



## 2026 South Dakota Legislature

# Senate Bill 168

Introduced by: **Senator Larson**

1 **An Act to regulate the use of chatbots by minors.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

4 Terms used in this chapter mean:

5 (1) "Age verification," any method by which a deployer confirms that an individual  
 6 attempting to engage with an AI-companion, therapy chatbot, or other generative  
 7 artificial intelligence possessing human-like features is at least eighteen years of  
 8 age, by authenticating a driver license, passport, or other identification card issued  
 9 by a state or the federal government, which includes a photograph of the individual  
 10 and the individual's date of birth;

11 (2) "Artificial intelligence," any machine-based system that, for any explicit or implicit  
 12 objective, infers from the inputs received by the system how to generate content,  
 13 decisions, predictions, recommendations, or other outputs, which can influence  
 14 physical or virtual environments;

15 (3) "AI-generated content," any image, video, audio, multimedia, or text content that  
 16 is substantially created or modified by generative artificial intelligence, so that the  
 17 use of generative artificial intelligence alters the meaning or significance a  
 18 reasonable person would take away from the content;

19 (4) "AI-companion," a generative artificial intelligence that is designed, optimized, and  
 20 marketed to form ongoing social or emotional bonds with a user, regardless of  
 21 whether the system also has the ability to provide information, complete tasks, or  
 22 assist the user with specific functions;

23 (5) "Chatbot," a generative artificial intelligence with which a user is able to interact  
 24 by approximating or simulating conversation through text, audio, or other  
 25 communicative medium;

26 (6) "Deployer," an individual or entity that operates or distributes a chatbot;

- 1        (7) "Emergency situation," a circumstance in which a user indicates to a therapy  
2        chatbot or other artificial intelligence that the user is a danger to self or others;  
3        (8) "Generative artificial intelligence," an artificial intelligence capable of generating  
4        novel image, video, audio, multimedia, or text content based on prompts or other  
5        forms of data provided by a user;  
6        (9) "Human-like feature," a feature of a generative artificial intelligence capable of:  
7        (a) Behaving in a way that would cause a reasonable individual to believe the  
8        intelligence that created the image, video, audio, multimedia, or text  
9        content is human or possesses sentience, emotions, or desires;  
10       (b) Responding to the prompts or data provided by the user in a way that  
11       simulates the development of an emotional relationship with the user; or  
12       (c) Impersonating any individual, living or dead;  
13       (10) "Therapy chatbot," a chatbot that has been designed or modified in a way that  
14       purports to provide mental health support, counseling, or therapeutic intervention  
15       through the diagnosis, treatment, mitigation, or prevention of a mental health  
16       condition; and  
17       (11) "User," an individual who interacts with an artificial intelligence;

18       **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

19       A deployer may not make any chatbot operated or distributed by the deployer  
20       available to be purchased, used, or otherwise engaged by a minor, if the chatbot is  
21       designed, optimized, or marketed as an AI-companion or has been designed or optimized  
22       to include any human-like features. The deployer shall implement an age verification  
23       system on any chatbot marketed as an AI-companion or designed or optimized to include  
24       any human-like features. The deployer may make a version of the chatbot available to a  
25       minor, if the deployer has removed all human-like features from the chatbot.

26       **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

27       A deployer shall implement and maintain a system that detects, responds to,  
28       reports, and mitigates an emergency situation, in a manner that prioritizes the safety and  
29       well-being of the user.

30       **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

1           A deployer may collect and store information from a user only if the information is  
2           necessary for the deployer to fulfill a legitimate purpose.

3   **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

4           A deployer may make any chatbot operated or distributed by the deployer available  
5           to be purchased, used, or otherwise engaged by a minor, if the chatbot is designed or  
6           optimized to be a therapy chatbot. Before a therapy chatbot may be made available to a  
7           minor, the deployer must ensure that:

8           (1) The chatbot provides, at the beginning and end of each interaction with the  
9           chatbot, a clear and conspicuous disclaimer that the responses are the product of  
10           a generative artificial-intelligence and not a licensed professional;

11           (2) The chatbot is not designed or marketed to be a substitute for a licensed  
12           professional;

13           (3) A licensed mental health professional:

14           (a) Assesses a user's suitability;

15           (b) Prescribes the chatbot to the user as part of a comprehensive treatment  
16           plan; and

17           (c) Monitors the impact of the chatbot on the user;

18           (4) The developer of the chatbot provides robust, independent, and peer-reviewed  
19           clinical trial data demonstrating the safety and efficacy of the chatbot, when used  
20           under specific conditions; and

21           (5) The system's functions, limitations, and data privacy policies are transparent to  
22           both the licensed health professional and the user.

23   **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 26:**

24           Any deployer found in violation of sections 2, 3, 4, or 5 of this Act is subject to an  
25           injunction and liable for a civil penalty in an amount not exceeding five thousand dollars  
26           per incident, per affected minor. The civil penalty may be assessed and recovered only in  
27           a civil action by the attorney general. The attorney general shall forward any civil penalty  
28           collected under this section to the state treasurer for deposit in the general fund.

29           Before the attorney general may initiate an action pursuant to this section, the  
30           attorney general must provide written notice to the deployer. The attorney general shall  
31           identify, in the notice, the provision that is alleged to have been violated, and the  
32           measures that must be implemented by the deployer to prevent future violations.

1           If the deployer cures any noticed violation to the satisfaction of the attorney  
2           general, and, within ninety days of the notice, provides the attorney general with a written  
3           statement, signed under oath, indicating that the alleged violation has been cured, the  
4           deployer is not liable for a civil penalty for any cured violation of section 2, 3, 4, or 5 of  
5           this Act.

6           Nothing in this section may be construed to serve as the basis for a new private  
7           right of action for any violation of section 2, 3, 4, or 5 of this Act.