

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 254 (Delegate Fraser-Hidalgo, *et al.*)  
 Economic Matters and Ways and Means

**Consumer Protection – Social Media Regulation and Safety for Children**

This bill establishes a regulatory framework governing children’s social media accounts on “large social media platforms.” The State Board of Education must encourage each county board of education to incorporate age-appropriate lessons on “digital citizenship” and social media safety into the board’s curriculum. The bill also establishes a Digital Citizenship Fund within the State Department of Education (MSDE) to assist county boards of education with investing in digital citizenship programs and curricula. The fund consists of (1) specified penalty revenues; (2) money appropriated in the State budget to the fund; and (3) any other money from any other source accepted for the benefit of the fund. The bill establishes numerous requirements and prohibitions for large social media platforms related to children’s social media usage. The Office of the Attorney General (OAG) must adopt regulations to carry out certain requirements in the bill.

**Fiscal Summary**

**State Effect:** General fund expenditures for OAG increase by \$128,900 in FY 2024 for staff; future years reflect annualization and inflation. Special fund revenues and expenditures increase to the extent fines are assessed and distributed to the fund, as discussed below. MSDE can implement the bill’s requirements with existing resources.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	-	-	-	-	-
GF Expenditure	\$128,900	\$151,100	\$157,900	\$165,000	\$173,800
SF Expenditure	-	-	-	-	-
Net Effect	(\$128,900)	(\$151,100)	(\$157,900)	(\$165,000)	(\$173,800)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local school system revenues and expenditures increase for the required activities, to the extent fine revenues are assessed.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill establishes a number of definitions related to children’s social media, including “authorized minor,” “unauthorized minor,” “child,” and “large social media platform.”

An unauthorized minor is a child younger than age 13; an authorized minor is a child at least age 13 but younger than age 18. A “child” is an individual younger than age 18.

A large social media platform is a service provided to the public through an Internet website or a mobile application that (1) includes features that allow a child to share certain items through the Internet, as specified; and (2) has more than 1.0 million monthly active users in the United States and generates more than \$500 million in annual gross revenue (adjusted annually for inflation). The bill specifies a number of exclusions.

### *Applicability and Prohibition*

The bill’s provisions do not apply to (1) a large social media platform that does not prohibit the use of the service by a child in the platform’s terms of service or use; (2) a social media account on a large social media platform that is private and not viewed by the public; or (3) a social media account of a child who resides outside the State. An authorized minor may create or operate a public social media account administered by a large social media platform. An unauthorized minor may not.

### *Prohibition, Requirements, and Reporting Requirements for Large Social Media Platforms*

Each large social media platform must identify and remove all public social media accounts that are created or operated by unauthorized minors and delete any associated data. If a large social media platform is notified of an unauthorized minor’s public account by a parent or guardian, a large social media platform must remove the unauthorized account and delete associated data within 24 hours of receiving the notification, as specified.

Each large social media platform must (1) allow unauthorized minors who create or operate a public social media account on the platform before October 1, 2023, to delete the user data; (2) notify all unauthorized minors of the opportunity to delete user data from the platform, as specified; (3) allow parents or guardians of an authorized minor to create a joint social media account with the authorized minor; and (4) provide a parent or legal guardian who has a joint account with an authorized minor with all user data from the account upon request.

By April 1, 2024, and every six months thereafter, each large social media platform must submit a report to the Attorney General that outlines the platform's progress in identifying and removing social media accounts created or operated by unauthorized minors.

### *Penalty Provisions*

The bill establishes a number of penalty provisions for failure to comply with the bill. Notably, a large social media platform that fails to submit a mandatory progress report is subject to a fine of up to \$5.0 million for *each* missed reporting deadline. All fine revenues must be paid into the Digital Citizenship Fund established under the bill.

The bill authorizes the parent or guardian of an unauthorized minor alleging specified violations to bring an action for injunctive relief against the offending large social media platform. Further, under certain circumstances, a court must order that a large social media platform disable an unauthorized minor's social media account and delete all of the associated data.

A court must also require the platform to provide user data associated with an unauthorized minor's social media account to the parent or guardian of the unauthorized minor if a specific violation is found to have occurred. The platform is subject to a \$100,000 fine for *each* violation; any fine revenues must be deposited into the Digital Citizenship Fund.

### *Digital Citizenship Fund*

The fund is a special, nonlapsing fund that can be used for administrative expenses (in addition to investing in digital citizenship programs and curricula). The State Treasurer must invest the money in the fund in the same manner as any other State money may be invested. MSDE must administer the fund.

**Current Law:** Although the Commercial Law Article generally does not regulate social media usage by children, the Maryland Personal Information Protection Act imposes certain duties on a business to protect an individual's personal information. A business in possession of personal information must implement and maintain reasonable security procedures and practices to protect the information from unauthorized access, use, modification, or disclosure.

If a data breach occurs, the business must conduct, in good faith, a reasonable and prompt investigation to determine the likelihood that personal information of the individual has been (or will be) misused. If the business determines that personal information likely has been (or will be) misused, the owner or licensee of the computerized data must notify an affected individual as soon as practicable, but not later than 45 days after the business discovers or is notified of the breach. For a business that only maintains personal data, the

business must notify the owner or licensee of the breach as soon as practicable but not later than 10 days after the business discovers or is notified of the breach. Notification may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation or jeopardize homeland or national security.

**State Fiscal Effect:** OAG advises that because it may need to take repeated enforcement actions under the bill, additional staff are necessary. Thus, general fund expenditures increase by \$128,921 in fiscal 2024, which accounts for the bill’s October 1, 2023 effective date. This estimate reflects the cost of hiring one part-time assistant Attorney General and one part-time investigator to implement the bill’s requirements. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$114,898
Operating Expenses	<u>14,023</u>
<b>Total FY 2024 State Expenditures</b>	<b>\$128,921</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

#### *Digital Citizenship Fund*

Although the bill establishes the Digital Citizenship Fund, the Department of Legislative Services advises that the amount of funding that may be available to the fund depends in large part on the penalties assessed and collected under the bill, which cannot be reliably estimated in advance. To the extent penalties are assessed/collected, MSDE must distribute the funds to local school systems; this can be accomplished using existing resources.

**Local Fiscal Effect:** As noted above, the exact amount of funding that may become available to the Digital Citizenship Fund cannot be determined without experience under the bill. To the extent funding becomes available due to penalty assessments, local school systems may receive revenues. Expenditures increase commensurately for the required educational activities.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2023  
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