subdivision (a) shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation, an injunction, and an award of litigation costs and attorney's fees.

(d) This section shall not be construed to impose liability on a social media platform for any of the following:

- (1) Content that is generated by a user of the service or uploaded to or shared on the service by a user of the service.
- (2) Passively displaying content that is created entirely by third parties.
- (3) Information or content for which the social media platform was not, in whole or in part, responsible for creating or developing.
- (4) Conduct by a social media platform involving child users that would otherwise be protected by Section 230 of Title 47 of the United States Code.

(e) An action to enforce a cause of action pursuant to this section shall be commenced within four years after the cause of action accrued.

(f) For purposes of this section:

- (1) "Addiction" means a use of one or more social media platforms that does both of the following:
 - (A) Indicates preoccupation or obsession with, or withdrawal or difficulty to cease or reduce use of, a social media platform despite the user's desire to cease or reduce that use.
 - (B) Causes physical, mental, emotional, developmental, or material harms to the user.

(2) "Audit" means a good faith, written, systemic review or appraisal by a social media company that provides reasonable assurance of monitoring compliance with this section that meets both of the following criteria:

(A) The review or appraisal describes and analyzes each of the social media platform's current and forthcoming designs, algorithms, and features that have the potential to cause or contribute to the addiction of child users.

(B) The review of appraisal includes any plans to change designs, algorithms, and features that pose more than a de minimis risk of violating subdivision (a).

(3) "Child user" means a person who uses a social media platform and is younger than 18 years of age.

(4) (A) "Content" means statements or comments made by users and media that are created, posted, shared, or otherwise interacted with by users on an internet-based service or application.

(B) "Content" does not include media put on a service or application exclusively for the purpose of cloud storage, transmitting files, or file collaboration.

(5) "Eating disorder" means a behavioral condition characterized by a severe and persistent disturbance in eating behaviors and associated distressing thoughts and emotions, including anorexia nervosa, bulimia nervosa, and avoidant restrictive food intake disorder.

(6) "Public or semipublic internet-based service or application" excludes a service or application used to facilitate communication within a business or enterprise among employees or affiliates of the business or enterprise, provided that access to the service or application is restricted to employees or affiliates of the business or enterprise using the service or application.

(7) "Social media platform" means a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:

(A) (i) A substantial function of the service or application is to connect users in order to allow users to interact socially with each other within the service or application.

(ii) A service or application that provides email or direct messaging services shall not be considered to meet the criterion described in clause (i) on the basis of that function alone.

(B) The service or application allows users to do all of the following:

(i) Construct a public or semipublic profile for purposes of signing into and using the service.

(ii) Populate a list of other users with whom an individual shares a social connection within the system.

(iii) Create or post content viewable by other users, including, but not limited to, on message boards, in chat rooms, or through a landing page or main feed that presents the user with content generated by other users.

(8) "Suicidal" means likely to die by suicide and includes major depressive disorder with suicidal ideation.

(g) This section does not apply to a social media platform that is controlled by a business entity that generated less than one hundred million dollars (\$100,000,000) in gross revenue during the preceding calendar year.

From: [Carrillo, Lila \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#); [Buckley, Jeff \(BOS\)](#)
Cc: [Safai, Ahsha \(BOS\)](#); [Barnes, Bill \(BOS\)](#); [Chung, Lauren \(BOS\)](#)
Subject: RE: Intro - Resolution Supporting SB 287
Date: Tuesday, February 7, 2023 3:18:55 PM
Attachments: [image001.png](#)

Thank you, Jocelyn,

Confirming that the California State Association of Counties and the League of California Cities have not yet taken a position on this bill yet. This matter is routine, not contentious in nature, and of no special interest.

Kindly,
Lila

Lila Carrillo, Legislative Aide
Supervisor Ahsha Safai, District 11
San Francisco Board of Supervisors
Office: 415.554.6975

Working from unceded Ohlone Territory

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Tuesday, February 07, 2023 3:07 PM
To: Buckley, Jeff (BOS) <jeff.buckley@sfgov.org>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Carrillo, Lila (BOS) <lila.carrillo@sfgov.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>; Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>
Subject: RE: Intro - Resolution Supporting SB 287

Greetings,

Per Board Rule 2.8.2, please confirm that organizations such as the [California State Association of Counties](#) and [League of California Cities](#) have *not* taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file.

Since the item is requested to be placed on the For Adoption Without Committee Reference of the agenda, pursuant to Board Rule 2.1.2, please confirm that these matters are routine, not contentious in nature, and of no special interest.

Best regards,

Jocelyn Wong

Legislative Clerk

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

jocelyn.wong@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form

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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.*

From: Buckley, Jeff (BOS) <jeff.buckley@sfgov.org>

Sent: Tuesday, February 7, 2023 3:00 PM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Carrillo, Lila (BOS) <lila.carrillo@sfgov.org>; Barnes, Bill (BOS) <bill.barnes@sfgov.org>; Chung, Lauren (BOS) <lauren.l.chung@sfgov.org>

Subject: Intro - Resolution Supporting SB 287

Hi Bos Legislation:

Attached you'll find the intro form, bill text, and resolution supporting SB 287. If you have any questions, please refer them to Lila Carrillo who is cc'd here.

JEFF BUCKLEY (he/him/his)

Legislative Aide

Supervisor Ahsha Safaí

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

415.554.7897 (direct)

415.554.6975 (main line)

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor inquires..."
- 5. City Attorney Request
- 6. Call File No. from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: