

# Keeping Teens Safe On Social Media: A Guide for Free- Market Lawmakers

Dr. Edward Longe *Director of the Center for  
Tech & Innovation, The James Madison Institute*

## Social Media: Rhetoric and Reality

■ Millions of teenagers across the United States access the internet and social media platforms daily. According to Pew Research, 97 percent of teenagers use the Internet daily, with 46 percent saying they use it almost constantly.<sup>1</sup> Both the internet and social media have become part of modern adolescence in a way that was not true for previous generations.

For most, these visits will be harmless—to catch up on the latest news, connect with friends and family, conduct research for a school project, or tweet their latest thoughts or feelings. But, unfortunately, while the vast majority will have a positive experience on social media, others will interact with cyber bullies, cyber criminals and, potentially, child predators.<sup>2</sup> Such dangers have led lawmakers across the political spectrum and at every level to propose legislation designed to keep teens safe online, particularly when using social media platforms.

Given the prominence of social media in daily life, fears have

been raised about its effects on teens' mental health. Experts have raised concerns about alleged links between social media and "depression, anxiety, and loneliness."<sup>3</sup> These fears came to a head in 2021 when, during the height of the COVID-19 pandemic and after the tumultuous 2020 presidential election, the Centers for Disease Control reported that 42 percent "of high school students felt so sad or hopeless almost every day for at least two weeks in a row that they stopped doing their usual activities" and 29 percent "of high school students experienced poor mental health."<sup>4</sup>

As these concerns have proliferated, the links between social media activity and adverse mental health outcomes for teens are a subject of much debate as to the direct causal relationship, with writing and research offering differing conclusions as to the correlation.<sup>5</sup> As noted by researchers at *Harvard University*, "the link between social media use and health is equivocal and inconclusive."<sup>6</sup> Without clear links, it's possible that other factors are responsible for the decline of mental health among American teens and social media—given its widespread use—has become

a scapegoat for more complex factors. Further questioning the links between social media use and teenage mental health, the *American Psychological Association* notes “using social media is not inherently beneficial or harmful to young people,” but they do need to learn how to stay safe online.<sup>7</sup>

As noted by *The Atlantic’s* Derek Thompson, liberal teenagers could be feeling depressed or anxious over social issues such as climate change, school shootings, the perceived rise of anti-LGBTQ+ policies, or the continued specter of Donald Trump in American politics.<sup>8</sup> Conservative teens, on the other hand, would likely point to the “baleful effects of identity politics or the isolation created by Covid-era lockdowns.”<sup>9</sup>

Another possible explanation is that the United States is experiencing another wave of poor teenage mental health. Researchers from the *Center for Growth and Opportunity* have noted that the recent CDC figures suggest “a trend” or “a cycle” of poor mental health. Specifically, Barkley and Rinehart show similar declines in teenage mental health in the 1990s and 2010s, well before the dominance of social media.<sup>10</sup>

If the cause of declines in teenage mental health is more complex than simply social media or widespread internet usage, passing legislation to target these platforms will inevitably fail and cause more problems that exacerbate declines in teenage mental health.

In many ways, concerns surrounding teen use of social media mirror historical anxieties surrounding rock music. In 1984, a group of women dubbed the “Washington Wives” due to their connections to influential politicians founded the Parents Music Resource Center with the express aim of educating and “informing parents of this alarming new trend . . . towards lyrics that are sexually explicit.”<sup>11</sup> Similar to today’s anxieties over social media use, PMRC sought to “show the causal link between rock music and social problems,” such as poor mental health and an increasingly violent society.<sup>12</sup> While initially seeking to place rating stickers on albums, it became clear that PMRC’s “crusade was indeed a reactionary form of censorship” designed to shut down artists deemed obscene by the “Washington Wives” or that conflicted with traditional values.<sup>13</sup> As John Denver stated to the U.S. Senate, any effort by the federal government to regulate music would amount to censorship and grant Washington the power to determine what is and what is not appropriate, not parents.<sup>14</sup>

## The Risks

While online safety bills are often well-intentioned, lawmakers’ desire to “do something” risks crafting legislation that disrupts the free market, undercuts entrepreneurship, grows the size and power of government, creates privacy and cybersecurity concerns, or violates constitutional protections of free speech. Additionally,

passing onerous online safety bills risks putting the government in a co-parenting relationship with parents, something conservatives and advocates of limited government have historically condemned, especially when pushed by Democratic politicians.<sup>15</sup>

As lawmakers in state houses across the country grapple with the issue of online safety, concerns must be addressed to ensure balanced legislation that does not create more problems than it solves and continues to empower parents to make choices about their teen’s digital and real-life lives.

When considering the risks of social media use, lawmakers must also acknowledge its benefits. For example, *Pew Research* notes that teens “credit these platforms with deepening connections and providing a support network when they need it.”<sup>16</sup> *Pew’s* findings dovetail with those of the *American Academy of Pediatrics* (AAP), whose research found that “adolescents use social media” and the wider internet “to develop and maintain friendships” and that this allows them to “understand their friends’ feelings and feel more connected to them.” Additionally, AAP found that social media can “provide a good forum to practice skills related to identity development, such as self-presentation and self-disclosure.”<sup>17</sup> Cutting off or heavily restricting teenage use of social media will ultimately deny them these benefits, further exacerbating any mental health issues they currently face.

Conservative parents should be especially concerned about how curtailing social media usage could affect their children. As school administrators and academic institutions take an increasingly left-ward turn,<sup>18</sup> social media and internet usage more broadly allows children to access Conservative viewpoints that they would otherwise be denied. In effect, curtailing social media and internet usage could deny children the opportunity to challenge the dominant left-wing ideology and have access to a community of like-minded conservative students.

## The Federal Landscape:

Congress passed the Children’s Online Privacy Protection Act (COPPA) in 1998, recognizing the importance of keeping teens safe online.<sup>19</sup> When it took effect two years later, COPPA required the *Federal Trade Commission* (FTC) “to issue and enforce regulations concerning children’s online privacy.” Acting on its new mandate, the FTC required websites that collect personal information to:

1. Post a clear and comprehensive online privacy policy describing their information practices for personal information collected online from children;
2. Provide direct notice to parents and obtain verifiable parental consent, with limited exceptions, before collecting personal information online from children;
3. Give parents the choice of consenting to the operator’s

collection and internal use of a child's information, but prohibiting the operator from disclosing that information to third parties (unless disclosure is integral to the site or service, in which case, this must be made clear to parents);

4. Provide parents access to their child's personal information to review and/or have the information deleted;
5. Give parents the opportunity to prevent further use or online collection of a child's personal information;
6. Maintain the confidentiality, security, and integrity of information they collect from children, including by taking reasonable steps to release such information only to parties capable of maintaining its confidentiality and security;
7. Retain personal information collected online from a child for only as long as is necessary to fulfill the purpose for which it was collected and delete the information using reasonable measures to protect against its unauthorized access or use; and
8. Not condition a child's participation in an online activity on the child providing more information than is reasonably necessary to participate in that activity.<sup>20</sup>

## Federal Proposals:

Recognition that COPPA was passed before many of today's internet users were born has led to demands that Washington update online safety legislation to reflect contemporary internet usage. In 2021, Senators Markey (D-MA) and Cassidy (R-LA) proposed updating COPPA by passing the *Children and Teens' Online Privacy and Protection Act* (CTOPA), known colloquially as COPPA 2.0. Had Congress enacted CTOPA, it would have prohibited "internet companies from collecting personal information from anyone 13- to 15-years old without the user's consent; creating an online 'Eraser Button' by requiring companies to permit users to eliminate personal information from a child or teen; and implementing a Digital Marketing Bill of Rights for Minors that limits the collection of personal information from teens."<sup>21</sup> While the bill enjoyed bipartisan support and cleared the powerful Senate Commerce Committee, it never received a vote in the full Senate and subsequently died.

Other federal proposals include Senators Richard Blumenthal (D-CT) and Marsha Blackburn's (R-TN) *Kids Online Safety Act* (KOSA). Had Congress passed KOSA, it would have created a duty of care for social media platforms, required platforms to "perform an annual independent audit assessing risks to minors," and given minors "options to protect their information, disable addictive product features, and opt-out of algorithmic recommendations—and requires platforms to enable the strongest set-

tings by default."<sup>22</sup>

While well-intentioned, KOSA would have curtailed digital freedoms for adults and left teens no safer online. As noted by the *Family Online Safety Institute* (FOSI), provisions in KOSA "could easily become surveillance controls."<sup>23</sup> FOSI continued, warning that for older teens, these tools could deny them access to "vital information" on a range of important developmental topics as well as the ability to "privately and anonymously report domestic abuse in their household."<sup>24</sup>

As noted by *TechFreedom*, KOSA would have created an unconstitutional age verification regime, mandated an unworkable and unconstitutional duty of care that would have threatened adults' first amendment rights by limiting speech that Americans are constitutionally permitted to receive.<sup>25</sup>

Limiting speech that Americans are constitutionally entitled to receive is problematic because the Supreme Court ruled in 1997 that the Communications Decency Act was unconstitutional as it "placed an unacceptably heavy burden on protected speech."<sup>26</sup> KOSA would likely have suffered the same fate had Congress enacted it.

After the previous iteration of the bill failed to gain traction in the 117th Congress, Senators Blackburn and Blumenthal reintroduced KOSA in April 2023. Despite claiming they had addressed flaws in the bill, civil liberties groups have continued to warn that the legislation would "expose the very children it seeks to protect" to a range of avoidable dangers.<sup>27</sup> *TechFreedom* maintained its criticisms, arguing that "KOSA remains a ham-fisted approach that will do much more harm than good, and make the Internet worse for everyone."<sup>28</sup>

Senator Josh Hawley (R-MO) has also proposed a federal online safety bill. Hawley's *Making Age-Verification Technology Uniform, Robust, and Effective Act* (MATURE Act) would prohibit those under 16 from operating a social media account and require platforms to verify the age of all users by requiring users to provide an image of a government-issued identification document.

Senator Hawley's proposal, while well-intentioned, is hazardous because the requirement that platforms age-verify users with government-issued ID risks creating a vast database of sensitive information for cybercriminals and denying millions of teenagers the potential benefits of intelligent social media use. Additionally, teenagers under 16 still enjoy First Amendment rights that would almost certainly be denied if they were prohibited from accessing social media platforms.

Another federal proposal that has raised alarm bells is Senators Graham (R-SC) and Blumenthal's (D-CT) *Eliminating Abusive and Rampant Neglect of Interactive Technologies Act* (EARN IT). While the premise of the bill is to "encourage the tech industry to take online child sexual exploitation seriously,"<sup>29</sup> the provisions of the bill could have profound implications for users' privacy and

growing the federal government's power over individuals' digital lives. Specifically, EARN IT would remove Section 230 liability protection for platforms where Child Sexual Assault Material (CSAM) is hosted.<sup>30</sup> Secondly, EARN IT "removes the federal knowledge standard for child sexual abuse materials, making it easier for courts to make the argument that a tech company was negligent in offering encryption because it knew it could be used to transmit child sexual abuse materials."<sup>31</sup>

Concerns have been raised that removing liability protections and altering the federal knowledge standard could force platforms to end encrypted messaging services and require them to scan all messages between users, virtually eliminating any prospect of privacy online.<sup>32</sup> It's also possible that by removing liability protections, state and federal authorities could use child safety as an excuse to pressure platforms to remove digital speech, denying Americans their First Amendment rights.

Illinois Senator Richard Durbin has also proposed his own legislation to combat CSAM. Entitled *Strengthening Transparency and Obligation to Protect Children Suffering from Abuse and Mistreatment Act of 2023* (STOP CSAM Act), Durbin's bill would provide a private right of action for victims of CSAM to sue platforms that fail to remove CSAM material and expands the scope of mandatory reporting for platforms. While well-intentioned, the Center for Democracy and Technology has warned that:

increasing providers' incentives to over-report and over-remove people's online content, the STOP CSAM Act risks inundating NCMEC and law enforcement with useless reports, squandering resources that should be directed towards combatting child exploitation.<sup>33</sup>

EARNIT and STOP CSAM also ignore the difficult work many private sector providers undertake to combat CSAM, placing them in legislative crosshairs, not bad actors. For example, the National Center for Missing and Exploited Children has reported that "in 2022, 99% of CyberTipline reports were submitted by" Electronic Service Providers.<sup>34</sup> In 2022, Facebook made over 21 million reports to NCMEC, and Google filed over 2 million reports.<sup>35</sup> Similarly, Twitter reports that it removed over 404,000 accounts from its platform that posted CSAM.<sup>36</sup> Recognizing the work platforms are doing to fight CSAM, it should be clear to lawmakers that the target of any child online safety legislation should be criminals, not those making critical contributions to child safety.

## The Growing Patchwork of Protections

With Congress failing to pass any meaningful updates to COPPA or establishing a minimum standard that applies across the board, it has increasingly fallen to state governments to enact legislation to keep teens safe online. Unfortunately, the movement away from Washington and toward state capitols risks creating a patchwork of legislation nationwide and a zip-code lottery of protections. Not only does such patchwork create uneven protections whereby a child in California enjoys greater protections than a child in neighboring Oregon, but it also raises compliance costs for businesses operating across state lines. The dangers of a state patchwork are most clearly evidenced in data privacy, where it costs small businesses \$60,000 for every new state that enacts data privacy legislation.<sup>37</sup> Large companies can meet this cost, but small businesses are left with a choice between raising prices or not operating in that state.

As state legislatures explore child safety measures, these protections will only become more uneven, and the cost of doing business will only increase, particularly for small and medium-sized enterprises.

### California's Age-Appropriate Design Act

Due to the state's liberal political orientation, it's no surprise that California has taken the lead in passing onerous legislation under the guise of protecting teens online. In August 2022, for example, California enacted the *California Age-Appropriate Design Code Act* that places significant restrictions on "companies with respect to online products and services that are likely to be accessed by children under the age of 18."<sup>38</sup> Specifically, the bill requires businesses to:

1. Configure all default privacy settings in the best interests of children.
2. provide privacy information, terms of service, policies and community standards, using clear language suited to the age of the children
3. Estimate the age of child users with a reasonable level of certainty appropriate to the risks that arise from the business's data management practices, or apply the privacy and data protections afforded to children to all consumers.<sup>39</sup>

The legislation also severely limits how private companies can use data collected on teens.

The restrictions imposed by California's Age-Appropriate Design Act present numerous issues. Firstly, because the legislation "deputizes online services to act as roving Internet censors at the

state's behest," the bill likely compels speech and "violates editorial discretion," all of which are protected by the First Amendment.<sup>40</sup>

Secondly, California's Age-Appropriate Design Act "undermines children's privacy by forcing sites, regardless of how secure they are, to track and store information identifying which users are teens. As a result, child predators and hackers will be drawn to less secure sites as goldmines for children's sensitive data."<sup>41</sup> Here, lawmakers have made the internet less safe for teens and risked their sensitive data falling into the hands of cybercriminals. A core tenant of any child safety legislation should not be to create additional vulnerabilities for their data.

Eric Goldman has provided perhaps the best analysis of California's AADC, outlining how it would place "government enforcer's concerns squarely in the room during the innovation development," it disempowers parents from making decisions about their children, and "forces businesses to make the cost-benefit calculus before the business has gathered any market feedback through beta or A/B tests," and presumes every child has the same interest<sup>42</sup>

## Outright Bans: Utah and Arkansas

While most state governments have considered legislation to keep teens safe online, Utah and Arkansas recently passed legislation that would severely restrict teens' access to social media platforms, potentially denying them access to social media's identified benefits and denying them an understanding of how to use social media in an age-appropriate way.

Beginning in 2024, social media companies operating in Utah will be required to "verify the age of a Utah resident seeking to maintain or open an account and would require the consent of a parent or guardian before a minor under age 18 could maintain or open an account."<sup>43</sup> Such verification likely means presenting government-issued identification documents such as a driver's license, passport, or birth certificate.

Arkansas recently passed similar legislation, the Social Media Safety Act, into law.<sup>44</sup> From September 1, 2023, social media companies must "contract with third-party vendors to perform age verification checks." This likely means forcing individuals to "upload a digital copy of a driver's license or government-issued ID."<sup>45</sup> Anyone younger than 18 will be required to obtain parental consent before opening an account.

Such heavy-handed restrictions pose several difficulties. Firstly, requiring social media platforms to collect additional data on parents and minors will create unnecessary cyber vulnerabilities and a goldmine of sensitive data for cybercriminals. Secondly, denying teens access to social media accounts could cut off support services, including resources to help them escape abusive relationships or homes. Finally, when teens are denied access to social

media, they are also denied the ability to learn how to stay safe on social media platforms, creating a generation of adults who don't know how to operate safely online.

## Content Filters

One popular proposal that has emerged throughout state capitols over the last year is mandating device manufacturers place content filters on their devices to prevent teens from accessing harmful material such as pornography. So far, only Utah has been able to pass content filter legislation into law.<sup>46</sup>

While lawmakers across the country have been advocating for this style of legislation, these proposals present numerous challenges, both constitutionally and practically. Firstly, filtering content is likely unconstitutional because it could prevent adults from receiving speech they are constitutionally entitled to receive.<sup>47</sup> Secondly, mobile application developers have created thousands of content filters available to consumers on either a free or subscription basis. Such a wide variety of free and paid filters allows consumers to select firstly whether they want a content filter and, if so, which one best suits their needs. Mandating a content filter would ultimately undercut these options.

## Pillars of good policy:

1. **Online Safety classes:** Lawmakers must recognize that even with outright bans, teens will access social media. Lawmakers must also recognize that social media platforms provide legitimate benefits for teenagers. Rather than trying to stop access altogether, state lawmakers can mandate social media or online safety classes that educate teens about the dangers of social media and internet use and provide them with best practices for staying safe online.
2. **Age verification for harmful content:** In 2022, Louisiana became the first state to require websites that host harmful content, specifically pornography, to verify that their users are over 18. While this approach is not perfect and may have some First Amendment concerns, it only prevents teenagers from accessing harmful content and ensures adults are still able to receive digital content they are constitutionally permitted to receive. The Louisiana law also prevents private companies from holding on to government-issued identification, so it minimizes cybersecurity risks.
3. **Ensure that child safety proposals do not infringe on constitutionally protected speech:** While keeping teens safe online is a noble goal, proposals must not infringe on First Amendment protections for adults and teenag-

ers. When lawmakers construct barriers to speech by requiring social media age verifications, they stifle on-line speech and deny Americans constitutional rights. Measures that infringe on the first amendment also risk forcing their state into expensive litigation that must be paid for by taxpayers.

4. **Ensure that teen safety legislation does not create cybersecurity vulnerabilities:** Efforts to keep teens safe on social media should not force Americans to hand over sensitive data or government-issued identification documents to private platforms or government agencies. Such requirements would only create a goldmine of sensitive information for cybercriminals.

5. **Target Bad Actors, Not Partners:** Social media platforms and websites can be vital partners in the fight against harmful content and CSAM. Any legislation designed to protect teenagers from online harm must target perpetrators, not platforms or websites that are reporting illegal content to law enforcement.

## References

---

- 1 Emily A. Vogels, Risa Gelles-Watnick, and Navid Massarat, "Teens, Social Media and Technology 2022," Pew Research Center, August 10, 2022. Available Online: <https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>
- 2 Amnesty International, "We are totally exposed": Young People Share Concerns About Social Media's Impact on Privacy and Mental Health in Global Survey," February 7, 2023. Available Online: <https://www.amnesty.org/en/latest/news/2023/02/children-young-people-social-media-survey-2/>
- 3 Christine M. Stabler, "The Effects of Social Media on Mental Health," Penn Medicine, Lancaster General Health, September 2021. Available Online: <https://www.lancastergeneralhealth.org/health-hub-home/2021/september/the-effects-of-social-media-on-mental-health>. See also: Caroline Miller, "Does Social Media Use Cause Depression?" *Child Mind Institute*, December 19, 2022. Available Online: <https://childmind.org/article/is-social-media-use-causing-depression/>
- 4 *Centers for Disease Control*, "Youth Risk Behavior Survey, 2011-2021." Spring 2023. Available Online: [https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS\\_Data-Summary-Trends\\_Report2023\\_508.pdf](https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf)
- 5 See Carrie James and Emily Weinstein, *Behind Their Screens: What Teens are Facing (and Adults Are Missing)*, (Cambridge MA: The MIT Press, 2022).
- 6 Mesfin A. Bekalu, Rachel F. McCloud, and K. Viswanath, "Association of Social Media Use With Social Well-Being, Positive Mental Health, and Self-Rated Health: Disentangling Routine Use From Emotional Connection to Use," *Health Education & Behavior*, Volume 46, Issue 6, November 2019. Available Online: <https://journals.sagepub.com/doi/full/10.1177/1090198119863768>
- 7 American Psychology Association, "Health Advisory on Social Media for Adolescence." May 10, 2023. Available Online:
- 8 Derek Thompson, "America's Teenage Girls Are Not Okay: Rising Teen Anxiety is a National Crisis," *The Atlantic*, February 16, 2023. Available Online: <https://www.theatlantic.com/newsletters/archive/2023/02/the-tragic-mystery-of-teenage-anxiety/673076/>
- 9 Ross Douthat, "American Teens Are Really Miserable. Why?" *American Enterprise Institute*, February 18, 2023. Available Online: <https://www.aei.org/op-eds/american-teens-are-really-miserable-why/>
- 10 Taylor Barkley and William Rinehart, "Thoughts on What the CDC YRBS Data Means for Social Media, Teens, and Mental Health." *Now+Next*, March 14, 2023. Available Online: <https://www.apa.org/topics/social-media-internet/health-advisory-adolescent-social-media-usehttps://nowandnext.substack.com/p/thoughts-on-cdc-yrbs-data>
- 11 Claude Chastagner, "The Parents' Music Resource Center: From Information to Censorship," *Popular Music*, Volume 18, Issue 2 (1999), 181; PMRC was founded by Tripper Gore- wife of then-Senator Al Gore- and Susan Baker- wife of Treasury Secretary James Baker.
- 12 Ibid.
- 13 Ibid, 190.
- 14 John Denver," Senate Statement on Rock Lyrics & Record Labeling," delivered 19 September 1985, Washington, D.C. *American Rhetoric*. Available Online: <https://www.americanrhetoric.com/speeches/johndenverrockmusiclyrics.htm>
- 15 Cortney O'Brien, "Parents fume over Biden's remark students are teachers' children: 'We do not co-parent with the government,'" *Fox News*, May 3, 2022. Available Online: <https://www.foxnews.com/media/parents-fume-bidens-remark-students-teachers-children-we-do-not-co-parent-government>
- 16 Monica Anderson, Emily A. Vogels, Andrew Perrin And Lee Rainie, "Connection, Creativity and Drama: Teen Life on Social Media in 2022," *Pew Research*, November 16, 2022. Available Online: <https://www.pewresearch.org/internet/2022/11/16/connection-creativity-and-drama-teen-life-on-social-media-in-2022/>

- 17 Yalda T. Uhls, Nicole B. Ellison, and Kaveri Subrahmanyam, “Benefits and Costs of Social Media in Adolescence” *Pediatrics*, Volume 140, Issue 2, November 2017. Available Online: [https://publications.aap.org/pediatrics/article/140/Supplement\\_2/S67/34168/Benefits-and-Costs-of-Social-Media-in-Adolescence?autologincheck=redirected](https://publications.aap.org/pediatrics/article/140/Supplement_2/S67/34168/Benefits-and-Costs-of-Social-Media-in-Adolescence?autologincheck=redirected)
- 18 Brian Balfour, “Why Most Academics Tilt Left,” *Foundation for Economic Education*, December 9, 2018. Available Online: <https://fee.org/articles/why-most-academics-tilt-left/>
- 19 15 U.S. Code § 6501
- 20 Federal Trade Commission, “Complying with COPPA: Frequently Asked Questions.” Available Online: <https://www.ftc.gov/business-guidance/resources/complying-coppa-frequently-asked-questions#A.%20General%20Questions>
- 21 Senator Ed Markey, “Senator Markey Celebrates Successful Passage Of Children And Teens’ Privacy Legislation Through Senate Commerce Committee,” July 27, 2022. Available Online: <https://www.markey.senate.gov/news/press-releases/senator-markey-celebrates-successful-passage-of-children-and-teens-privacy-legislation-through-senate-commerce-committee>
- 22 Senator Richard Blumenthal (D-CT) & Senator Marsha Blackburn (R-TN), “The Kids Online Safety Act of 2022.” Available Online: [https://www.blumenthal.senate.gov/imo/media/doc/kids\\_online\\_safety\\_act\\_-\\_one\\_pager.pdf](https://www.blumenthal.senate.gov/imo/media/doc/kids_online_safety_act_-_one_pager.pdf)
- 23 Family Online Safety Institute, “FOSI’s Views on the Kids Online Safety Act and CAMRA.” Available Online: <https://www.fosi.org/policy-research/fosis-views-on-the-kids-online-safety-act-and-camra>
- 24 Ibid.
- 25 TechFreedom, Letter to Congressional Leaders, December 6, 2022. Available Online: <https://techfreedom.org/wp-content/uploads/2022/12/Kosa-Letter-December-6-2022.pdf>
- 26 ACLU, “Reno v. ACLU — Challenge to Censorship Provisions in the Communications Decency Act.” Last Updated June 2017. Available Online: <https://www.aclu.org/cases/reno-v-aclu-challenge-censorship-provisions-communications-decency-act>
- 27 Lauren Feiner, “Lawmakers update Kids Online Safety Act to address potential harms, but fail to appease some activists, industry groups” CNBC, TechFreedom, “Kids Online Safety Act Remains a Threat to Minors and Free Speech,” May 2, 2023. Available Online: <https://techfreedom.org/kids-online-safety-act-remains-a-threat-to-minors-and-free-speech/>
- 29 U.S. Senate Committee, “Graham, Blumenthal Reintroduce EARN IT Act,” U.S. Senate, April 19, 2023. Available Online: <https://www.judiciary.senate.gov/press/rep/releases/graham-blumenthal-reintroduce-earn-it-act>
- 30 Ibid.
- 31 Tonya Reilly, “Return of the EARN IT Act rekindles encryption debate at critical moment for privacy-protecting apps,” *Cyberscoop*, April 26, 2023. Available Online: <https://cyberscoop.com/earn-it-stop-csam-encryption-privacy/>
- 32 Natalie Campbell, Anna Higgins, Greg Nojeim, “Internet Impact Brief How the US EARN IT Act Threatens Security, Confidentiality, and Safety Online,” Internet Society, November 2022. Available Online: <https://www.internetsociety.org/wp-content/uploads/2022/11/IIB-US-EARN-IT-Act.pdf>
- 33 Emma Llansó, “The STOP CSAM Act Threatens Free Expression and Privacy Rights of Children and Adults,” Center for Democracy and Technology, May 2, 2023. Available Online: <https://cdt.org/insights/the-stop-csam-act-threatens-free-expression-and-privacy-rights-of-children-and-adults/>
- 34 National Center for Missing and Exploited Children, “2022 CyberTipline Reports by Electronic Service Providers (ESP).” Available Online: <https://www.missingkids.org/content/dam/missingkids/pdfs/2022-reports-by-esp.pdf>
- 35 Ibid.
- 36 Twitter Safety, Twitter Post, February 1, 2023. Available Online: <https://twitter.com/twittersafety/status/1620908364543967232>
- 37 Engine, “Privacy Patchwork Problem: Costs, Burdens, and Barriers Encountered by Startups,” March 2023. Available Online: <https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/6414a45f5001941e519492ff/1679074400513/Privacy+Patchwork+Problem+Report.pdf>
- 38 Hunton Andrews Kurth, “California Enacts The California Age-Appropriate Design Code Act,” September 15, 2022. Available Online: <https://www.huntonprivacyblog.com/2022/09/15/california-enacts-the-california-age-appropriate-design-code-act/>
- 39 Ibid.
- 40 NetChoice v. Bonta, Available Online: <https://netchoice.org/netchoice-v-bonta/>
- 41 Ibid.
- 42 Eric Goldman, “California’s Age Appropriate Design Code Is Radical Anti-Internet Policy.” TechDirt, September 16, 2022. Available Online: <https://www.techdirt.com/2022/09/16/californias-age-appropriate-design-code-is-radical-anti-internet-policy/>
- 43 Hunton Andrews Kurth, “Utah Legislature Passes Bills Restricting Social Media Accounts for Minors,” March 10, 2023. Available Online: <https://www.huntonprivacyblog.com/2023/03/10/utah-legislature-passes-bills-restricting-social-media-accounts-for-minors/>
- 44 Arkansas State Legislature, “Sb396 - To Create The Social Media Safety Act; To Require Age Verification For Use Of Social Media; And To Clarify Liability For Failure To Perform Age Verification For Use Of Social Media And Illegal Retention Of Data.”
- 45 Neal Earley, “Arkansas’ governor signs social media bill requiring age verification for new users,” *Arkansas Democrat-Gazette*, April 13, 2023. Available Online: <https://www.arkansasonline.com/news/2023/apr/13/arkansas-governor-signs-social-media-bill/#/>
- 46 Utah Code Annotated §78B-6-22
- 47 Reno v. ACLU, 521 U.S. 844



✉ The James Madison Institute  
The Columns  
100 North Duval Street  
Tallahassee, FL 32301

☎ 850.386.3131

💻 [www.jamesmadison.org](http://www.jamesmadison.org)