

The Senate Committee on Government Oversight offered the following substitute to HB 792:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia
2 Annotated, relating to internet and e-mail fraud, so as to establish criminal offenses of certain
3 forms of digital fraud on social media platforms; to provide for criminal penalties; to require
4 social media platform operators to evaluate claims of such fraud; to provide for civil
5 penalties; to provide for enforcement; to provide for a cause of action and damages; to
6 provide for definitions; to provide for related matters; to provide for an effective date and
7 applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,
11 relating to internet and e-mail fraud, is amended by adding a new Code section to read as
12 follows:

13 "16-9-109.2.

14 (a) As used in this Code section, the term:

15 (1) 'Operator' means any person or entity that runs or operates a social media platform.

16 (2) 'Social media platform' means an internet website, service, application, or product
17 that:

18 (A) Is open to the public;

19 (B) Allows or enables users to create accounts or communicate or interact with other
20 users; and

21 (C) Permits users to create or post content or information, including, but not limited
22 to, images, videos, video games, or such other content that is viewable or able to be
23 engaged with by other users.

24 (b) A person commits the offense of digital identity fraud when, using a social media
25 platform, such person knowingly and without authorization:

26 (1) Uses the identity of an individual who is a resident of this state without such
27 individual's consent, including such individual's name, image, identifying information,
28 or social media platform profile information to mimic such individual, with the intent to
29 deceive others, cause harm, or commit fraud; or

30 (2) Creates a social media platform profile that mimics an individual who is a resident
31 of this state without such individual's consent, through use of such individual's name,
32 image, identifying information, or social media platform profile information, with the
33 intent to use such social media platform profile, or to make it available for use by others,
34 to deceive others, cause harm, or commit fraud.

35 (c) A person commits the offense of criminal digital design when, using a social media
36 platform, such person knowingly and willfully creates interactive content that encourages,
37 causes, abets, connives, solicits, engages, or aids another in committing any felony which
38 encompasses force or violence as an element of the offense which would constitute a
39 felony which encompasses force or violence as an element of the offense.

40 (d) A person who commits an offense provided in subsection (b) or (c) of this Code section
41 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment

42 for not less than one year nor more than 20 years, a fine of not less than \$1,000.00 nor
43 more than \$500,000.00, or both.

44 (e)(1) Except as provided in subsection (f) of this Code section, an operator that receives
45 notice that an alleged violation of subsection (b) or (c) of this Code section has occurred
46 on the social media platform of the operator shall make a good faith effort to complete
47 an evaluation of the legality of the content or activity at issue within 72 hours of receiving
48 the notice, excluding hours during a Saturday or Sunday and subject to reasonable
49 exceptions based on concerns about the legitimacy of the notice.

50 (2) A violation of any provision of paragraph (1) of this subsection shall be punishable
51 by a civil fine in an amount not to exceed \$5,000.00 for each violation, per day. A
52 prosecuting attorney or the Attorney General shall be authorized to prosecute the civil
53 case.

54 (f)(1) Within 72 hours of receiving a police incident report or other official
55 communication from a law enforcement officer or agency in this state that is submitted
56 through a platform's designated mechanism for processing law enforcement requests and
57 that includes an allegation that content on an operator's social media platform involves
58 an alleged violation of subsection (b) or (c) of this Code section, such operator shall
59 promptly restrict from public access all such content or activity. Any failure or refusal by
60 an operator to restrict public access to all such content within 72 hours, excluding hours
61 on a Saturday or Sunday, shall constitute a violation of this paragraph.

62 (2) Police incident reports and other official communications from a law enforcement
63 officer or agency in this state provided for in this subsection shall be submitted through
64 a designated mechanism for processing law enforcement requests on the operator's social
65 media platform and shall include:

66 (A) Identification of the law enforcement officer or agency in this state submitting such
67 report or other official communication; and

68 (B) Clear identification of the victim or account holder, and the profile alleged to have
69 been the subject of digital identity fraud.

70 (3) A violation of any provision of paragraph (1) of this subsection shall be punishable
71 by a civil fine in an amount not to exceed \$50,000.00 for each violation, per day. A
72 prosecuting attorney or the Attorney General shall be authorized to prosecute the civil
73 case.

74 (g) Any violation of subsection (b) or (c) of this Code section shall constitute a tort and
75 shall create a right of action in any person aggrieved by such violation, including, but not
76 limited to, any person whose identity was used or mimicked, for which damages may be
77 recovered. Special damages may be inferred by the violation. The remedies provided in this
78 Code section are in addition to any other procedures or remedies available at law or equity.
79 Reasonable attorney's fees shall be awarded to the plaintiff where the plaintiff has prevailed
80 in the underlying action.

81 (h) It is the intent of the General Assembly that this Code section shall not be construed
82 or applied to:

83 (1) Diminish or infringe upon any right of petition or free speech under the Constitution
84 of the United States or the Constitution of the State of Georgia; or

85 (2) Prosecute or impose liability upon any operator on the basis that such operator is the
86 publisher or speaker of content that is alleged to constitute digital identity fraud, digital
87 marketing fraud, criminal digital design or in any manner that is inconsistent with Section
88 230 of Chapter 5 of Title 47 of the United States Code."

89 **SECTION 2.**

90 This Act shall become effective on July 1, 2026, and shall apply to causes of action accruing
91 on or after such date.

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SECTION 3.

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