The original instrument was prepared by Beth O'Quin. The following digest, which does not constitute a part of the legislative instrument, was prepared by Leonore Heavey.

## DIGEST 2021 Regular Session

Morris

Proposed law creates the "Stop Social Media Censorship Act".

<u>Proposed law</u> defines the following terms:

SB 196 Reengrossed

- (1) An "algorithm" means a set of instructions designed to perform specific tasks.
- (2) "Hate speech" means a phrase that has content that an individual finds offensive based on his moral code.
- (3) "Obscene" means that an average person applying contemporary community standards would find the dominant theme of the material appeals to prurient interests.
- (4) "Political speech" means speech related to state, government, body politic, or public administration as it relates to governmental policymaking. Includes speech by the government or candidates for office and any discussion of social issues. The term does not include speech that concerns the administration, law, or civil aspects of government.
- (5) "Religious speech" means a set of unproven answers, truth claims, faith-based assumptions, and naked assertions that attempt to explain the greater questions on how the world was created, what constitutes right and wrong actions by humans, and what happens after death.
- (6) "Social media website" means an internet website or application that enables a user to communicate with others by posting information, comments, messages, or images that were open to the public, has more than 75 million users with user profiles provided by the website, and from its inception, was not specifically affiliated with any one religion or political party. "Social media website" does not include an internet service provider, electronic mail, or any online service, application, or website consisting primarily of news, sports, entertainment, or other information or content that is not user generated.
- (7) "User" means a resident of this state who is a natural person eighteen years of age or older.
- (8) "User profile" means a collection of settings and information associated with a user or subscriber who signs up for an account made available by a social media website.

<u>Proposed law</u> provides the owner or operator of the social media website who contracts with a user in this state is subject to a private right of action by the user if the social media website knowingly deletes or censors the user's rights of religious speech or political speech, or uses an algorithm to

disfavor or censor a user's religious or political speech.

<u>Proposed law</u> provides a social media website user may be awarded actual damages, plus up to \$75,000 in statutory damages, punitive damages if aggravating factors are shown, and other forms of relief.

<u>Proposed law</u> provides the prevailing party in a cause of action may be awarded court costs and reasonable attorney fees.

<u>Proposed law</u> provides a social media website that restores the deleted or removed speech within a reasonable amount of time may use that fact to mitigate any damages.

<u>Proposed law</u> provides a social media website cannot use the social media website's user's alleged hate speech as the basis for the justification or defense of the social media website's actions at trial.

<u>Proposed law</u> provides the attorney general may bring a civil cause of action on behalf of a social media website user whose religious speech or political speech was censored by a social media website.

<u>Proposed law</u> provides the social media user does not have a civil cause of action if the social media website deletes or censors a social media website user's speech or uses an algorithm to disfavor or censor speech that calls for immediate acts of violence, is obscene, lewd, lascivious, filthy, or pornographic in nature, is the result of an operational error, is the result of a court order, is from an inauthentic source or involves false impersonation, entices criminal conduct, or involves the bullying of minors, constitutes trademark or copyright infringement, is excessively violent, constitutes harassing spam or a commercial nature, is one user censoring another user's speech, or if the website merely permits the public to comment on the site owner's content.

<u>Proposed law</u> provides the state has a compelling interest in holding certain social media websites to a higher standard that substantially created a digital public square.

<u>Proposed law</u> provides the state has an interest in protecting and assisting residents in their rights of religious and political speech.

Proposed law shall not be construed to limit or expand any law pertaining to intellectual property.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 45:1701-1704)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.

## Senate Floor Amendments to engrossed bill

- 1. Adds exceptions to the definition of "social media website."
- 2. Adds a definition of "user profile."
- 3. Adds exceptions to the provisions of <u>proposed law</u> for social media websites that censor or delete speech that infringes on a trademark or copyright infringement, that is excessively violent, or that is harassing spam of a commercial nature.
- 4. Adds an exception to the provisions of proposed law for websites that permit the public to comment on the site owner's content.
- 5. Provides that <u>proposed law</u> does limit or expand any law pertaining to intellectual property.
- 6. Makes technical changes.