

HOUSE BILL 889

By Moody

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 1 and Title 49, Chapter 6, relative to digital-learning platforms.

WHEREAS, the General Assembly finds that creators of education technology products are increasingly marketing interactive digital-learning platforms, including video-gaming platforms, for use in K–12 education; and

WHEREAS, the software in many of these digital-learning platforms is capable of collecting and analyzing a wealth of “fine-grained” data on students, including the student’s personal psychological characteristics and even physiological characteristics; and

WHEREAS, such data collection and data analysis can create a threat to student privacy; and

WHEREAS, most parents are not aware of the capabilities of such software in the digital-learning platforms that may be used in their child’s school; and

WHEREAS, parents have the right to full transparency concerning all types of data that is collected on their child; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, Part 7, is amended by adding the following language as a new section:

(a) As used in this section “digital-learning platform”:

(1) Means:

(A) An educational framework through the use of computers, digital technology, electronic media, networked digital devices, and associated software from which:

(i) Teachers can present a complete digital curriculum that is capable of hosting, supporting, and simplifying the playback of video, images, documents, and web links; and

(ii) Students have technological access to the learning tools and resources at any time; or

(B) An interactive digital platform that collects and records students' personally identifiable information, that is maintained by the school or a third-party provider; and

(2) Includes any video-gaming platform.

(b) Prior to the implementation of any digital-learning platform by a school, the school shall provide students, who are at least eighteen (18) years of age, parents, or legal guardians a formal written explanation of the goals and capabilities of the platform, including of any software, whether loaded onto the platform or hosted externally by a third party. The explanation shall include a description of:

(1) How the platform works and the principal purpose or purposes of the platform;

(2) The title and business address of the school official who is responsible for instructing the students in using the platform, and the name and business address of any contractor or other outside party responsible for maintaining the platform for or on behalf of the school;

(3) The information that the software is designed to collect, capture, and record about the student, including any data matches with other personally identifiable information about the student;

(4) The data that the platform or software collects or records about the student, including any personal psychological characteristics, noncognitive attributes or skills including collaboration, resilience, perseverance, and physiological measurements;

(5) The purpose of collecting and recording the data;

(6) Every contemplated use or disclosure of the data, the recipients of the data, and the purpose of the use or disclosure;

(7) A full explanation of the data-privacy policy maintained by the provider of the digital-learning platform; and

(8) The policies and practices of the school regarding storage, retrievability, access controls, retention, and disposal of the records collected and recorded by the platform.

(c) No digital-learning platform, or any other instructional content presented in digital format, shall be used by a school, unless the platform includes a portal or other mechanism that allows parents or legal guardians total access to the platform and all of the content available to the student users.

(d) All data collected on a student through the student's use of a digital-learning platform shall be destroyed at the end of the course in which the platform is used.

(e) Unless the school certifies that the platform is essential to the school's educational mission with an explanation of the basis for such certification, students, who are at least eighteen (18) years of age, parents, or legal guardians shall be allowed to opt out of using the digital-learning platform.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.