

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 25, 2023
Date

Honorable Dan Patrick
President of the Senate

Honorable Dade Phelan
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 1893 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

<u>Brian Birdwell</u>	<u>Mark "Doc" Jordan</u>
<u>Paul Bettencourt</u>	<u>Senfonia Thompson</u>
<u>Byron Huff</u>	<u>AD</u>
<u>[Signature]</u>	<u>Mike Scheffel</u>
<u>Andy S. Carter</u>	<u>S. Dyer</u>
On the part of the Senate	On the part of the House
	<u>G. Capron</u>

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1893

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of certain social media applications and services on devices owned or leased by governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. USE OF CERTAIN SOCIAL MEDIA APPLICATIONS AND SERVICES
ON GOVERNMENTAL ENTITY DEVICES PROHIBITED

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "Covered application" means:

(A) the social media service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited; or

(B) a social media application or service specified by proclamation of the governor under Section 620.005.

(2) "Governmental entity" means:

(A) a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the supreme court, the court of criminal appeals, a court of appeals, a district court, or the Texas Judicial

1 Council or another agency in the judicial branch of state
2 government; or

3 (C) a political subdivision of this state,
4 including a municipality, county, or special purpose district.

5 Sec. 620.002. DEFINING SECURITY RISK TO THIS STATE. For
6 purposes of this chapter, a social media application or service
7 poses a risk to this state if:

8 (1) the provider of the application or service may be
9 required by a foreign government, or an entity associated with a
10 foreign government, to provide confidential or private personal
11 information collected by the provider through the application or
12 service to the foreign government or associated entity without
13 substantial due process rights or similar legal protections; or

14 (2) the application or service poses a similar risk to
15 the security of this state's sensitive information, critical
16 infrastructure, or both, as an application or service described by
17 Section 620.001(1)(A).

18 Sec. 620.003. PROHIBITION; MODEL POLICY. (a) Subject to
19 Section 620.004, a governmental entity shall adopt a policy
20 prohibiting the installation or use of a covered application on any
21 device owned or leased by the governmental entity and requiring the
22 removal of covered applications from those devices.

23 (b) The Department of Information Resources and the
24 Department of Public Safety shall jointly develop a model policy
25 for governmental entities to use in developing the policy required
26 by Subsection (a).

27 Sec. 620.004. EXCEPTIONS; MITIGATING MEASURES. (a) A

1 policy adopted under Section 620.003 may provide for the
2 installation and use of a covered application to the extent
3 necessary for:

- 4 (1) providing law enforcement; or
5 (2) developing or implementing information security
6 measures.

7 (b) A policy allowing the installation and use of a covered
8 application under Subsection (a) must require:

- 9 (1) the use of measures to mitigate risks posed to this
10 state during the use of the covered application; and
11 (2) the documentation of those measures.

12 Sec. 620.005. APPLICATIONS IDENTIFIED BY GOVERNOR'S
13 PROCLAMATION. The governor by proclamation may identify social
14 media applications or services that pose a risk to this state as
15 described by Section 620.002.

16 Sec. 620.006. APPLICATION IDENTIFIED BY DEPARTMENT OF
17 INFORMATION RESOURCES AND DEPARTMENT OF PUBLIC SAFETY. (a) The
18 Department of Information Resources and the Department of Public
19 Safety shall jointly identify social media applications or services
20 that pose a risk to this state as described by Section 620.002.

21 (b) The Department of Information Resources shall:

22 (1) annually submit a list of applications and
23 services identified under Subsection (a) to the governor;

24 (2) publish the list on the department's publicly
25 accessible Internet website; and

26 (3) periodically update the list on that website.

27 SECTION 2. Not later than the 60th day after the date the

1 Department of Information Resources and the Department of Public
2 Safety make available the model policy required by Section
3 620.003(b), Government Code, as added by this Act, each
4 governmental entity shall adopt the policy required by Section
5 620.003(a), Government Code, as added by this Act.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.

Senate Bill 1893
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subtitle A, Title 6, Government Code, is amended by adding Chapter 620 to read as follows:

CHAPTER 620. USE OF CERTAIN SOCIAL MEDIA APPLICATIONS AND SERVICES ON **GOVERNMENTAL ENTITY** DEVICES PROHIBITED

Sec. 620.001. DEFINITIONS. In this chapter:

(1) "**Covered** application" means:

- (A) the social media service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited; or
- (B) a social media application or service specified by executive order of the governor under Section 620.005.

(2) "**Governmental entity**" means:

- (A) a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code; or
- (B) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council or another agency in the judicial branch of state government; or
- (C) a political subdivision of this state, including a municipality, county, or special purpose district.

Sec. 620.002. DEFINING SECURITY RISK. For purposes of this chapter, a social media application poses a risk to **the security of governmental entity information** if the

HOUSE VERSION (CS)

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 674 to read as follows:

CHAPTER 674. USE OF CERTAIN SOCIAL MEDIA APPLICATIONS AND SERVICES ON **STATE AGENCY** DEVICES PROHIBITED

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "**Prohibited** application" means:

- (A) a social media application or service included on the list published by the Department of Information Resources under Section 674.005; or
- (B) a social media application or service specified by executive order of the governor under Section 674.004.

(2) "**State agency**" means:

- (A) a department, commission, board, office, or other agency that is in the executive or legislative branch of state government and that was created by the constitution or a statute, including an institution of higher education as defined by Section 61.003, Education Code; or
- (B) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council or another agency in the judicial branch of state government.

No equivalent provision.

CONFERENCE

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 674 to read as follows:

Same heading as Senate version.

Sec. 620.001. Same as Senate version except as follows:

(1) Same as Senate version except references a **proclamation** instead of an executive order to conform to changes in Section 620.005.

(2) Same as Senate version except includes **a district court** among the listed judicial branch entities.

Sec. 620.002. DEFINING SECURITY RISK **TO THIS STATE**. For purposes of this chapter, a social media application **or service** poses a risk to **this state** if:

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application's service provider may be required by a foreign government, or an entity associated with a foreign government, to provide confidential or private personal information collected by the *service* provider through the application to the foreign government or associated entity without substantial due process rights or similar legal protections.

Sec. 620.003. PROHIBITION.

Subject to Section **620.004**, a **governmental entity** shall adopt a policy prohibiting the installation or use of a **covered** application on any device owned or leased by the **governmental entity** and requiring the removal of **covered** applications from those devices.

Sec. 620.004. EXCEPTIONS; MITIGATING MEASURES.

(a) A policy adopted under Section **620.003** may **provide for** the installation and use of a **covered** application to the extent necessary for:

- (1) providing law enforcement; or
- (2) developing or implementing information security measures.

HOUSE VERSION (CS)

Sec. 674.002. PROHIBITION; **MODEL POLICY**.

(a) Subject to Section **674.003**, a **state agency** shall adopt a policy prohibiting the installation or use of a **prohibited** application on any device owned or leased by the **state agency** and requiring the removal of **prohibited** applications from those devices.

(b) The Department of Information Resources and the Department of Public Safety shall jointly develop a model policy for state agencies to use in developing the policy required by Subsection (a).

Sec. 674.003. EXCEPTIONS; MITIGATING MEASURES.

(a) A policy adopted under Section **674.002** may **include an exception allowing** the installation and use of a **prohibited** application to the extent necessary:

- (1) for providing law enforcement;
- (2) for developing or implementing information security measures; or
- (3) to allow other legitimate governmental uses as jointly determined by the Department of Information Resources**

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(1) the provider of the application or service may be required by a foreign government, or an entity associated with a foreign government, to provide confidential or private personal information collected by the provider through the application ***or service*** to the foreign government or associated entity without substantial due process rights or similar legal protections; ***or***

(2) the application or service poses a similar risk to the security of this state's sensitive information, critical infrastructure, or both, as an application or service described by Section 620.001(1)(A).

Sec. 674.003. Same as House version except references Section **620.004** and uses the terms **governmental entity** and **covered** application as in the Senate version.

Sec. 620.004. Same as Senate version except in Subdivision (b)(1) requires use of measures to mitigate risks **posed to this state** during the use of the covered application.

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(b) A policy allowing the installation and use of a *covered* application under Subsection (a) must require:

- (1) the use of measures to mitigate risks *to the security of governmental entity information* during the use of the *covered* application; and
- (2) the documentation of those measures.

Sec. 620.005. APPLICATIONS IDENTIFIED BY GOVERNOR'S **ORDER**. The governor by *executive order* may identify social media applications or services that pose a *similar risk to the security of governmental entity information as the service described by Section 620.001(1)(A)*.

No equivalent provision.

HOUSE VERSION (CS)

and the Department of Public Safety.

(b) A policy allowing the installation and use of a *prohibited* application under Subsection (a) must require:

- (1) the use of measures to mitigate risks *to the security of state agency information* during the use of the *prohibited* application; and
- (2) the documentation of those measures.

(c) The administrative head of a state agency must approve in writing the installation and use of a prohibited application under an exception described by Subsection (a) by employees of the state agency and report the approval to the Department of Information Resources.

Sec. 674.004. APPLICATIONS IDENTIFIED BY GOVERNOR'S **ORDER**. The governor by *executive order* may identify social media applications or services that pose a *threat to the security of the state's sensitive information, critical infrastructure, or both*.

Sec. 674.005. APPLICATION IDENTIFIED BY DEPARTMENT OF INFORMATION RESOURCES AND DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Information Resources and the Department of Public Safety, *in consultation with the office of the governor*, shall jointly identify social media applications or services that pose a *threat to the security of the state's sensitive information, critical infrastructure, or both*.

(b) The Department of Information Resources shall publish *annually and maintain* on the department's publicly accessible Internet website a list of *the prohibited* applications identified under Subsection (a).

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Sec. 620.005. APPLICATIONS IDENTIFIED BY GOVERNOR'S **PROCLAMATION**. The governor by *proclamation* may identify social media applications or services that pose a *risk to this state as described by Section 620.002*.

Sec. 620.006. APPLICATION IDENTIFIED BY DEPARTMENT OF INFORMATION RESOURCES AND DEPARTMENT OF PUBLIC SAFETY. (a) The Department of Information Resources and the Department of Public Safety shall jointly identify social media applications or services that pose a *risk to this state as described by Section 620.002*.

(b) The Department of Information Resources shall:

- (1) *annually submit* a list of applications and services identified under Subsection (a) *to the governor*;
- (2) publish the list on the department's publicly accessible

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SECTION 2. Not later than the 60th day after the *effective date of this Act*, each *governmental entity* shall adopt the policy required by *Chapter 620*, Government Code, as added by this Act.

SECTION 3. Effective date.

HOUSE VERSION (CS)

SECTION 2. Not later than the 60th day after the *date the Department of Information Resources and the Department of Public Safety make available the model policy required by Section 674.002(b), Government Code, as added by this Act*, each *state agency* shall adopt the policy required by *Section 674.002(a)*, Government Code, as added by this Act.

SECTION 3. Same as Senate version.

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Internet website; and
(3) periodically update the list on that website.

SECTION 2. Same as House version except references *Sections 620.003 (a) and (b)* and, as in the Senate version, uses the term *governmental entity*.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1893 by Birdwell (Relating to prohibiting the use of certain social media applications and services on devices owned or leased by governmental entities.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 242 State Commission on Judicial Conduct, 312 Securities Board, 347 Public Finance Authority, 352 Bond Review Board, 452 Department of Licensing and Regulation, 503 Texas Medical Board

LBB Staff: JMc, SMAT, LCO, CSmi, THO, NAz