

House Bill 509

By: Representatives Rakestraw of the 19th, Spencer of the 180th, Reeves of the 34th, Welch of the 110th, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Human Trafficking Prevention Act"; to amend Title 10 of the Official Code
2 of Georgia Annotated, relating to commerce and trade, so as to require that certain products
3 sold or leased by retailers contain a digital blocking capability that renders obscene material
4 inaccessible; to provide for definitions; to create a civil cause of action; to amend Title 37
5 of the Official Code of Georgia Annotated, relating to mental health, so as to create the
6 Georgia Mental Health and Addiction Treatment Trust Fund which shall be funded by the
7 moneys derived from fees charged for the deactivation of digital blocking capability; to
8 create funding mechanisms for nonpermanent long-term residential mental health and
9 addiction treatment, holistic mental health and addiction counseling, and treatment
10 alternatives to psychiatric drug therapy; to provide for legislative intent; to establish
11 procedural requirements for approval of project proposals; to authorize the Department of
12 Behavioral Health and Developmental Disabilities to promulgate certain rules and
13 regulations; to provide for related matters; to provide for a contingent effective date and
14 automatic repeal; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 This Act shall be known and may be cited as the "Human Trafficking Prevention Act."

18 style="text-align:center">**SECTION 2.**

19 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
20 amended in Chapter 1, relating to selling and other trade practices, by adding a new article
21 to read as follows:

"ARTICLE 35

22

23 10-1-920.24 As used in this article, the term:

25 (1) 'Child pornography' means any computer depiction or other material depicting a child
 26 under the age of 18 years engaging in sexually explicit conduct or in the simulation of
 27 such conduct.

28 (2) 'Consumer' means an individual who purchases or leases for personal, family, or
 29 household purposes a product that makes content accessible on the Internet.

30 (3) 'Obscene' shall have the same meaning as provided in Code Section 16-12-80.

31 (4) 'Prostitution' shall have the same meaning as provided in Code Section 16-6-9.

32 (5) 'Retailer' means a person that is engaged in the business of selling or leasing directly
 33 to a consumer a product that makes content accessible on the Internet.

34 (6) 'Revenge pornography' means any transmission or post that violates Code Section
 35 16-11-90.

36 (7) 'Sexually explicit conduct' shall have the same meaning as provided in Code
 37 Section 16-12-100.

38 (8) 'Trafficking of persons for sexual servitude' shall have the same meaning as provided
 39 in subsection (c) of Code Section 16-5-46.

40 10-1-921.

41 (a) Except as provided in subsection (d) of this Code section, a retailer shall not sell or
 42 lease to a consumer a product that makes content accessible on the Internet unless the
 43 product contains an active and operating digital blocking capability that renders obscene
 44 material inaccessible.

45 (b) The digital blocking capability's filters shall:

46 (1) Block access to obscene material; provided, however, that access to social media
 47 websites that provide a means for the users of such websites to report obscene material
 48 and have in place procedures for evaluating those reports and removing obscene material
 49 shall not be blocked;

50 (2) Block access to child pornography, revenge pornography, and websites known to
 51 facilitate prostitution and the trafficking of persons for sexual servitude; and

52 (3) Be distributed by an entity that:

53 (A) Regularly makes available to consumers updates to the digital blocking capability's
 54 filters to ensure the effectiveness of the filters in blocking access to obscene material;

55 (B) Maintains a website or telephone line that consumers can use to report:

56 (i) Obscene material that is not blocked by the digital blocking capability's filters; and

57 (ii) Material that is not obscene that is blocked by the digital blocking capability's
 58 filters; and

59 (C) Has in place procedures for evaluating reports made under subparagraph (B) of this
 60 paragraph and, if necessary, updating the digital blocking capability's filters in a
 61 reasonable amount of time.

62 (c) Except as provided in subsection (d) of this Code section, a retailer shall not provide
 63 to a consumer methods, source code, or other operating instructions for deactivating a
 64 product's digital blocking capability.

65 (d) A retailer may deactivate a product's digital blocking capability if the consumer who
 66 purchased or leased the product:

67 (1) Requests in writing that the digital blocking capability be deactivated;

68 (2) Presents identification verifying that he or she is at least 18 years of age;

69 (3) Acknowledges a written warning regarding the potential danger of deactivating the
 70 digital blocking capability; and

71 (4) Pays a one-time fee of \$20.00 for deactivation of the digital blocking capability on
 72 that particular product.

73 10-1-922.

74 (a) Each quarter, every retailer shall remit any fees collected under paragraph (4) of
 75 subsection (d) of Code Section 10-1-921 to the comptroller general in the manner
 76 prescribed by the comptroller general.

77 (b) The comptroller general shall deposit the fee to the credit of the Georgia Mental Health
 78 and Addiction Treatment Trust Fund established pursuant to Chapter 11 of Title 37, and
 79 moneys deposited to such fund shall only be used as provided for in such chapter.

80 10-1-923.

81 (a) If it appears that a retailer is in violation of this article, the attorney general or any
 82 district attorney may institute an action of injunctive relief to restrain the retailer from
 83 continuing the violation.

84 (b) The attorney general or any district attorney may recover reasonable expenses incurred
 85 in obtaining injunctive relief under this Code section, including reasonable attorney's fees.

86 10-1-924.

87 A consumer injured by any violation of this article may bring an action for recovery of
 88 damages. The damages awarded shall not be more than three times the amount the
 89 consumer paid the retailer to purchase or lease the product with respect to which the
 90 violation occurred, plus reasonable attorney's fees."

91 **SECTION 3.**

92 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 93 adding a new chapter to read as follows:

94 "CHAPTER 1195 37-11-1.

96 This chapter is enacted pursuant to Article III, Section IX, Paragraph VI(q) of the
 97 Constitution, which authorizes all moneys collected from fees charged for the deactivation
 98 of digital blocking capability on products sold in this state that make content accessible on
 99 the Internet to be dedicated to the Georgia Mental Health and Addiction Treatment Trust
 100 Fund for the purpose of providing nonpermanent long-term residential mental health and
 101 addiction treatment, holistic mental health and addiction counseling, and treatment
 102 alternatives to psychiatric drug therapy.

103 37-11-2.

104 (a) There is established the Georgia Mental Health and Addiction Treatment Trust Fund
 105 as a separate fund in the state treasury. The state treasurer shall credit to such trust fund
 106 all moneys received by the state from fees charged for the deactivation of digital blocking
 107 capability on products sold in this state that make content accessible on the Internet as
 108 provided in Article 35 of Chapter 1 of Title 10. Such funds shall not lapse to the general
 109 fund.

110 (b) The department shall administer, grant, and loan the moneys within the Georgia Mental
 111 Health and Addiction Treatment Trust Fund in furtherance of the purposes of and pursuant
 112 to the provisions of this chapter.

113 37-11-3.

114 The moneys within the Georgia Mental Health and Addiction Treatment Trust Fund shall
 115 be used in each fiscal year for grants to nongovernmental entities in this state having a
 116 project proposal which has been approved by the department. As a condition of eligibility
 117 for any such grant, a project proposal shall have as its primary purpose to provide at least
 118 one of the following mental health and addiction objectives:

- 119 (1) Nonpermanent long-term residential mental health treatment or addiction treatment,
 120 or both;
 121 (2) Holistic mental health counseling or holistic addiction counseling, or both; or
 122 (3) Treatment alternatives to psychiatric drug therapy.

123 37-11-4.

124 (a) The department shall review and make determinations concerning the disposition of
125 each project proposal for fiscal efficacy, for the fiscal solvency of the entity identified as
126 responsible for implementing the project, and for its value as furthering the mental health
127 objectives identified in Code Section 37-11-3.

128 (b) If the department approves a project proposal, such approved project shall become
129 eligible for funding consistent with this chapter and any rules and regulations of the
130 department.

131 37-11-5.

132 The department shall have the authority to promulgate any rules and regulations reasonable
133 and necessary to enforce the provisions of this chapter, including, but not limited to, rules
134 and regulations governing information required for project proposal submissions."

135 **SECTION 4.**

136 This Act shall become effective on January 1, 2019, only if an amendment to the
137 Constitution authorizing the General Assembly to provide by law for allocation of all moneys
138 derived from fees charged for the deactivation of digital blocking capability on products sold
139 in this state that make content accessible on the Internet to a trust fund to be used to provide
140 nonpermanent long-term residential mental health and addiction treatment, holistic mental
141 health and addiction counseling, and treatment alternatives to psychiatric drug therapy is
142 ratified by the voters at the November, 2018, state-wide general election. If such an
143 amendment is not so ratified, then this Act shall not become effective and shall stand
144 repealed on January 1, 2019.

145 **SECTION 5.**

146 All laws and parts of laws in conflict with this Act are repealed.