

2026 South Dakota Legislature

Senate Bill 111**AMENDMENT 111B
FOR THE INTRODUCED BILL**

1 **An Act to require that social media companies provide collected personal data of a
2 user at the user's request and maintain transparent interoperability
3 interfaces.**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:**

5 **Section 1. That § 53-12-1 be AMENDED:**

6 **53-12-1.** Terms used in this chapter mean:

7 (1) "Agreement," the bargain of the parties in fact, as found in their language or
8 inferred from other circumstances and from rules and procedures given the effect
9 of agreements under laws otherwise applicable to a particular transaction;

10 (2) "Automated transaction," a transaction conducted or performed, in whole or in
11 part, by electronic means or electronic records, in which the acts or records of one
12 or both parties are not reviewed by an individual in the ordinary course in forming
13 a contract, performing under an existing contract, or fulfilling an obligation required
14 by the transaction;

15 (3) "Blockchain technology," technology that uses a distributed, shared, and replicated
16 ledger, either public or private, with or without permission, or driven with or
17 without tokenized crypto economics where the data on the ledger is protected with
18 cryptography and is immutable and auditable;

19 (4) "Computer program," a set of statements or instructions to be used directly or
20 indirectly in an information processing system in order to bring about a certain
21 result;

22 (5) "Contract," the total legal obligation resulting from the parties' agreement as
23 affected by this chapter and other applicable law;

24 (6) "Electronic," any technology, including blockchain technology, using electrical,
25 digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

- (7) "Electronic agent," a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual;
- (8) "Electronic record," a record created, generated, sent, communicated, received, or stored by electronic means. The term includes a record that is secured through blockchain technology;
- (9) "Electronic signature," an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The term includes a signature that is secured through blockchain technology;
- (10) "Governmental agency," an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state;
- (11) "Information," data, text, images, sounds, codes, computer programs, software, databases, or the like;
- (12) "Information processing system," an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information;
- (13) "Open protocol," a publicly available technical standard that:
 - (a) Enables interoperability and data exchange between social media services by providing a common data infrastructure where multiple social media services can access, contribute to, and synchronize a user's personal data standard to facilitate the exchange of a user's personal data across multiple social media services; and
 - (b) Is free from licensing fees and patent restrictions; and
 - (c) Governs how social media services communicate and exchange data with each other;
- (13)(14) "Person," an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity;
- (15) "Personal data," information that is linked or reasonably linkable to an identified or identifiable individual, including data that represents the individual's connections and interactions within a social media service, and excluding de-identified data, aggregated data, or publicly available information;

1 (14)(16) "Record," information that is inscribed on a tangible medium or that is stored
2 in an electronic or other medium and is retrievable in perceivable form;

3 (15)(17) "Security procedure," a procedure employed for the purpose of verifying that
4 an electronic signature, record, or performance is that of a specific person or for
5 detecting changes or errors in the information in an electronic record. The term
6 includes a procedure that requires the use of algorithms or other codes, identifying
7 words or numbers, encryption, or callback or other acknowledgment procedures;

8 (18) "Social media company," an entity that owns or operates a social media service;

9 (19) "Social media service," a public website or application that:

10 (a) Displays content that is primarily generated by account holders and not by
11 the social media company;

12 (b) Requires an individual to register as an account holder and create a profile
13 that is made visible to the public or a set of other users defined by the
14 account holder;

15 (c) Connects account holders to allow users to interact socially with each other
16 within the website or application;

17 (d) Allows account holders to post content viewable by other users; and

18 (e) Is not identifiable as email, cloud storage, interactive gaming, or document
19 viewing, sharing, or collaboration services;

20 (16)(20) "State," a state of the United States, the District of Columbia, Puerto Rico, the
21 United States Virgin Islands, or any territory or insular possession subject to the
22 jurisdiction of the United States. The term includes an Indian tribe or band, or
23 Alaskan native village, which is recognized by federal law or formally acknowledged
24 by a state;

25 (17)(21) "Transaction," an action or set of actions occurring between two or more
26 persons relating to the conduct of business, commercial, or governmental affairs;
27 and

28 (22) "User," an individual located in this state who accesses or uses a social media
29 service who is a resident of this state, acting only in an individual or household
30 context and who accesses or uses a social media service.

31 **Section 2. That § 55-1A-35.1 be AMENDED:**

32 **55-1A-35.1.** If otherwise validly executed, the following documents may be
33 executed in accordance with chapter 53-12:

- 1 (1) The governing instrument of an express trust, or other document, other than a will
2 or codicil as defined in title 29A;
- 3 (2) The resignation, removal, appointment, or acceptance of appointment of any
4 trustee, any advisor or protector, or of any designated representation addressed
5 in title 55;
- 6 (3) A consent, release, ratification, or indemnification addressed in title 55; and
7 (4) Any other document addressed by title 55 to the extent it is not excluded from the
8 scope of chapter 53-12.

9 Notwithstanding any provision of chapter 53-12 to the contrary, the documents
10 under this section are deemed to be a transaction ~~within the meaning of subdivision 53-~~
11 ~~12-1(17), as defined in § 53-12-1~~, and are within the scope of chapter 53-12.

12 **Section 3. That a NEW SECTION be added to chapter 53-12:**

13 If a user requests a copy of the user's personal data being held by a social media
14 service with more than five hundred thousand active monthly users and whose primary
15 focus is not charity or religion, the social media service must provide the personal data in
16 a format that:

- 17 (1) Is portable to the extent technically feasible;
18 (2) Is readily usable to the extent practicable; and
19 (3) Allows the user to transmit the data to another social media service, without
20 impediment.

21 **Section 4. That a NEW SECTION be added to chapter 53-12:**

22 A social media company operating a social media service with more than~~five~~
23 ~~hundred thousand one hundred million~~ active monthly users and whose primary focus is
24 not charity or religion shall implement a transparent, third-party-accessible
25 interoperability interface subject to section 3 of this Act to allow the social media service's
26 users to choose to:

- 27 (1) Share ~~Expose~~ a common set of the user's personal data ~~between the to other~~ social
28 media services ~~designated by the user~~; and
29 (2) Enable third parties to access content created by the user and to be notified when
30 new or updated content is available, with the user's permission.

31 **Section 5. That a NEW SECTION be added to chapter 53-12:**

1 To achieve interoperability under section 4 of this Act, a social media company
2 operating a social media service with more than five hundred thousand one hundred
3 million active monthly users and whose primary focus is not charity or religion shall
4 provide users with the ability to export their social graph to social media services in the
5 following manner:

- 6 (1) Utilize an open protocol;
- 7 (2) Facilitate and maintain interoperability and synchronous data sharing with other
8 social media services based on terms that do not discriminate between social media
9 services;
- 10 (3) Establish proportionate thresholds related to the frequency, nature, and volume of
11 requests, beyond which the social media company may assess a fee for the access;
- 12 (4) Offer to other social media companies a functionally equivalent version of any
13 internal interfaces created by the social media company for the social media
14 company's own social media services;
- 15 (5) Disclose to other social media companies complete, accurate, and regularly
16 updated documentation describing access to the interoperability interface required
17 under this section;
- 18 (6) Refrain from sharing or receiving a user's personal data through the interoperability
19 interface except with the user's consent; and
- 20 (7) Adopt a method for users to give consent for data sharing with other social media
21 services or third parties through the interoperability interface.
- 22 (1) The social media service shall allow a user the ability to choose whether to export
23 all of a user's social graph data or export only a subset of that data, and a user
24 may select a subset of the data by selecting:
 - 25 (a) Certain types of data;
 - 26 (b) Certain dates of data; or
 - 27 (c) Data generated since a previous transfer;
- 28 (2) A social media service shall make the export available in a machine readable
29 format;
- 30 (3) A social media service shall make the export using a publicly available technical
31 standard that is free from:
 - 32 (a) Licensing fees; and
 - 33 (b) Patent restrictions that any social media service can freely use;
- 34 (4) The social media service shall allow a user to choose between a single export or
35 continuous, ongoing exports, which must occur at least every twenty-four hours;

1 (5) The social media service shall ensure that the exports are done in a manner
2 consistent with industry best practices for privacy and security; and

3 (6) The social media service providing the export may impose reasonable terms on the
4 transfer, including terms to ensure privacy and security, provided that the terms
5 do not discriminate between social media services and do not unfairly preference
6 the social media service's own service over others.

7 Nothing in this section restricts a social media platform's ability to detect, prevent,
8 protect against, or respond to a security incident, risk to safety or integrity, harassment,
9 malicious or fraudulent activity, or any illegal activity. Nothing in this section restricts a
10 social media platform's ability to comply with any legal obligations.

11 **Section 6. That a NEW SECTION be added to chapter 53-12:**

12 A social media company operating a social media service with more than ~~five~~
13 14 not charity or religion shall secure all personal data obtained through an interoperability
15 interface and safeguard the privacy and security of a user's personal data obtained from
16 other social media services through the interoperability interface, in accordance with the
17 social media company's privacy notice and administrative, technical, and physical data
18 security practices.

19 **Section 7. That a NEW SECTION be added to chapter 53-12:**

20 Sections 3 to 6, inclusive, of this Act do not apply to an entity that is owned,
21 controlled, operated, or maintained by a religious organization and is exempt from
22 property taxation under state law.

23 **Section 8. That a NEW SECTION be added to chapter 53-12:**

24 Nothing in this Act requires a social media service to import any data or treat
25 imported data differently from any other use-generated content on the service.