

Senate Engrossed

social media platforms; standards; notification

State of Arizona  
Senate  
Fifty-sixth Legislature  
First Regular Session  
2023

# SENATE BILL 1106

AN ACT

AMENDING TITLE 18, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; RELATING TO SOCIAL MEDIA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 18, Arizona Revised Statutes, is amended by adding  
3 chapter 7, to read:

4 CHAPTER 7

5 SOCIAL MEDIA PLATFORMS

6 ARTICLE 1. GENERAL PROVISIONS

7 18-701. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ALGORITHM" MEANS A MATHEMATICAL SET OF RULES THAT SPECIFIES HOW  
10 A GROUP OF DATA BEHAVES AND THAT WILL ASSIST IN RANKING SEARCH RESULTS AND  
11 MAINTAINING ORDER OR THAT IS USED IN SORTING OR RANKING CONTENT OR  
12 MATERIAL BASED ON RELEVANCY OR OTHER FACTORS INSTEAD OF USING PUBLISHED  
13 TIME OR CHRONOLOGICAL ORDER OF THE CONTENT OR MATERIAL.

14 2. "CANDIDATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 16-901.

15 3. "CENSOR" INCLUDES ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM:

16 (a) TO DELETE, REGULATE, RESTRICT, EDIT, ALTER, INHIBIT THE  
17 PUBLICATION OR REPUBLICATION OF, OR SUSPEND A RIGHT TO POST, REMOVE OR  
18 POST AN ADDENDUM TO ANY CONTENT OR MATERIAL POSTED BY A USER.

19 (b) TO INHIBIT THE ABILITY OF A USER TO BE VIEWABLE BY OR TO  
20 INTERACT WITH ANOTHER USER OF THE SOCIAL MEDIA PLATFORM.

21 (c) TO ADD OR TAKE AWAY CREDIBILITY TO POLITICAL SPEECH THAT COULD  
22 HAVE THE EFFECT OF SWAYING POLITICAL VIEWS, INCLUDING FACT-CHECKING,  
23 ISSUING WARNINGS, FLAGGING, HIGHLIGHTING OR CAUTIONING USERS TO BELIEVE OR  
24 DISBELIEVE CONTENT BASED ON POLITICAL VIEWS.

25 4. "DEPLATFORM" MEANS THE ACT OR PRACTICE BY A SOCIAL MEDIA  
26 PLATFORM OF PERMANENTLY DELETING OR BANNING A USER OR TEMPORARILY DELETING  
27 OR BANNING A USER FOR MORE THAN FOURTEEN DAYS FROM THE SOCIAL MEDIA  
28 PLATFORM.

29 5. "JOURNALISTIC ENTERPRISE" MEANS AN ENTITY DOING BUSINESS IN THIS  
30 STATE THAT DOES ANY OF THE FOLLOWING:

31 (a) PUBLISHES MORE THAN ONE HUNDRED THOUSAND WORDS THAT ARE  
32 AVAILABLE ONLINE WITH AT LEAST FIFTY THOUSAND PAID SUBSCRIBERS OR ONE  
33 HUNDRED THOUSAND MONTHLY ACTIVE USERS.

34 (b) PUBLISHES AT LEAST ONE HUNDRED HOURS OF AUDIO OR VIDEO THAT IS  
35 AVAILABLE ONLINE WITH AT LEAST ONE HUNDRED MILLION VIEWERS ANNUALLY.

36 (c) OPERATES A CABLE CHANNEL THAT PROVIDES MORE THAN FORTY HOURS OF  
37 CONTENT PER WEEK TO MORE THAN ONE HUNDRED THOUSAND CABLE TELEVISION  
38 SUBSCRIBERS.

39 (d) OPERATES UNDER A BROADCAST LICENSE ISSUED BY THE FEDERAL  
40 COMMUNICATIONS COMMISSION.

41 6. "POSTPRIORITIZATION":

42 (a) MEANS ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO PLACE,  
43 FEATURE OR PRIORITIZE CERTAIN CONTENT OR MATERIAL AHEAD OF, BELOW OR IN A  
44 MORE OR LESS PROMINENT POSITION THAN OTHER CONTENT OR MATERIAL IN A  
45 NEWSFEED, FEED OR VIEW OR IN SEARCH RESULTS.

1 (b) DOES NOT INCLUDE ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM TO  
2 PLACE, FEATURE OR PRIORITIZE THE CONTENT AND MATERIAL OF A THIRD PARTY,  
3 INCLUDING OTHER USERS, BASED ON PAYMENTS BY THAT THIRD PARTY TO THE SOCIAL  
4 MEDIA PLATFORM.

5 7. "SHADOW BAN":

6 (a) MEANS ANY ACTION TAKEN BY A SOCIAL MEDIA PLATFORM THROUGH ANY  
7 MEANS, WHETHER THE ACTION IS DETERMINED BY A NATURAL PERSON OR AN  
8 ALGORITHM, TO LIMIT OR ELIMINATE THE EXPOSURE OF A USER OR CONTENT OR  
9 MATERIAL POSTED BY A USER TO OTHER USERS OF THE SOCIAL MEDIA PLATFORM.

10 (b) INCLUDES ANY ACTION THAT IS TAKEN BY A SOCIAL MEDIA PLATFORM TO  
11 LIMIT OR ELIMINATE CONTENT OR MATERIAL AND THAT IS NOT READILY APPARENT TO  
12 A USER.

13 8. "SOCIAL MEDIA PLATFORM":

14 (a) MEANS ANY INFORMATION SERVICE, SYSTEM, INTERNET SEARCH ENGINE  
15 OR ACCESS SOFTWARE PROVIDER THAT MEETS ALL OF THE FOLLOWING:

16 (i) PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A  
17 COMPUTER SERVER, INCLUDING AN INTERNET PLATFORM OR A SOCIAL MEDIA SITE.

18 (ii) OPERATES AS A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED  
19 LIABILITY COMPANY, CORPORATION, ASSOCIATION OR OTHER LEGAL ENTITY.

20 (iii) DOES BUSINESS IN THIS STATE.

21 (iv) HAS ANNUAL GROSS REVENUES OF MORE THAN \$100,000,000, AS  
22 ADJUSTED IN JANUARY OF EACH ODD-NUMBERED YEAR TO REFLECT ANY INCREASE IN  
23 THE CONSUMER PRICE INDEX OR HAS AT LEAST ONE HUNDRED MILLION MONTHLY  
24 INDIVIDUAL PLATFORM PARTICIPANTS GLOBALLY.

25 (b) DOES NOT INCLUDE AN ONLINE SERVICE, APPLICATION OR WEBSITE:

26 (i) THAT CONSISTS PRIMARILY OF NEWS, SPORTS, ENTERTAINMENT OR OTHER  
27 INFORMATION OR CONTENT THAT IS NOT USER-GENERATED BUT IS PRESELECTED BY  
28 THE PROVIDER.

29 (ii) FOR WHICH ANY CHAT, COMMENTS OR INTERACTIVE FUNCTIONALITY IS  
30 INCIDENTAL TO, DIRECTLY RELATED TO OR DEPENDENT ON THE PROVISION OF THE  
31 CONTENT DESCRIBED IN ITEM (i) OF THIS SUBDIVISION.

32 9. "USER" MEANS A PERSON WHO RESIDES OR IS DOMICILED IN THIS STATE  
33 AND WHO HAS AN ACCOUNT ON A SOCIAL MEDIA PLATFORM, REGARDLESS OF WHETHER  
34 THE PERSON POSTS OR HAS POSTED CONTENT OR MATERIAL TO THE SOCIAL MEDIA  
35 PLATFORM.

36 18-702. Candidates; deplatforming prohibited; civil  
37 penalties; free advertising

38 A. A SOCIAL MEDIA PLATFORM MAY NOT WILFULLY DEPLATFORM A CANDIDATE  
39 WHO IS KNOWN BY THE SOCIAL MEDIA PLATFORM TO BE A CANDIDATE, BEGINNING ON  
40 THE DATE OF THE CANDIDATE'S QUALIFICATION AND ENDING ON THE DATE OF THE  
41 ELECTION OR THE DATE THE CANDIDATE CEASES TO BE A CANDIDATE. A SOCIAL  
42 MEDIA PLATFORM SHALL PROVIDE EACH USER WITH A METHOD BY WHICH THE USER MAY  
43 BE IDENTIFIED AS A CANDIDATE AND THAT PROVIDES SUFFICIENT INFORMATION TO  
44 ALLOW THE SOCIAL MEDIA PLATFORM TO CONFIRM THE CANDIDATE'S QUALIFICATION

1 BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED PURSUANT TO  
2 SECTION 16-906.

3 B. IF THE SECRETARY OF STATE FINDS THAT A SOCIAL MEDIA PLATFORM HAS  
4 VIOLATED SUBSECTION A OF THIS SECTION, THE SECRETARY OF STATE MAY IMPOSE A  
5 CIVIL PENALTY ON THE SOCIAL MEDIA PLATFORM OF \$250,000 PER DAY FOR A  
6 CANDIDATE FOR STATEWIDE OFFICE WHO WAS DEPLATFORMED BY THE SOCIAL MEDIA  
7 PLATFORM AND \$25,000 PER DAY FOR A CANDIDATE FOR ANY OTHER OFFICE WHO WAS  
8 DEPLATFORMED BY THE SOCIAL MEDIA PLATFORM.

9 C. A SOCIAL MEDIA PLATFORM THAT WILFULLY PROVIDES FREE ADVERTISING  
10 FOR A CANDIDATE SHALL INFORM THE CANDIDATE OF THE IN-KIND CONTRIBUTION.  
11 POSTS, CONTENT, MATERIAL AND COMMENTS BY CANDIDATES THAT ARE SHOWN ON THE  
12 SOCIAL MEDIA PLATFORM IN THE SAME OR A SIMILAR MANNER AS THE POSTS,  
13 CONTENT, MATERIAL AND COMMENTS OF OTHER USERS ARE NOT CONSIDERED FREE  
14 ADVERTISING.

15 18-703. Censorship standards; notification requirements;  
16 obscene content; cause of action; remedies;  
17 exceptions

18 A. A SOCIAL MEDIA PLATFORM SHALL PUBLISH THE STANDARDS, INCLUDING  
19 DETAILED DEFINITIONS, THAT THE SOCIAL MEDIA PLATFORM USES OR HAS USED FOR  
20 DETERMINING HOW IT WILL CENSOR, DEPLATFORM AND SHADOW BAN THE SOCIAL MEDIA  
21 PLATFORM'S USERS.

22 B. A SOCIAL MEDIA PLATFORM SHALL APPLY CENSORSHIP, DEPLATFORMING  
23 AND SHADOW BANNING STANDARDS IN A CONSISTENT MANNER AMONG THE SOCIAL MEDIA  
24 PLATFORM'S USERS.

25 C. A SOCIAL MEDIA PLATFORM SHALL INFORM EACH USER ABOUT ANY CHANGES  
26 TO THE SOCIAL MEDIA PLATFORM'S USER RULES, TERMS AND AGREEMENTS BEFORE  
27 IMPLEMENTING THE CHANGES AND MAY NOT MAKE CHANGES MORE THAN ONCE EVERY  
28 THIRTY DAYS.

29 D. A SOCIAL MEDIA PLATFORM MAY NOT CENSOR OR SHADOW BAN A USER'S  
30 CONTENT OR MATERIAL OR DEPLATFORM A USER FROM THE SOCIAL MEDIA PLATFORM:

31 1. WITHOUT NOTIFYING THE USER WHO POSTED OR ATTEMPTED TO POST THE  
32 CONTENT OR MATERIAL. FOR THE PURPOSES OF THIS PARAGRAPH, A NOTIFICATION  
33 MUST:

34 (a) BE IN WRITING.

35 (b) BE DELIVERED VIA EMAIL OR DIRECT ELECTRONIC NOTIFICATION TO THE  
36 USER WITHIN SEVEN DAYS AFTER THE CENSORING ACTION.

37 (c) INCLUDE A THOROUGH RATIONALE EXPLAINING THE REASON THE SOCIAL  
38 MEDIA PLATFORM CENSORED THE USER.

39 (d) INCLUDE A PRECISE AND THOROUGH EXPLANATION OF HOW THE SOCIAL  
40 MEDIA PLATFORM BECAME AWARE OF THE CENSORED CONTENT OR MATERIAL, INCLUDING  
41 A THOROUGH EXPLANATION OF THE ALGORITHMS USED, IF ANY, TO IDENTIFY OR FLAG  
42 THE USER'S CONTENT OR MATERIAL AS OBJECTIONABLE.

43 2. IN A MANNER THAT VIOLATES THIS SECTION.

44 E. A SOCIAL MEDIA PLATFORM SHALL:

1           1. PROVIDE A MECHANISM THAT ALLOWS A USER TO REQUEST THE NUMBER OF  
2 OTHER INDIVIDUAL SOCIAL MEDIA PLATFORM PARTICIPANTS WHO WERE PROVIDED OR  
3 SHOWN THE USER'S CONTENT OR POSTS.

4           2. ON REQUEST, PROVIDE A USER WITH THE NUMBER OF OTHER INDIVIDUAL  
5 SOCIAL MEDIA PLATFORM PARTICIPANTS WHO WERE PROVIDED OR SHOWN THE USER'S  
6 CONTENT OR POSTS.

7           F. A SOCIAL MEDIA PLATFORM SHALL:

8           1. CATEGORIZE ALGORITHMS USED FOR POSTPRIORITIZATION AND SHADOW  
9 BANNING.

10          2. ALLOW A USER TO OPT OUT OF POSTPRIORITIZATION AND SHADOW BANNING  
11 ALGORITHM CATEGORIES TO ALLOW SEQUENTIAL OR CHRONOLOGICAL POSTS AND  
12 CONTENT.

13          G. A SOCIAL MEDIA PLATFORM SHALL PROVIDE USERS WITH AN ANNUAL  
14 NOTICE ON THE USE OF ALGORITHMS FOR POSTPRIORITIZATION AND SHADOW BANNING  
15 AND ANNUALLY REOFFER THE OPT-OUT OPPORTUNITY PRESCRIBED IN SUBSECTION F OF  
16 THIS SECTION.

17          H. A SOCIAL MEDIA PLATFORM MAY NOT APPLY OR USE POSTPRIORITIZATION  
18 OR SHADOW BANNING ALGORITHMS FOR CONTENT AND MATERIAL POSTED BY OR ABOUT A  
19 USER WHO IS KNOWN BY THE SOCIAL MEDIA PLATFORM TO BE A CANDIDATE,  
20 BEGINNING ON THE DATE OF THE CANDIDATE'S QUALIFICATION AND ENDING ON THE  
21 DATE OF THE ELECTION OR THE DATE THE CANDIDATE CEASES TO BE A CANDIDATE.  
22 POSTPRIORITIZATION OF CERTAIN CONTENT OR MATERIAL FROM OR ABOUT A  
23 CANDIDATE BASED ON PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE CANDIDATE  
24 OR A THIRD PARTY IS NOT A VIOLATION OF THIS SUBSECTION. A SOCIAL MEDIA  
25 PLATFORM SHALL PROVIDE EACH USER WITH A METHOD BY WHICH THE USER MAY BE  
26 IDENTIFIED AS A CANDIDATE AND THAT PROVIDES SUFFICIENT INFORMATION TO  
27 ALLOW THE SOCIAL MEDIA PLATFORM TO CONFIRM THE USER'S QUALIFICATION AS A  
28 CANDIDATE BY REVIEWING THE CANDIDATE'S STATEMENT OF ORGANIZATION FILED  
29 PURSUANT TO SECTION 16-906.

30          I. A SOCIAL MEDIA PLATFORM SHALL ALLOW A USER WHO HAS BEEN  
31 DEPLATFORMED TO ACCESS OR RETRIEVE ALL OF THE USER'S INFORMATION, CONTENT,  
32 MATERIAL AND DATA FOR AT LEAST SIXTY DAYS AFTER THE USER RECEIVES THE  
33 NOTICE REQUIRED UNDER SUBSECTION D OF THIS SECTION.

34          J. A SOCIAL MEDIA PLATFORM MAY NOT TAKE ANY ACTION TO CENSOR,  
35 DEPLATFORM OR SHADOW BAN A JOURNALISTIC ENTERPRISE BASED ON THE CONTENT OF  
36 THE JOURNALISTIC ENTERPRISE'S PUBLICATION OR BROADCAST.  
37 POSTPRIORITIZATION OF CERTAIN JOURNALISTIC ENTERPRISE CONTENT BASED ON  
38 PAYMENTS TO THE SOCIAL MEDIA PLATFORM BY THE JOURNALISTIC ENTERPRISE IS  
39 NOT A VIOLATION OF THIS SUBSECTION. THIS SUBSECTION DOES NOT APPLY IF THE  
40 CONTENT OR MATERIAL IS OBSCENE AS DESCRIBED IN SECTION 13-3501.

41          K. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, A SOCIAL  
42 MEDIA PLATFORM IS NOT REQUIRED TO NOTIFY A USER IF THE CENSORED CONTENT OR  
43 MATERIAL IS OBSCENE AS DESCRIBED IN SECTION 13-3501.

1 L. A VIOLATION OF THIS SECTION CONSTITUTES AN UNLAWFUL PRACTICE  
2 UNDER SECTION 44-1522 AND IS IN ADDITION TO ALL OTHER CAUSES OF ACTION,  
3 REMEDIES AND PENALTIES THAT ARE AVAILABLE TO THIS STATE. THE ATTORNEY  
4 GENERAL MAY INVESTIGATE AND TAKE APPROPRIATE ACTION PURSUANT TO TITLE 44,  
5 CHAPTER 10, ARTICLE 7.

6 M. A USER WHO IS HARMED BY A SOCIAL MEDIA PLATFORM'S VIOLATION OF  
7 SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION MAY BRING A  
8 PRIVATE CAUSE OF ACTION FOR THE VIOLATION. IN A PRIVATE CAUSE OF ACTION  
9 BROUGHT UNDER SUBSECTION B OR SUBSECTION D, PARAGRAPH 1 OF THIS SECTION,  
10 THE COURT MAY AWARD THE FOLLOWING REMEDIES TO THE USER:

- 11 1. UP TO \$100,000 IN STATUTORY DAMAGES FOR EACH PROVEN CLAIM.
- 12 2. ACTUAL DAMAGES.
- 13 3. IF AGGRAVATING FACTORS ARE PRESENT, PUNITIVE DAMAGES.
- 14 4. OTHER FORMS OF EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF.
- 15 5. IF THE USER WAS DEPLATFORMED IN VIOLATION OF SUBSECTION B OF  
16 THIS SECTION, COSTS AND REASONABLE ATTORNEY FEES.

17 N. FOR THE PURPOSES OF BRINGING AN ACTION IN ACCORDANCE WITH  
18 SUBSECTION L OR M OF THIS SECTION:

19 1. EACH FAILURE OF A SOCIAL MEDIA PLATFORM TO COMPLY WITH  
20 SUBSECTION F, PARAGRAPH 2 OF THIS SECTION SHALL BE TREATED AS A SEPARATE  
21 VIOLATION, ACT OR PRACTICE.

22 2. A SOCIAL MEDIA PLATFORM THAT CENSORS, SHADOW BANS, DEPLATFORMS  
23 OR APPLIES POSTPRIORITIZATION ALGORITHMS TO CANDIDATES AND USERS IN THIS  
24 STATE IS CONCLUSIVELY PRESUMED TO BE BOTH ENGAGED IN SUBSTANTIAL AND NOT  
25 ISOLATED ACTIVITIES WITHIN THIS STATE AND OPERATING, CONDUCTING, ENGAGING  
26 IN OR CARRYING ON A BUSINESS AND DOING BUSINESS IN THIS STATE, AND THE  
27 SOCIAL MEDIA PLATFORM IS THEREFORE SUBJECT TO THE JURISDICTION OF THE  
28 COURTS OF THIS STATE.

29 O. THIS SECTION DOES NOT APPLY TO A PUBLISHER, BROADCASTER, PRINTER  
30 OR OTHER PERSON ENGAGED IN DISSEMINATING INFORMATION OR REPRODUCING  
31 PRINTED OR PICTORIAL MATTER IF THE INFORMATION OR MATTER HAS BEEN  
32 DISSEMINATED OR REPRODUCED ON BEHALF OF OTHERS WITHOUT ACTUAL KNOWLEDGE  
33 THAT IT VIOLATED THIS SECTION.