



HOUSE OF REPRESENTATIVES

HB 2458

child protection registry; prohibited communications
Prime Sponsor: Representative Brophy McGee, LD 28

DP Committee on Children and Family Affairs

X Caucus and COW

House Engrossed

OVERVIEW

HB 2458 allows a person to register a contact point with the Secretary of State (SOS) if that contact point belongs to, or may be accessed by a minor. Prohibits a person from sending a communication to a registered contact point if the communication advertises or promotes material that is harmful or prohibited from being purchased by a minor.

PROVISIONS

1. Allows this act to be cited as the “Child Protection Registry Act”.
2. Requires the SOS to:
 - a. Establish and maintain a child protection registry (Registry) to compile and secure a list of contact points;
 - b. Implement the Registry with respect to instant message identities and telephone numbers;
 - c. Promote the Registry on the SOS website; and,
 - d. Adopt administrative rules.
3. Prohibits a person from sending a communication to a contact point or domain name that has been registered for more than 30 days, if the material or communication:
 - a. Has the primary purpose of advertising or promoting a product or service that a minor is prohibited from purchasing; or
 - b. Contains, advertises or promotes material that is harmful to minors.
4. Allows the SOS to contract with a third party to establish the Registry and implement a program to offer discounted compliance fees to senders who meet enhanced security conditions.
5. Permits a person to register a contact point with the SOS, if:
 - a. The contact point belongs to a child;
 - b. A child has access to the contact point; or
 - c. The contact point is used in a household with a minor.
6. Allows a school or other institution that primarily serves minors to register their domain name with the SOS.
7. Stipulates that the Registry and any complaint filed against a sender as a result of a violation are not subject to public disclosure.
8. States that the consent of a minor does not permit the sending of prohibited material to a registered contact point.

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9. States that an internet service provider does not violate this section for solely transmitting a message across the network.
10. Allows a person to send communications to a contact point or domain name if they first receive consent from an adult who controls the contact point or domain name and if they:
 - a. Verify the age of the adult who controls the contact point or domain name by inspecting their government-issued identification in a face-to-face transaction;
 - b. Obtain a signed written record that indicates the adults consent;
 - c. Include, in each message, a notice that the adult may rescind the consent and information that allows the adult to opt-out of future communications;
 - d. Notify the SOS that the person intends to send communications;
 - e. Use a mechanism established by the SOS; and
 - f. Pay a fee determined by the SOS.
11. Classifies the first violation of sending prohibited communications to a minor as a class 2 Misdemeanor (maximum 4 months jail time and up to \$750 fine per person, plus surcharges).
12. Classifies the second violation of sending prohibited communications to a minor or the first violation of sending prohibited communications to a school or other institution as a class 1 Misdemeanor (maximum of 6 months jail time and up to \$2,500 fine per person, plus surcharges).
13. Prescribes a class 2 Felony (presumptive 5 year sentence and up to \$150,000 fine per person, plus surcharges) for the use of information obtained by the SOS to violate the prohibition of communication or for improperly obtaining contact points from the Registry, attempting to obtain contact points from the Registry or transferring information from the Registry to a third party for use to send a solicitation.
14. States that each communication sent in violation of the prohibition is a separate offense and that a criminal conviction does not relieve a person from civil liability.
15. Stipulates that a civil action may be brought by the user or legal guardian of a contact point or domain name against a violator of the prohibition.
16. Prescribes that a person bringing a civil action may recover actual damages or \$1,000 for each prohibited communication, whichever is greater.
17. Requires the prevailing party in a civil action to be awarded costs and reasonable attorney fees.
18. Asserts that it is a defense to a civil action that a person reasonably relied on the Registry established by the SOS and took reasonable measures to comply with this chapter.
19. Defines *contact point* and *registry*.

CURRENT LAW

Not currently addressed in statute.