

EXHIBIT 1

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

SEN. DAVID HINKINS: We'll go ahead on House Bill 464. 1st Substitute. Time is yours.

REP. JORDAN TEUSCHER: Thank you, Mr. Chair. We also have a very slight amendment.

SEN. DAVID HINKINS: Okay.

REP. JORDAN TEUSCHER: It's on the system. It's Senate Committee Amendment No. 2.

SEN. DAVID HINKINS: Okay.

REP. JORDAN TEUSCHER: So, at the appropriate time.

SEN. DAVID HINKINS: We can do that now. Senator Kwan, would you like to -- Owens, he's got his light on. Go ahead.

SEN. DERRIN OWENS: Thank you, Mr. Chair. I'll move that we adopt the substitute to House Bill.

SEN. DAVID HINKINS: 464 first substitute.

SEN. DERRIN OWENS: 464. First substitute or amendment?

REP. JORDAN TEUSCHER: It's Amendment No.2

SEN. DERRIN OWENS: Amendment No. 2 in Representative Teuscher's name.

SEN. DAVID HINKINS: Okay. Would you like to explain it?

REP. JORDAN TEUSCHER: Yep. It was just a typo.

SEN. DAVID HINKINS: Oh, okay. I can see that.

SEN. DERRIN OWENS: So, it was missing the word of.

SEN. DAVID HINKINS: Of cause of action, okay. Okay, all in favor of Amendment 2 to 1st Substitute House Bill 464 Aye.

SEN. DERRIN OWENS: Aye.

SEN. DAVID HINKINS: That is unanimous. The Bill is amended, and the time is yours.

REP. JORDAN TEUSCHER: Great. Thank you, Mr. Chair. Well, as you guys know, about two years ago, we started working on, looking at ways that we could help mitigate some of the definite harms that we were seeing between social media use and minors in the State of Utah.

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

And we last year passed two landmark bills. They were the first bills in the nation dealing with regulating the use of social media, regulating social media use for minors. And one of the things we knew in putting that legislation together was that because we were first in the nation and because there are many challenges with this space that had never been regulated before. There are First Amendment concerns, Section 230 concerns, there are issues with vagueness and complexities dealing with case law that really predates the internet age. There were things that we continued to need to work through. And so in those bills we delayed the implementation until after the 2024 general session knowing that we would work in the interim to try to resolve any of those concerns and come back with changes to the bill. And that's what you see here in House Bill 464 and there's a companion bill. That is a Senate Bill -- is it 184?

FEMALE1: 194.

REP. JORDAN TEUSCHER: 194 that the Senate has already heard and is now on the House side. These two bills work together and they are the culmination of the work that we've done in the interim, really working with social media companies almost weekly and in conversations about how we can make sure that this legislation can be enacted. But, also working with experts across the nation on the mental health issues that we're seeing with minors and making sure that we're really getting at the root cause of the issue. And so what House Bill 464 focuses on, and actually Mr. Chair my intern has a flyer. If you don't mind. If she could give that to the committee.

SEN. DAVID HINKINS: Yeah, that would be great.

REP. JORDAN TEUSCHER: But what it does is it gives minors and their parents or legal guardians the ability to hold social media companies accountable for the harm that their addictive algorithms have caused children. And they can do that through a private right of action. So, what we've done is, last year we had a bill that very narrowly defined social media companies. It had a lot of exceptions. We found as we looked at what has happened across the country that we needed to broaden that definition to ensure that we weren't going to run into any legal challenges in implementing this bill. But we've then narrowed it by saying, if you're a social media company that does two things. One, you use curated algorithms, meaning when someone gets on the site, they're not the ones that are deciding what they see. It comes from that algorithm. And then secondly, if you use what we're calling engagement driven design elements. If you use those two things and you allow minors on your platform, then if they end up having mental health issues that arise from that, then a parent can go ahead and sue the social media companies for those harms that you have. At the same time, we've also provided an affirmative defense or safe harbor for these companies. We've said, if you'll implement four changes, then we'll allow you to have a rebuttable presumption that you didn't cause the mental health harm to the minor. And those four things are, one, if you limit the time that a minor can be on the platform to under three hours a day.

[00:04:58]

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

Two, if you limit their time of being able to be on the platform at night, so they can't access the platform from 10:30 p.m. to 6:30 a.m. Three, if you disable those engagement-driven design elements. And those are things such as endless scrolling on the platform, autoplay of videos, and push notifications when you're not in the app. They're the things that the experts are telling us are causing minors to be addicted to the platform so they just can't get off of it. If you'll disable those elements for minor accounts. And then lastly, if you obtain their parent's permission. And the idea behind the parent's permission piece is that in essence, parents are being given notice that there's a high likelihood, if you allow your minors on the site, that they're going to have mental health issues, and so you need to be monitoring that more closely. It's similar to if you were to go to a trampoline park prior to letting your kids go jump on the trampoline, you've got to sign a paper to say, hey, I understand the risks that are involved here. And that's what we're asking for here. If they'll do those four things, then they receive a rebuttable presumption that they didn't cause the harm to minor. And then if anyone were to bring suit, they would have to overcome that presumption to show that there was something else that the social media companies were doing that was egregious and causing the mental health issues to minors. We believe that this bill in addition to Senate Bill 194. 196?

FEMALE 1: 194.

REP. JORDAN TEUSCHER: 194, excuse me 194 will be able to make a serious dent into the significant problems that we're seeing in the state with mental health issues and minors that are arising out of social media use. So, I will say that when we presented this in the House and the Senate committees, we had a long string of different witnesses that came and talked about the problems. We decided to streamline that today. And so, if you have any questions, concerns, we have members from the Governor's Office of Family from the Department of Commerce who've been involved in these issues as well that can answer any questions. But we thought we'd streamline it here for this committee and just answer the questions that you have on the bill. And that completes my presentation.

SEN. DAVID HINKINS: I think most of us have heard enough about it. It's pretty well-informed. Senator Kwan.

SEN. KAREN KWAN: Thank you very much, Mr. Chair. So, I do have a few questions for you on this. First of all, the four areas of limiting time, limiting hours, disabling these areas, and then parent's permission that is consistent with SP194, is that correct?

REP. JORDAN TEUSCHER: No. So, this is different than SP194. It doesn't have those requirements. I will say these are not requirements, right?

SEN. KAREN KWAN: Right.

REP. JORDAN TEUSCHER: There's nothing prescriptive in this bill. Social media companies don't actually have to do anything. But they open themselves up to liability if they don't implement these changes. On SP194, what it does is it allows minors to be able to opt in

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

for their parents to control some of those times. And so, there isn't a strict time requirement on SP194. But what we've incorporated here are consistent with what the Surgeon General has come out to say that if a minor is on a platform for more than three hours a day that they have double the likelihood that they're going to experience mental health issues from social media.

SEN. KAREN KWAN: And how is parent's permission gathered?

REP. JORDAN TEUSCHER: So, we're not prescriptive in the Bill on how to do that. So, we're giving it to the social media companies that they would have to prove it. So, essentially, if they were sued and they wanted to prove that they were complying with this, then they would come forth to the court and show that they received that permission. They could receive in very various different ways, but we didn't want to put them into a box.

SEN. KAREN KWAN: Two more questions if I may.

SEN. DAVID HINKINS: Go ahead. Yeah.

SEN. KAREN KWAN: I know, we have many other bills after this one today.

SEN. DAVID HINKINS: No, you've got plenty of time. We've got 45 minutes.

SEN. KAREN KWAN: Then I'll take 40 minutes. I'm just teasing.

SEN. DAVID HINKINS: Okay, go ahead.

SEN. KAREN KWAN: 18, sorry, the minor means an individual who's 18 not emancipated and not married. But graduated from high school doesn't apply there. Is that correct?

REP. JORDAN TEUSCHER: It does say they are enrolled in high school as part of the definition.

SEN. KAREN KWAN: Oh, I did not see that then.

REP. JORDAN TEUSCHER: It's on line 67.

SEN. KAREN KWAN: 67, okay. I was looking at 180. I was looking a little bit lower. And I will make a note of that. And then my last question has to do with the content neutrality.

REP. JORDAN TEUSCHER: Mm-hmm.

SEN. KAREN KWAN: And I appreciate that you put it in here in the way that you put it in there. But I'm wondering in terms of content that is clearly an 18 and over, like pornography or other kinds of messages in that vein. Are there any safeguards already out there for our kids?

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

[00:10:00]

REP. JORDAN TEUSCHER: That's a really good question. There certainly are some safeguards that come through the Children Online Privacy Protection Act that comes from the Federal side. And then I know that social media companies are actively trying to provide different ways to put mechanisms in place to regulate that content. What our problem is as a state is that the Federal Government has stepped into this space. And when they do that, then we get into supremacy clause issues. And so, in particular with Section 230 that talks about that you can't hold a social media company or an operator in this space liable for the content that is produced. I mean, a lot of that comes out of the idea of, you know, if you had a telephone line, right, if someone on the telephone says something that is egregious or violates law, then it's the person speaking that should be accountable not necessarily the telephone company. And that's kind of how they're basing the Section 230 concerns. Those are being challenged across the nation right now, and there was a favorable ruling just recently in California on that space that as they're using these algorithms that there is a role that these social media companies are playing. And there's a question of if you think about, say, a newspaper, for example. And are these algorithms acting like an editor would on the front page of a newspaper, or are they more acting like the person that's the delivering, newspaper boy that's throwing it on your porch. And that's something that's continuing to be litigated. This bill doesn't do that. It's completely content neutral. And the idea being there is that even if that social media site is providing things that are acceptable. It's rainbows and puppies all day. There's still harm and mental health issues that are going to arise for minors because of these addictive algorithms that they're using. They're still causing the minors to become addicted to the platform and that's causing problems. In that we talk about the excessive use, so it's things like academic performance, limited sleep. It's affecting their in-person relationships, their mental health, their physical health. All of those things can be affected regardless of the content that they see on the platform.

SEN. KAREN KWAN: Well, thank you so much. I appreciate the time to be able to clarify some of those questions that I had.

Thank you. Seeing no more questions from our committee, anyone from the public would like to speak to this? Come forward, please. Make sure you tell us who you are and who you're with and make sure you sign your name so we get the spelling correct on the minutes.

SHERI MATTLE: Is it on?

SEN. DAVID HINKINS: I think so.

SHERI MATTLE: Can you hear me?

SEN. DAVID HINKINS: Yep. Yeah.

SHERI MATTLE: Okay, Sheri Mattel with Utah PTA and we would like to speak in favor of this bill. This bill helps to set boundaries for children using algorithmically curated social media

February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing
- E215 - Senate Economic Development and Workforce Services Committee
Davis Wright Tremaine LLP
March 08, 2024
Transcript by TransPerfect

services. Research has documented findings correlating poor mental health with social media platforms and this bill is important to help mitigate this ever-increasing crisis. And we actually, as a PTA, have a resolution all about digital wellness and social media anyway. And so, we would like -- we think this bill goes a long way to help keeping our kids safe. And so, PTA speaks in favor. Thank you.

SEN. DAVID HINKINS: Thank you for your testimony. Anyone else? Seeing none, we'll come back to our committee for action Senator Kwan.

SEN. KAREN KWAN: Thank you. I move that HB464 1st Sub as amended be passed out with a favorable recommendation.

SEN. DAVID HINKINS: Okay, thank you. Would you like to sum?

REP. JORDAN TEUSCHER: Let me just say really quickly. We could spend all day talking about the harms that we see from social media.

SEN. DAVID HINKINS: We'd have started at 8:00 o'clock if we wanted to do that, so.

REP. JORDAN TEUSCHER: Yeah. We haven't talked a lot about it today but those harms do exist and I just want to make sure on the record that we all agree that there's a real significant issue, compelling state issue that we're trying to solve here. So, thank you.

SEN. DAVID HINKINS: I wish we could do this for our employees as much as we do for our kids. I have a real problem with my -- some of my employees on their phone all the time over Facebook stuff anyway, but anyway, neither here nor there. Okay, so the motion -- would you like sum?

SEN. KAREN KWAN: The science is clear on this. There is an addictive property to this. And social media companies have not taken the lead in protecting our children. So, I'm 100% on board.

SEN. DAVID HINKINS: Okay. So, the motion before us to pass out House Bill 464 1st Substitute as amended with a favorable recommendation all in favor say "Aye".

AUDIENCE: Aye.

SEN. DAVID HINKINS: That is unanimous and the bill will go forward to the full body of the Senate.

[00:14:52]



I, Daniel Boisson, hereby certify that the document " **February 26, 2024 Utah Senate Economic Development and Workforce Services Committee HB 464 Hearing - E215 - Senate Economic Development and Workforce Services Committee** " is, to the best of my knowledge and belief, a true and accurate transcription from English to English.

Daniel
Boisson
n

Digitally signed by
Daniel Boisson
DN: cn=Daniel
Boisson,
o=TransPerfect Legal
Solutions, ou,
email=dboisson@tran
sp perfect.com, c=US
Date: 2024.03.08
07:45:01 -05'00'

Daniel Boisson
Project Manager