



State of Wisconsin
2023 - 2024 LEGISLATURE

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2023 ASSEMBLY BILL 894

January 4, 2024 - Introduced by Representatives SORTWELL, BEHNKE, GOEBEN, GUSTAFSON, MURPHY and SCHMIDT. Referred to Committee on State Affairs.

AN ACT *to renumber* 19.579 (2); and *to create* 19.576, 19.579 (2) (b) and 20.935 of the statutes; **relating to:** prohibiting state agency employees, state elected officials, federal government agency employees, and certain state individuals holding a national office from influencing social media Internet sites to censor users and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits state agency employees and state elected officials from influencing or attempting to influence a social media Internet site to censor, deplatform, or shadow ban users on the social media Internet site. The prohibition also applies to a U.S. senator or representative in congress elected to his or her office in this state and to federal government agency employees present in this state.

The bill defines “deplatforming” as deleting or banning a user from a social media Internet site for more than 60 days, and defines “shadow banning” as limiting or eliminating the exposure of a user, or content posted by or about a user, to other users. The penalty for each violation of the bill’s prohibitions is a forfeiture between \$1,000 and \$10,000.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 19.576 of the statutes is created to read:

19.576 Influencing social media Internet site prohibited. (1) In this section:

- (a) “Censor” has the meaning given in s. 20.935 (1) (a).
- (b) “Deplatform” has the meaning given in s. 20.935 (1) (b).
- (c) “Obscene” has the meaning given in s. 20.935 (1) (c).
- (d) “Shadow ban” has the meaning given in s. 20.935 (1) (d).
- (e) “Social media Internet site” has the meaning given in s. 20.935 (1) (e).
- (f) “User” has the meaning given in s. 20.935 (1) (g).

(2) (a) No state public official holding an elective office may in his or her official capacity influence or attempt to influence a social media Internet site to censor, deplatform, or shadow ban a user on the social media Internet site. This paragraph does not prohibit expression by a state public official holding an elective office about a user’s content if the user’s content constitutes harassment, an apparent violation of law, content that is obscene or pornographic in nature, or expressive material not protected by the First Amendment of the U.S. Constitution.

(b) No U.S. senator or representative in congress elected to his or her office in this state may in his or her official capacity influence or attempt to influence a social media Internet site to censor, deplatform, or shadow ban a user on the social media Internet site. This paragraph does not prohibit expression by a U.S. senator

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or representative in congress elected to his or her office in this state about a user's content if the user's content constitutes harassment, an apparent violation of law, content that is obscene or pornographic in nature, or expressive material not protected by the First Amendment of the U.S. Constitution.

SECTION 2. 19.579 (2) of the statutes is renumbered 19.579 (2) (a).

SECTION 3. 19.579 (2) (b) of the statutes is created to read:

19.579 (2) (b) 1. A state public official holding an elective office shall be required to forfeit not less than \$1,000 nor more than \$10,000 for each occasion that the official influences or attempts to influence a social media Internet site in violation of s. 19.576 (2).

2. A U.S. senator or representative in congress elected to his or her office in this state shall be required to forfeit not less than \$1,000 nor more than \$10,000 for each occasion that the senator or representative influences or attempts to influence a social media Internet site in violation of s. 19.576 (2).

SECTION 4. 20.935 of the statutes is created to read:

20.935 Influencing social media Internet site prohibited. (1) In this section:

(a) "Censor" includes any action taken by a social media Internet site to delete, regulate, restrict, edit, alter, inhibit the publication or republication of, suspend a right to post, remove, or post an addendum to any content or material posted by a user. "Censor" also includes actions to inhibit the ability of a user to be viewable by or to interact with another user of the social media Internet site.

(b) “Deplatform” means to delete or ban a user from a social media Internet site for more than 60 days.

(c) “Obscene” means that all of the following apply to content:

1. An average individual, applying contemporary community standards, would find that the content, taken as a whole, appeals to the prurient interest.
2. The content depicts or describes sexual conduct in a patently offensive way.
3. The content, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(d) “Shadow ban” means to limit or eliminate the exposure of a user, or content or material posted by a user, to other users of the social media Internet site through any means, regardless of whether the action is determined by an individual or an algorithm, and regardless of whether the action is readily apparent to a user.

(e) “Social media Internet site” means an Internet site or application that enables users to communicate with each other by posting information, comments, messages, or images and to which all of the following apply:

1. The Internet site or application is available to the public.
2. The Internet site or application has more than 150 million users.

(f) “State agency” means an association, authority, board, department, commission, independent agency, institution, office, society, or other body in state government created or authorized to be created by the constitution or any law.

(g) “User” means a person who subscribes to or has an account on a social media Internet site, regardless of whether the person posts or has posted content or material to the social media Internet site.

(2) (a) No employee of a state agency may in his or her official capacity influence or attempt to influence a social media Internet site to censor, deplatform, or shadow ban a user on the social media Internet site. This paragraph does not prohibit expression by an employee of a state agency about a user's content if the user's content constitutes harassment, an apparent violation of law, content that is obscene or pornographic in nature, or expressive material not protected by the First Amendment of the U.S. Constitution.

(b) No federal government agency employee present in this state may in his or her official capacity influence or attempt to influence a social media Internet site to censor, deplatform, or shadow ban a user on the social media Internet site. This paragraph does not prohibit expression by a federal government agency employee present in this state about a user's content if the user's content constitutes harassment, an apparent violation of law, content that is obscene or pornographic in nature, or expressive material not protected by the First Amendment of the U.S. Constitution.

(3) A person shall be required to forfeit not less than \$1,000 nor more than \$10,000 for each occasion that the person influences or attempts to influence a social media Internet site in violation of sub. (2).

(END)