

23100109D

**HOUSE BILL NO. 1391**

Offered January 11, 2023

Prefiled November 28, 2022

A *BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, relating to Commission on Social Media established; report.*

Patrons—Gooditis, Clark, Lopez, Adams, D.M., Anderson, Bagby, Bennett-Parker, Carr, Filler-Corn, Glass, Guzman, Hayes, Hope, Jenkins, Kory, Krizek, Maldonado, McQuinn, Mundon King, Murphy, Price, Rasoul, Roem, Scott, D.L., Shin, Sickles, Simon, Simonds, Subramanyam, Ward, VanValkenburg, Willett and Williams Graves

Referred to Committee on Rules

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 66, consisting of sections numbered 30-421 through 30-429, as follows:**

**CHAPTER 66.****COMMISSION ON SOCIAL MEDIA.****§ 30-421. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

"Algorithmic amplification" means the promotion, demotion, recommendation, prioritization, or deprioritization of user-generated content on a covered platform to other users of the covered platform through a means other than presentation of content in a reverse-chronological or chronological order.

"Covered platform" means any public-facing website, desktop application, or mobile application that (i) is operated for commercial purposes; (ii) provides a forum for user-generated content; (iii) is constructed such that the core functionality of the website or application is to facilitate interaction between users and user-generated content; and (iv) has more than 20 million monthly active users in the United States for a majority of the months in the previous 12-month period.

"Deceptive practices" means (i) a representation, omission, or practice that misleads or is likely to mislead; (ii) a person's interpretation of the misleading representation, omission, or practice is considered reasonable under the circumstances; and (iii) the misleading representation, omission, or practice is material.

"Disinformation" means false information deliberately and often covertly spread in order to influence public opinion or obscure the truth.

"Doxing" means to publicly identify or publish private information about another person with malicious intent.

"Harassment" has the same meaning ascribed to it in § 18.2-152.7:1.

"Insurrection" has the same meaning ascribed to it in 18 U.S.C. § 2383.

"Mass violence" means an intentional violent criminal act that results in physical, emotional, or psychological injury to a large number of people.

"Misinformation" means incorrect or misleading information.

"Targeted advertising" means the same as that term is defined in § 59.1-575.

**§ 30-422. Commission on Social Media; purpose.**

The Commission on Social Media (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to (i) examine impacts and harms to citizens caused by social media platforms hosting or amplifying content that includes threats or suggestions of physical violence or danger toward citizens, institutions, groups, associations, or physical structures of the Commonwealth, especially content that pertains to homicide, suicide, sexual assault, insurrection, or mass violence; threats to the advancement of public health; threats to the safety and integrity of elections; or threats to the safety of elected officials by (a) studying the impact of dangerous and violent rhetoric, threats, harassment, doxing, intimidation, misinformation, disinformation, defamation, and deceptive practices and (b) studying the impact of certain practices by social media companies such as algorithmic amplification and targeted advertising; (ii) facilitate cooperation between researchers and social media companies, including sharing data and other resources especially to examine violent rhetoric online; and (iii) make legislative and policy recommendations to better protect citizens and institutions, groups, associations, and physical structures of the Commonwealth from harms, especially physical danger, caused by content on social media platforms or social media company practices identified by the Commission.

**§ 30-423. Membership; terms; vacancies; chairman and vice-chairman.**

The Commission shall consist of 20 members, to include eight legislative members, six nonlegislative citizen members, and six ex officio members, appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, one of whom shall have expertise in the impacts of social media on government and governance from an academic perspective, one of whom shall have significant background in social media policy from a civil society or journalist perspective, and one of whom is a current or former member of law enforcement shall have expertise in social media and criminal threats and violence, to be appointed by the Speaker of the House of Delegates; three nonlegislative citizen members, one shall have expertise in how violent rhetoric online may influence violent actions offline, one who is a representative of a large social media company, and one with legal expertise on social media and the First Amendment, to be appointed by the Senate Committee on Rules; and Virginia's Chief Data Officer, the Secretary of Commerce and Trade, the Secretary of Health and Human Resources, the Secretary of Public Safety and Homeland Security, the Chairman of the State Board of Elections, and the Director of the Department of Criminal Justice Services, or their designees, who shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed as provided in § 30-425.

Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from a quorum of its membership, who shall be members of the General Assembly.

**§ 30-424. Quorum; meetings; voting on recommendations.**

A majority of the members shall constitute a quorum. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request. The Commission shall meet at least quarterly.

No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

**§ 30-425. Compensation; expenses.**

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.

**§ 30-426. Powers and duties of the Commission.**

The Commission shall have the following powers and duties:

1. Identify and investigate impacts and harms to citizens and institutions, groups, associations, or physical structures of the Commonwealth caused by social media platforms hosting or amplifying content that includes threats or suggestions of physical violence or danger toward citizens, institutions, groups, associations, or physical structures of the Commonwealth, especially content that pertains to homicide, suicide, sexual assault, insurrection, or mass violence; threats to the advancement of public health; threats to the safety and integrity of elections; or threats to the safety of elected officials;

2. Facilitate research into the harms to citizens and institutions, groups, associations, or physical structures of the Commonwealth and facilitate cooperation between research institutions and social media companies on these subjects, including sharing data;

3. Identify priorities and actions necessary to address social media harms that negatively impact citizens and institutions, groups, associations, or physical structures of the Commonwealth;

4. Develop legislative and policy recommendations to comprehensively improve the Commonwealth's legal framework for addressing social media harms; and

5. Submit an annual report pursuant to § 30-428.

**§ 30-427. Staffing.**

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates or the Office of the Clerk of the Senate as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis, and other services as requested by the Commission.

**§ 30-428. Annual report.**

The chairman shall submit to the General Assembly and the Governor an annual report summarizing interim activity and work of the Commission no later than December 1. The annual report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**§ 30-429. Sunset.**

*This chapter shall expire on July 1, 2026.*

**2. That, for its first year of existence, if the Commission on Social Media (the Commission), as created by this act, is not funded by a separate appropriation in the appropriation act, the Commission may be funded from the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon the approval of the Joint Rules Committee. If the Commission is not funded by a separate appropriation in the appropriation act for any year thereafter, this chapter shall expire on July 1 of the fiscal year in which the Commission fails to receive such funding.**