



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 379
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Reynolds and Roegner

Reid J. Fleeson, Attorney

Mike Niemi, Supervisor, Research and Drafting

Margaret E. Marcy, Supervisor, Research and Drafting

Nicholas A. Keller, Attorney

SUMMARY

Statewide camera footage registry system

- Requires the Attorney General (AG) to establish and maintain a statewide camera footage registry system consisting of camera footage voluntarily submitted to the AG for placement in the system.
- Requires the AG to place submitted camera footage in the system if the AG determines that the footage depicts or may depict a crime.
- Allows camera footage placed in the system to be provided to any law enforcement agency upon request.
- Requires the AG to adopt rules to implement the statewide camera footage registry system in accordance with the Administrative Procedure Act.

Video game platforms and developers

- Imposes various duties on gaming platform providers, including, for example:
 - Requesting and verifying an individual's age category at account creation with the provider; and
 - Requiring a minor's account be affiliated with a parent account and obtain verifiable parental consent prior to allowing a minor to download or purchase a video game.
- Imposes various duties on video game developers, including, for example:

- Verifying the age category of users located in Ohio and, for minor accounts, whether verifiable parental consent has been obtained; and
- Requesting personal age category verification data or parental consent whenever a user downloads or purchases a video game, when implementing a significant change to the video game, and whenever necessary to comply with applicable laws or regulations.
- Prohibits gaming platform providers and developers from engaging in certain conduct, such as, for example, knowingly misrepresenting any information in a parental consent disclosure.
- Creates a private cause of action for minors harmed by a violation of certain provisions of the bill and for their parents.
- Makes a violation by a provider or developer of the bill's prohibition against knowingly misrepresenting any information in a parental disclosure an unfair or deceptive act or practice under Ohio's Consumer Sales Practices Act.
- States that the bill is not to be construed to require or allow various activities to be conducted by, or to impose limitations on, video game platform providers and developers, such as, for example:
 - Require a gaming platform provider to disclose user information to a developer other than age category and verification of parental consent status; and
 - Require a developer to collect, retain, reidentify, or link any information beyond what is needed for age verification, parental consent, or conducting the developer's ordinary course of business.

Grooming awareness and prevention instruction

- Requires public schools to include annual, developmentally appropriate instruction in grooming awareness and prevention in their curriculum.
- Requires the Department of Education and Workforce to develop a list of curricula, materials, programs, and instructional strategies related to grooming awareness and prevention instruction that public schools may use.

Emergency Pink Alert Program

- Creates the statewide Emergency Pink Alert Program to aid in identifying and locating missing individuals when certain credible risk factors are present in the circumstances of their disappearance.
- Requires the Director of Public Safety to release an annual report regarding the Emergency Pink Alert Program to the Governor, the General Assembly, and the Department of Public Safety website.

Digital crime enforcement parameters

- Requires the AG to promulgate digital crime enforcement parameters for law enforcement, including parameters to assist local law enforcement in successfully obtaining warrants to obtain digitally stored information.

Bill name

- Titles the bill “Hailey’s Law.”

TABLE OF CONTENTS

Introduction	4
Statewide camera footage registry system	4
Video game platforms and developers.....	4
Definitions	5
Gaming platform providers.....	6
Provider duties	6
Provider age category data verification	6
User notice following significant change.....	7
Provider information to developer	7
Age verification data protection.....	7
Provider prohibitions.....	7
Commerce minor account verification process rules.....	7
Video game developers.....	7
Developer duties	7
Developer verification responsibilities.....	8
Notify providers of significant change.....	8
Developer use of age category data.....	8
Developer data request.....	8
Developer age category data use when implementing safety features	8
Developer prohibitions.....	8
Developer age category or parental consent limitation	9
Enforcement.....	9
Private cause of action	9
Consumer Sales Practices Act violation.....	9
Exemptions	9
Developer exemption from liability	10
Grooming awareness and prevention instruction.....	10
Public schools	10

Department of Education and Workforce	11
Emergency Pink Alert Program	11
Risk factors	12
Annual report	12
Other alerts and liability.....	13
Digital crime enforcement parameters	13
Bill title	13

DETAILED ANALYSIS

Introduction

The bill requires the Attorney General (AG) to establish a voluntary camera footage registry system and allows the AG to provide camera footage in the system to law enforcement agencies upon request. The bill also imposes various duties and prohibitions on gaming platform providers and video game developers regarding verifying a user’s age category and applying certain limits on that user’s video game activities based on the age category. Additionally, the bill imposes certain requirements concerning the instruction of grooming awareness and prevention in public schools, creates the Emergency Pink Alert Program, and requires the AG to promulgate digital crime enforcement parameters for law enforcement. Lastly, the bill is named “Hailey’s Law.”

Statewide camera footage registry system

The bill requires the AG to establish and maintain a statewide camera footage registry system. Any person is permitted to voluntarily submit camera footage to the AG for placement in the system. The AG must place submitted camera footage in the system if the AG determines that the footage depicts or may depict a crime. Camera footage placed in the system may, upon request, be provided to any law enforcement agency.

The AG is required to adopt rules under Ohio’s Administrative Procedure Act to implement the statewide camera footage registry system.

Existing law, unchanged by the bill, defines “law enforcement agency” as a police department, the office of a sheriff, the state highway patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.¹

Video game platforms and developers

The bill imposes various duties and prohibitions regarding gaming platform providers and video game developers, which are explained below.

¹ R.C. 109.44; R.C. 109.573, not in the bill.

Definitions

For purposes of the bill's video game platforms and developers provisions, the following terms are defined:

- "Age category" means one of the following categories of individuals based on age: (1) child (under 13 years old), (2) younger teenager (13 to under 16 years old), (3) older teenager (16 to under 18 years old), or (4) adult (18 years old or older).
- "Age category data" means information about a user's age category that is collected by a gaming platform provider and shared with a developer.
- "Age rating" means a classification that provides an assessment of the suitability of the content of a video game for different age groups.
- "Gaming platform" means software or hardware used to play video games, that provides a foundation for individuals to access a variety of video games, and serves as a gateway to connect with others, access game libraries, and enjoy gaming experiences. "Gaming platform" includes video game consoles with internet access, personal computers, mobile devices, cloud gaming services, and virtual reality platforms.
- "Gaming platform provider" means a person that owns, operates, or controls a gaming platform that allows users in Ohio to download or play video games. "Gaming platform provider" excludes the user of a gaming platform.
- "Content description" means a description of the specific content elements that inform the age rating of a video game.
- "Developer" means a person that owns or controls a video game made available through a gaming platform in Ohio. "Developer" excludes a person who purchases or rents a video game.
- "Knowingly" means to act with actual knowledge or with knowledge fairly inferred based on objective circumstances.
- "Minor" means an individual who is less than 18 years of age, unless the individual is either: (1) married, or (2) an emancipated minor.
- "Minor account" means an account with a gaming platform provider that is established by an individual the provider determines is a minor through the provider's age category verification methods and requires affiliation with a parent account.
- "Parent" means, with respect to a minor, an individual who is reasonably believed to be a parent, a legal guardian, an individual with legal custody, or any other individual who has the legal right to make decisions on behalf of the minor.
- "Parent account" means an account with a gaming platform provider that is verified to be established by an individual the provider determines is an adult, an individual who is less than 18 years old and is married, or an emancipated minor through the provider's age category verification methods and may be affiliated with one or more minor accounts.

- “Parental consent disclosure” means the following information: (1) the age rating, if any, for the video game or intra-video game purchase, (2) the content description, if any, for the video game or intra-video game purchase, (3) a description of both the personal data collected by the video game from a user, and the personal data shared by the video game with a third party, and (4) if personal data is collected by the video game, the methods implemented by the developer to protect the personal data.
- “Significant change” means a material modification to the terms of service or privacy policy of a video game that does any of the following: (1) changes the categories of data collected, stored, or shared, (2) alters the age rating or content descriptions of the video game, (3) adds new monetization features, including intra-video game purchases or advertisements, or (4) materially changes the functionality of or user experience in the video game.
- “Verifiable parental consent” means authorization that meets all of the following: (1) is provided by an individual who the gaming platform provider verifies to be an adult, (2) is given after the provider clearly and conspicuously provides the parental consent disclosure to the individual, and (3) requires the individual to make an affirmative choice to grant or decline consent.
- “Video game” means an electronic game in which one or more players control images on a video screen.²

Gaming platform providers

Provider duties

The bill imposes various duties on gaming platform providers, which are described below.

Provider age category data verification

The bill requires gaming platform providers, at the time an individual located in Ohio creates an account with the provider, to do both of the following:

- Request age category data about the individual;
- Verify the age category of the individual using methods that are commercially reasonable or that otherwise comply with rules required to be adopted by the Director of Commerce (see “**Commerce minor account verification process rules**” below).

If the age verification method or process determines that the individual creating an account is a minor, the bill mandates that gaming platforms require the account be affiliated with a parent account. The gaming platform must also obtain verifiable parental consent from the holder of the affiliated parent account before allowing the minor to download or purchase a video game or make an intra-video game purchase.³

² R.C. 1349.07.

³ R.C. 1349.071(A)(1) and (2).

User notice following significant change

After a developer notifies a gaming platform provider of a significant change in the video game (see “***Notify providers of significant change***” below), the bill requires the provider to notify all users that have downloaded the video game in Ohio of the change. For minor account holders, the gaming platform provider must also notify the affiliated parent account of the change and obtain renewed verifiable parental consent.⁴

Provider information to developer

The gaming platform provider is also required to provide a developer, upon request, with the age category data for an Ohio user and verifiable parental consent status for a minor located in Ohio, as well as notify a developer if parental consent is later revoked.⁵

Age verification data protection

The bill also requires gaming platform providers to protect personal age verification data by: (1) limiting the collection and processing to data necessary for verifying a user’s age category, obtaining parental consent, or maintaining compliance records, and (2) transmitting the data using industry standard encryption protocols that ensure data integrity and confidentiality.⁶

Provider prohibitions

The bill prohibits gaming platform providers from doing any of the following:

- Enforcing a contract or terms of service against a minor unless the provider has obtained verifiable parental consent;
- Knowingly misrepresenting information in a parental consent disclosure;
- Sharing personal age category verification data except: (1) between the provider and a developer as required by the bill, and (2) as otherwise required by law.⁷

Commerce minor account verification process rules

The bill requires the Director of Commerce to adopt rules in accordance with the Ohio Administrative Procedure Act establishing processes and means by which a gaming platform provider can verify whether an account holder is a minor in accordance with the bill.⁸

Video game developers

Developer duties

The bill imposes various duties on video game developers, as described below.

⁴ R.C. 1349.071(A)(3).

⁵ R.C. 1349.071(A)(4) and (5).

⁶ R.C. 1349.071(A)(6).

⁷ R.C. 1349.071(B).

⁸ R.C. 1349.071(C).

Developer verification responsibilities

Under the bill, developers are required to verify, through the gaming platform's data sharing methods, the age category of users located in Ohio and, for a minor account, whether verifiable parental consent has been obtained.⁹

Notify providers of significant change

The bill requires developers to notify gaming platform providers of any significant changes to their video games.¹⁰

Developer use of age category data

Developers must use the age category data received to enforce any developer-created age-related restrictions, ensure compliance with applicable laws and regulations, and implement any developer-created safety-related features or defaults.¹¹

Developer data request

Developers are also required to request personal age category verification data or parental consent whenever a user downloads or purchases a video game, when implementing a significant change to the video game, and whenever necessary to comply with applicable laws or regulations.¹²

Developer age category data use when implementing safety features

Additionally, when implementing any developer-created safety-related features or defaults, developers are required to use the lowest age category indicated by either the age category verification data provided by a gaming platform provider or age category data independently collected by the developer.¹³

Developer prohibitions

The bill prohibits developers from doing any of the following:

- Enforcing a contract or terms of service against a minor unless the developer has verified through the gaming platform provider that verifiable parental consent has been obtained;
- Knowingly misrepresenting any information in a parental consent disclosure;
- Sharing age category data with any other person.¹⁴

⁹ R.C. 1349.072(A)(1).

¹⁰ R.C. 1349.072(A)(2).

¹¹ R.C. 1349.072(A)(3).

¹² R.C. 1349.072(A)(4).

¹³ R.C. 1349.072(C).

¹⁴ R.C. 1349.072(D).

Developer age category or parental consent limitation

Further, the bill prohibits developers from requesting personal age category verification or parental consent data more than once every 12 months to verify the accuracy of the user age category verification data or the continued account use within the verified age category. This prohibition does not apply when: (1) the developer has a reasonable suspicion of an account being transferred or misused outside of its verified age category, or (2) a user creates a new account with the developer.¹⁵

Enforcement

Private cause of action

The bill creates a private cause of action for any violation of the bill's video game provisions that may be brought by a minor harmed by a violation of the bill's "**Provider prohibitions**" or "**Developer prohibitions**," or that minor's parent.

A prevailing minor or their parent is entitled to actual damages or \$1,000 per violation, whichever is greater, as well as reasonable attorney's fees and litigation costs.¹⁶

Consumer Sales Practices Act violation

Additionally, the bill provides that a gaming platform provider or developer that knowingly misrepresents information in a parental consent disclosure commits an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA). However, the bill specifies that, notwithstanding the CSPA's private cause of action for consumers, only the persons granted a private cause of action (described immediately above) have a private cause of action for a violation of the bill's provisions classified as an unfair or deceptive act or practice.

Under the CSPA, unchanged by the bill, both the AG and consumers may bring an action against a party committing an unfair or deceptive act or practice. If under the CSPA the AG obtains a temporary restraining order or preliminary or permanent injunction, and the provider or developer violates such an order or injunction, a civil penalty may be imposed, depending on the violation, of less than \$5,000 or at least \$5,000 but less than \$15,000 for each day's violation of the order. Recovery in a suit brought by a consumer could consist of, for example, the consumer's actual economic damages plus up to \$5,000 in noneconomic damages.¹⁷

Exemptions

The bill states that it does not do any of the following:

- Prevent a gaming platform provider or developer from taking reasonable measures to: (1) block, detect, or prevent distribution to minors of unlawful, obscene, or harmful

¹⁵ R.C. 1349.072(B).

¹⁶ R.C. 1349.073(B) and (C).

¹⁷ R.C. 1349.073(A); R.C. 1345.02, 1345.07, and 1345.09, not in the bill.

material, (2) block or filter spam, (3) prevent criminal activity, or (4) protect gaming platform or video game security;

- Require a gaming platform provider to disclose user information to a developer other than age category and verification of parental consent status;
- Allow a gaming platform provider or developer to implement the bill’s video game provisions in a manner that is arbitrary, capricious, adverse to competition, or unlawful;
- Require a gaming platform or developer to obtain parental consent for a video game that meets all of the following: (1) provides direct access to emergency services, including 9-1-1, crisis hotlines, or other emergency assistance services legally available to minors, (2) limits data collection needed to provide emergency services in compliance with federal law, (3) provides access without requiring account creation or personal information collection, or (4) is operated in partnership with a government entity, nonprofit organization, or authorized emergency service provider;
- Require a developer to collect, retain, reidentify, or link any information beyond what is necessary to verify age categories and parental consent status or what is collected, retained, reidentified, or linked in the developer’s ordinary course of business.¹⁸

Developer exemption from liability

The bill provides that a developer is not liable for a violation of the bill’s **“Video game developers”** provisions if the developer demonstrates good faith reliance on personal age category verification data or that verifiable parental consent was obtained from a gaming platform provider. In addition, a developer is not liable for misrepresenting information in a parental consent disclosure if the developer demonstrates both that: (1) the developer uses widely adopted industry standards to determine the age category of the video game and the content description disclosure, and (2) the developer applied those standards consistently and in good faith.

The bill specifies that the limitations on liability for developers discussed above only apply to actions brought under the bill’s video games provisions and do not limit a developer’s or gaming platform provider’s liability under any other applicable law. Additionally, the bill provides that these exemptions do not displace any other available remedies authorized under federal law.¹⁹

Grooming awareness and prevention instruction

Public schools

The bill requires each school district, community school, STEM school, and college-preparatory boarding school to include in its curriculum annual, developmentally appropriate

¹⁸ R.C. 1349.075.

¹⁹ R.C. 1349.074.

instruction in grooming awareness and prevention. For a school district specifically, the instruction must be included in its health curriculum. The instruction must prepare students to:

1. Recognize grooming behaviors, manipulation tactics, and boundary testing;
2. Understand how predators build trust and exploit vulnerabilities over time;
3. Identify warning signs across mobile applications, games, direct messages, and other online interactions;
4. Know how to respond, save evidence, find online support, and tell a trusted adult about the grooming; and
5. Protect themselves and their peers who may be targeted.

Prior to providing the grooming awareness and prevention instruction each year, a district or school must notify parents of that it is upcoming. Upon written request of a student's parent or guardian, the district or school must excuse a student from taking it.

Each district or school must develop the instruction in consultation with child safety experts and a law enforcement agency. A district or school must review the instruction and update it periodically, including incorporating instruction about new technologies.

Finally, each district or school must annually certify to the Department of Education and Workforce whether it is compliant with the bill's requirements.²⁰

Department of Education and Workforce

The bill requires the Department of Education and Workforce to conduct a review of available resources and develop a list of curricula, materials, programs, and instructional strategies related to grooming awareness and prevention instruction. It expressly permits each public school to use materials from the Department's list in providing the required grooming awareness and prevention instruction. Periodically, the Department must review and update its list.²¹

Emergency Pink Alert Program

The bill creates a statewide "Emergency Pink Alert Program" ("Pink Alerts") to aid in the identification and location of any missing individual, when certain credible risk factors are present, and a law enforcement agency determines that the disappearance poses a credible threat of immediate danger of serious harm or death to the missing individual.²² The Pink Alerts are designed to operate in a manner similar to the current law AMBER Alerts (for abducted children), Blue Alerts (for finding a person suspected of killing or seriously injuring a law enforcement officer or find a missing law enforcement officer), and a statewide alert system to

²⁰ R.C. 3313.60(A)(5)(k), 3313.6034, 3314.03, 3326.11, and 3328.24.

²¹ R.C. 3301.0733.

²² R.C. 5502.523(B)(1).

find a missing individual who has a mental impairment, autism spectrum disorder, or another developmental disability.²³

Similar to the other alerts, the Pink Alerts must be a coordinated effort among the Governor's office, the Department of Public Safety (DPS), the Attorney General, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others, as determined necessary, by the Governor.²⁴

Risk factors

Unlike AMBER Alerts, the Pink Alerts apply to an individual at any age and are designed for broader application beyond possible abductions. For a Pink Alert to be activated, however, all of the following criteria must be met:

1. The local investigating law enforcement agency must confirm the individual is missing;
2. Credible risk indicators must exist related to that missing individual (e.g., evidence of online grooming or coercive digital communication; recent contact with unknown adults; indicators of trafficking or exploitation; credible threats of harm either to or by the missing individual; vulnerability of the missing individual due to age or similar factors; and the individual's disappearance is sudden and unexplained without the usual contact to trusted family or friends);
3. The disappearance of the individual must pose a credible threat of immediate danger of serious harm or death to the missing individual;
4. There must be sufficient descriptive information about the individual and the circumstances of their disappearance to indicate that activation of a Pink Alert will assist in finding them.²⁵

Annual report

The bill requires the Director of Public Safety to submit a report to the Governor and the General Assembly on February 1 of each year summarizing:

- The times a Pink Alert was activated the prior year;
- The response timelines and outcomes of each Pink Alert; and
- Any identified gaps and recommendations for improvements to the program.

The report must also be available on the DPS website.²⁶

²³ R.C. 5502.52, 5502.522, and 5502.53, not in the bill.

²⁴ R.C. 5502.523(B)(2).

²⁵ R.C. 5502.523(C).

²⁶ R.C. 5502.523(G).

Other alerts and liability

The bill clarifies that other local or regional emergency alert programs may also be created and activated to assist in locating a missing individual who is the subject of a Pink Alert. Those local or regional emergency alert programs may have criteria for activation that are different from the statewide program. Additionally, the creation of the Pink Alerts does not authorize the use of the federal emergency alert system, unless federal law specifies otherwise.²⁷

Finally, the bill exempts any communications system (e.g., radio, television, and cable) and any director, officer, employee, or agent of the state and local agencies and offices that participate in the Pink Alerts from any liability for damages or loss that is allegedly caused by or results from information that is either broadcast or that is not broadcast through the program. The exemption is similar to the liability exemption in the other statewide alerts programs.²⁸

Digital crime enforcement parameters

The bill requires the AG, on or after the bill's effective date, to promulgate digital crime enforcement parameters for law enforcement, including parameters to assist local law enforcement in successfully obtaining warrants to obtain digitally stored information.²⁹

Bill title

The bill is titled "Hailey's Law."³⁰

HISTORY

Action	Date
Introduced	03-16-26

ANSB0379IN-136/ar

²⁷ R.C. 5502.523(D) and (F).

²⁸ R.C. 5502.523(E).

²⁹ Section 3.

³⁰ Section 4.