

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Jesse Gabriel, Chair

AB 1282 (Lowenthal) – As Amended April 20, 2023

Proposed Consent

SUBJECT: Mental health: impacts of social media

SYNOPSIS

This author-sponsored measure requires the Mental Health Services Oversight and Accountability Commission (Commission) to report to the Legislature a statewide strategy to understand, communicate, and mitigate mental health risks associated with the use of social media by children and youth.

A recent report by the Centers for Disease Control points to a significant deterioration in high school students' mental health in the decade between 2011 and 2021. During that time, the percentage of male high school students who had experienced persistent feelings of sadness or hopelessness during the past year increased from 21% to 29%. For female students, the increase over the same period was tragically higher, from 36% to 57%.

A number of studies suggest that social media use may be a contributing factor to young people's deteriorating mental health. Rather than simply characterize all social media use as negative, this bill calls on the Commission to include in its inquiry topics like "the types of social media" and "the persons and populations that use social media." It is hoped that this exploration is sufficiently nuanced so as to help separate the benefits from the harms of social media use for various sub-groups among children and youth.

Moreover, as noted by the author, this bill is intended to fill a gap. Much of the legislation addressing the harms of social media use is prospective: that is, it is intended to prevent harm for future internet users. Yet studies suggest that many youth in the present may have already suffered significant harm to their mental health from social media use. By helping the Legislature "understand...mental health risks associated with the use of social media by children and youth" and "[t]he degree to which individuals negatively impacted by social media are accessing and receiving mental health services," this bill may help address the needs of those whose mental health has already deteriorated due to unhealthy social media use.

This bill is supported by California Academy of Family Physicians. There is no opposition on file.

This bill was previously heard by the Assembly Health Committee, where it passed on consent.

SUMMARY: Requires the Mental Health Services Oversight and Accountability Commission (Commission) to report to the Legislature a statewide strategy to understand, communicate, and mitigate mental health risks associated with the use of social media by children and youth.

Specifically, **this bill:**

- 1) Requires the Commission, on or before July 1, 2026, to report to the Senate and Assembly Committees on Health, the Senate Committee on Judiciary, the Assembly Committee on Privacy and Consumer Protection, and other relevant policy committees of the Legislature a statewide strategy to understand, communicate, and mitigate mental health risks associated with the use of social media by children and youth.
- 2) Requires the report to include all of the following:
 - a) The degree to which individuals negatively impacted by social media are accessing and receiving mental health services.
 - b) Recommendations to strengthen children and youth resiliency strategies and California's use of mental health services to reduce the following negative outcomes that may result from untreated mental illness:
 - i) Suicide.
 - ii) Incarceration.
 - iii) School failure or dropping out.
 - iv) Unemployment.
 - v) Prolonged suffering.
 - vi) Homelessness.
 - vii) Removal of children from their homes.
 - c) Any barriers to receiving the data relevant to completing this report.
- 3) Requires the Commission to explore all of the following in preparing the report:
 - a) The types of social media.
 - b) The persons and populations that use social media.
 - c) Opportunities to support resilience.
 - d) Negative mental health risks associated with social media, including all of the following:
 - i) Suicide.
 - ii) Eating disorders.
 - iii) Self-harm.
 - iv) Prolonged suffering.
 - v) Depression.
 - vi) Anxiety.

- vii) Bullying.
 - viii) Substance abuse.
 - ix) Other mental health risks as determined by the Commission.
- 4) Requires the Commission, in formulating the report, to prioritize the perspectives of children and youth through a robust engagement process with a focus on transition-age youth, at-risk populations, in-need populations, and underserved cultural and linguistic populations.
 - 5) Requires the Commission to consult with the California mental health community, including, but not limited to, consumers, family members, providers, and other subject matter experts.

EXISTING LAW:

- 1) Establishes the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, to provide funds to counties to expand services, develop innovative programs, and integrated service plans for mentally ill children, adults, and seniors through a 1% income tax on personal income above \$1 million. (Proposition 63, Nov. 2, 2004 gen. elec.)
- 2) Specifies that MHSA can only be amended by a two-thirds vote of both houses of the Legislature and only as long as the amendment is consistent with and furthers the intent of the MHSA. Permits provisions clarifying the procedures and terms of the MHSA to be amended by majority vote. (*Ibid.*)
- 3) Establishes the 16 member Commission to oversee the implementation of the MHSA. (Welf. & Inst. Code § 5845.)
- 4) Defines “social media platform” as a public or semipublic internet-based service or application that has users in California and that meets both of the following criteria:
 - a) A substantial function of the service or application is to connect users in order to allow them to interact socially with each other within the service or application. (A service or application that provides email or direct messaging services does not meet this criterion based solely on that function.)
 - 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 or application.
 - 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. (Bus. & Prof. Code § 22675(e).)

FISCAL EFFECT: As currently in print the bill is keyed fiscal.

COMMENTS:

1) **Background.** When the Centers for Disease Control released its *Youth Risk Behavior Survey Data Summary & Trends Report 2011-2021* earlier this year, the report's findings resonated nationwide. Among the most concerning results were the following:

- In the decade between 2011 and 2021, the percentage of male high school students who had experienced persistent feelings of sadness or hopelessness during the past year increased from 21% to 29%. For female students, the increase over the same period was tragically higher, from 36% to 57%.
- In 2021, 22% of high school students reported seriously considering attempting suicide during the past year.
- In 2021, 42% of high school students felt so sad or hopeless almost every day for at least two weeks in a row that they stopped doing their usual activities. Female students were more likely than male students to experience persistent feelings of sadness or hopelessness.

The full report may be found at https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf.

The connection between findings such as these and teens' increased use of technologies such as smartphones and social media applications is increasingly the subject of both research and legislation. A meta-analysis of 20 research studies published worldwide between January 2010 and June 2020 revealed that "while social media can create a sense of community for the user, excessive and increased use of social media, particularly among those who are vulnerable, is correlated with depression and other mental health disorders." (Ulvi, et al., *Social Media Use and Mental Health: A Global Analysis*, *Epidemiologia* (Jan. 11, 2022), available at <https://pubmed.ncbi.nlm.nih.gov/36417264/>.) And, as can be seen from the "Related legislation" section of this analysis below, regulation of social media platforms, with an eye to ensuring children's well-being online, has been a topic of significant bipartisan interest in the Legislature for several years.

In 2022, concerns about children's health and its connection to their online activity prompted this Committee and the Assembly Arts, Entertainment, Sports, and Tourism Committee to hold a joint informational hearing on the topic of "Protecting Kids Online: Challenges & Opportunities in a Digital World." The background paper for the informational hearing (Background Paper), which is referenced below, is available at https://privacycp.assembly.ca.gov/sites/privacycp.assembly.ca.gov/files/Background_032922pdf.pdf.

2) **Author's statement.** According to the author:

The presence and use of social media platforms globally has exploded over the last two decades. Many of the original platforms were designed to keep people connected and networked with one another for both personal and professional purposes; however, social media platforms have evolved into one of the primary means that individuals and organizations share ideas and information globally and this digital marketplace of ideas and information remains largely unregulated. Social media has proven to be a powerful tool that

is capable of influencing people. As the world has watched social media's exponential growth, we have witnessed the good and bad that these platforms can manifest. Many countries around the world, including the United States, are taking a much closer look at the impacts that social media has on its users and are trying to develop laws to regulate this digital space. As this policy and regulatory conversation unfolds, California has explored and passed legislation to help appropriately regulate social media platforms and more legislation is forthcoming in the state. While there has been legislation focused on regulating social media, including how to regulate this space to reduce future negative impacts on users, especially children and youth, the state does not currently have a game plan to address the current impacts that are being experienced by users who are children and youth and develop strategies that promote resilience and help the state to understand, communicate, and mitigate mental health risks associated with the use of social media.

AB 1282 will create a game plan to make sure that children and youth throughout the state are receiving the support and resources they deserve to create resilience and mitigate the negative mental health impacts associated with social media use.

3) **Analysis of this bill.** This bill would require the Mental Health Services Oversight and Accountability Commission (Commission) to report to the Legislature a statewide strategy to understand, communicate, and mitigate mental health risks associated with the use of social media by children and youth. In its analysis of this bill, the Assembly Health Committee explained the role of the Commission as follows:

Proposition 63, the [Mental Health Services Act (MHSA)] was passed by voters in November, 2004. The MHSA imposes a 1% income tax on personal income in excess of \$1 million for the purpose of addressing a broad continuum of prevention, early intervention and service needs as well as providing funding for infrastructure, technology, and training needs for the community mental health system. The MHSA creates the 16 member Commission charged with overseeing the implementation of MHSA. The MHSA requires each county mental health department to prepare and submit a three-year plan to the Department of Health Care Services (DHCS) that must be updated each year and approved by DHCS after review and comment by the Commission. Counties must submit their plans for approval to the Commission before the counties. There are five specific areas of expenditures authorized by MHSA: Community Services and Support, Prevention and Early Innovation, Capital Facilities and Technological Needs, and Workforce Education and Training. [...] It is estimated that the MHSA will generate revenues of nearly \$4 billion in the current fiscal year.

The question of whether it is appropriate, given the Commission's various duties, to also task it with producing the report this bill calls for is a question within the jurisdiction of the Assembly Health Committee. Also within the Health Committee's jurisdiction is the bill's requirement that the report provide "[r]ecommendations to strengthen children and youth resiliency strategies and California's use of mental health services to reduce the negative outcomes that may result from untreated mental illness," such as dropping out of school, homelessness, and incarceration. It remains to be seen whether these outcomes and recommendations tie to social media use.

The question presented for this Committee is whether the report the Commission would produce would assist the Legislature in formulating policy to protect and strengthen young people's mental health given their heavy social media use.

The answer is undoubtedly yes. One of the most notable points made in the informational hearing Background Paper cited above was the difficulty of disentangling the benefits from the harms of youths' online activity, and the consequent nuance that is required when policymaking in this area:

Though the harms of digital technology are substantial, they are not insurmountable, and are particular to certain types of content, patterns of internet use, and design features. Adequately addressing online media that are problematic to the wellbeing of young people could accordingly allow children to utilize the considerable advantages online media provide over traditional media without endangering their mental and physical health. (Background Paper p. 8.)

Under this bill, the Commission, in preparing its report, is tasked with exploring topics like “[t]he types of social media” and “[t]he persons and populations that use social media.” It is hoped that this exploration is sufficiently nuanced so as to help separate the benefits from the harms of social media use for various sub-groups among children and youth.

Moreover, as noted by the author, this bill is intended to fill a gap. Much of the legislation addressing the harms of social media use is prospective: that is, it is intended to prevent harm for future internet users. Yet studies, such as the ones cited above, suggest that many youth in the present may have already suffered significant harm to their mental health from social media use. By helping the Legislature “understand...mental health risks associated with the use of social media by children and youth” and “[t]he degree to which individuals negatively impacted by social media are accessing and receiving mental health services,” this bill may help address the needs of those whose mental health has already deteriorated due to unhealthy social media use.

4) **Related legislation.** AB 1394 (Wicks, 2023) requires social media platforms to provide a mechanism for users to report child sexual abuse material in which they are depicted; provides platforms 30-60 days after receiving a report to verify the content of the material and block it from reappearing. The bill also provides victims of commercial sexual exploitation the right to sue social media platforms for having deployed features that were a substantial factor in causing their exploitation. Status: Assembly Judiciary Committee.

SB 287 (Skinner, 2023) would prohibit a social media platform from using a design, algorithm, practice, affordance, or feature that the platform knows or should have known causes child users to experience specified harms, including receiving content that facilitates purchase of a controlled substance and developing an eating disorder. Status: Senate Appropriations Committee.

SB 764 (Padilla, 2023) prohibits a social media platform from adopting or implementing a policy or practice related to the targeting of content to minors that prioritizes user engagement of minor users over the safety, health, and well-being of the minor users, if the social media platform knows or, should know that it has caused harm to minor users or it is reasonably foreseeable that it will cause harm to minor users. Status: Senate Judiciary Committee.

SB 845 (Stern, 2023) requires large social media platforms, as defined, to create, maintain, and make available to third-party safety software providers a set of real-time application programming interfaces, through which a child or a parent or legal guardian of a child may delegate permission to a third-party safety software provider to manage the child's online interactions, content, and account settings on the platform. Status: Senate Judiciary Committee.

AB 2273 (Wicks, Chap. 320, Stats. 2022) established the California Age-Appropriate Design Code.

AB 2879 (Low, Chap. 700, Stats. 2022) required a social media platform to disclose its cyberbullying reporting procedures in its terms of service and to have a mechanism for reporting cyberbullying that is available to individuals whether or not they have an account on the platform.

AB 2408 (Cunningham, 2022) would have prohibited a social media platform from using a design, feature, or affordance that the platform knows, or should know by the exercise of reasonable care, causes a child user to become addicted to the platform. The bill was held in the Senate Appropriations Committee.

AB 1138 (Gallagher, 2019) would have prohibited a for-profit social media website or application from allowing a person under 16 years of age to create an account without first obtaining the consent of the person's parent or guardian. The bill was vetoed by Governor Newsom.

ARGUMENTS IN SUPPORT: The California Academy of Family Physicians explains the importance of this bill:

Without proper guardrails in place around social media usage, impressionable young children's mental health is at risk. AB 1282 brings awareness to children and youth struggles with mental health. This bill takes the necessary steps to collect data and recommendations on the negative impact that social media has on children and youth and will aid in gathering recommendations on how to reduce the negative outcomes that may result from untreated mental illnesses.

REGISTERED SUPPORT / OPPOSITION:

Support

California Academy of Family Physicians

Opposition

None on file

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