

SB571_Durbin_fav Poynton Comments.pdf

Uploaded by: Aaron Poynton

Position: FAV

Written Testimony of Aaron Poynton
President, Harford County Board of Education
In Support of MD Kids Code, SB 571
Maryland Senate Finance Committee
Wednesday, February 14 2024

Good morning, Chair and members of the Maryland Senate Finance Committee. My name is Dr. Aaron Poynton; I am the President of the Harford County Board of Education and a concerned father of three. Today, I stand before you to discuss a matter of urgent importance—the safety and well-being of our children in the digital age, as addressed by MD Kids Code, Senate Bill 571.

The digital landscape, as we know, offers boundless opportunities for learning, creativity, and connection. However, it also presents unprecedented risks to the vulnerable minds of our youth. Big Tech companies have systematically exploited these vulnerabilities for profit, employing data-driven models to ensnare our children in cycles of addiction by exposing them to the most engaging content, no matter how harmful or inappropriate.

MD Kids Code confronts these challenges head-on by prioritizing data privacy and safety through stringent data privacy impact assessments and comprehensive privacy and data protection mandates. This legislation is designed to curb the predatory practices of extracting and selling our children’s personal data, thereby safeguarding them from the detrimental impacts of targeted advertising and algorithm-driven content recommendations.

As a father and school board member, I have witnessed first-hand the subtle yet profound ways in which technology can influence young minds. Our kids are suffering with increased mental health issues, severe social media addiction, and anti-social behavior due to the intentional design of social media platforms. The bill before you today is not merely regulatory—it's a protective measure for our most precious assets, our children. It mandates a fundamental shift in how technology companies operate, compelling them to innovate for safety rather than exploitation.

By supporting MD Kids Code, we can stem the tide of social media harm and ensure a safer digital environment for our children. This bill represents a vital step towards empowering our youth to develop healthy relationships with technology, fostering an online world that supports their growth and well-being rather than exploiting it.

In closing, I urge you to consider the profound impact your support for SB 571 could have on the lives of children across Maryland. Let us lead by example and demonstrate our unwavering commitment to their future. Thank you for the opportunity to speak today.

SB0571_MHAMD_Fav.pdf

Uploaded by: Ann Geddes

Position: FAV

**Senate Bill 571 Consumer Protection – Online Products and Services – Data of Children
(Maryland Kids Code)**

Senate Finance Committee

February 14, 2024

Position: SUPPORT

Mental Health Association of Maryland (MHAMD) is a nonprofit education and advocacy organization that brings together consumers, families, clinicians, advocates and concerned citizens for unified action in all aspects of mental health and substance use disorders (collectively referred to as behavioral health). We appreciate the opportunity to provide this testimony in support of SB 571.

SB 571 would require tech companies to put mechanisms in place to protect children and youth, including not collecting or selling youth data, setting high privacy standards by default, and avoiding manipulative design. These measures would have a positive impact on children's mental health.

For over a decade the mental health of children and youth has been worsening. In the 10 years leading up to the COVID pandemic, depression increased by about 40% in young people,¹ and the mental health of youth deteriorated dramatically in the wake of the pandemic. In 2021, the American Academy of Child and Adolescent Psychiatry (AACAP) and the Children's Hospital Association (CHA) joined together to declare a National State of Emergency in Children's Mental Health.² Maryland youth have not been immune to these trends. Data from the Youth Risk Behavior Survey of 2021-22 shows that 29% of Maryland high school students and 23% of middle school students reported that their mental health was not good most of the time or always.³

Many point to social media as a contributing factor to these disturbing trends. There is a growing body of research that indicates that social media can have a profound risk of harm to the mental health of young people. According to the U.S. Surgeon General, action must be taken to create safe and healthy digital environments that minimize harm. "Social media platforms are often designed to maximize user engagement, which has the potential to encourage excessive use and behavioral dysregulation. Push notifications, autoplay, infinite

¹ Kids' mental health is in crisis. Here's what psychologists are doing to help. American Academy of Pediatrics. January 1, 2023. Accessed January 14, 2023. <https://www.apa.org/monitor/2023/01/trends-improving-youth-mental-health>

² A declaration from the American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry and Children's Hospital Association. American Academy of Child and Adolescent Psychiatry. October 2021. Accessed January 14, 2023. <https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/>

³ Maryland Department of Health releases 2021-2022 Youth Risk Behavior Survey and Youth Tobacco Survey data. Maryland Department of Health. March 3, 2023. Accessed January 14, 2023. <https://health.maryland.gov/newsroom/Pages/Maryland-Department-of-Health-releases-2021-2022-Youth-Risk-Behavior-Survey-and-Youth-Tobacco-Survey-data.aspx#:~:text=More%20than%20one%2Dthird%20of,or%20always.%20Female%20students%20were>

For more information, please contact Ann Geddes at (443) 926-3396

scroll, quantifying and displaying popularity (i.e., 'likes'), and algorithms that leverage user data to serve content recommendations are some examples of these features that maximize engagement."⁴

SB 571 would address several of these concerns. It would prohibit tech companies from collecting or selling young people's data, set high privacy standards, and prevent manipulative design, all of which align with the U.S. Surgeon General's recommendations.

For these reasons, MHAMD supports SB 571 and urges a favorable report.

⁴ U.S. Surgeon General. Social Media and Mental Health. 2023. Accessed February 12, 2024. <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>

SB 571_Geismar_fav.pdf

Uploaded by: Arielle Geismar

Position: FAV

Hello. I'd like to thank Chair Beidle and the Members of the Senate Finance Committee for allowing me the opportunity to speak with you all today.

My name is Arielle Geismar, I'm with Design It For Us, and I'm terrified. I'm terrified because the improper design and implementation of technology is ruining our lives. The companies that adopt malicious design practices aren't just addicting young people - they're fundamentally changing our brain chemistry. It's time we look at choices made by big tech to deliberately turn our psyche to a profit and implement responsible, common-sense regulation. I come here today in support of SB 571.

When I talk about irresponsible design, I'm talking about intentional choices made in creating a digital platform to ensure a young user spends more time, attention, and brain capacity on a device, like constant notifications and an endless scroll. This kind of content is breaking and shaking us. Young people end up more isolated than ever, with scientifically proven higher rates of anxiety, depression, drug usage, and eating disorders.

But it's not just about what you see on the device. It's about what you don't see. Our data - kids data - is being ruthlessly harvested and sold - all in the name of profit. Children's sensitive data - like their likes and dislikes, dreams, and fears - are being pinned against us. The mental health of young people HAS to be a priority for you. It's a priority for me when I lost one of my close friends, Frankie, to suicide in 2019.

As a little girl, I was reading content on Instagram encouraging me to starve myself and the more I tried to make sense of what I was reading, the more the algorithm showed me disordered eating encouragement content. And this would have been different if this was a mistake in the product. But this was the design. In the recently unsealed Vermont Attorney General lawsuit, we all learned Meta knew about this. And they acted irresponsibly and did nothing. This law would help prevent that.

I've been active as a youth activist since I was sixteen in New York City. I have engaged in social justice issues my whole life. And I can tell you that *so many* communities - young people, my Queer community - just as examples - are feeling the harmful effects of social media. And we're looking to you for action.

Technology regulation must be a bi-partisan issue. If you saw what we see every day, you would act immediately. These apps - like it or not - are where our young people play. If there was an unsafe playground that was riddled with unwanted sexual advances, higher rates of drug usage, and a hotbed for anxiety and depression, I'd like to think you would act *immediately*. I know I would.

So, I stand before you to say - that playground exists. And it's on all of our phones. It's on your kids' phones. And before you think "my kid would never be exposed to that" - oh yes they would. Because we don't have a choice what we're exposed to online. And we don't have a choice what big tech does with our highly sensitive data. But you do. You have a choice.

Senators: vote yes on SB 571.

SB 0571 MSPA 2024 Letter of Support.pdf

Uploaded by: Bradley Leposa

Position: FAV



Senator Pamela Beidle, Chair
Senator Katherine Klausmeier, Vice Chair
Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

February 13, 2024

Bill: Senate Bill 0571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Position: Support

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Committee:

The Maryland School Psychologists' Association (MSPA) - which represents about 500 Maryland school psychologists - is writing in **SUPPORT** of **Senate Bill 0571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)**. SB 0571 will help ensure a safer internet environment for Maryland children. In addition, this bill will address how companies operating in Maryland collect, store, and use children's private personal data.

Online contributions to poorer mental health outcomes for children are at the forefront of parents' minds and are an ongoing issue in our public discourse. Even the best prepared families with the tightest controls on devices cannot truly control their children's content exposure and experiences under the current system. At present, Maryland's children encounter predators and content on social media platforms that negatively impact their mental health and neurodevelopment. Access to the internet brings such harmful forces into our homes through our devices. Social media companies have known of this problem, have ignored this problem, and can solve this problem. This bill is a first step in efforts to ensure Maryland children are safe and that their data are protected.

Thank you for considering our comments on SB 0571. If we can provide any additional information or be of any assistance, please do not hesitate to contact us at legislative@mSPAonline.org or Sarah Peters at speters@hbstrategies.us or 410-322-2320.

Respectfully submitted,

Bradley Leposa, PHD NCSP
Co-Chair, Legislative Committee
Maryland School Psychologists' Association.

Signed_DCRS_Support - SB 571 Maryland Kids Code.pd

Uploaded by: Calvin Ball

Position: FAV



HOWARD COUNTY DEPARTMENT OF COMMUNITY RESOURCES AND SERVICES

9830 Patuxent Woods Drive ■ Columbia, Maryland 21046 ■ 410-313-6400 voice/relay

Jacqueline R. Scott, Director
communityresources@howardcountymd.gov

FAX 410-313-6424

February 14, 2024

Senator Pamela Beidle, Chair
Senator Katherine Klausmeier, Vice Chair
Senate Finance Committee
Miller Senate Office Building, 3 East
Annapolis, Maryland 21401

RE: SB571: Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Senate Finance Committee:

The Howard County Department of Community Resources and Services (DCRS) provides vital human services through its nine offices and ten boards and commissions, including the Office of Consumer Protection (OCP) and the Office of the Local Children’s Board (OLCB), Office of Children & Families (OCF) and the Office of Human Trafficking Prevention (OHTP).

The OCP helps to protect Howard County consumers and tenants by mediating disputes, taking enforcement action or providing tips on how to stay safe online, avoid scams or make smart purchasing decisions. The OLCB, Howard County’s Local Management Board, and is committed to creating a Howard County where all children and youth have equitable access to education, health care, basic needs and enrichment. The OCF promotes the well-being of children birth to five years old by providing a wide array of services and resources to promote healthy development, school readiness and strengthen families. Finally, the OHTP works across multiple disciplines, and focuses on local system improvements, responsibly raising awareness of trafficking and developing new rights-based outreach and survivor-centered initiatives. OCP, OLCB, OCF and OHTP regularly provide outreach and education opportunities to parents, grandparents, and caregivers regarding the importance of online safety for children.

One relevant collaboration between OCP, OLCB and OCF, with guidance from OHTP, is Your CyberFeet, a program in conjunction with the Howard County Public School System and BrightMinds Foundation which seeks to teach, at grade level from Pre-K through 12th grade, concepts surrounding digital footprints, their imprints, and impacts on the future where data is gathered at an undisclosed rate and stored forever. The program will feature The Howards, a multigenerational and multicultural avatar family which will be the mechanism and conduit of the core messaging from “sharenting” to basic concepts of digital footprints, to the impact of the imprints on college acceptance, security clearances, and risks of bullying and human trafficking.

DCRS, and the OCP, OLCB, OCF and OHTP, file this comment in support of SB571 which seeks to bring common sense and pragmatic approaches to the collection and sale of data involving children. Requiring an assessment of the data collected, the manner of collection, the age of the targets of collection and the impact of the collection, will likely be an eye-opening endeavor for the Covered Entities. Moreover, the requirement that

The Department of Community Resources and Services provides vital human services through its offices of ADA Coordination, Aging and Independence, Children and Families, Community Partnerships, Consumer Protection, Disability Services, Human Trafficking Prevention, the Local Children’s Board, and Veterans and Military Families.

Covered Entities not process or use personal information of children without deliberate thought to the best interest of the child allows educational platforms to continue to provide services to the public. Finally, avoiding “dark patterns” is in line with the Federal Trade Commission’s efforts in connection with common consumer transactions.

In our frequently ever-changing online world, we must remain constant in ensuring the protection and safety of children. We know that children and teens can be explicitly vulnerable to misleading advertisements and other misinformation, and we should not allow adults the avenue to directly target minors when they are online. Even in the online world, children should be able to navigate that space in safe and secure way.

For these reasons, DCRS by and through its Office of Consumer Protection, Office of the Local Children’s Board, Office of Children & Families, and Office of Human Trafficking Prevention, supports this bill.

Sincerely,
DocuSigned by:

Handwritten signature of Jacqueline Scott in black ink.

287A14FE698F43F...

Jacqueline Scott, Director

Cc: The Honorable Dr. Calvin Ball III, County Executive
Maureen Evans Arthurs, Director of Government Affairs & Strategic Partnerships
Erin Bonzon, Administrator OCF
Kim Eisenreich, Administrator OLCB
Ashton Petta, Manager OHTP
Tracy Rezvani, Administrator OCP

SB571_Cuiccio_Fav.pdf

Uploaded by: Cary Cuiccio

Position: FAV

February 13, 2024

The Honorable Pamela Beidle
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

SB 571 (Sens. Kramer, Hester, and West) - Favorable

Dear Chair Beidle and Committee Members,

As a parent of a transgender teenager and Frederick County resident who is concerned about the negative impacts the Tech Industry is having on our kids, I am writing to share my support for the Maryland Kids Code (SB 571 (Sens. Kramer, Hester, and West)).

When my daughter came out as transgender we were living in Texas and resources to support her during her transition and a community of queer people her own age were difficult, if not impossible, to find. She had a lot of questions about her body, gender, and the things she was feeling that she didn't quite understand. We were able to find resources online to answer her questions but I assumed she would also go on social media to find other teens going through a similar experience.

Initially I was shocked when she told me she didn't want to go on social media at all. I assumed that was exactly the place someone her age would go to find community. But eventually she told me that other queer and trans teens in her support group had been targeted and harassed on social media platforms and one had completed suicide due to the relentless hate and bigotry they experienced. **My daughter and her friends understood, even before I did, that social media platforms are currently a supremely unsafe space for kids who hold marginalized identities.**

Now I know that not only are teens who identify as LGBTQ+ more likely to be cyberbullied, they're also more likely to receive "friend" or "follow" requests from adult strangers than their straight peers. Much of the data harvesting that happens online is to develop data profiles to sell ads, and LGBTQ+ youth experience disproportionate harm from this profiling. For instance, queer kids are more likely to see self-harm content on social media than kids who identify as straight.

It shouldn't be this way. LGBTQ+ kids deserve to be able to use social media without being targeted for data collection and subject to algorithms that push content they never asked to see. It's my responsibility as a parent to fight for an equal world for my child and that means her online life too.

That's why I'm respectfully asking you to vote 'aye' in support of HB 603, the Maryland Kids Code. The bill includes stronger default privacy settings and better data protections that foster an online environment where it's safer for all kids, no matter their identity, to grow, explore, and express themselves.

We are proud to live in Maryland now, a state that is committed to protecting and supporting queer and trans youth. Please support SB 571 and help make Maryland a leader, once again, in the fight to make the world safer for kids like my daughter.

Sincerely,

Cary Cuiccio
Frederick, Maryland

MCF Testimony SB 571-FAV.pdf

Uploaded by: Christina Green

Position: FAV



SB 571- Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code)

Committee: Finance

Date: February 12, 2024

Position: Favorable

The Maryland Coalition of Families: Maryland Coalition of Families (MCF) is a statewide nonprofit organization that provides family peer support services at no cost to families who have a loved one with a mental health, substance use, or problem gambling disorder. Using their personal experience as parents, caregivers and other loved ones, our staff provide emotional support, resource connection and systems navigation as well as support groups and educational trainings and workshops.

Many of the families that our staff support are families with children. Last year we served 4,603 Families and nearly 70% were families with children. MCF supports this bill for several reasons.

- We are in a digital age where children are using the internet daily at home and in their place of education. Most consumer products manufactured for children are designed for the child's safety and include recommended ages. Online products that children access daily should come with the same safety protections in place.
- We have supported families whose child was stalked and contacted by an adult through different online platforms such as roadblocks, snap chat, and Instagram. This includes two families whose young teenagers were groomed and eventually trafficked. Both children now suffer from severe mental health issues. Leading to residential treatment care for one of those children.
- Problem gambling has been another concern on our radar for families we serve. Caregivers have called seeking support for their family because their child has started to display aggression and mental health issues related to the use of gaming apps that are geared toward children. Some of



these apps require the child's cell phone number to encourage the child to use the app more and or remain on the app. Another family who became aware of their child's substance use had learned their child was purchasing substances from an individual who contacted the child through snap chat.

- Algorithms cycle and suggest friends, groups, videos, and apps. Which may not be age appropriate for a child's undeveloped brain. Online products children use can collect personal information on the child. As well as tracking them. This information can also be used by adults to make further contact with a child through these platforms. With data protections in place and an age-appropriate design code the child's privacy, mental and physical well-being are being humanely respected and protected.

Ashley Tauler

Policy and Advocacy Associate

Maryland Coalition of Families

8950 State Route 108, Suite 223

Columbia MD, 21045

SB571_McComas_Fav.pdf

Uploaded by: Christine McComas

Position: FAV

February 14, 2024

The Honorable Pamela Beidle
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

SB 571 (Sens. Kramer, Hester & West) - Favorable

Dear Chair Beidle, and committee members,

My name is Christine McComas. My husband David and I are lifelong Marylanders, and we raised our four children, including Grace McComas, in Howard County.

Maryland's Anti-Cyberbullying criminal statute, Grace's Law, bears her name.

I am writing to share my support for SB-571, the Maryland Kids Code.

Grace is the third of our four girls. Her sisters are all now strong, independent, and successful adults, but our beloved Grace Katherine is forever 15, having died by suicide on Easter Sunday 2012 related to abuse on social media.

Grace was a funny, wonderfully kind, and well-loved human being and was the most joy-filled person I have ever known. She was a sweet, communicative teen busy with school, sports, music and community service.

She never had a smartphone and wasn't even on Twitter, but didn't need to be, to be harmed, as hatred, malicious, death-wishing tweets instantaneously travel far and wide and become inescapable when blasted on social media:

"Tweets" Aimed at a Child

- **"i hate hate hate hate hate hate hate you. Next time my name rolls off your tongue, choke on it.. and DIE."**
- **"i hope you somehow see this and cry yourself to sleep then kill yourself....might as well your just a worthless piece of shi*."**

- **“No one f***ing likes you. It's just sad and I kind of feel bad for you.”**
- **“snitches need to have their fingers cut off one by one as they watch their families burn”**
- **“kind of reminds me of when one of my followers printed out a tweet of mine, like who the f*** goes that far #peopleshoulddie”**
 - **“snitches...i will kill you”**
 - **“well damn i just got out of trouble... How stupid it is that one person can f**k so much up #cun**”**

We tried desperately for months to get help before it was too late, including mental health support for her, as we shared the screenshots of the abuse with multiple public agencies, (including schools, police and courts) and literally begged for assistance. As we stood over our daughter’s brain-dead body at Johns Hopkins, we were devastated and outraged at the injustice of it all. We knew we had to start speaking out, telling Grace’s story, to warn other parents about the hidden dangers of the internet.

The Maryland community heard as many worked diligently and Grace’s Law passed unanimously both in 2013 and when it was updated in 2019- Grace’s Law 2.0- to cover the ever-changing landscape of digital dangers, including sextortion, suicide baiting and more.

No laws have been passed at the federal level since before smartphones and social media existed.

It’s been 12 YEARS since Grace died and kids are at more risk now than ever.

Over the past decade I’ve come to know families with tragic stories from around the world, and regularly get heartbreaking messages from other Maryland parents, right here at home, urgently needing assistance to protect their own children online.

Right now, *even the best, most engaged parents* are *unable* to keep their kids safe online.

Secret until recently, algorithms are push-feeding dangerous and psychologically damaging content TOWARDS our kids, and platforms are designed to addict and keep them online for longer, driving up profits with little care for the collateral damage.

By the time a child reaches 13, an average of **72 MILLION** data points have been collected about them. (Geoffrey Fowler, Washington Post)

In 2022 social media companies made an astonishing **11 BILLION** dollars in ad revenue from those minors. (Harvard School of Public Health study).

Last week I joined other grieving parents to attend the hearing on Capitol Hill where senators grilled Mark Zuckerberg of Meta(Facebook & Instagram), and the CEOs of TikTok (Shou Zi Chew), Twitter/X (Linda Yaccarino), Snapchat (Evan Spiegel) and Discord (Jason Citron) to account for harms to children by their platforms.

There was a lot of empty, misleading talk. You will undoubtedly hear their highly paid lawyers spin a similar tale today. *Don't believe it.*

This legislation is desperately needed and there is no time to wait.

Maryland families deserve these protections NOW.

I am heartened that with its passage, MD will AGAIN be a leader in the fight to protect children online.

Thank you.

Christine McComas, mother of Grace

Remember G.R.A.C.E.~

by Giving Respect And Compassion to Everyone



Recent interviews with Christine Pfister McComas:

PBS NewsHour interview:

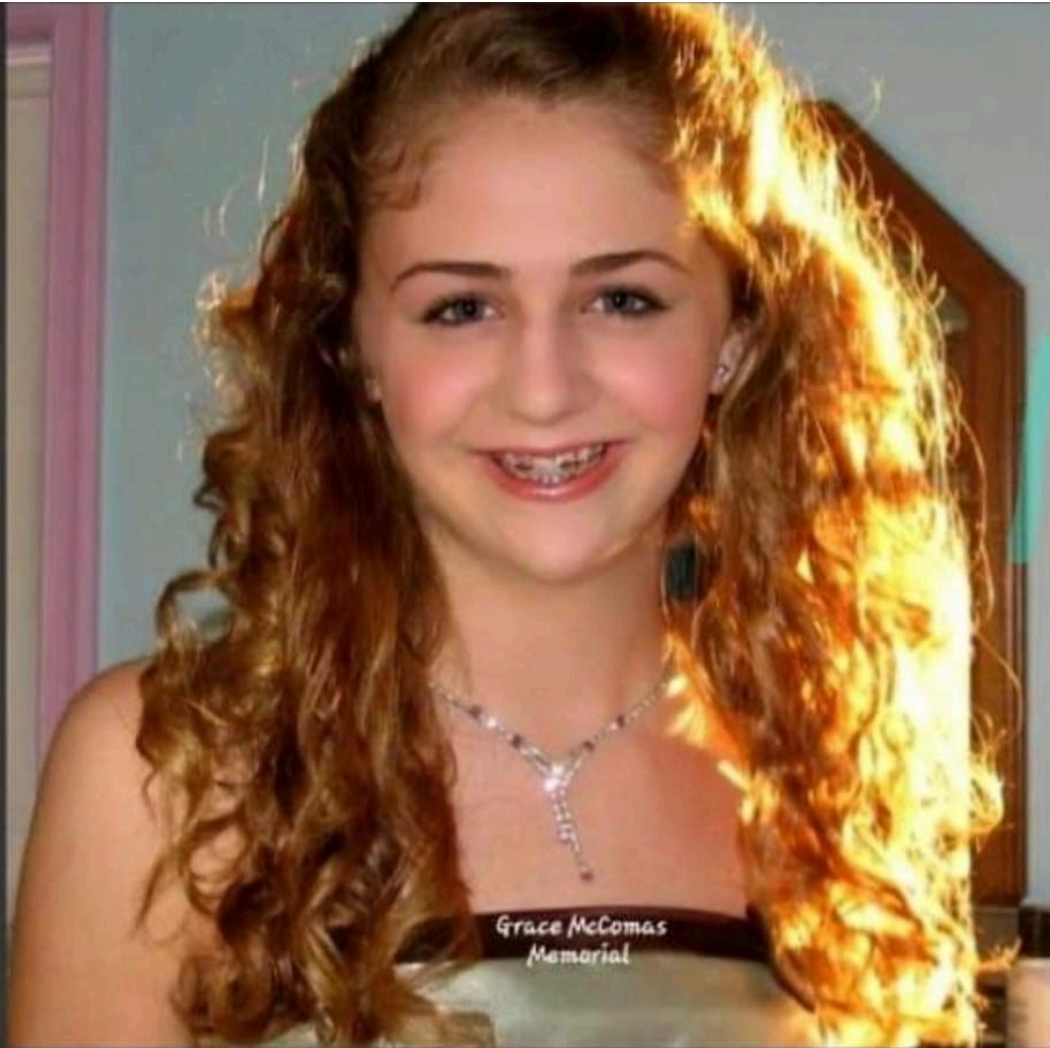
[Lawmakers grill Big Tech executives, accusing them of failing to protect children | PBS NewsHour](#)

CNN interview:

<https://youtu.be/RdnMnlzqRzo?si=Yj6zJ6WYJpuYWj5c>

Fox & Friends: [The story is not about Mark Zuckerberg's apology to parents: Christine McComas | Fox News Video](#)





GRACE McCOMAS MEMORIAL

Social Media can kill
Protect Kids NOW

Grace K. McComas Memorial Webpage

JAN 20 AT 8:12 PM



Maryland's
Grace's Law 2.0





Testimony.pdf

Uploaded by: David Arowolo

Position: FAV

"Good afternoon, everyone,

My name is David Arowolo, a 9th grader from Eastern Technical High School and an active member of the Baltimore County and Maryland Association of Student Councils. As a young teenager, my experiences with social media apps have been rather eventful, and from my experience, I believe this bill needs to be passed. Social media has become a strong and important part of our culture as high schoolers. It influences the choices young Americans like us make and the information they believe. With its huge impact on our culture, why is our government failing to properly take action in regulating it before it becomes more harmful than it has? The influence of social media on our generation cannot be overlooked, and Senate Bill 571 establishes a framework to ensure that companies responsibly handle children's information online.

Senate Bill 571 provides a significant step toward building a safer online environment for children by enforcing such procedures, as well as pushing companies to be more accountable in their handling of children's information. Senate Bill 571 strives to create vital standards for online products and services, with a focus on protecting children's information. The bill specifies key provisions to protect children's personal information, aiming to prevent organizations from abusing or exploiting their data. In addition, it creates clear consequences for businesses that fail to comply with these regulations, including the enforcement of fines.

Senate Bill 571 is a vital step in making the internet a safer space for my generation. It aims to establish the necessary regulations and checks to protect children from potential online harm, especially concerning their personal information. By voting to pass this bill into law, we can collectively ensure the safety and well-being of my generation and for some of you, your children in the digital world. Thank you."

SB 571_ Lee_fav.pdf

Uploaded by: Devin Lee

Position: FAV

Good afternoon,

I am Devin Lee, a Senior attending Quince Orchard High School in Gaithersburg, Maryland, and an avid involuntary social media user.

I was exposed to the internet at the ripe age of 10, where I was not mature enough to handle a device more powerful than the computer that landed NASA astronauts on the moon.

It took me over seven years of being on the internet to finally feel comfortable engaging with it, as most of the time, I felt as if the internet was using me, not the other way around. Posts on Instagram, for example, constantly show me unreasonable standards of how I should look and act and what I should be achieving with my life. The mental "bar" is so high it can make kids feel hopeless and permanently change their mindset, all to make these ginormous companies a bit more cash.

Not only do the algorithms of many social media sites harm kids' mental health, but today's teens are also growing up in an era where social media platforms are becoming their primary source of information. These platforms have become breeding grounds for misinformation, conspiracy theories, and falsehoods. Many teenagers do not have the tools to differentiate between accurate and misleading information, leading them to make poor decisions, spread false narratives, and engage in dangerous behavior.

I know firsthand how easy it is to get sucked into a rabbit hole of misinformation online. Feeling helpless, I finally decided to do something about it. I co-founded Social Media for Social Justice, a student-led organization focused on educating high school students about the dangers of misinformation on the internet. Teaching other kids has inspired me to speak in front of you today.

I wish there were an easy fix to keeping these social media companies accountable. If there were a big red button to erase the current social media apps and make better ones catering to students' mental health, I would press it in a heartbeat. Most people my age would, too- but we can't get rid of it, so we need to learn how to deal with it.

By supporting this legislation, Maryland will help set the standard for online child and teen safety and set simple, suitable privacy settings as the default, which has already proven effective. Design Code regulations have already been approved in the UK and California; we ought to have the same safeguards.

Thank you so much for allowing me to speak in front of you today. Please consider my story and many others experiencing the same problems on social media.

This bill can take us one step closer to the big red button!

SB571_MD_Assn_SchoolHealth_Nurses_fav.pdf

Uploaded by: Elizabeth Elliott

Position: FAV

Maryland Association of School Health Nurses



February 13, 2024

Dear Chair Beidle and members of the Senate Finance Committee,

As President of the Maryland Association of School Health Nurses (MASHN), my mission is to help our state's children grow into healthy and thriving adults. MASHN is a professional organization dedicated to promoting the role of school nurses in the health and educational success of students. MASHN provides leadership, advocacy, and professional development to school nurses across Maryland. I am writing today representing MASHN colleagues to share our strong support for SB 571, Consumer Protection – Online Products and Services – Data of Children, known as the Maryland Kids Code. I commend Senators Kramer, Hester and West for introducing this important legislation.

Children and teens inhabit an increasingly online world, and many students spend over half of their waking hours interacting with on-line spaces. Increased digital engagement comes with significant risks and hampers student's ability to interact in a healthy way with peers and adults. As school nurses, we see firsthand in the health room the harms of digital immersion play out in our schools. Rising rates of violence in our schools, self-harm, eating disorders, overdoses and suicidality are public health crises that social medial algorithms exacerbate. In addition, we are amid a critical nursing shortage that is especially impactful in school health. When school nurses spend more and more time with struggling teens, our available resources are stretched even further.

The National Association of School Health Nurses (NASN) published [research](#) earlier this school year that highlights the epidemic nature of the psychosocial impact social media has on adolescents. Trends include higher levels of depression and anxiety, often driven by loneliness and fear of missing out, that correlate with a teen's frequency and intensity of social media use.

Equity and health for all is important to all of Maryland's over 1 million children in K-12 schools. Younger children from less affluent backgrounds are more likely to lack access to structured activities and adult supervision, leaving them more susceptible to unsupervised digital time. Racial and ethnic minority teens have higher rates of depression and loneliness and experience more bullying online, according to research by NASN.

Our children are our future and deserve the opportunity to grow into thriving and healthy adults. MASHN urges a favorable vote on SB 571, Maryland Kids Code because it would provide common-sense protections for the kids and teens we care for every day, by mandating strong safety by design and security by default features. It would put into place consumer protections like those that are in place for everyday items such as car seats and vehicles. Those are the same kinds of basic protections that Maryland's young people deserve online.

Thank you for your consideration.

Elizabeth Elliott, MSN, RN, CDCES, NCSN
President, Maryland Association of School Health Nurses
[Maryland Association of School Health Nurses | Nursing Network](#)

MOST_SB571.pdf

Uploaded by: Ellie Mitchell

Position: FAV



Senate Bill 571
Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code)
Position: Favorable

The Maryland Out of School Time Network (MOST) is a statewide organization dedicated to closing opportunity gaps by expanding both the quantity and quality of afterschool and summer learning opportunities for school-aged young people. MOST serves as the backbone organization for the Maryland Coalition for Community Schools. The Maryland Coalition for Community Schools, founded in 2016, advocates for student and family success by leading the charge to expand the Community School Model in Maryland. The Maryland Education Coalition (MEC) advocates for adequate funding, equitable policies, and transparent accountability statewide.

Within the field of youth development, our leaders and practitioners are painfully aware that young people are now engaging with technology 24/7. Students use technology daily in school to communicate with family and friends, consume entertainment, and often they create their own media. These technology intersections are largely unbound and unfiltered and present great opportunities and great risks.

While it is impossible and likely undesirable to control all aspects of a young person's journey in the digital age, we can offer guardrails that make it less likely they will be exploited and harmed. For this reason, we enthusiastically support Senate Bill 571. Modeled after successful legislation from the United Kingdom, with other states following suit, this common-sense legislation requires technology companies to follow best practices and protections that should already be in place around data collection and sharing, privacy settings, and transparency--appropriate by age.

Adults often do not have the necessary information or technological savvy to ensure that settings are implemented to safeguard our children. SB 571 will place the onus on the technology companies that have the capability to implement these shields. Maryland should be a leader and early adopter, encouraging other states and the federal government to take similar action. We applaud Senator Kramer for sponsoring SB 571 and encourage the committee to provide a favorable report.

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Uploaded by: Haley Hinkle

Position: FAV



Written Testimony of Josh Golin

Executive Director, Fairplay

Before the Senate Finance Committee

February 14, 2024

My name is Josh Golin and I am Executive Director of Fairplay.

I would like to thank Chair Pamela Beidle and the Committee for holding this hearing of critical importance.

For more than a decade, social media companies have been performing a vast uncontrolled experiment on our children. Two weeks ago, I was in Washington, DC with families who have paid the ultimate price as a result of that experiment. These parents have lost their children to online harms, including cyberbullying, pro-eating disorder and suicide content, sextortion, and dangerous challenges, and they traveled to Capitol Hill to send lawmakers a clear message: Big Tech cannot be trusted to protect kids and teens online, and it is time to regulate these powerful companies. That is the same message I bring to you today to urge the advancement of the Maryland Kids Code.

Recent lawsuits – including the Instagram multistate suit joined by Maryland Attorney General Anthony Brown – and new whistleblower testimony from former Meta employee Arturo Béjar reveal what families have long known: Big Tech’s products are designed for profit, not the protection of kids and teens. Tech companies use the reams of data they collect on young people and endless A/B testing to fine tune their platforms’ algorithms and design to maximize engagement, because more time and activity on a platform means more revenue. And because the way these platforms engage with young people is largely unregulated, there is no obligation to consider and mitigate the harmful effects of their design choices on children and teens.

The resulting impact on children and families has been devastating. Compulsive overuse, exposure to harmful and age-inappropriate content, cyberbullying, eating disorders, harms to mental health, and the sexual exploitation of children are just some of the problems linked to Big Tech’s insidious business model.

It doesn’t have to be this way. Instead of prioritizing engagement and data collection, apps, websites, and online platforms could be built in ways that reduce risks and increase safeguards for children and teens. With many young people now spending a majority of their waking hours online and on social media, improving the digital environment so it is safer and not exploitative or addictive is one of the most important things we can do to address the mental health crisis.

But that won't happen through self-regulation. Without meaningful congressional action, children and teens will continue to be harmed in the most serious and tragic ways by Instagram, TikTok, Snapchat, YouTube, and thousands of lesser known apps, websites, and platforms.

My testimony today will describe how many of the most serious issues facing children and teens online are a direct result of data management and design choices made to further companies' bottom lines, and how Maryland lawmakers can pave the way for critical reform by passing the Maryland Kids Code.

I. About Fairplay

Fairplay is the leading independent watchdog of the children's media and marketing industries. We are committed to building a world where kids can be kids, free from the false promises of marketers and the manipulations of Big Tech. Our advocacy is grounded in the overwhelming evidence that child-targeted marketing – and the excessive screen time it encourages – undermines kids' healthy development.

Through corporate campaigns and strategic regulatory filings, Fairplay and our partners have changed the child-targeted marketing and data collection practices of some of the world's biggest companies. In 2021, we led a large international coalition of parents, advocates, and child development experts to stop Meta from releasing a version of Instagram for younger children.¹ Our 2018 Federal Trade Commission complaint against Google for violating the Children's Online Privacy Protection Act (COPPA) led to the 2019 FTC settlement that required Google to pay a record fine and to limit data collection and targeted advertising on child-directed content on YouTube.² Last year, we urged the FTC to investigate evidence that Google and YouTube may be in violation of the terms of that settlement.³ In November 2022, we filed a Petition for Rulemaking with our partners at the Center for Digital Democracy and 20 other organizations urging the FTC to declare that certain design techniques used by platforms to maximize user engagement are unfair practices.

Fairplay also leads the Designed with Kids in Mind Coalition, which advocates for regulations that would require operators to make the best interests of children a primary consideration when designing apps, websites, and platforms likely to be accessed by young people.⁴ Fairplay

¹ Brett Molina and Terry Collins, *Facebook postponing Instagram for kids amid uproar from parents, lawmakers*, USA Today (Sept. 27, 2021),

<https://www.usatoday.com/story/tech/2021/09/27/instagram-kids-version-app-children-pause/5881425001/>.

² Campaign for a Commercial-Free Childhood (now Fairplay) and Center for Digital Democracy, *Request to Investigate Google's YouTube Online Service and Advertising Practices for Violating the Children's Online Privacy Protection Act*, Counsel for Center for Digital Democracy and Campaign for a Commercial-Free Childhood before the Federal Trade Commission (filed April 2, 2018), <https://fairplayforkids.org/advocates-say-googles-youtube-violates-federal-childrens-privacy-law/>.

³ Fairplay, Center for Digital Democracy, Common Sense Media & Electronic Privacy Information Center, *Letter to FTC re: Adalytics Reports* (August 23, 2023), <https://fairplayforkids.org/wp-content/uploads/2023/08/FTCRequestForInvestigationAug23.pdf>.

⁴ Coalition members include Accountable Tech, American Academy of Pediatrics, Center for Digital Democracy, Center for Humane Technology, Children and Screens, Common Sense, Electronic Privacy Information Center, Exposure Labs: The Creators of The Social Dilemma, Fairplay, ParentsTogether, and RAINN: <https://designedwithkidsinmind.us/>.

and many of our coalition members actively supported the successful passage of the California Age Appropriate Design Code. We have been lead organizers on the federal legislative campaigns for the Kids Online Safety Act and the Children and Teens' Online Privacy Protection Act.

We are also home to the Screen Time Action Network, a collaborative community of practitioners, educators, advocates, and parents who work to reduce excessive technology use harming children, adolescents, and families. The Action Network hosts seven work groups, including Online Harms Prevention. This year, we launched ParentsSOS (Parents for Safe Online Spaces) with David's Legacy Foundation and families from our Online Harms Prevention work group.⁵ ParentsSOS tells the stories of twenty families whose children have died as a result of online harms and advocate for online safety legislation.

II. Children and teens spend a significant portion of their day using digital media.

Digital device use begins in early childhood: Nearly half of 2- to 4-year-olds and more than two-thirds of 5- to 8-year-olds have their own tablet or smartphone.⁶ Preschool-age children average 2.5 hours of screen media use per day, and five- to eight-year-olds average about 3 hours.⁷ In a study of elementary school-aged children's digital media use during the pandemic, approximately one-third of parents reported that their children began using social media at a younger age than they had originally planned.⁸

Despite the fact that all major social media sites have a minimum age of 13 in their terms of service, a growing number of younger children use platforms like TikTok, Snapchat and Instagram. About half of parents of children ages 10 to 12 and 32% of parents of kids ages 7 to 9 reported their child used social media apps in the first six months of 2021.⁹ That same year, 18% of 8- to 12-year-olds reported using social media every day, a 38% increase from just two years prior.¹⁰ Leaked documents from TikTok revealed the company used machine learning to analyze user accounts and classified one-third of the platform's users as under 14,¹¹ which suggests platform operators are well aware that children lie about their age in order to access social media.

⁵ ParentsSOS, *Our Kids*, <https://www.parentssos.org/stories>.

⁶ Victoria Rideout & Michael B. Robb, *The Common Sense Census: Media Use by Kids Age Zero to Eight*, 2020, Common Sense Media at 25, (2020), https://www.commonsensemedia.org/sites/default/files/research/report/2020_zero_to_eight_census_final_web.pdf.

⁷ *Id.*

⁸ Tiffany Munzer, Chioma Torres, et al., *Child Media Use During COVID-19: Associations with Contextual and Social-Emotional Factors*, 43 *Journal of Developmental and Behavioral Pediatrics* at 3 (2022), <https://pubmed.ncbi.nlm.nih.gov/36106745/>.

⁹ Kristen Rogers, *Children under 10 are using social media. Parents can help them stay safe online*, CNN, (Oct. 18, 2021), <https://www.cnn.com/2021/10/18/health/children-social-media-apps-use-poll-wellness/index.html>

¹⁰ Victoria Rideout, Alanna Peebles, et al., *The Common Sense Census: Media Use by Tweens and Teens at 12*, (2022), https://www.commonsensemedia.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf.

¹¹ Raymond Zhong and Sheera Frenkel, *A Third of TikTok's U.S. Users May Be 14 or Under, Raising Safety Questions*, *New York Times*, (Aug. 14, 2020), <https://www.nytimes.com/2020/08/14/technology/tiktok-underage-users-ftc.html>.

Further, research indicates the pandemic has increased screen media use for preteens and teenagers. In 2021, preteens (ages 8 to 12) averaged over 5.5 hours of entertainment screen time per day and teens (ages 13 to 18) averaged a remarkable 8.5 hours daily - a 17% increase from 2019 for both age groups.¹² Much of this time is spent on the major social media platforms. Over 90% of teens say they use YouTube, and approximately 60% say they use TikTok, Snapchat, and Instagram.¹³ One-third of teens say they are using one of the top five online platforms – YouTube, TikTok, Instagram, Snapchat, or Facebook – “almost constantly.”¹⁴

Teens’ and preteens’ daily screentimes vary based on race and household income. White preteens average 4.5 hours of entertainment screen time use daily, compared to Black preteens (6.5 hours) and Hispanic/Latino preteens (7 hours). White teens spend approximately 8 hours per day on screens for entertainment, while Black and Hispanic/Latino teens average approximately two hours more.¹⁵ Preteens in higher-income households spend just under 4.5 hours of screen time per day, compared to preteens in middle-income households (5.75 hours) and lower-income households (7.5 hours). Teens in higher-income households spend about 2.5 hours less daily on screens for entertainment compared to teens in lower- and middle-income households, (7 and 9.5 hours daily, respectively).¹⁶

III. Overuse of digital media is linked to a number of serious harms for young people

Increased time online and social media use is linked to serious harms for young people. As the Surgeon General has observed – and as described in detail in Section IV of this testimony – “[b]usiness models are often built around maximizing user engagement as opposed to safeguarding users’ health and ensuring that users engage with one another in safe and healthy ways . . . This translates to technology companies focusing on maximizing time spent, not time well spent.”¹⁷ By maximizing time and activities online, the design choices made by platforms to maximize engagement harm minors in a number of ways, including: undermining mental health, harm to body image, fostering problematic internet use, harming physical health, increasing minors’ risk of contact with dangerous or harmful people, and increasing minors’ exposure to age-inappropriate and otherwise harmful content.

¹² Common Sense, *The Common Sense Census: Media Use by Tweens and Teens at 12* (2022), https://www.common sense media.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf.

¹³ Monica Anderson, *Teens, Social Media and Technology 2023*, Pew Research Center (Dec. 11, 2023), <https://www.pewresearch.org/internet/2023/12/11/teens-social-media-and-technology-2023/>.

¹⁴ *Id.*

¹⁵ Victoria Rideout, Alanna Peebles, et al., *The Common Sense Census: Media Use by Tweens and Teens at 12*, (2022), https://www.common sense media.org/sites/default/files/research/report/8-18-census-integrated-report-final-web_0.pdf.

¹⁶ *Id.*

¹⁷ *Protecting Youth Mental Health: The U.S. Surgeon General’s Advisory at 25* (2021), <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>.

Harm to mental health

Maximizing minors' time and activities online is linked with worse psychological wellbeing in minors in concrete and serious ways that cannot be ignored in the context of the current youth mental health crisis.

Heavy users of digital media are more likely to be unhappy, to be depressed, or to have attempted suicide.¹⁸ Two nationally representative surveys of U.S. adolescents in grades 8 through 12 found “a clear pattern linking screen activities with higher levels of depressive symptoms/suicide-related outcomes and nonscreen activities with lower levels.”¹⁹ The same research found that suicide-related outcomes became elevated after two hours or more a day of electronic device use.²⁰ Among teens who used electronic devices five or more hours a day, a staggering 48% exhibited at least one suicide risk factor.²¹ Of particular concern, a large and growing body of research indicates a strong link between time spent on social media—some of the services most relentless in their deployment of engagement-maximizing techniques—and serious mental health challenges.²² More frequent and longer social media use is associated with depression,²³ anxiety,²⁴ and suicide risk factors.²⁵

Even if some of these documented associations are explained by children's underlying emotional challenges, the design features that online platforms deploy to maximize engagement are likely to have differential negative effects on these young people. For example, children with more negative emotionality may seek endless scrolling as a means of dissociating from emotional distress,²⁶ yet may be recommended more negative content based on their

¹⁸ Jean M. Twenge & W. Keith Campbell, *Media Use Is Linked to Lower Psychological Well-Being: Evidence from Three Datasets*, 90 Psychol. Q., 311 (2019). <https://pubmed.ncbi.nlm.nih.gov/30859387/>

¹⁹ Jean M. Twenge et al., *Increases in Depressive Symptoms, Suicide-Related Outcomes, and Suicide Rates Among U.S. Adolescents After 2010 and Links to Increased New Media Screen Time*, 6 Clinical Psychol. Sci. 3, 9 (2018) <https://doi.org/10.1177/2167702617723376>. See also Jane Harness et al., *Youth Insight About Social Media Effects on Well/ill-Being and Self-Modulating Efforts*, 71 J. Adolescent Health, 324-333 (Sept. 1, 2022), 10.1016/j.jadohealth.2022.04.011; Amy Orben et al., *Windows of Developmental Sensitivity to Social Media*, 13 Nature Comm., 1649, (2022), 10.1038/s41467-022-29296-3

²⁰ *Id.*

²¹ *Id.*

²² See, e.g., K.E. Riehm et al., *Associations Between Time Spent Using Social Media and Internalizing and Externalizing Problems Among US Youth*, 76 JAMA Psychiatry, 1266 (2019), <https://doi.org/10.1001/jamapsychiatry.2019.2325>; N. McCrae et al., *Social Media and Depressive Symptoms in Childhood and Adolescence: A Systematic Review*, 2 Adolescent Res. Rev., 315 (2017), <https://doi.org/10.1007/s40894-017-0053-4>; H. Allcott et al., *The Welfare Effects of Social Media*, 110 Econ. Rev. Am. 629 (2020), <https://www.aeaweb.org/articles?id=10.1257/aer.20190658>

²³ Jean M. Twenge & W. Keith Campbell, *Media Use Is Linked to Lower Psychological Well-Being: Evidence from Three Datasets*, 90 Psychol. Q. at 312 (2019). <https://pubmed.ncbi.nlm.nih.gov/30859387/>

²⁴ Royal Society for Public Health, *#StatusOfMind: Social Media and Young People's Mental Health and Wellbeing 8* (May 2017), <https://www.rsph.org.uk/static/uploaded/d125b27c-0b62-41c5-a2c0155a8887cd01.pdf>

²⁵ Jean M. Twenge & W. Keith Campbell, *Media Use Is Linked to Lower Psychological Well-Being: Evidence from Three Datasets*, 90 Psychol. Q. (2019). <https://pubmed.ncbi.nlm.nih.gov/30859387/>

²⁶ Amanda Baughan et al., *"I Don't Even Remember What I Read": How Design Influences Dissociation on Social Media*, CHI Conference on Human Factors in Computing Systems, 1-13 (2022), <https://dl.acm.org/doi/pdf/10.1145/3491102.3501899>.

previous behavior.²⁷ Former Meta employee Frances Haugen has described how the company (then called Facebook) documented this harmful cycle in its own internal research on Instagram: “And what’s super tragic is Facebook’s own research says, as these young women begin to consume this -- this eating disorder content, they get more and more depressed. And it actually makes them use the app more. And so, they end up in this feedback cycle where they hate their bodies more and more.”²⁸

Harm to body image

Design features that maximize time spent on social media can also lead to heightened exposure to content which increases minors’ susceptibility to poor body image and, consequently, disordered eating. A 2019 study of 7th and 8th graders in the *International Journal of Eating Disorders* “suggest[ed] that [social media], particularly platforms with a strong focus on image posting and viewing, is associated with elevated [disordered eating] cognitions and behaviors in young adolescents.”²⁹ Another study found a positive correlation between higher Instagram use and orthorexia nervosa diagnoses.³⁰ Personal stories from sufferers of disordered eating have highlighted the link to social media,³¹ as has Meta’s own internal research; the documents Frances Haugen shared with the *Wall Street Journal* in 2021 revealed that Facebook has been aware at least since 2019 that “[w]e make body image issues worse for one in three teen girls.”³²

Attorney generals’ investigations into Instagram have revealed that Meta continues to offer features that are known to harm users’ body image. For example, Meta has known for years that its visual camera “filters” and “effects” are harmful to young users. One such set of filters can simulate the effects of cosmetic surgery, botox, and skin enhancements.³³ Extensive academic research has shown that these plastic surgery filters have significant negative mental

²⁷ Kait Sanchez, *Go Watch this WSJ investigation of TikTok’s Algorithm*, The Verge, (July 21, 2021), <https://www.theverge.com/2021/7/21/22587113/tiktok-algorithm-wsj-investigation-rabbit-hole>.

²⁸ Scott Pelley, *Whistleblower: Facebook is misleading the public on progress against hate speech, violence, misinformation*, CBS, (Oct. 3, 2021), <https://www.cbsnews.com/news/facebook-whistleblower-frances-haugen-misinformation-public-60-minutes-2021-10-03/>.

²⁹ Simon M. Wilksch et al., *The Relationship Between Social Media Use and Disordered Eating in Young Adolescents*, 53 *Int. J. Eat. Disord.* 96, 104 (2020).

³⁰ Pixie G. Turner & Carmen E. Lefevre, *Instagram Use Is Linked to Increased Symptoms of Orthorexia Nervosa*, 22 *Eating Weight Disorders* 277, 281 (2017).

³¹ See, e.g., Jennifer Neda John, *Instagram Triggered My Eating Disorder*, Slate (Oct. 14, 2021), <https://slate.com/technology/2021/10/instagram-social-media-eating-disorder-trigger.html>; Clea Skopeliti, *‘I Felt My Body Wasn’t Good Enough’: Teenage Troubles with Instagram*, The Guardian (Sep. 18, 2021), <https://www.theguardian.com/society/2021/sep/18/i-felt-my-body-wasnt-good-enough-teenage-troubles-with-instagram>.

³² Georgia Wells et al., *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*, W.S.J. (Sept. 14, 2021), <https://www.wsj.com/articles/facebook-knows-instagram-is-toxic-for-teen-girls-company-documents-show-11631620739>.

³³ *Commonwealth of Massachusetts v. Meta Platforms Inc. and Instagram, LLC*, No. 2384CV02397-bls1, Count 225 (Mass. Super. Ct. Nov. 6, 2023).

health impacts, especially for young, female users.³⁴ As a result, several high ranking employees advocated for banning the filters from Meta’s platforms.³⁵ Those employees created a reference document for Mark Zuckerberg detailing Meta’s consultation with “21 independent experts from around the world,” who agreed that cosmetic surgery filters can have severe mental health impacts “on both the individuals using the effects and those viewing the images,” and that “children are particularly vulnerable.”³⁶ Despite the uniform conclusion of researchers, and wide support within the company itself, Mark Zuckerberg personally chose to veto a policy that would have banned plastic surgery filters on Meta’s platforms, stating that there is a “clear demand” for the filters and that he had seen “no data” suggesting they were harmful.³⁷

Risk of problematic internet use and its associated harms

Maximizing time and activities online also fosters “problematic internet use”—psychologists’ term for excessive internet activity that exhibits addiction, impulsivity, or compulsion.³⁸ A 2016 nationwide survey of minors ages 12 to 18 found that 61% of teens thought they spent too much time on their mobile devices, and 50% felt “addicted” to them.³⁹ In a 2022 Pew Research survey, 35% of teens said they are on YouTube, TikTok, Instagram, Snapchat, or Facebook “almost constantly.”⁴⁰ And a report released last week by Amnesty International on young people ages 13-24 found “a staggering 74% of respondents report checking their social media accounts more than they would like to. Respondents bemoaned the ‘addictive’ lure of the constant stream of updates and personalized recommendations, often feeling ‘overstimulated’ and ‘distracted.’”⁴¹

Problematic internet use, in turn, is linked to a host of additional problems. For example, one study of 564 children between the ages of 7 and 15 found that problematic internet use was positively associated with depressive disorders, Attention Deficit Hyperactivity Disorder, general impairment, and increased sleep disturbances.⁴² A meta-analysis of peer-reviewed studies involving cognitive findings associated with problematic internet use in both adults and

³⁴ *Id.* at Count 227.

³⁵ *Id.* at Count 230-231.

³⁶ *Id.* at Count 233.

³⁷ *Id.* at Count 235.

³⁸ Chloe Wilkinson et al., *Screen Time: The Effects on Children’s Emotional, Social, and Cognitive Development*, Informed Futures, at 6, (2021), <https://informedfutures.org/wp-content/uploads/Screen-time-The-effects-on-childrens-emotional-social-cognitive-development.pdf>.

³⁹ Common Sense, *Dealing with Devices: Parents*, 10-11, (2016), https://www.commonsensemedia.org/sites/default/files/research/report/commonsense_dealingwithdevices-topline_release.pdf.

⁴⁰ Emily A. Vogels et al., *Teens, Social Media and Technology 2022*, Pew Research Center (Aug. 10, 2022), <https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022>.

⁴¹ Amnesty International, “*We are totally exposed*”: *Young people share concerns about social media’s impact on privacy and mental health in global survey* (Feb. 7, 2023) <https://www.amnesty.org/en/latest/news/2023/02/children-young-people-social-media-survey-2/>.

⁴² Restrepo et al., *Problematic Internet Use in Children and Adolescents: Associations with Psychiatric Disorders and Impairment*, 20 *BMC Psychiatry* 252 (2020), <https://doi.org/10.1186/s12888-020-02640-x>.

adolescents found “firm evidence that [problematic internet use]. . . is associated with cognitive impairments in motor inhibitory control, working memory, Stroop attentional inhibition and decision-making.”⁴³ Another study of over 11,000 European adolescents found that among teens exhibiting problematic internet use, 33.5% reported moderate to severe depression; 22.2% reported self-injurious behaviors such as cutting; and 42.3% reported suicidal ideation.⁴⁴ The rate of attempted suicides was a staggering ten times higher for teens exhibiting problematic internet use than their peers who exhibited healthy internet use.⁴⁵

Harm to physical health

Maximizing minors’ time spent online at the expense of sleep or movement also harms their physical health. When minors are driven to spend more time online, they sleep less for a variety of reasons – because it is impossible to be online and sleep at the same time, because stimulation before bedtime disrupts sleep patterns, and because many of the design features used by online platforms make users feel pressured to be connected constantly, and that feeling often doesn’t go away at bedtime. Research shows that minors who exhibit problematic internet use often suffer from sleep problems.⁴⁶ One-third of teens report waking up and checking their phones for something other than the time at least once per night.⁴⁷ Some teens set alarms in the middle of the night to remind them to check their notifications or complete video game tasks that are only available for a limited time.⁴⁸

These behaviors in turn create new risks for young people. Screen time before bed is associated with lower academic performance.⁴⁹ Teenagers who use social media for more than five hours per day are about 70% more likely to stay up late on school nights.⁵⁰ A lack of sleep in teenagers has been linked to inability to concentrate, poor grades, drowsy-driving incidents, anxiety, depression, thoughts of suicide, and even suicide attempts.⁵¹

⁴³ Konstantinos Ioannidis et al., *Cognitive Deficits in Problematic Internet Use: Meta-Analysis of 40 Studies*, 215 *British Journal of Psychiatry* 639, 645 (2019), <https://pubmed.ncbi.nlm.nih.gov/30784392/>.

⁴⁴ Michael Kaess et al., *Pathological Internet use among European adolescents: psychopathology and self-destructive behaviours*, 23 *Eur. Child & Adolescent Psychiatry* 1093, 1096 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4229646/>.

⁴⁵ *Id.*

⁴⁶ Anita Restrepo, Tohar Scheininger, et al., *Problematic Internet Use in Children and Adolescents: Associations with Psychiatric Disorders and Impairment*, 20 *BMC Psychiatry* 252 (2020), <https://doi.org/10.1186/s12888-020-02640-x>.

⁴⁷ Common Sense, *Screens and Sleep: The New Normal: Parents, Teens, Screens, and Sleep in the United States at 7* (2019), <https://www.common sense media.org/sites/default/files/research/report/2019-new-normal-parents-teens-screens-and-sleep-united-states-report.pdf>.

⁴⁸ Emily Weinstein & Carrie James, *Behind Their Screens: What Teens Are Facing (And Adults Are Missing)*, MIT Press, at 38 (2022).

⁴⁹ Chloe Wilkinson et al., *Screen Time: The Effects on Children’s Emotional, Social, and Cognitive Development at 4* (2021), <https://informedfutures.org/wp-content/uploads/Screen-time-The-effects-on-childrens-emotional-social-cognitive-development.pdf>.

⁵⁰ *Heavy Social Media Use Linked to Poor Sleep*, BBC News (Oct. 23, 2019), <https://www.bbc.com/news/health-50140111>.

⁵¹ *Among teens, sleep deprivation an epidemic*, Stanford News Ctr. (Oct. 8, 2015), <https://med.stanford.edu/news/all-news/2015/10/among-teens-sleep-deprivation-an-epidemic.html>.

A large body of research demonstrates that more time online displaces physical activity⁵² and is consistently correlated with minors' risk of obesity, which in turn increases their risk of serious illnesses like diabetes, high blood pressure, heart disease, and depression.⁵³ Further, when minors spend more time online, they are exposed to more advertisements for unhealthy food and beverages,⁵⁴ which are heavily targeted toward minors⁵⁵ and disproportionately marketed to Black and Hispanic youth.⁵⁶ In addition, poor sleep quality—which, as discussed above, is associated with problematic internet use—increases the risk of childhood obesity by 20%.⁵⁷

Harms to Safety

The pressure to spend more time on digital media platforms and maximize interactions with other users also puts children at risk of predation. Last year, law enforcement officials reported increasing rates of sextortion blackmail scams targeting teenagers on social media.⁵⁸ Twenty-five percent of 9-to-17-year-olds report having had an online sexually explicit interaction with someone they believed to be an adult.⁵⁹ In 2020, 17% of minors – including 14% of 9-12-year-olds – reported having shared a nude photo or video of themselves online. Of these children and teens, 50% reported having shared a nude photo or video with someone they had not met in real life, and 41% reported sharing with someone over the age of 18.⁶⁰

Design features that maximize engagement also increase young people's risk of cyberbullying. A 2022 survey by the Pew Research Center found that nearly 50% of teens reported being cyberbullied.⁶¹ Sexual minority and gender expansive youth report being exposed to

⁵² E de Jong et al., *Association Between TV Viewing, Computer Use and Overweight, Determinants and Competing Activities of Screen Time in 4- to 13-Year-Old Children*, 37 *Int'l J. Obesity* 47, 52 (2013), <https://pubmed.ncbi.nlm.nih.gov/22158265/>.

⁵³ Jeff Chester, Kathryn C. Montgomery, et al., *Big Food, Big Tech, and the Global Childhood Obesity Pandemic* at 3 (2021), https://www.democraticmedia.org/sites/default/files/field/public-files/2021/full_report.pdf.

⁵⁴ *Id.*

⁵⁵ Jeff Chester, Kathryn C. Montgomery, et al., *Big Food, Big Tech, and the Global Childhood Obesity Pandemic* at 3 (2021), https://www.democraticmedia.org/sites/default/files/field/public-files/2021/full_report.pdf.

⁵⁶ University of Connecticut Rudd Center for Food Policy & Health et. al., *Targeted Food and Beverage Advertising to Black and Hispanic Consumers: 2022 Update*, (Nov. 2022), <https://uconnruddcenter.org/wp-content/uploads/sites/2909/2022/11/TargetedMarketing2022-Executive-Summary.pdf>.

⁵⁷ Yanhui Wu et al., *Short Sleep Duration and Obesity Among Children: A Systematic Review and Meta-Analysis of Prospective Studies*, 11 *Obesity Resch. & Clinical Prac.* 140, 148 (2015), <https://pubmed.ncbi.nlm.nih.gov/27269366/>; Michelle A. Miller et al., *Sleep Duration and Incidence of Obesity in Infants, Children, and Adolescents: A Systematic Review and Meta-Analysis of Prospective Studies*, 41 *Sleep* 1, 15 (2018), <https://pubmed.ncbi.nlm.nih.gov/29401314/>.

⁵⁸ Chris Moody, *'IDK what to do': Thousands of teen boys are being extorted in sexting scams*, *Washington Post* (Oct. 2, 2023), <https://www.washingtonpost.com/parenting/2023/10/02/teen-boys-sextortion/>.

⁵⁹ Thorn. "Responding to Online Threats: Minors' Perspectives on Disclosing, Reporting, and Blocking." (May 2021), https://info.thorn.org/hubfs/Research/Responding%20to%20Online%20Threats_2021-Full-Report.pdf.

⁶⁰ Thorn. "Understanding sexually explicit images, self-produced by children." (9 Dec. 2020), <https://www.thorn.org/blog/thorn-research-understanding-sexually-explicit-images-self-produced-by-children/>.

⁶¹ Emily A. Vogels et. al., *Teens and Cyberbullying 2022*, Pew Research Center, (Dec. 2022), <https://www.pewresearch.org/internet/2022/12/15/teens-and-cyberbullying-2022/>.

anonymous forms of cyberbullying more than their heterosexual and cisgender counterparts.⁶² Cyberbullying is linked to increased risky behaviors such as smoking and increased risk of suicidal ideation.⁶³

It's worth noting that these serious threats to children's safety aren't limited to social media. The FTC's recent settlement with Epic Games documented how the default text and voice chat settings on Fortnite led children and teens to communicate with strangers, including adults. As a result, children were subject to harassment, bullying, and predation while playing the wildly popular game.⁶⁴

IV. The platforms where children spend the majority of their time online are designed to maximize engagement, often at the expense of children's wellbeing and safety.

Digital platforms are designed to maximize engagement. The longer a user is on a platform and the more they do on the platform, the more data the user generates. Tech companies and their marketing partners use this valuable data to target users with advertising.⁶⁵ Gaming app companies employ teams of experts who specialize in user acquisition and retention.⁶⁶ The major social media platforms – including Facebook, Instagram, YouTube, and TikTok – have both in-house and external research initiatives focused on documenting and improving engagement, as well as utilizing neuromarketing and virtual reality techniques to measure effectiveness.⁶⁷

Engagement-maximizing design features prey upon minors' developmental vulnerabilities and can lead to significant harm. These features create risk for children because they can lead to

⁶²Bauman, S., & Baldasare, A., *Cyber aggression among college students: Demographic differences, predictors of distress, and the role of the university*, 56 *Journal of College Student Development* 317 (2015), <https://doi.org/10.1353/csd.2015.0039>.

⁶³van Geel M, Vedder P, Tanilon J. *Relationship Between Peer Victimization, Cyberbullying, and Suicide in Children and Adolescents: A Meta-analysis*, *JAMA Pediatr.* 2014;168(5):435–442. doi:10.1001/jamapediatrics.2013.4143 <https://jamanetwork.com/journals/jamapediatrics/fullarticle/1840250>.

⁶⁴Case 5:22-cv-00518-BO, *Epic Games: Complaint for Permanent Injunction*, (Dec. 19, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/2223087EpicGamesComplaint.pdf.

⁶⁵ See generally 5Rights Foundation. "Pathways: How digital design puts children at risk." (July 2021), <https://5rightsfoundation.com/uploads/Pathways-how-digital-design-puts-children-at-risk.pdf>.

⁶⁶ See, e.g., *Leading User Acquisition in the quickly growing mobile games industry: Get to know Winnie Wen of Jam City*, Jam City (Nov. 15, 2021), <https://www.jamcity.com/leading-user-acquisition-in-the-quickly-growing-mobile-games-industry-get-to-know-winnie-wen-of-jam-city/>; *Mediation that supports everything your app business needs to scale*, ironSource, <https://www.is.com/mediation/>; Mihovil Grguric, *15 Key Mobile Game Metrics That Developers MUST Track*, udonis (Sept. 20, 2022), <https://www.blog.udonis.co/mobile-marketing/mobile-games/key-mobile-game-metrics>.

⁶⁷ See, e.g., *Meta Careers, Shape the Future of Marketing with the Marketing Science Team*, Meta (Sept. 19, 2018), <https://www.metacareers.com/life/come-build-with-the-facebook-marketing-science-team/>; Bob Arnold & Anton Miller, *How Google's Media Lab Boosts YouTube Ad Results*, AdAge (May 14, 2021), <https://adage.com/article/google/how-googles-media-lab-boosts-youtube-ad-results/2335796>; *TikTok Insights*, TikTok for Business (2022), <https://www.tiktok.com/business/en-US/insights>; *TikTok Ads Break Through Better than TV and Drive Greater Audience Engagement*, TikTok for Business, <https://www.tiktok.com/business/library/TikTokDrivesGreaterAudienceEngagement.pdf>; *How Virtual Reality Facilitates Social Connection*, Meta, <https://www.facebook.com/business/news/insights/how-virtual-reality-facilitates-social-connection>.

problematic internet use and the associated harm. In addition, many of the techniques used to extend engagement create new risks and harms in their own right. They include: social manipulation design features; variable reward design features; and algorithmic content recommendation systems.

Thanks to newly uncovered information gleaned through the release of an unredacted complaints filed against Meta, we now know that tech companies like Meta specifically target teen users with these problematic design features, that they are explicitly aware of the severe harms they are causing, and that they have deliberately chosen not to mitigate those harms.⁶⁸

Social manipulation design features

Social manipulation design features leverage a minor's desire for social relationships to encourage users to spend more time and/or perform more activities on a website or service. These features are the hallmarks of social media platforms: follower, view, and like counts; interaction streaks; displays of the names of users who have commented, viewed, or liked a piece of content; and prompts that encourage a user to share with a larger audience by adding suggested new friends or making their account or posts public.

Younger adolescents have specific developmental needs for social connectedness and are particularly attuned to social validation.⁶⁹ Children develop a need to fit in with their peers around age 6⁷⁰ and the need to be noticed and admired by others around age ten.⁷¹ Social acceptance evokes activation in the brain's reward center.⁷² Further, minors' prefrontal cortex, which helps regulate responses to social rewards, is not as mature as adults'.⁷³ These factors all converge to create a feedback loop in which, because minors crave this social reinforcement, they seek it out, and ultimately are unequipped with the tools to protect themselves against the allure of "rewards" that these manipulative design features purportedly promise.

Social manipulation design features also exploit young people's tendency for social comparison and recreate, on a 24/7 basis, the high school cafeteria experience where everyone can

⁶⁸ Commonwealth of Massachusetts v. Meta Platforms Inc. and Instagram, LLC, No. 2384CV02397-bls1 (Mass. Super. Ct. Nov. 6, 2023)

⁶⁹ Nicholas D. Santer et al., *Early Adolescents' Perspectives on Digital Privacy*, Algorithmic Rights and Protections for Children (2021) at 6, 30.

⁷⁰ In particular, between the ages of six and nine, children start to feel the need to fit in to peer social groups. See Jun Zhao et al., *'I Make Up a Silly Name': Understanding Children's Perception of Privacy Risks Online*, CHI Conference on Human Factors in Computing Systems Proceedings (May 2, 2019), <https://doi.org/10.1145/3290605.3300336>.

⁷¹ Zara Abrams, *Why Young Brains Are Especially Vulnerable to Social Media*, APA (Feb. 3, 2022), <https://www.apa.org/news/apa/2022/social-media-children-teens> ("Starting around age 10, children's brains undergo a fundamental shift that spurs them to seek social rewards, including attention and approval from their peers.").

⁷² Eveline Crone & Elly A. Konijn, *Media Use and Brain Development During Adolescence*, 9 *Nature Comm.* 1, 4 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5821838/>.

⁷³ For example, adults "tend to have a fixed sense of self that relies less on feedback from peers" and "adults have a more mature prefrontal cortex, an area that can help regulate emotional responses to social rewards." Zara Abrams, *Why Young Brains Are Especially Vulnerable to Social Media*, APA (Feb. 3, 2022), <https://www.apa.org/news/apa/2022/social-media-children-teens>.

instantly see who is popular and who is not. Features such as like and follower counts and comment displays induce anxiety in minors that they or their content may not be as popular as that of their peers. In the words of one high school student, “[I]f you get a lot of likes, then ‘Yay,’ you look relevant, but then if you don’t get a lot of likes and/or views, it can completely crush one’s confidence. Especially knowing that you’re not the only one who’s able to see it.”⁷⁴ Snapchat streaks literally quantify the strength of users’ relationships and create pressure on users to communicate with their friends on the app daily.⁷⁵ Teens report feeling obligated to maintain Snapstreaks to “feel more popular” and show that they “care about that person.”⁷⁶

Ultimately, these design features create strong incentives for young people to engage in potentially harmful behaviors. Their drive for social rewards “lead[s] to greater relinquishing of security in certain arenas to gain social validation and belonging, for example, disclosing publicly to participate in online communities and accrue large amounts of likes, comments, and followers.”⁷⁷ Young users quickly learn that they can improve their social media metrics by posting frequently and posting particularly provocative or risqué content.⁷⁸ Such posts can increase the risk of cyberbullying and sexual exploitation. In addition, the pressure to demonstrate popularity through high friend, follower, and like counts can lead children to accept friend requests from strangers, putting them at risk of predation.

Tech companies are acutely aware of the power these design features have over children and teens, and they weaponize them with precision. For example, the unredacted Massachusetts Complaint against Instagram revealed that Meta purposefully researched growth opportunities within its “Teen Ecosystem,” and determined that it can capitalize on teens’ “especially plastic” minds to design product features that increase total “teen time spent” on its platforms.⁷⁹ For example, Meta specifically relies on children’s increased tolerance for “push” notifications to create a psychological environment in which teens are programmed to come back to Meta’s

⁷⁴ Katie Joseff, *Social Media Is Doing More Harm than Good*, Common Sense Media (Dec. 17, 2021), <https://www.commonsensemedia.org/kids-action/articles/social-media-is-doing-more-harm-than-good>.

⁷⁵ Taylor Lorenz, *Teens Explain the World of Snapchat’s Addictive Streaks, Where Friendships Live or Die*, Insider (Apr. 14, 2017, 1:58 PM), <https://www.insider.com/teens-explain-snapchat-streaks-why-theyre-so-addictive-and-important-to-friendships-2017-4>; Lori Janjigian, *What I Learned After Taking Over My 13-Year-Old Sister’s Snapchat for Two Weeks*, Business Insider (Aug. 4, 2016, 11:53 AM), <https://www.businessinsider.com/how-teens-are-using-snapchat-in-2016>.

⁷⁶ *Id.*

⁷⁷ Nicholas D. Santer et al., *Early Adolescents’ Perspectives on Digital Privacy*, Algorithmic Rights and Protections for Children (2021) at 6 (citing J.C. Yau & S. M. Reich, “It’s Just a Lot of Work”: Adolescents’ Self-Presentation Norms and Practices on Facebook and Instagram, 29 J. Res. on Adolescence 196, 196-209 (2019)).

⁷⁸ For example, Adolescent girls report feeling pressure to post sexualized selfies as a means of generating attention and social acceptance from their peers. Macheroni, G., Vincent, J., Jimenez, E. ‘Girls Are Addicted to Likes so They Post Semi-Naked Selfies’: Peer Mediation, Normativity and the Construction of Identity Online, 9 *Cyberpsychology: Journal of Psychosocial Research on Cyberspace* (May 1, 2015), <https://doi.org/10.5817/CP2015-1-5>.

⁷⁹ Commonwealth of Massachusetts v. Meta Platforms Inc. and Instagram, LLC, No. 2384CV02397-bls1, Count 76-78, 167 (Mass. Super. Ct. Nov. 6, 2023).

products “over and over” in hopes of receiving positive social validation.⁸⁰ Across Meta’s social media products, children and teens receive a staggering 237 notifications per day.⁸¹

Meta is aware that its design features cause real harm to children and teens, but has repeatedly chosen not to act. An internal research document widely circulated through Meta highlighted “problematic use” of its platforms by teens and children, and specifically concluded that Meta’s products had a negative life impact related to sleep, parenting, social relationship, and or productivity.⁸² Despite being aware of this internal research, executives at Meta have repeatedly chosen not to enact specific design changes that would mitigate these harms.

For example, Meta conducted an internal study which found a link between ‘Like’ counts and “constant negative comparisons.”⁸³ Researchers at Meta further linked those negative social comparisons “to multiple negative well-being outcomes” such as increased loneliness, worse body image, and negative mood.⁸⁴ As a result, Meta ran a test program called “Project Daisy,” in which it hid visible “Like” counts from a subset of users on Instagram.⁸⁵ In doing so, researchers found that Project Daisy was effective in reducing users’ experiences of negative social comparison, and had a “statistically significant impact” on young users’ well-being.⁸⁶ Despite internal research concluding that “Like” counts harm youth, and that Project Daisy could improve the health and wellbeing of children and teen users, Meta chose not to implement the program, defunded the team that conducted the research project, and still retains its visible “Like” features by default on Instagram to this day.⁸⁷

Variable reward design features

One objective of persuasive design is to reduce friction so that platforms are easier to use, and so young people will keep using them. Low-friction variable rewards are highly effective at maximizing the amount of time users spend on the service. The psychology that renders these features effective is based on research that predates the internet by many years, beginning with experiments by renowned psychologist B.F. Skinner in the early 20th century.⁸⁸ Research by Skinner and others revealed that when test subjects – both humans and other animals – are rewarded unpredictably for a given action, they will engage in the action for a longer period of time than if the reward is predictable.⁸⁹ Specifically, the brain generates more dopamine in

⁸⁰ *Id.* at Count 91.

⁸¹ *Id.* at Count 92.

⁸² *Id.* at Count 137.

⁸³ *Id.* at Count 202.

⁸⁴ *Id.* at Count 203.

⁸⁵ *Id.* at Count 204.

⁸⁶ *Id.* at Count 207-208.

⁸⁷ *Id.* at Count 210-211.

⁸⁸ J. E. Staddon & D. T. Cerutti, *Operant Conditioning*, 54 Annual Review of Psychology 115 (2003), <https://doi.org/10.1146/annurev.psych.54.101601.145124>; B. F. Skinner, *Two Types of Conditioned Reflex: A Reply to Konorski and Miller*, 16 J. Gen. Psychology, 272 (1937), <https://doi.org/10.1080/00221309.1937.9917951>.

⁸⁹ Laura MacPherson, *A Deep Dive into Variable Designs and How to Use Them*, DesignLi (Nov. 8, 2018), <https://designli.co/blog/a-deep-dive-on-variable-rewards-and-how-to-use-them/>; Mike Brooks, *The “Vegas Effect”*

response to an uncertain reward than in response to an expected and reliable one.⁹⁰ The tendency of variable rewards to drive compulsive behavior is sometimes referred to as the “Vegas Effect,” and is the primary mechanism at work in slot machines.⁹¹ In the words of Nir Eyal, a consumer psychology expert who wrote the popular industry how-to *Hooked: How to Build Habit-Forming Products*, “[v]ariable schedules of reward are one of the most powerful tools that companies use to hook users.”⁹²

One common example of variable rewards design features is the infinite or endless scroll mechanism with variable content. When a platform uses endless scroll, a user is continuously fed new pieces of content as they scroll down a feed or page, and they never know what might appear next. Harvard researchers Emily Weinstein and Carrie James explain in their recent book on teens and technology: “Apps like TikTok have an endless database of content to offer users. Some videos are pointless or boring or upsetting; others give a fleeting reward in the form of funny, relatable, or compelling content.”⁹³ The pursuit of the next “rewarding” piece of content keeps users scrolling. As one 16-year-old told Weinstein and James, Snapchat is “so addictive because it’s so easy to go on to the next thing.... And you never know what amazing thing could be on the next Story, and all you have to do is tap once and you get to the next thing.”⁹⁴

All popular social media platforms, including those used heavily by minors such as TikTok, Snapchat, Instagram, and Facebook, feature endless scroll feeds strategically designed to intermittently surface content that users are algorithmically predicted to engage with. An internal TikTok document said that the app maximizes for two metrics: user retention and time spent.⁹⁵ Similarly, a product manager for YouTube’s recommendation system explained that the platform’s recommendation algorithm “is designed to do two things: match users with videos they’re most likely to watch and enjoy, and . . . recommend videos that make them happy. . . . [S]o our viewers keep coming back to YouTube, because they know that they’ll find videos that they like there.”⁹⁶ And Adam Mosseri of Instagram said, “[W]e make a set of predictions. These are educated guesses at how likely you are to interact with a post in different ways.... The more

of Our Screens, Psychol. Today (Jan. 4, 2019), <https://www.psychologytoday.com/us/blog/tech-happy-life/201901/the-vegas-effect-our-screens>.

⁹⁰ Anna Hartford & Dan J. Stein, *Attentional Harms and Digital Inequalities*, 9 JMIR Mental Health 2, 3 (Feb. 11, 2022), <https://pubmed.ncbi.nlm.nih.gov/35147504/>.

⁹¹ Mike Brooks, *The “Vegas Effect” of Our Screens*, Psychol. Today (Jan. 4, 2019), <https://www.psychologytoday.com/us/blog/tech-happy-life/201901/the-vegas-effect-our-screens>.

⁹² Nir Eyal, *The Hook Model: How to Manufacture Desire in 4 Steps*, Nir and Far, <https://www.nirandfar.com/how-to-manufacture-desire/>.

⁹³ Emily Weinstein & Carrie James, *Behind Their Screens: What Teens Are Facing (And Adults Are Missing)*, MIT Press, at 33 (2022); see also GCFGlobal.org, *Digital Media Literacy: Why We Can’t Stop Scrolling*, <https://edu.gcfglobal.org/en/digital-media-literacy/why-we-cant-stop-scrolling/1/>.

⁹⁴ *Id.* at 34.

⁹⁵ Ben Smith, *How TikTok Reads Your Mind*, New York Times, (Dec. 5, 2021), <https://www.nytimes.com/2021/12/05/business/media/tiktok-algorithm.html>.

⁹⁶ Creator Insider, *Behind the Algorithms - How Search and Discovery Works on YouTube*, YouTube (Apr. 16, 2021), <https://youtu.be/9Fn79qJa2Fc>.

likely you are to take an action, and the more heavily we weigh that action, the higher up you'll see the post."⁹⁷

Tech companies know that variable rewards are a valuable tool to increase users' activity and time spent online and ultimately, to maximize profits. But they are similarly aware of the risks associated with these types of rewards. For example, in 2020, responding to internal research indicating that teen users had difficulty controlling their use of Facebook and Instagram, a Meta employee wrote to a colleague: "I worry that the driving [users to engage in more frequent] sessions incentivizes us to make our product more addictive, without providing much more value... Intermittent rewards are the most effective (think slot machines), reinforcing behaviors that become especially hard to extinguish."⁹⁸ Ultimately, these sophisticated variable reward techniques prey upon minors' developmental sensitivity to rewards.

Algorithmic content recommendation systems

Algorithms designed to maximize engagement fill young people's feeds with the content that is most likely to keep them online, even when that means exposing them to a post, image, or video that is dangerous or abusive. Platforms such as YouTube, TikTok, and Instagram serve users content based on automated suggestions. Algorithms choose which content to suggest to children and teens based on the vast amount of data they collect on users, such as likes, shares, comments, interests, geolocation, and information about the videos a user watches and for how long. As described above, these algorithms are designed to extend engagement by discerning which pieces of content a user is most likely to engage with – not whether the content or overall online experience is beneficial to the user.⁹⁹

Algorithmic recommendations can be particularly dangerous when they target children and teens' greatest vulnerabilities. Investigations have repeatedly demonstrated the way social media feeds deliver harmful mental health and eating disorder content to accounts registered to minors. A December 2022 report by the Center for Countering Digital Hate (CCDH) found that newly created TikTok accounts registered to teenagers that watched or liked videos about body image, mental health, or eating disorders received videos in their For You feed related to self-harm, suicide, or eating disorders within minutes.¹⁰⁰ These videos appeared on the accounts' For You feeds every 206 seconds on average. CCDH also studied the For You feeds of newly created TikTok accounts registered to teenagers that included the phrase "loseweight" in

⁹⁷ Adam Mosseri, *Shedding More Light on How Instagram Works*, Instagram (June 8, 2021),

<https://about.instagram.com/blog/announcements/shedding-more-light-on-how-instagram-works>.

⁹⁸ *Spence v. Meta Platforms*, N.D. Cal. Case No. 3:22-cv-03294 at 82 (June 6, 2022) (citing Facebook Papers: "Teen Girls Body Image and Social Comparison on Instagram – An Exploratory Study in the US" (March 2020), at p. 8).

⁹⁹ A former YouTube engineer observed: "recommendations are designed to optimize watch time, there is no reason that it shows content that is actually good for kids. It might sometimes, but if it does, it is coincidence." Orphanides, K.G. "Children's YouTube is still churning out blood, suicide and cannibalism." *Wired*, (March 23, 2018), <https://www.wired.co.uk/article/youtube-for-kids-videos-problems-algorithm-recommend>

¹⁰⁰ Center for Countering Digital Hate, *Deadly by Design: Tik Tok Pushes Harmful Content Promoting Eating Disorders and Self-harm into users' feeds*, (Dec. 15, 2022), <https://counterhate.com/research/deadly-by-design/>

their usernames. Those accounts received videos about self-harm, suicide, or eating disorders in their For You feeds every 66 seconds on average.¹⁰¹

Recent revelations from Meta whistleblower Arturo Béjar show that the results on Meta’s platforms are similarly frightening. Meta relies on extensive internal survey data reported in its “Bad Experiences & Encounters Framework (BEEF)” to analyze the frequency with which young users are shown content that violates its community standards, such as content related to suicide, self-harm, harassment, bullying, and hate speech.¹⁰² The BEEF survey results showed that in 2021, nearly 17% of Instagram users aged 13-15 had seen content relating to self-harm within the last seven days.¹⁰³ For users of similar ages, nearly 50 % reported witnessing bullying on the platform within the last seven days, and nearly 22% of 13-15 year-old users said they were the target of bullying.¹⁰⁴ Despite these facts, Meta chose to use “distorted metrics” such as prevalence statistics to intentionally create a misleading picture of the harmfulness of its platforms.¹⁰⁵

Other reports have made similar findings: A 2021 *Wall Street Journal* investigation documented how TikTok users were served videos that encouraged eating disorders and discussed suicide.¹⁰⁶ The same year, Senator Richard Blumenthal’s office created an account for a fake 13-year-old girl that “liked” content about dieting, and the account was served pro-eating disorder and self-harm content within 24 hours.¹⁰⁷ Young users’ engagement with this harmful content is valuable to tech companies: Our 2022 report detailed how Meta profits from 90,000 unique pro-eating disorder accounts that reach 20 million people, one-third of whom are minors, some as young as nine.¹⁰⁸

Content recommendation algorithms also expose minors to videos of dangerous viral “challenges,” which has tragically led to the serious injury and death of many young people. For example, media reports have documented how “the blackout challenge” on TikTok, in which young people hold their breath or choke themselves until they pass out, is responsible for the

¹⁰¹ *Id.*

¹⁰² Commonwealth of Massachusetts v. Meta Platforms Inc. and Instagram, LLC, No. 2384CV02397-bls1, Count 272-274 (Mass. Super. Ct. Nov. 6, 2023).

¹⁰³ *Id.* at Counts 281-282.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at Counts 292-296.

¹⁰⁶ Wall Street Journal Staff, *Inside TikTok’s Algorithm: A WSJ Video Investigation*, Wall Street Journal, (July 21, 2021), <https://www.wsj.com/articles/tiktok-algorithm-video-investigation-11626877477>.

¹⁰⁷ Nihal Krishan, *Senate office impersonates 13-year-old girl on Instagram to flag eating disorder content*, Yahoo News, (Sep. 30 2021), <https://www.yahoo.com/entertainment/senate-office-impersonates-13-old-212700515.html>.

¹⁰⁸ Fairplay, *Designing for Disorder: Instagram’s Pro-eating Disorder Bubble* at 1 (Apr. 2022), https://fairplayforkids.org/wp-content/uploads/2022/04/designing_for_disorder.pdf.

deaths of several children.¹⁰⁹ Many families say that their children learned about the challenge through recommended videos on their For You feeds.¹¹⁰

V. Apps, websites, and platforms target children with unfair surveillance advertising and influencer marketing techniques.

Digital platforms also harm children and teens through unfair digital advertising practices, including surveillance advertising and influencer marketing. These techniques make it harder for young people to recognize content as advertising designed to influence their behaviors and defend themselves against it, rendering them vulnerable to the influence of corporate actors that can collect and utilize data to target them with precision.

Children face pervasive and inappropriate advertising from a young age: According to one study, more than 95% of early childhood videos on YouTube contain ads, and one in five videos viewed by children 8 and under contained ads that were not age-appropriate, such as ads that featured violent or sexualized content.¹¹¹ Researchers have also found a high rate of age-inappropriate advertisements on preschool apps¹¹² and have found that the educational potential of children's apps is severely degraded by the high number of disruptive ads that appear, particularly on free apps that are more likely to be used by low-income children.¹¹³

Surveillance advertising

Surveillance advertising – targeted advertising using personal data collected by websites and platforms – is the dominant form of marketing online. Programmatic data-driven advertising accounted for 90% of display ads in the U.S. last year.¹¹⁴ This pervasive form of advertising draws on massive amounts of data about young people. By some estimates, advertisers already possess over 13 million data points about a child by the time they turn 13, despite the fact that the Children's Online Privacy Protection Act (COPPA) requires parental permission before

¹⁰⁹Olivia Carville, *TikTok's Viral Challenges Keep Luring Young Kids to Their Deaths*, Bloomberg, (Nov. 30, 2022), <https://www.bloomberg.com/news/features/2022-11-30/is-tiktok-responsible-if-kids-die-doing-dangerous-viral-challenges>; Anne Marie Lee, *Child deaths blamed on TikTok 'blackout challenge' spark outcry*, CBS News, (Aug. 19, 2021), <https://www.cbsnews.com/news/tik-tok-blackout-challenge-child-deaths/>.

¹¹⁰Michael Levenson and April Rubin, *Parents Sue TikTok, Saying Children Died After Viewing 'Blackout Challenge'*, New York Times, (July 6, 2022), <https://www.nytimes.com/2022/07/06/technology/tiktok-blackout-challenge-deaths.html>.

¹¹¹Radesky, J. S., Schaller, A., Yeo, S. L., Weeks, H. M., & Robb, M.B. "Young kids and YouTube: How ads, toys, and games dominate viewing." *Common Sense Media*, (2020), https://d2e111jq13me73.cloudfront.net/sites/default/files/uploads/research/2020_youngkidsyoutube-report_final-release_forweb.pdf.

¹¹²Meyer M, Adkins V, Yuan N, Weeks HM, Chang YJ, Radesky J. "Advertising in Young Children's Apps: A Content Analysis." *J Dev Behav Pediatr*, (Jan. 2019), <https://pubmed.ncbi.nlm.nih.gov/30371646/>.

¹¹³Meyer, M., Zosh, J.M., McLaren, C., Robb, M., McCaffery, H., Golinkoff, R.M., Hirsh-Pasek, K., & Radesky, J. "How educational are "educational" apps for young children? App store content analysis using the Four Pillars of Learning framework." *Journal of Children and Media*, (2021), <https://www.tandfonline.com/doi/abs/10.1080/17482798.2021.1882516?journalCode=rchm20>.

¹¹⁴Meaghan Yuen, *Programmatic Digital Display Advertising in 2022: Ad Spend, Formats, and Forecast*, Insider Intelligence (May 23, 2022), <https://www.insiderintelligence.com/insights/programmatic-digital-display-ad-spending/>.

sharing the personal information of children 12 and under with advertisers.¹¹⁵ These data are drawn from countless daily activities, including web surfing, interacting with friends on social media, and recording messages and exchanging images and other communications on computers, phones, and tablets.¹¹⁶ Smart home technologies allow companies to collect data on a young person's home life; extended reality (virtual, augmented, and mixed reality) devices can collect unique biometric data.

Kids and teens cannot appreciate the depth and breadth of these data collection systems, nor the way they are used to target them with precision. Younger children largely think about privacy in interpersonal terms, such as the ability to be left alone and control access to physical places.¹¹⁷ As children get older, they may start to think about privacy in terms of freedom from surveillance at school or by the government, but they do not think about privacy in the sense that companies might use information about them to influence their purchasing choices, for example.¹¹⁸

Ultimately, surveillance ads are inherently unfair when targeted to children. As Fairplay, Global Action Plan, and Reset Australia described in a report about Facebook:

On the one side is a child, poorly equipped to distinguish between advertising and information, especially within digital contexts. On the other, Facebook with its vast troves of data about the child, including but not limited to their browsing history, mood, insecurities, their peers' interests, and more. This power imbalance makes surveillance advertising inherently more manipulative than contextual digital advertising, let alone traditional analogue advertising.¹¹⁹

As with algorithmically recommended content, surveillance ads can be used to target and exacerbate young people's vulnerabilities. Leaked documents from Facebook revealed in 2017 that the company told advertisers it could help them target teens at moments when they are feeling specific emotions, such as "silly," "defeated," "overwhelmed," "useless" and "a

¹¹⁵ SuperAwesome Launches Kid-Safe Filter to Prevent Online Ads from Stealing Children's Personal Data, SuperAwesome (Dec. 6, 2018), <https://www.superawesome.com/superawesome-launches-kid-safe-filter-to-prevent-online-ads-from-stealing-childrens-personal-data/>.

¹¹⁶ Wolfie Christl, *Corporate Surveillance in Everyday Life: How Companies Collect, Combine, Analyze, Trade, and Use Personal Data on Billions*, Cracked Labs (June 2017), https://crackedlabs.org/dl/CrackedLabs_Christl_CorporateSurveillance.pdf.

¹¹⁷ Kaiwen Sun et al., *They See You're a Girl if You Pick a Pink Robot with a Skirt: A Qualitative Study of How Children Conceptualize Data Processing and Digital Privacy Risks*, CHI Conference on Human Factors in Computing Systems (May 2021), <https://dblp.org/rec/conf/chi/SunSASGRS21>; Priya Kumar et al., *No Telling Passcodes Out Because They're Private: Understanding Children's Mental Models of Privacy and Security Online*, 1 Proceedings of the ACM on Human-Computer Interaction 64, (Nov. 2017), <https://pearl.umd.edu/wp-content/uploads/2017/08/kumar-et-al-2018-CSCW-Online-First.pdf>.

¹¹⁸ Mariya Stoilova et al., *Digital by Default: Children's Capacity to Understand and Manage Online Data and Privacy*, 8 Media and Comm'n 197, 200, (2020), <http://dx.doi.org/10.17645/mac.v8i4.3407>.

¹¹⁹ Yi-ching Ho, E., Farthing, R., *How Facebook still targets surveillance ads to teens*, Reset Australia, Fairplay, and Global Action Plan (Nov. 2021), <https://fairplayforkids.org/wp-content/uploads/2021/11/fbsurveillancereport.pdf>.

failure.”¹²⁰ Facebook Australia told advertisers it could specify when teens are likely to experience certain moods, sharing that “earlier in the week, teens post more about ‘anticipatory emotions’ and ‘building confidence,’ while weekend teen posts contain more ‘reflective emotions’ and ‘achievement broadcasting.’”¹²¹

This capability allows marketers to target vulnerable young people with ads for harmful products. Ads for risky “Flat Tummy Teas” and dangerous exercise routines target young women on Instagram. Early digital marketing campaigns for Juul vaping products were deliberately targeted at young audiences.¹²² Researchers were able to target ads to teenagers on Facebook based on their interests in gambling, alcohol, and dieting.¹²³ While Meta announced in 2021 that they were restricting advertisers’ ability to target teens based on their interests, this change was misleading, as the company’s ad targeting algorithm still used the data it collected on young people to determine who is most likely to be vulnerable to a given ad.¹²⁴

Even in cases where the products aren’t as harmful as alcohol or dieting aids, surveillance advertising exploits children. As Common Sense notes, “Kids may be profiled as gamers, impulsive purchasers, or anxious overshareers – and then unfairly targeted by ads that encourage more of these things.”¹²⁵

Influencer marketing

Product placement and host-selling are not permitted on children’s television, where regulations require clear separation between content that is advertising and content that is not. The online marketing ecosystem does not have similar rules, and as a result, advertising and entertainment and informational content are deeply intertwined.

¹²⁰ Sam Machkovech, *Report: Facebook Helped Advertisers Target Teens Who Feel “Worthless”*, ArsTechnica (May 1, 2017), <https://arstechnica.com/information-technology/2017/05/facebook-helpedadvertisers-target-teens-who-feel-worthless/>.

¹²¹ *Id.*

¹²² Jidong Huang et al., *Vaping versus JUULing: how the extraordinary growth and marketing of JUUL transformed the US retail e-cigarette market*, 28 Tobacco Control 146, 150 (Feb. 22, 2019), <https://doi.org/10.1136%2Ftobaccocontrol-2018-054382> (“JUUL was one of the first major retail e-cigarette brands that relied heavily on social media to market and promote its products.”); Julia Cen Chen-Sankey et al., *E-cigarette Marketing Exposure and Subsequent Experimentation Among Youth and Young Adults*, 144 Pediatrics at 8 (Nov. 2019), <https://doi.org/10.1542/peds.2019-1119>; see also Erik Larson et al., *Juul Reaches \$439 Million Settlement Over Marketing to Kids*, Bloomberg Law, (Sept. 6, 2022), <https://news.bloomberglaw.com/health-law-and-business/juul-reaches-439-million-multi-state-settlement-over-marketing>.

¹²³ Farthing, Rys, et al., *Profiling Children for Advertising: Facebook’s Monetisation of Young People’s Personal Data*, Reset Australia, (April 2021), https://au.reset.tech/uploads/resettechaustralia_profiling-children-for-advertising-1.pdf.

¹²⁴ *Id.* In February 2023, Meta announced yet another change to its ad targeting for teens and now claims it will not use teens interests or online activities at all for the targeting of ads to minors. As of this writing, Fairplay has not had the opportunity to verify this claim.

¹²⁵ Joseph Jerome and Ariel Fox Johnson, *AdTech and Kids: Behavioral Ads Need a Time-Out*, Common Sense, (2021), <https://d2e111jq13me73.cloudfront.net/sites/default/files/uploads/AdTech%20and%20Kids.pdf>.

One of the ways that marketers reach kids and teens online is by advertising products through influencers and trusted fictional characters. This method of advertising is highly appealing to marketers because it is seen as more “authentic” and it capitalizes on the relationships that kids and teens form with the characters and media figures they see online. This advertising sector is huge and getting bigger. Market research shows that influencer marketing is currently growing by billions of dollars annually.¹²⁶ Influencer marketing reaches even the youngest kids online: “kidfluencers” on YouTube receive millions of views on videos of themselves unboxing and showing off new toys from brands and marketers.

Research demonstrates that influencer marketing overcomes children and teenagers’ nascent cognitive ability to understand and defend themselves against advertising. For example, young people identify closely with these media characters and figures and develop feelings or friendships known as parasocial relationships.¹²⁷ As a result of these relationships, kids and teens have difficulty responding to content from a beloved character or creator as an advertisement,¹²⁸ and can therefore be unduly influenced by marketers. As Fairplay outlined in its comments to the Federal Trade Commission last year, the existing system of disclosures – even when it is followed – does very little to alert kids and teens to the massive amounts of advertising content they encounter online every day.¹²⁹

This form of stealth marketing negatively impacts kids and teens. Children who watch unboxing videos are more likely to nag their parents for products and throw a tantrum if the answer is “no” than when they watch regular commercials.¹³⁰ In internal Meta research leaked by Frances Haugen, teens specified that influencers and their materialistic, over-the-top “money for nothing” – or effortlessly rich – lifestyles triggered social comparisons and contributed to young people feeling bad about themselves. The research emphasized the cumulative effect of influencer marketing: “However, users report seeing multiple pieces of content from celebrities

¹²⁶ Traackr, *2022 Influencer Marketing Impact Report* at 2, (2022), <https://www.traackr.com/content/influencermarketing-impact-report-2022>; *State of Influencer Marketing 2022*, Influencer Marketing Hub at 10, (2022), https://influencermarketinghub.com/ebooks/Influencer_Marketing_Benchmark_Report_2022.pdf.

¹²⁷ Amanda N. Tolbert & Kristin L. Drogos, *Tweens’ Wishful Identification and Parasocial Relationships With YouTubers*, 10 *Frontiers In Psychology* 1, (2019), <https://www.frontiersin.org/articles/10.3389/fpsyg.2019.02781/full>; Frans Folkvord, K.E. Bevelander & Esther Rozendaal, et al., *Children’s bonding with popular YouTube vloggers and their attitudes toward brand and product endorsements in vlogs: an explorative study*, 20 *Young Consumers Insight And Ideas For Responsible Marketers* (2019), <https://doi.org/10.1108/YC-12-2018-0896>.

¹²⁸ Emmelyn Croes & Jos Bartels, *Young adults’ motivations for following social influencers and their relationship to identification and buying behavior*, 125 *Computers In Human Behavior* at 7, (2021), <https://doi.org/10.1016/j.chb.2021.106910>; 4 Brigitte Naderer, Jörg Matthes & Stephanie Schäfer, *Effects of disclosing ads on Instagram: the moderating impact of similarity to the influencer*, 40 *International Journal of Advertising* 686, 687-88 (2021).

¹²⁹ See generally Comments of Fairplay, Alexander Neville Foundation, et al. in the Matter of Protecting Kids from Stealth Advertising in Digital Media (filed July 18, 2022), <https://fairplayforkids.org/wp-content/uploads/2022/07/influencer-comments.pdf>.

¹³⁰ Harsha Gangadharbatla & Deepti Khedekar, *The Role of Parental Mediation and Persuasion Knowledge in Children’s Consumption of Unboxing Videos*, 22 *Advertising & Society Quarterly* (2021), <https://muse.jhu.edu/article/813891>.

and influencers in each app session, multiplying their effect. In addition, their friends mimic celebrities' beauty and fashion standards, further compounding the effects of one piece of content."¹³¹

VI. Maryland must take action to protect young people online.

When kids are in digital spaces for learning, socializing, and relaxing, they deserve the opportunity for the most positive experience, designed in a way that understands and supports their unique ways of seeing the world. They should be able to explore in developmentally-appropriate ways without being manipulated into spending more time or targeted by algorithms that amplify harmful content.

We cannot continue to hope that tech platforms will unilaterally disarm in the race for young people's valuable attention. Nor can we expect young people to extract themselves from the exploitative platforms where their friends are, or expect overworked parents to navigate confusing settings across multiple platforms and monitor every moment their kids are online.

The last time Congress passed a law to protect children online was 25 years ago. The digital landscape has changed dramatically, in many unforeseen ways, since the passage of the Children's Online Privacy Protection Act in 1998 when smart phones, YouTube, social media, multiplayer gaming with voice chat, and virtual reality didn't even exist. In addition, COPPA only covers children until they turn 13 and has failed to effectively keep kids ages 12 and under off of platforms like Snapchat, Instagram and TikTok, leaving significant demographics vulnerable to exploitation and harm. We continue to push for stronger federal protections for kids and teens. In the absence of federal action, states can and should pass laws to regulate Big Tech in order to better protect kids and teens in today's digital world. By passing the Kids Code, Maryland has an opportunity to be a leader on this issue.

Critically, the Maryland Kids Code would:

1. Apply to all online products, services, and features belonging to for-profit companies with annual gross revenues in excess of \$25 million that are reasonably likely to be accessed by children.
2. Define children as anyone under the age of 18, ensuring the privacy protections of the code apply to children and teens.
3. Create a minimum duty of care requiring companies to limit the use of children's personal data and design products, services, and features in a way that does not benefit the covered entity to the detriment of a child; and result in:
 - a. Reasonably foreseeable and material physical or financial harm to a child;

¹³¹ The Wall Street Journal, *Teen Girls Body Image and Social Comparison on Instagram – An Exploratory Study in the U.S.*, (Sep. 29, 2021) <https://s.wsj.net/public/resources/documents/teen-girls-body-image-and-social-comparison-on-instagram.pdf>.

- b. Severe and reasonably foreseeable psychological or emotional harm to a child;
 - c. A highly offensive intrusion on a child's reasonable expectation of privacy; or
 - d. Discrimination against a child based on race, color, religion, national origin, disability, sex, or sexual orientation.
4. Require companies to assess how their digital products use kids' personal data and to what extent these practices create risks for children. Companies must then mitigate those risks by modifying data use practices and the design of their products. As a result, companies will be required to assess their algorithms; features that increase, sustain, or extend use of the product; the impact of targeted advertising systems; and whether design of the product may lead to children experiencing harmful contacts.
 5. Mandate privacy and data protection by requiring companies to limit the collection, use, storage, and disclosure of kids' personal information, including geolocation data, to that which is necessary to provide the service the child requested.
 6. Prohibit the use of dark patterns to cause a child to provide additional personal data, circumvent privacy protections, or take any action the covered entity knows, or has reason to know, is not in the best interest of the children.
 7. Require minors' privacy and account settings to be on the most privacy protective by default, rather than putting the onus on families to navigate a maze of confusing settings just to have a safer, more age-appropriate experience.

Last year, the Maryland General Assembly came incredibly close to passing these protections through House Bill 901 (Dels. Solomon and Wilson), which passed out of the Economic Matters Committee and passed off the House floor with 110 bipartisan votes in support. Let's make 2024 the year that Maryland takes a huge step toward creating the internet children and families deserve.

SB571_Willis_final.pdf

Uploaded by: Henry Willis

Position: FAV



February 13, 2024

Dear Chair Beidle and members of the Senate Finance Committee

I am Dr. Henry Willis, a licensed clinical psychologist and assistant professor in the Department of Psychology at the University of Maryland at College Park. I also lead the African American Health Equity Lab at UMD College Park, where we examine how sociocultural risk (i.e., experiences of racial discrimination) and protective factors (e.g., positive racial identity beliefs, social support, etc.) impact the mental health of African American and Latinx youth. Notably, my research lab also seeks to reduce health disparities in mental health access and engagement among underserved populations. In this vein, I specialize in exploring how social media experiences impact the mental health and development of African American and Latinx youth, and have over 10 years of clinical and research experience advancing this topic in the field of clinical psychology. I am writing today to share my strong support for SB 571, Consumer Protection – Online Products and Services – Data of Children, known as the Maryland Kids Code. I also greatly appreciate Senators Kramer, Hester and West for introducing this important legislation.

Engagement with social media sites are common among youth that have both risks and benefits for their mental health, and it is important to find ways to regulate their experiences online. More importantly, we know that Black and Latinx youth tend to use social media platforms more than youth in other racial-ethnic groups¹. As a result, they are at a higher risk of negative online experiences, especially racism, or experiencing discrimination online. Research over the last 15 years produced by myself and other scholars in the field have shown that increased experiences of online racism (i.e., being attacked on social media due to their racial-ethnic group membership, being sent racist images online, and viewing traumatic videos online that are race-related in nature such as the murder of Freddie Gray, George Floyd, etc.), can lead to a host of negative mental health outcomes for these youth, including increased anxiety, depression, PTSD, and even suicidal ideation symptoms²⁻⁷. Given recent social and political events and the current sociopolitical climate, these experiences of online racism have increased exponentially among Black and Latinx youth, with some youth reporting having up to 5 experiences of racial discrimination a day, with most of those experiences occurring in online spaces⁶⁻⁷. Together, this research highlights the urgent need for increased protections for youth of color in online and social media spaces.

Common-sense protections as proposed by the legislation (and which have already been implemented in the UK), such as time restrictions and turning off push notifications during certain hours, could greatly reduce the risk that Black and Latinx youth might experience racial discrimination online or be experience racist bullying or harassment on social media platforms. Requiring companies to have clear and relevant community standards could also help youth of color and their parents learn about resources to cope with these negative race-related experiences that occur in online spaces. Furthermore, increased privacy settings and preventing companies from manipulating the design of social media sites can further protect youth of color from these negative exposures.

Although Black and Latinx youth inhabit a digital world that can have some positive effects, there is considerable evidence that they have unique risks (i.e., exposure to online racism) that must be accounted for when considering how to improve their internet safety. If not, we run the risk of further increasing disparities in mental health outcomes for Black and Latinx youth, as they may experience more distress online but have less resources (both online and offline) to learn how to cope with these experiences. As a result, myself and the African American Mental Health Equity Lab urge a favorable vote on SB 571, Maryland Kids Code. We believe that this legislation would provide common-sense protections for the Maryland's Black and Latinx youth, giving them the opportunity to thrive in an ever-evolving digital world.

Thank you for your consideration.

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Licensed Psychologist
Assistant Professor
Director of the African American Mental Health Equity Lab
University of Maryland at College Park

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SB0571_Common Sense Media_Grosshans_FAV.pdf

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Position: FAV



**Common Sense Media Strongly Supports
the Consumer Protection - Online Products and Services - Data of Children
(Maryland Kids Code) (SB0571)**

[Common Sense Media](#) strongly supports the Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code) (SB0571). With more than 100 million unique users, 1.2 million member teachers, and 87,000 member schools, Common Sense is the nation's largest organization dedicated to ensuring that children and families thrive—and remain safe—in the rapidly-changing digital age. In Maryland alone, more than 2,000 teachers have registered to teach Common Sense's [digital citizenship and literacy materials](#) to their students in nearly 800 Common Sense recognized schools.

Risks Abound for Kids Online

Kids' internet usage is at an [all-time high](#). Teens spend an average of 4.5 hours per day on their phones, with about a quarter of them spending as much as 5 to 8 hours in front of their screens, every day. Nearly [half of teens](#) report that they feel addicted to their phones. Teens connect with each other through social media platforms at higher rates than any other group, report that these platforms form a larger part of their social life than any other group, and have outsized levels of difficulty stopping technology use once they've started. Excessive phone use creates a laundry list of problems for kids and teens, including distraction at school, loss of sleep, body image and other mental health problems, and exposure to harmful content or adult contacts.

Younger children, such as 11-12 year olds, may spend less unsupervised time online, but they too face the same age-inappropriate exposure risks on social media platforms as older children—and these exposures can have a significant effect on them. Furthermore, kids and teens must use technology for education purposes, meaning that K-12 students in Maryland don't have the option to avoid tech and the concerns that its excessive use raises.

Our [research](#) of girls and social media use shows that despite many girls' positive perceptions of social media's overall impact on their lives, a meaningful proportion of girls report challenges with regulating their use. This research also shows that numerous features of social media, like algorithmic video recommendations, endless scrolling, notifications, and autoplay, can make these platforms difficult to stop using. Additionally, these girls report that their social media use causes negative effects on their sleep and increased stress.

Social media companies intentionally use manipulative design features to increase kids' engagement online in order to make more money from advertising. Features like endless scroll, low friction designs, and repeat notifications (or 'nudging') pull youth back into apps and extend their attention and time online. Indeed, [research](#) shows that popular social media apps, like TikTok, provide low-friction access to infinite, personalized content which short circuits kids' and teens' attention and drives compulsive engagement. Profit motives are to blame—platforms create these features to promote user engagement and increase ad revenue, regardless of the

negative consequences. Ultimately, these features endanger our kids by compromising their privacy, driving kids toward harmful and extreme content, and exposing risky contacts and behaviors online. Business models built around maximizing users' time spent online and highly sophisticated individual targeting enable harm to many of our kids.

The public is increasingly aware of harmful social media practices, as we just saw when five Big Tech CEOs testified—and Meta CEO Mark Zuckerberg apologized to parents—before the U.S. Senate Judiciary Committee. And polling shows that parents of all political backgrounds support establishing guardrails to protect kids online - guardrails that do not exist today. The Maryland Kids Code is desperately needed to protect kids and families.

Common Sense Media Supports the Maryland Kids Code

The Maryland Kids Code is essential to enhance online safety for children and families by protecting them from the impacts of the addictive features of social media platforms while preserving their ability to use the internet to learn, explore, and find community.

First, the Code makes large social media companies responsible for designing their products with kids' privacy, safety, and wellness in mind. It requires that online products and services *likely to be accessed by kids* be designed for their protection and privacy. This language is critical: it expands protections for children to a broad range of platforms, ensuring children are safeguarded even while exploring the Internet beyond sites targeted specifically at children.

Second, the Code requires that social media companies implement features that serve the *best interests of children*. The Code requires that platforms' use a high level of privacy settings by default and requires privacy notices and community standards to be clear and suited for the age of the child using the platform. Reporting tools for violations of these policies need to be accessible to children or their parents or guardians. This enables kids and teens to learn about data privacy and online safety, and encourages their autonomy in using reporting tools, while ensuring that kids are not intentionally exposed to harmful content or contacts. The Code also prohibits covered platforms from collecting and retaining personal information of kids that is not necessary to the service provided, insulating children from data mining and data exploitation.

Finally, the Code also requires covered social media companies to perform regular Data Protection Impact Assessments (DPIA), and, if a companies' DPIA finds one of their design features—like endless scroll or autoplay—is not consistent with the best interests of children reasonably likely to access the online product, service, or feature, the company must implement a plan to mitigate or eliminate that harm. This proactive approach to regulation shifts certain regulatory burdens onto high-revenue corporations that engender the harms to children and teens described above. This provision does not present excessive burdens, however, since social media companies are familiar with these impact assessments and are already required to create them when they provide their products to youth in the UK and Europe.

CONTACT: Holly Grosshans, Senior Counsel, Tech Policy - hgrosshans@commonsense.org

February 14, 2024 - Common Sense Media, 2000 M. St., NW, Suite 720, Washington, D.C. 20036

2024 MSCA SB 571 Senate Side FAV.pdf

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Position: FAV



MARYLAND
SCHOOL
COUNSELOR
ASSOCIATION

Committee: Senate Finance Committee

Bill Number: Senate Bill 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Hearing Date: February 14, 2024

Position: Support

The Maryland School Counselor Association (MSCA) – a professional organization of over 900 counselors who work with students in pre-kindergarten through twelfth grade in public, private, charter, and magnet school settings. School counselors recognize the impact interactive digital technology, including social media has on student learning, wellbeing, and safety. ***Senate Bill 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)*** seeks to improve young people’s digital experiences by requiring tech companies to implement privacy-by-default and safety-by-design protections for kids online. School counselors have a responsibility to promote healthy student development and to protect students from digital technology’s potential risks, and therefore **SUPPORT** Senate Bill 571.

Online harm has real-world consequences that we as school counselors see daily, as we provide mental health support and guidance to students. Youth often feel overwhelmed and scared online, and don’t know where they can turn for timely help. High levels of depression and anxiety are stoked by constant use of online platforms including social media. This spills into the classroom and affects academic learning and performance.

The harms that occur are not due to irresponsibility but are rather a result of intentional digital design features and use of personal data by tech companies. The data collected by tech companies shapes the interactions children have online and is used to monetize

children's attention. Common practices nudge children into riskier behavior, expose them to predators, recommend harmful material, and encourage compulsive behavior.

Senate Bill 571 will protect our youth by making online platforms responsible for designing their products with kids' privacy, safety, and wellness in mind with requirements for privacy-by-default and safety-by-design protections for kids online. This means not collecting or selling their data, setting high privacy standards by default and avoiding manipulative design.

We ask for a favorable report. If we can provide any additional information, please contact Jocelyn I. Collins at [jcollins@policypartners.net](mailto:collins@policypartners.net).

Maryland SB 571 in support written testimony_Kluge

Uploaded by: JEFFREY KLUGE

Position: FAV

February 14, 2024

Re: In support of Consumer Protection Online Products and Services Children Data SB571

Dear Chair Beidle, and Vice-Chair Klausmeier,

For over 25 years, I served founders and venture capitalists as a trusted financial and investment advisor. In developing those confided relationships, I mentored senior executives, sitting alongside them, guiding product design, business strategy, and often personal leadership choices. These experiences provided insights into how companies create great client, customer, and user-focused products and services. Leading businesses excel in addressing their customers' existing problems and anticipating future needs, guiding them through a collaborative journey toward effective solutions with open and transparent communication. These businesses prioritize understanding and fulfilling the Best Interests of the Customer.

This background is critical because it provides a beneficial framework for businesses to conceptualize building Artificially Intelligent, Algorithmic, and Autonomous (AAA) based online products and services that help, rather than harm, consumers. SB571 Consumer Protection Online Products and Services Children Data will not only protect consumers, i.e. children, but guide companies in creating human-centric innovations that focus on solving customer problems.

With the proper perspective, businesses will see SB571 enabling ethical AI-based design that creates value for both companies and users and, through that very relationship, for the State of Maryland. It creates a how-to roadmap and provides the criteria every business should use when innovating. This is essential for the largest global technology businesses to the start-up in their garage.

During my tenure as a Fellow at ForHumanity, a non-profit civil society organization dedicated to addressing risks associated with Ethics, Bias, Privacy, Trust, and Cybersecurity in Artificial Intelligence, Algorithmic, and Autonomous (AAA) Systems, I serve a critical role as a member of the Priority Drafting Team. Our primary task involves drafting AI audit certification schemes for various international laws, including Europe's General Data Protection Regulation, (GDPR), GDPR Children's Code, the EU AI Act, the Digital Services Act, the California Consumer Protection Act, and California's AADC. Our aim is to ensure a harmonized set of criteria, enabling compliance with one law to equate to compliance with all.

Our approach entails translating legal principles into business language, facilitating practical implementation. The certification scheme outlines a binary set of criteria (compliant/non-compliant), forming the basis for independent third-party audits of AAA Systems. Through these experiences, I offer my testimony in full support of SB571 Consumer Protection Online Products and Services Children Data.

My company, Holistic Ethics, LLC, and its flagship product, KidsTechEthics, stem from a comprehensive understanding of Children's Codes. We promote AI-based innovation in technology, making safer online spaces and digital experiences for children a reality. By incorporating ethical choices and Age-Appropriate Design principles, we create significant stakeholder value and a competitive advantage for early adopters. It is through this process of

understanding what a foundational child-centric Data Protection Impact Assessment should include, that we can recommend strategies and remedies to mitigate risks.

Consumer Protection Online Products and Services Children Data aligns with evolving consumer expectations. It champions the design of products and services aligned with ethical standards, transparency, and accountability. This will enhance user trust, and foster a digital ecosystem where all stakeholders, including children, are valued and safeguarded. Contrary to what you may hear, this bill is pro-business, as it lays out the how to do it, and what to do for development and creation of ethical and responsible technologies. It guides business in considerations of they intend to use children's data and deliver them legal and appropriate content, services, and features.

This represents a significant opportunity to steer innovation in a positive direction, mitigating harms through demonstrated risk management frameworks, beneficial for both business and users. Embracing this code positions Maryland as a pioneer in ethical technology practices, offering an attractive proposition for businesses valuing consumer protection and entrepreneurial growth.

It's crucial to address challenges raised by entities like NetChoice, which conflate children's privacy and product liability with that of free speech. Section 230 protects platforms from user-generated content but doesn't absolve businesses from their duty of care and accountability for distribution of illegal content. SB571 focuses on the design methodology that platforms and businesses utilize in designing systems that deliver content, collect data, and influence users, particularly children, through AI, algorithms, and autonomous systems. Many businesses overlook understanding how their systems interact with users. This is a critical flaw you can correct.

While BigTech opposition raises few solutions and advocates for self-regulation, they fail to address harms caused by their algorithms, as evidenced by various legal actions. Documented evidence in the Attorney Generals v. Meta, which include Maryland's Attorney General Anthony Brown, should stifle the arguments made by NetChoice and technology funded lobbyists that their products are safe, or that they have things under control. It is clear that investments made by many of the largest social media and technology businesses, including Meta, are the wrong ones. They are chasing shadows versus leading. This highlights the need for frameworks like SB 571 to address ethical dimensions in content delivery, user interactions, and what will lead safety efforts as opposed to playing catchup.

SB571 wouldn't be necessary if social media and technology business placed consumer protections in their design frameworks from the start. For those seeking to innovate, Consumer Protection Online Products and Services Children Data will give them the framework to get it right. For those that choose not to take those precautions and/ or create the systems to mitigate know harms, this will provide a structure of accountability. This law ensures Maryland's children are afforded protections when engaging in the digital world.

In conclusion, SB571 does not limit lawful speech to children. It is a product design and liability framework that protects how children's personal data is collected, processed, and considered in delivery of legal content. It strikes a balance between protecting children and fostering innovation. While refinements may be necessary, protecting vulnerable populations should remain paramount as technology advances.

Sincerely,

Jeffrey Kluge

Jeffrey Kluge
CEO & Founder Holistic Ethics, LLC, and Creator of KidsTechEthics
408-256-3757

SB 571.Consumer Protection for Data of Children.pd

Uploaded by: John Woolums

Position: FAV

BILL: Senate Bill 571
TITLE: Consumer Protection - Online Products and Services - Data of Children
(Maryland Kids Code)
DATE: February 14, 2024
POSITION: SUPPORT
COMMITTEE: Finance
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 571 to establish reasonable standards and practices for businesses providing online services and content accessible to children.

MABE supports Senate Bill 571 because it would provide meaningful assurances to families, communities, and the State as a whole that our children are reasonably protected from harmful effects arising from their online activity. Specifically, Senate Bill 571 would require privacy protections for online products, prohibit data collection and sharing practices, require businesses to document the risks associated with their online products likely to be accessed by children, and establish a duty for businesses under this law to act in the best interests of children. In these ways, the adoption of the “The Maryland Age-Appropriate Design Code Act” will advance the State’s work to protect our children, and our nearly 900,000 public school students, from the most serious and potentially harmful risks and outcomes from their online activities.

Senate Bill 571 clearly states, “It is the intent of the General Assembly that:

1. Children should be afforded protections not only by online products specifically directed at them, but by all online products they are reasonably likely to access;
2. Covered entities that develop and provide online services that children likely to access shall ensure the best interests of children when designing, developing, and providing those online products;
3. All covered entities that operate in the state and process children’s data in any capacity shall do so in a manner consistent with the best interests of children;
4. If a conflict arises between commercial interests and the best interests of children, covered entities that develop online products likely to be accessed by children shall give priority to the privacy, safety, and well-being of children over those commercial interests; and
5. Nothing in this subtitle may be construed to infringe on the existing rights and freedoms of children.”

MABE endorses these objectives and the State’s passage of Senate Bill 571 in order to achieve them. Further, this bill clearly articulates the types of behaviors from which children should be protected, and which businesses must work to prevent, including:

1. Reasonably foreseeable and material physical or financial harm to a child;
2. Severe and reasonably foreseeable psychological or emotional harm to a child;
3. A highly offensive intrusion on a child’s reasonable expectation of privacy; or
4. Discrimination against a child based on race, color, religion, national origin, disability, sex, or sexual orientation.

For these reasons, MABE requests a favorable report on Senate Bill 571.

sb 571 testimony.pdf

Uploaded by: Ken Phelps Jr

Position: FAV



TESTIMONY IN SUPPORT OF SB 0571:

**Consumer Protection - Online Products and Services - Data of
Children (Maryland Kids Code)**

****FAVORABLE****

February 14, 2024

TO: Senator Pamela Beidle, Chair, Senator Katherine Klausmeier, Vice Chair and the members of the Senate Finance Committee

FROM: Rev. Linda Boyd, Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: February 14, 2024

The Episcopal Diocese of Maryland strongly supports this Bill. This Bill would offer privacy and safety to Maryland children online by offering a comprehensive set of rules for the protection of children's data within the context of what is in the child's best interest. The policies and standards set forth provide safety and privacy for children in part by restricting data collection, sharing, profiling and the use of data in ways that are detrimental to the child.

The Episcopal Church believes strongly that each child is a child of God and deserves protection from in-person and online harassment. A child routinely needs to access the internet to conduct research, etc. for school. A child should not have to be concerned about possible exploitation as a result of their online activity.

The Diocese of Maryland requests a favorable report.

SB571.docx.pdf

Uploaded by: Laura Stewart

Position: FAV



Free State PTA
5730 Cottonwood Ave Box 20924
Baltimore, Maryland 21209
Phone: (410) 446-1549
www.fspta.org

**Written Testimony Submitted for the Record to the Maryland Senate
Finance Committee for the Hearing on
Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code) - Senate Bill 571
Feb 14, 2024
SUPPORT**

Free State PTA represents over 70,000 volunteer members and families in over 500 public schools. Free State PTA is composed of families, students, teachers, administrators, and business as well as community leaders devoted to the educational success of children and family engagement in Maryland. As the state's premier and largest child advocacy organization, Free State PTA is a powerful voice for all children, a relevant resource for families, schools and communities and a strong advocate for public education. ***Senate Bill 571 , Public Schools – Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code) - aligns with Free State PTA's legislative agenda which states the schools must provide a safe environment where all students, teachers and staff can thrive.***

While it is impossible and likely undesirable to control all aspects of a young person's journey in the digital age, we can offer guardrails that make it less likely they will be exploited and harmed. For this reason, we enthusiastically support Senate Bill 571. Modeled after successful legislation from the United Kingdom, with California and other states following suit, this common-sense legislation requires technology companies to follow best practices and protections that should already be in place around data collection and sharing, privacy settings, and transparency--appropriate by age. Adults often do not have the necessary information or technological savvy to ensure that settings are implemented to safeguard our children. SB 571 will place the onus on the technology companies that have the capability to implement these shields. Maryland should be a leader and early adopter, encouraging other states and the federal government to take similar action. We encourage the committee to provide a favorable report for SB571.

Submitted on behalf of

Gerrod Tyler
President, Free State PTA
GTyler@FSPTA.org

SB571_MSEA_Lamb_FAV.pdf

Uploaded by: Lauren Lamb

Position: FAV

FAVORABLE
Senate Bill 571
Online Products and Services – Data of Children (Maryland Kids Code)

Senate Committee on Education, Energy, and the Environment
February 14, 2024

Lauren Lamb
Government Relations

The Maryland State Education Association supports Senate Bill 571, which would require a business that offers an online product reasonably likely to be accessed by children to complete a data protection impact assessment and add privacy protections for certain online products. It would also prohibit certain data collection and sharing practices.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

Educators know that students' learning is impacted by their experiences outside the classroom. Social media is increasingly a part of those experiences: ninety-five percent of teenagers in the U.S. have access to a smartphone, and a majority of teenagers say that it would be difficult to stop using social media.¹ Though online platforms have benefits – including for teaching and engaging students in the classroom – young people are simultaneously suffering the effects of unregulated social media practices and content, including invasive data collection, targeted advertising content, misinformation, and harassment.² In 2021, 16% of high school students

¹ Teens, Social Media, and Technology. Pew Research Center (2022).

<https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>

² NEA's letter to social media companies. National Education Association (2021). [NEA's letter to social media companies | NEA](#)



reported that they had been bullied through social media, and considerable research suggests that the contents of adolescents' social media feeds impact their self-esteem and mental health.^{3 4}

All children deserve to learn and thrive in a safe environment, including online. Especially as an increasing number of students report mental health challenges, Maryland should lead by example and take action to enact common sense regulations for social media and other online platforms used by children.

We urge the committee to issue a Favorable Report on Senate Bill 571.

³ Youth Risk Behavior Survey: 2011-2021. Centers for Disease Control and Prevention (2023). https://www.cdc.gov/healthyyouth/data/yrbs/pdf/YRBS_Data-Summary-Trends_Report2023_508.pdf

⁴ How can we minimize Instagram's harmful effects? American Psychological Association (2021). <https://www.apa.org/monitor/2022/03/feature-minimize-instagram-effects>

SB571_Cline_fav.pdf

Uploaded by: Lisa Cline

Position: FAV

SB571 TESTIMONY

LISA CLINE

February 12, 2024

Dear esteemed representatives of Maryland citizens.

Since 2010:

- 1,358 children died from choking challenges found on social media.
- ADHD is up 72% in children 1-18.
- Anorexia is up 100%.
- Substance abuse and addiction has risen 33%.
- Anxiety up 134%.
- Depression is up 106%.
- In 2021, Homeland Security arrested 3,776 predators and rescued 1,177 victims of online child sexual exploitation.

200 school districts are suing social media for making children unavailable to learn.

42 state attorney generals are suing, as well.

Until Section 230 of the Internet Decency Act is repealed, and the courts deem social media a product not a service, big tech will continue to terrorize our children. Maryland must act. And now.

Think of it... When a child chokes on a marble, a massive recall is issued on the offending toy. It is pulled off the shelf that day. Yet when videos are distributed freely teaching children *how* to choke themselves, no action is taken.

New York City mayor Eric Adams declares social media an environmental health hazard.

The U.S. surgeon general says social media is fueling a youth mental health crisis.

Experts say they'd rather give their teens Jack Daniels and joint than social media.

As for data privacy, I co-founded the Student Data Privacy Project to test the integrity of FERPA, the Family Educational Rights and Privacy Act. In 13 states, we found that edtech was stealing, storing, and selling kids data without permission and without punishment from the Dept. of Education. 96% of all edtech products tested by the Internet Safety Lab are siphoning kids' data by the terabyte-ful as we speak.

This is a crisis wrapped in an epidemic. 40 bi-partisan federal bills have been introduced to stop social media's manipulative practices. Zero passed.

It's time for the states to act. The Maryland Kids Code won't bring back Carson, 16, who died by suicide after being cyberbullied on Snapchat. Or Mason, 15, who died of asphyxiation after

trying the TikTok choking challenge. Or Becca, 18, who overdosed on fentanyl-laced drugs purchased on Snapchat. But it may save others, including our own.

Thank you.

Lisa Cline
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lisajeane@aol.com
617-504-3006

Kids Code - testimony - senate - 2024 - SB571 FAV.

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

P.O. Box 8782
Silver Spring, MD 20907
Phone: 301-565-2277
Fax: 301-565-3619

For more information contact:
Lisae C. Jordan, Esquire
443-995-5544
www.mcasa.org

Testimony Supporting Senate Bill 603
Stephanie Erdice, Associate Director
Lisae C. Jordan, Executive Director & Counsel
February 14, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Finance Committee to report favorably on Senate Bill 603.

Senate Bill 603 – Kids Code – Helping to Prevent Sexual Exploitation

Senate Bill 603 would require a business that offers an online product likely to be accessed by children to complete a certain data protection impact assessment, prohibit a business from offering a certain online product before completing a data protection impact assessment, require businesses to document certain risks associated with certain online products, require certain privacy protections for certain online products, and prohibit certain data collection and sharing practices.

The Maryland Coalition Against Sexual Assault defers to other witnesses regarding the technological aspect of this bill. We are not experts in technology, but we are experts on preventing and responding to on-line sexual exploitation, predation, and harassment of children. This is an enormous problem for our state and our children, and the threat is growing. The National Center for Missing & Exploited Children's CyberTipline offers the public and online electronic service providers an easy way to quickly report suspected incidents of sexual exploitation of children online. Since 2012, they have seen an **8000% (eight-thousand) increase** in tips to this cyberline. This includes:

- over 80,000 reported incidents of online enticement of children for sexual acts;
- over 35,600 reported incidents of unsolicited obscene materials sent to a child;
- almost 32 million reported incidents of child pornography

At a hearing to punish criminals who solicit children to send them images of their intimate body parts, the Maryland State's Attorneys' Association reported on some of our experiences in Maryland:

It is a most common practice for the online predator to encourage the purported youth to manufacture CSAM (Child Sexual Abuse Material) and send it to the predator. Conversely, the predator frequently sends pictures of his own genitalia to the purported minor. It is a common part of the grooming process as ultimately the predator wishes to engage in actual sexual conduct with a minor.

The National Center for Missing and Exploited Children explains that there is an increase in children being victimized by "financial sextortion, a crime in which kids are targeted to share explicit photos and then threatened by offenders that they will share the images with the child's friends, family, or others if they don't give the blackmailer money. Several of these cases have had tragic outcomes with panicked children taking their own lives." Maryland Criminal Law §3-709 creates criminal penalties to punish the offenders engaging in these heinous acts, but SB603 would help prevent them.

MCASA strongly supports Senate Bill 603 because the Kids Code will help *prevent* crimes and *protect* our kids against sexual predators and sexual exploitation.

**The Maryland Coalition Against Sexual Assault urges the
Finance Committee to
report favorably on Senate Bill 603**

SB571_MAYSB_FAV.pdf

Uploaded by: Liz Park

Position: FAV



"Being here for Maryland's Children, Youth, and Families"

Testimony submitted to Senate Finance Committee
Support

February 14, 2024

**Senate Bill 571 – Consumer Protection - Online Products and Services - Data of Children
(Maryland Kids Code)**

The Maryland Association of Youth Service Bureaus, which represents a network of Bureaus throughout the State of Maryland, **SUPPORTS** *Senate Bill 571 Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code)* Youth Service Bureaus provide prevention, intervention and treatment services and understand the importance of protecting children and adolescents online.

As providers who work with families we see the impact that social media, online gaming and growing use of technology on children and adolescents. We work with young people who are being bullied online, have been contacted by strangers online, struggle to navigate today's online world, are "addicted" to gaming and "checking" their phone, and parents who are struggling to help set appropriate controls and limits.

This bill will begin to offer some protection and peace of mind to families by requiring manufacturers and tech designers to protect children and adolescents and offer parents and caregivers the tools and designs to help them in protecting their children online. The bill will require companies to design online products with developmentally appropriate features, make high privacy settings the default, work to limit communication between adults and children they do not know, and will provide some oversight or standards regarding the development of materials for children and adolescents.

We urge the passage of this bill and encourage the legislature to work with the other states working to make this a National Standard to increase the ability of parents to protect their children online.

Respectfully Submitted:

Liz Park, PhD
MAYSB Chair

lpark@greenbeltmd.gov

MASC Kids Code Resolution (1).pdf

Uploaded by: Mara Babb

Position: FAV

23/24-EB-06 - HB0603/SB0571

Title: Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Sponsored by: Delegates Solomon & Wilson; Senators Kramer & West

Committee Assignment: Economic Matters; Finance

FOR requiring certain entities that offers an online product likely to be accessed by children to complete an impact assessment under certain circumstances; prohibiting a business from offering a certain online product before completing an impact assessment; requiring businesses to document certain risks associated with certain online products; requiring certain privacy protections for certain online products; prohibiting certain data collection and sharing practices; etc.

Proposed Position: SUPPORT

Resolution: *23/24-EB-06 Co-authored by Mara Babb, Brenton Meade, and Daphne Wang, the 2023-24 MASC State Legislative Affairs Coordinators*

WHEREAS, 67% of Maryland high school students report spending three or more hours per day on social media where they can be exposed to content through targeted advertising which can propagate unsafe and unhealthy behaviors, and

WHEREAS, this bill would address and minimize the adverse impact that digital products and services can have on minors through data protection impact assessments, and

WHEREAS, this bill would provide the Attorney General’s office greater capacity to ensure the safety of minors by creating an explicit enforcement mechanism, and

WHEREAS, MASC supported and advocated for the principles of [HB901/SB844](#) during the 2023 legislative session of the Maryland General Assembly, and

WHEREAS, MASC supports “Proactive measures to ensure student safety...” (MASC Platform, Plank IV; A) and this bill would provide extensive protection within a user interface specifically to minors, and

WHEREAS, MASC supports “Initiatives designed to promote positive mental health and wellbeing in youth” (MASC Platform, Plank V; H) and greater protection online is conducive to the maintenance of the mental health, physical health, social composition, body image, and digital safety of youth, be it hereby

RESOLVED that the Maryland Association of Student Councils supports HB0603/SB0571.

MD Kids Code Coalition_SB571_Fav.pdf

Uploaded by: Marisa Shea

Position: FAV



MARYLAND KIDS CODE

The Honorable Pamela Beidle
Senate Finance Committee
11 Bladen Street, 3 East Wing
Miller Senate Office Building
Annapolis, MD 21401

Re: SB 571 (Sens. Kramer, Hester, and West) - Favorable

Dear Chair Beidle and Committee Members,

The undersigned are writing in support of the Maryland Kids Code - SB 571 (Senators Kramer, Hester and West).

The Maryland Kids Code, an Age Appropriate Design Code model bill, creates a better online world for kids by requiring tech companies institute common-sense consumer protections and data privacy reforms that ensure digital products, just like physical ones, are designed safely and in an age appropriate manner.

Big Tech exploits consumers by extracting copious amounts of data from its users, including its youngest and most vulnerable ones, and selling it or using it to inform products and marketing. More data means more profit - incentivizing companies to utilize addictive design features and other measures to keep children glued to their products. Time and again, advocates, researchers, and whistleblowers have shown that Big Tech prioritizes profit over the well-being of the most vulnerable consumers in the market: children.

As representatives of organizations that work for safe, just, and thriving futures for our communities, we see how the online world is both essential and comes with severe costs, particularly to children and teens. Ensuring the safety of tech products is long overdue. That is why we support the Maryland Kids Code.

We have nutrition labels on food packaging, rigorous testing for cribs and car seats, and yet the technology children use daily from the youngest of ages have little to no safeguards. As a result:

- 75% of social media platforms [use AI to recommend children's profiles to strangers](#).
- Of the top 100 free apps for kids in Google Play [1 in 3 have banner ads](#), including ads for adult content.
- 60% of school-based apps [share kids' data with third parties](#).
- A leaked internal survey found that ["1 in 3 teenage girls is exacerbating body image problems"](#) on Instagram and that 6% of US teens link their interest in suicide directly to the platform.

This is by design. Just look at the revelations from the [recently unsealed](#) Vermont Attorney General's lawsuit against Meta which revealed that Meta used the latest in brain science to ensure their products are stickier and riskier for our kids instead of using that knowledge to design safer products. These problems are not limited to just Meta, or just social media. The business model for the entire industry rests on an extractive business model that to date is unchecked.

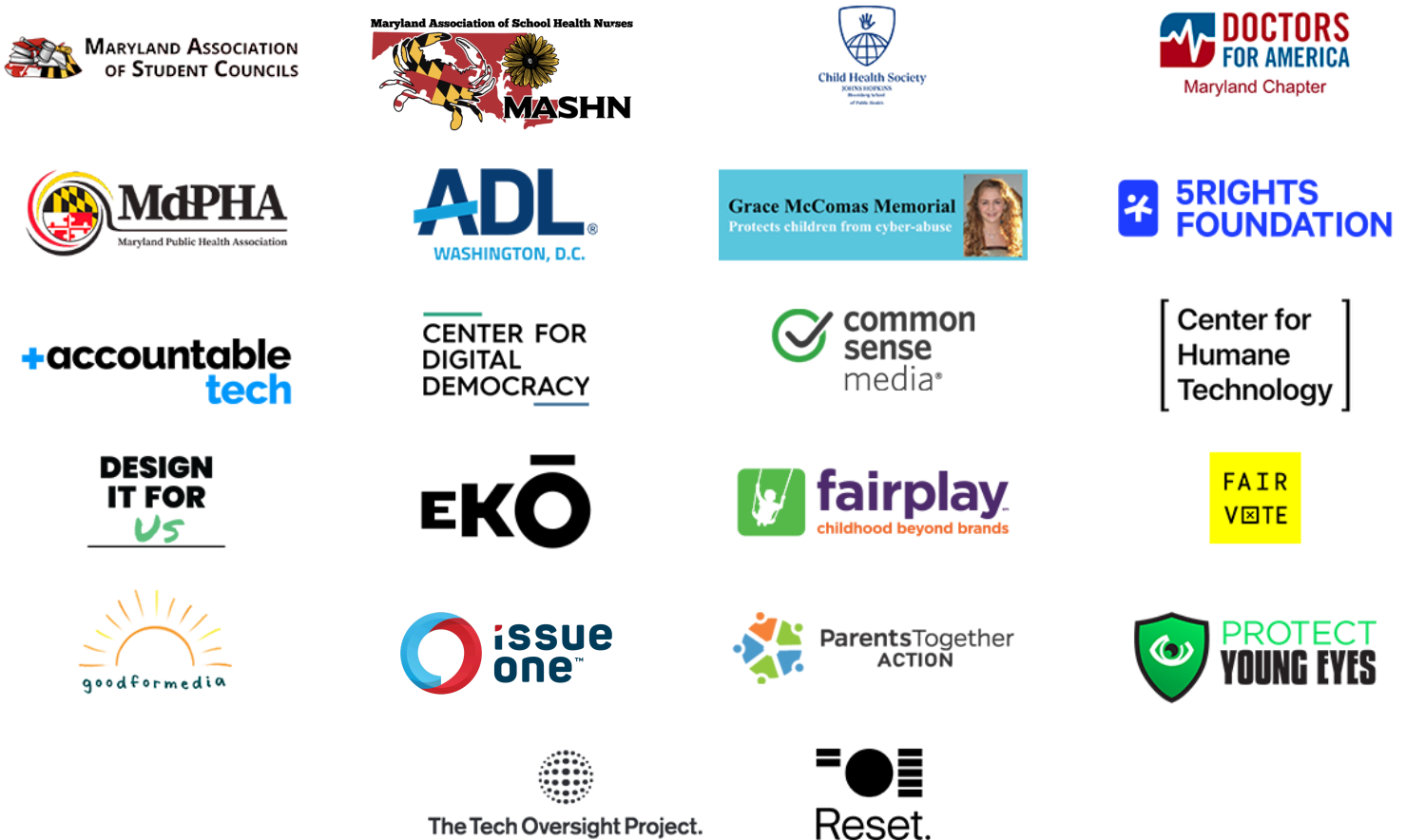
The Maryland Kids Code would instead require companies to provide children high privacy settings by default and to mitigate reasonably foreseeable harms to kids from the use of their products. And unlike other approaches to keeping kids safe online, the Maryland Kids Code doesn't put the onus on parents, and it doesn't require companies to moderate content or prevent children and teens from searching for content they want to see.

Don't let tech companies claim it's impossible, they are already protecting kids online by design and default in the UK.. Similar standards were adopted into law in the UK two years ago. Since then, companies have made hundreds of specific changes to make children's and teens' online experiences safer and better—Maryland youth deserve the same protections.

SB 571 is an unprecedented opportunity for our state to demand essential privacy and consumer safety protections to support youth mental health and well-being. Representing every corner of society—advocates, educators, healthcare practitioners, technologists, and young people ourselves—our coalition collectively asks for you to put children's interests ahead of the tech industry's by supporting the Maryland Kids Code.

Sincerely,

Maryland Kids Code Coalition



SB 571 - Consumer Protection – Online Products and

Uploaded by: Mary Pat Fannon

Position: FAV



Mary Pat Fannon, Executive Director
1217 S. Potomac Street
Baltimore, MD 21224
410-935-7281
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BILL: SB 571
TITLE: Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)
DATE: February 14, 2024
POSITION: Favorable
COMMITTEE: Senate Finance Committee
CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents’ Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **supports** Senate Bill 571.

This bill requires a “covered entity” that provides an online product reasonably likely to be accessed by children to complete a “data protection impact assessment” of the online product. The bill establishes numerous rules, procedures, and prohibitions related to the assessments. A covered entity that violates the bill’s requirements is subject to a civil penalty of up to (1) \$2,500 per affected child for each negligent violation and (2) \$7,500 per affected child for each intentional violation. A data protection impact assessment is protected as confidential and must be exempt from public disclosure, including under the Maryland Public Information Act. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), and subject to MCPA’s civil and criminal penalty provisions. However, a violator is not subject to specified MCPA penalty provisions related to merchants.

With the ubiquitous usage of smartphones and social media by young people, the unregulated social media platforms are increasingly causing mental health concerns among teenagers and their families. Along with the behavioral health concerns that can stem from inappropriate online content, the invasive collection of data, and the purposeful and addictive advertising and communications strategies employed by these social media companies deserve a public health response and regulation from the government at the federal, state, or local level.

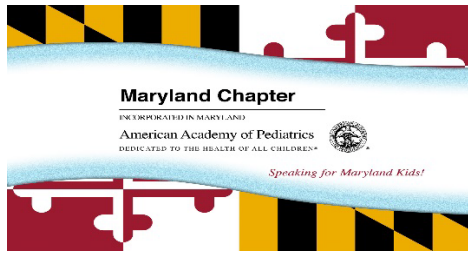
This legislation would put Maryland in the good company of California and the UK where regulations and laws are in place to prioritize children’s privacy through age appropriate design codes.

For these reasons, PSSAM **supports** Senate Bill 571 and urges a **favorable** report.

SB0571_FAV_MDAAP_Cons. Prot. - Online Prod. & Serv

Uploaded by: Maryland Chapter American Academy of Pediatrics

Position: FAV



TO: The Honorable Pamela Beidle, Chair
Members, Senate Finance Committee
The Honorable Benjamin F. Kramer

FROM: Loretta I. Hoepfner, MSOD

DATE: February 14, 2024

RE: **SUPPORT** – Senate Bill 571 – *Consumer Protection – Online Products and Services
– Data of Children (Maryland Kids Code)*

The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 571.

On a federal level, the American Academy of Pediatrics (AAP) is working with the authors of the federal Kids Online Safety Act that requires social media companies to curb manipulative design practices that target children and exploit the vulnerabilities of children. I am attaching a letter that national AAP sent to Congress urging them to take prompt bipartisan action to enact comprehensive privacy, design, and safety protections for children and adolescents online. Consistent with AAP, MDAAP urges a favorable report on Senate Bill 571.

For more information:

Loretta I. Hoepfner
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March 16, 2022

Dear Member of Congress:

On behalf of the American Academy of Pediatrics (AAP), a non-profit professional organization of 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, I write to call on Congress to take prompt bipartisan action to enact comprehensive privacy, design, and safety protections for children and adolescents online. We must address the shortcomings of the digital ecosystem that make it harmful to the well-being of young people and ensure that digital technology is optimally supportive of their healthy physical, mental, and emotional development and well-being. As Congress considers legislation to address digital technology and the role it plays in the lives of young people, we urge you to consider the following factors.

Digital technology plays an outsized role in the lives of today's children and adolescents. [Research](#) conducted prior to the COVID-19 pandemic has shown that young people are spending more time online than ever before and that a significant share of children and adolescents have their own smartphone or tablet. A recent [survey](#) showed that nearly half of teens say they use the internet "almost constantly." [Recent research](#) makes clear that these trends have been exacerbated by the dramatic changes to daily life experienced by families during the pandemic. Across academia, clinicians, and industry, there is clear consensus that the *design* of digital platforms shapes children's opportunities and risks.

Pediatricians see the impact of these platforms on their patients in practice and recognize the growing alarm about the role of digital platforms, in particular social media, in contributing to the youth mental health crisis. It has become clear that, from infancy through the teen years, children's well-being is an afterthought in widely used digital products with persuasive design features and algorithms that prioritize engagement. As President Biden [acknowledged](#) in his State of the Union address, strengthening privacy, design, and safety protections for children and adolescents online is one of many needed steps to create healthier environments that are more supportive of the mental health of Americans. Legislation to reduce the harms these platforms pose to the health and well-being of young people should:

- **Require digital platforms to prioritize the well-being of children and adolescents.**
- **Update and strengthen the Children's Online Privacy Protection Act (COPPA).**
- **Ban targeted advertising to young people.**
- **Curb manipulative design practices that exploit developmental vulnerabilities.**
- **Prevent the spread of harmful content through algorithmic recommendations.**
- **Invest in research to understand the impact of digital platforms on youth.**

Bills that can be used to develop comprehensive children's privacy and design legislation include the Kids Online Safety Act (S. 3663), the Children and Teens' Online Privacy Protection Act (S. 1628), the Protecting the Information of our Vulnerable Children and Youth (Kids PRIVACY) Act (H.R. 4801), and the Kids Internet Design and Safety (KIDS) Act (H.R. 5439/S. 2918). Please contact Matt Mariani (mmariani@aap.org) if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Moira Szilagyi MD".

Moira Szilagyi, MD, PhD, FAAP
President

Considerations for Comprehensive Legislation to Protect Children and Adolescents Online

Require technology companies to build digital platforms that prioritize the well-being of children and adolescents as first principle. Families face huge headwinds using digital platforms designed to maximize profit and user engagement, enabling the development of the unworkable digital ecosystem young people face today. Congress should impose a duty of care on technology companies that requires them to prioritize the needs of children and adolescents from the start and hold platforms accountable for the products they create—before they go to market. This should include rigorous transparency, accountability, and independent evaluation mechanisms to ensure technology companies design platforms that minimize harms to young people and support their well-being.

Update and strengthen the Children’s Online Privacy Protection Act (COPPA). The passage of COPPA more than 20 years ago reflected an important recognition that young people need special protections online, but drastic changes in the digital technology landscape have rendered its protections insufficient. Congress should expand COPPA’s protections to adolescents, make data collection from children and teens an opt in, rather than an opt out, practice, and require the most protective settings to be enabled by default. Families should be given greater control over children and teen’s data with easy-to-understand disclosures about what data is collected and why. Congress should ensure COPPA’s requirements extend to all platforms likely to be used by young people and provide the Federal Trade Commission with the resources and authorities it needs to appropriately enforce the law.

Ban targeted advertising to young people. Research indicates that the use of data to target children and adolescents with personalized behavioral advertising is developmentally inappropriate due to immature critical thinking skills and lower impulse inhibition. Younger children cannot identify the more subtle types of advertising like influencer sponsorship, and they have higher trust in their favorite [characters](#), which can easily be manipulated. Advertising profiles can also identify children’s vulnerabilities, such as anxiety, negative body image, poor impulse control (in terms of spending or downloads), interest in high-risk activities (e.g., online dating, pornography, substance use) based on insights gleaned from data sources integrated across multiple platforms that families may not even have insight into themselves. The networks that distribute advertisements during children’s media use contain offensive and manipulative [content](#), and are largely unregulated. In short, behavioral advertising exploits young people’s developmental predispositions for commercial gain, and Congress should act to end this practice for children and teens.

Curb manipulative design practices that exploit children and adolescents’ developmental vulnerabilities. The current digital ecosystem is not working for families. Pediatricians counsel an approach to digital technology that centers moderation, high-quality content, and active user engagement, but features like auto-play, push alerts, confusing virtual currencies, and kid-friendly characters that pressure children to keep playing are at odds with those recommendations. Congress should limit manipulative design features to create a digital ecosystem that puts young people in control of how they use their devices and makes it easier to put them down.

Prevent the spread of harmful content and misinformation through algorithmic recommendations. The collection of data from young people, its aggregation across platforms, and its processing through complex algorithms exposes young people to harmful, extreme content, such as hate speech or violent images. Only a small subset of online content undergoes human review, allowing questionable messages and stereotypes to wind up in children’s laps. Pediatricians are particularly concerned about misleading health information that is shared and amplified online. Congress should rein in the use of algorithms to amplify dangerous content so young people have access to healthier digital environments. Parents, rather than technology companies, should have easy methods for turning off trending recommendation feeds, setting up filters, and controlling what their family experiences online.

Invest in research to understand how digital platforms impact the health and development of young people. Digital platforms are constantly evolving, and our understanding of their impact of on children and adolescents needs to keep up. Congress should invest in building the evidence base and help identify effective interventions to mitigate the harmful impacts of digital platforms on young people.

SB571 Testimony from Principal Matt Hornbeck.pdf

Uploaded by: Matt Hornbeck

Position: FAV

Hi, I'm Principal Matt Hornbeck testifying today in strong support of Senate Bill 571, Maryland Kids Code. I've served as principal at Hampstead Hill Academy in Baltimore City for 20 years, so I've seen the rise of social media and the harm it causes our kids. Principals across Baltimore and Maryland and the nation are on the front lines of this fight dealing with the negative impacts of young children and teenagers using cell phones. Just 10 years ago, we did not have the problem we face today. The deck is stacked in favor of the incessant need to feed advertisers with clicks. In many ways it's worse than cigarettes or drugs because a social media addiction - and let's be honest, this is the premeditated drugging of our children - starts at a very early age. It sucks up so much time, and keeps the user wanting more and more. It's not an overstatement to say it can steal a childhood.

Here is the problem as told by principals in high schools and middle schools.

One principal says, "Tomorrow, I will spend a large part of my day surfing through social media posts that led to conflict between students. Students will spend the weekend going back and forth, and then we deal with the aftermath. Teachers say social media the number one distraction in class.

Another says, "It impacts attendance because students are up late at night on their phones, which causes them to be late or absent. Students admit they are on their phones after 2:00 am. It definitely impacts achievement because of the constant distractions during class."

A third principal says, "Social media is a terrible distraction and weighs on young people's mental health. Parents struggle to control its use, and they need help. Parents are not aware of various platforms and identities kids create or get consumed by. Social media makes space for anonymous bullies, who often aren't even students. Most of the negative traffic occurs when they're online at home on their phones. A major problem at high schools is the time it takes away from study habits in the evening."

Finally, another principal points out that "almost every conflict we deal with stems from social media, and it takes so much away from instruction. Kids say very mean things about each other on social media. When the victim of a post or participant is hurt, emotionally or physically, it negatively impacts attendance and student achievement"

Today is very exciting. Our staff and parents are wildly supportive of the courageous stand Senators Kramer, Hester, and West are taking with SB571 and

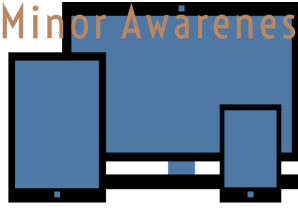
Delegates Solomon, Wilson, and Love are taking with HB603 to keep our children safe online. As you know, Attorney General Anthony Brown recently joined more than 40 other states and Baltimore City Schools joined dozens of school districts in filing lawsuits to protect our students online. Our future as a City and State is at risk until we get a handle on the impact of social media on our children. Please vote to make SB571 the law in Maryland. Thank you for your time today.

SB571_Minor_Fav.pdf

Uploaded by: Mia Minor

Position: FAV

Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

Greetings to the honorable and esteemed members of the Maryland House/Senate. My name is Todd Minor Sr. I am here with my wife, Mia, and our family to advocate for the passage of the Maryland Kids Code Bill in the House and Senate.

First, we thank Bill sponsors Maryland State Sen. Ben Kramer, Del. Jared Solomon, and Del. C.T. Wilson, who have shown their continuing commitment to online child safety. We also want to thank our partners in advocacy, the 5 Rights Foundation, Parents Together, and Fairplay for Kids.

By sharing our story, we hope to help keep other children and families from going through the tragic events we have endured. We want to drive home that our children aren't as safe as possible while online until this bill is passed and made law in our state.



Our son, Matthew Emmanuel Minor (Matt), was a very loving & compassionate child. He was a big hugger. Matthew had a very charismatic & loving personality and had a wonderful smile that would light up the room. Matthew was active in martial arts, football, and basketball. He cherished his time at our family gatherings, especially those at the family farm in Tappahannock, Virginia. Matthew mentioned several times wanting to serve his country by joining the military like his father and grandfather—a family tradition. Matt was considered an "ambassador" of Accokeek Academy, where he attended school. He

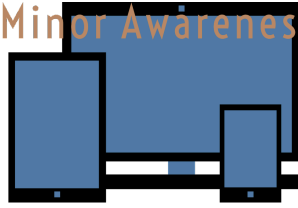
showed the new kids where their classes were and defended them against anyone picking on them. Also, instinctively, Matt was active in his church, academy, and the local community. At the tender age of 12, he understood you can show no more excellent care for someone than protecting others.

On the evening of March 7th, our world was devastated and forever changed by our son TJ pleading to us to come upstairs and that something terrible had happened to Matthew. Although my wife Mia was starting new treatments for multiple sclerosis, and I was recovering from a recent surgery to remove cancer that subsequently resulted in a leg injury, rendering me unable to walk, the adrenaline kicked in, and I was immediately running upstairs without my walker to check on Matt.

My military training kicked in, and I started assessing the situation. Matt had something tied around his neck. Why was that there? Find out later, I told myself. I



Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

removed the cord, and I began CPR. Mia called 911,. While doing this, we asked the almighty why this was happening and to take us instead; he was only 12. I continued to perform CPR until the EMTs showed up. Around 2:30 am at the hospital, the doctor came in and notified us that Matthew died. It was unbelievable and shocking; we had just eaten dinner.

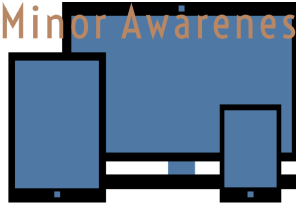
While speaking with the police detective, we discovered the choking challenge or the "blackout" challenge that kids were participating in on YouTube and TikTok.

This fact was also supported by talking with children who confirmed Matt was participating in the choking challenge at Matt's tribute service the day before his funeral. What are these social media challenges? We asked ourselves, what can we do about it?

With the support of our Pastors at Victory Church, our family (T.J., Momma Ruth, Tiffany, Jonathan, Tray and John), extended family, and fellow parents and community, we created the Matthew E. Minor Awareness Foundation to bring awareness about the hidden dangers of the internet to our children and teens, such as online cyberbullying, self-harm, cyberdares, i.e. (Knock-out challenges/ Blackout Challenge) and helping families cope with grief after losing a loved one. We have also established a college scholarship fund for local college-bound students in the D.C., MD, and V.A. areas to further their future educational goals. We aspire to make this a national scholarship in due time.

- We've joined forces with other parents, educators, mental health professionals, and other concerned community members to support the Maryland Kids Code bill and similar legislative efforts nationwide, becoming voices in a growing movement that seeks to hold tech companies accountable.
- These laws, which are age-appropriate design model bills, represent a critical step in shifting the burden of online safety from resting solely on families to being shared with the digital platforms themselves from the moment they design their products.
- We need legislative action to force social media companies and other digital service providers to prioritize the well-being of their youngest users.. a framework that could prevent other families from enduring the kind of pain ours has faced.
- The Maryland Age-Appropriate Design Code Bill would require tech companies to prioritize the safety of children – instead of profits. There is a similar law in place in the United Kingdom that has led to an immediate change for kids in the U.K. — including

Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

TikTok turning off strangers' ability to message kids, Google turning on Safe Search by default, and YouTube turning off autoplay by default for users under the age of 18.

- Our children in Maryland and the U.S. don't have these protections yet, but the Age-Appropriate Design Code could help to change that.



- **If laws such as the Maryland Kids Code were in place, this tragedy would not have happened to our family.**
- **We ask you to support and pass the Maryland Kids Code Bill, so this does not happen to other children and families.**

Let us tell the rest of the country a loud message that Maryland values its children's safety above anything else.

NCADD-MD - 2024 SB 571 FAV - Maryland Kids Code -

Uploaded by: Nancy Rosen-Cohen

Position: FAV



**Senate Finance Committee
February 14, 2024**

**Senate Bill 571
Consumer Protection - Online Products and Services - Data of Children
Maryland Kids Code
Support**

NCADD-Maryland supports Senate Bill 571. One of our concerns about youth and the internet is the ease of accessibility of online gaming. While there are legal prohibitions, research shows a clear and concerning amount of gambling by young people, with a growing number accessing by computer and phone.

According to the International Centre for Youth Gambling Problems and High-Risk Behaviors, between 60% to 80% of high schoolers have reported gambling for money in the past year. It is believed that up to 6% of these youth have a gambling disorder. In Maryland, the rate of gambling increased from 2017 to 2020 among Maryland residents ([2023 Maryland Youth Needs Assessment](#)). This includes more than online gaming, but focus groups of youth under 18 reported online gambling as the most common type of gambling activity.

The impact of social media, online gaming and the growing use of technology on children and adolescents is becoming more pronounced. Young people are being bullied online, are contacted by strangers online, and spend vast amounts of time checking their phones and seeking acceptance virtually. Parents who are struggling to help set appropriate controls and limits.

This bill will begin to offer some protection and peace of mind to families by requiring manufacturers and tech designers to protect children and adolescents and offer parents and caregivers the tools and designs to help them in protecting their children online. The bill will require companies to design online products with developmentally appropriate features, make high privacy settings the default, work to limit communication between adults and children they do not know, and will provide some oversight or standards regarding the development of materials for children and adolescents.

We urge this Committee give a favorable report to Senate Bill 571.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

SB 571 Dr. Ham testimony.pdf

Uploaded by: Nikki Ham

Position: FAV

Committee: Senate Finance Committee

Bill Number: Senate Bill 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Hearing Date: February 14, 2024

Position: Support

Chair Beidle, Vice Chair Klausmeier, and Members of the Senate Finance Committee,

I am here today in support for HB 603, which addresses the critical issue of protecting our youth online. As an Assistant Professor at Bowie State University, Past President of the Maryland School Counselor Association, and a former School Counselor with over 15 years of experience in Prince George’s County and Montgomery County, I have witnessed firsthand the profound impact of social media on students’ social-emotional well-being.

In addition to my professional experience, I am also a parent of teenage and preteen sons who attend school in Anne Arundel County. This unique perspective allows me to speak not only as an educator but also as a concerned parent.

The increase use of online platforms has granted students unprecedented access to content and interactions, often leading to detrimental effects on their self-image and overall mental health. As a result, these issues frequently spill over into the classroom, placing additional strain on school counselors who must address conflicts and crises that start online at home.

In addition, the impact of social media is not confined to middle and high schools, school counselors are reporting elementary school students are increasingly exposed to age-inappropriate content and engage with platforms designed for older children. As recent reports have shared this has contributed to rising levels of anxiety, feelings of isolation, and exposure to harmful material among our youngest learners.

HB 603 presents an important opportunity to safeguard our youth by holding online platforms accountable for prioritizing children's privacy, safety, and wellness. By implementing measures such as privacy-by-default and safety-by-design protections, this legislation aims to prevent the collection and sale of children's data, establish high privacy standards, and mitigate manipulative design practices.

I urge you to support HB 603 and help ensure a safer and healthier online environment for Maryland's youth.

Thank you for your attention to this pressing issue.

Sincerely,

Dr. Nikki Ham
Assistant Professor

Bowie State University

240-997-5943

nham@mscaonline.org

nham@bowiestate.edu

Prince George's County

SB571_Montoya_fav.pdf

Uploaded by: Rita24 Montoya

Position: FAV

SB 571 Testimony
Consumer Protection – Online Products and Services – Data of Children
Maryland Kids Code
February 14, 2024
Senate Finance Committee

Submitted by Rita M. Montoya
District 18
Silver Spring, MD 20910

Dear Chair Beidle, Vice-Chair Klausmeier and Respected Members of the Senate Finance Committee:

I urge you to issue a favorable report on SB 571 Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code).

I am a mother of two children, ages 8 and 9, residing in Montgomery County, Maryland. In the past year, my children have demonstrably felt the lure of the internet and social media. Despite a no social media and limited internet access policy in our own home, my children are increasingly exposed to the use of both by others in various settings. Like many, they are drawn to the fun of it all. Today, I am testifying solely in my capacity as a mother of young children concerned about the misuse of their personal information in an increasingly technological world but I would be remiss to mention that I am also a PTA President of a public elementary school; a candidate for a school board of education; and a former Juvenile Public Defender. I say remiss because my concern is not just for my own children but for all children. I am not alone.

Recently, I spoke to a group of mothers about this bill. Some were surprised to hear it was not already happening. One questioned why it was limited to children—adults need this protection too, she said. Another mother, who recently immigrated from a European country, assumed everyone was protected in this way already because they were in her home country. In fact, a 2023 Pew Research Center report indicated that most Americans are very or somewhat concerned with “social media sites knowing personal information about children (89%), advertisers using data about what children do online to target ads to them (85%) and online games tracking what children are doing on them (84%).” Importantly, the report found no statistically significant difference between those *with* children and those *without*—the concern resonates across American adults.¹ While it is incumbent upon parents to understand and monitor our children’s internet and social media use, as a parent, I know that we cannot be everywhere and know everything. Some parents I spoke to did not even know this data extraction occurred. Even with parental controls and no-use family policies, under the current law, without requiring the mitigation of reasonably foreseeable harm to kids and high privacy settings by default, children’s data will still be misused and children will be harmed.

The nature of advertising to children has changed. Long gone are the days of television commercials and cereal boxes. Today, children as young as two years old play “apps” on cell phones and tablets and during the height of the COVID-19 pandemic, eighty-two percent of

¹ See *How Americans View Data Privacy: The role of technology companies, AI and regulation – plus personal experiences with data breaches, passwords, cybersecurity and privacy policies* by Colleen McClain, Michelle Faverio, Monica Anderson and Eugenie Park (Pew Research Center: October 18, 2023).

youth ages 14-22 indicated using social media constantly or every day.² Children's use of social media and internet is not going away any time soon as forty-three percent of youth 14-22 said using social media usually makes them feel better when they feel depressed, stressed, or anxious.³ Still, studies indicate that children and teens do not comprehend the full complexity of how their digital data is collected, analyzed, and used.⁴ Currently, only one state in the United States protects children by regulating how companies can collect and use children's data.

It is time for Maryland to step up for our kids. Technology is developing at a rapid pace and its limits are, at best, unknown. If we want to protect our children in the future, we must take action now. The State of Maryland has an opportunity to take a stand and ensure that, 10-15 years from now, when a technology we never envisioned emerges, our children are not harmed in the process.

When I was a kid, we used to go to a playground with a very tall, red slide. The slide was made of metal. During the summer, when temperatures could reach as high as 105°, the metal slide would burn our legs on the way down. But it was the only slide we had and we wanted to have fun. At some point, our local government realized it was not safe and replaced it with a safer, less hot material because children deserve to be safe.

Madam Chair and Respected Members of the Senate Finance Committee,
the internet and social media are the new playgrounds.
If we do not keep children safe, who will?

For the reasons above, I urge you to issue a **favorable report on SB 571 Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)**.

Respectfully Submitted,



Rita M. Montoya
District 18
Silver Spring, MD 20910

² See *Coping with COVID-19: How Young People Use Digital Media to Manage Their Mental Health* ISSN: 2767-0163 (Common Sense Media, Hopelab and California Health Care Foundation: March 15, 2021).

³ See *Coping with COVID-19* (2021).

⁴ See Livingstone, S. Stoilova, M. and Nandagiri, R. (2019) Children's data and privacy online: Growing up in a digital age. An evidence review. London: London School of Economics and Political Science (23-26).

2024 ACNM SB 571 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



Committee: Senate Finance Committee

Bill Number: SB 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Hearing Date: February 14, 2024

Position: Support

The Maryland Affiliate of ACNM supports *Senate Bill 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)*. The bill recognizes the detrimental impact that social media can have on children.

The Maryland Affiliate of ACNM represents certified nurse-midwives (CNMs) and certified midwives (CMs) in Maryland. Midwives provide care to people of all ages who need reproductive and gynecologic care. According to the U.S. Surgeon General’s 2023 Social Media and Youth Mental Health Advisory, adolescents are more at risk of mental health issues if they use social media more than three hours a day.ⁱ Young people, particular adolescent girls, are particularly at risk of cyberbullying, leading to depression, anxiety disorders, and even suicidal ideation. This bill helps to protect Maryland youth in an increasingly digital world.

We ask for a favorable report. If we can provide any additional information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

ⁱ <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>

2024 LCPCM SB 571 Senate Side.pdf

Uploaded by: Robyn Elliott

Position: FAV



Committee: Senate Finance Committee

Bill: Senate Bill 571 – Consumer Protection Online Products and Services – Data of Children (Maryland Kids Code)

Hearing Date: February 14, 2024

Position: Support

The Licensed Clinical Professional Counselors of Maryland (LCPCM) supports *Senate Bill 571 – Consumer Protection Online Products and Services – Data of Children (Maryland’s Kids Codes)*. The bill recognizes the detrimental impact that social media can have on children. According to the U.S. Surgeon General’s 2023 Social Media and Youth Mental Health Advisoryⁱ, adolescents are more at risk of mental health issues if they use social media more than three hours a day. Young people, particular adolescent girls, are particularly at risk of cyberbullying, leading to depression, anxiety disorders, and even suicidal ideation.

Social media is not necessarily bad for children. It can be a positive tool to increase connection with peers. LCPCM supports this legislation because it will ensure that social media platforms have appropriate guardrails. Platforms must use age-appropriate frameworks in designing their platforms and mitigate the risks from the beginning.

We ask for a favorable report. If we can provide any additional information, please contact Robyn Elliott at relliott@policypartners.net.

ⁱ <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>

SB571_Sam_fav.pdf

Uploaded by: Sam Park

Position: FAV

Bill SB571
February 14th, 2024

In Support:

My name is Sam Park, I am a freshman at Eastern Technical High School in Baltimore county and I am testifying in favor of the SB0571 Bill.

I find it insane for teenagers to open up an app or online service and in a matter of seconds, our personal data is getting sucked out of us. Whether it is scrolling through social media, giving up our privacy, or just being exposed to harmful material affects us as teenagers in a harmful and negative way. My brother is 11 years old and believes jokes about the discrimination of groups of people are “funny.” He had gotten a phone last year and downloaded multiple social media apps like instagram and tiktok. I wasn’t aware of the things he was exposed to until I saw him looking at inappropriate jokes or what some would call “dark humor” that were posted on instagram. The fact of him even getting to these posts was probably because it was my brother’s fault, but it was the fact that he is repeatedly getting these harmful posts since it is recommended to him by instagram. This bill would deal with cases like this where these apps abuse our data in order to push out harmful content. Another thing with this bill is it’s not just about social media specifically but also online services that are well known that I feel like are targeted to teenagers. For example, Temu, a Chinese online marketplace has taken the information of teenagers all over the country in return for “free” or incredibly cheap toys/items. I say this was targeted for teenagers at first because it was heavily shown on social media and in order to obtain these “free” items you would have to make other people download the app and sign up, giving not just their information but they’re friends as well. Temu has been heavily accused of stealing consumer data such as their phone number, SSN, browser history, and location data to monitor user’s activities across apps and websites. Even though there is no real confirmation if online services like Temu are abusing our data, this bill would ensure that me and many other teenagers’ data is protected. Teenagers like me already have a lot going on and we use social media and these apps to try and cope or entertain us. Having these traps of harmful material should not be this accessible on the internet and is why I believe this bill is important and necessary for children and teenagers like myself.

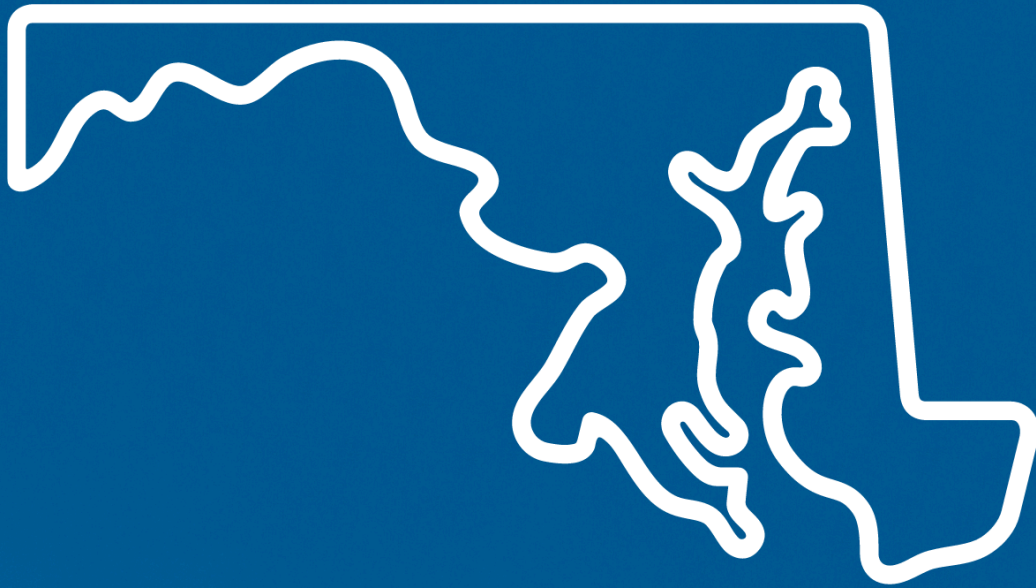
Samuel Park
Organization: Design It For Us
Contact Info:
410-900-0134
samparkstudent@outlook.com

SB571_ParentsTogetherAction_fav.pdf

Uploaded by: Shelby Knox

Position: FAV

Maryland Parents



support the

Kids Code



ParentsTogether
ACTION



February 13, 2024

The Honorable Pamela Beidle
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

SB 571 (Sens. Kramer, Hester, and West) - Favorable

Dear Chair Beidle and Committee Members

Re: In support of the Age-Appropriate Design Code Act (House Bill 901)

Dear Chair Beidle and Committee Members,

We, the undersigned, are 196 parents, grandparents, and other Maryland residents who care about kids, and we're writing because Maryland needs the Age Appropriate Design Code Act (SB 571 (Sens. Kramer, Hester, and West)).

Families are in crisis. We're fighting every day to protect our kids from depression, cyberbullying, eating disorders, dangerous viral "challenges," exposure to drug use and to sexual predators – all of which are fueled by social media for big tech profits. These dangers have life-threatening consequences for children. Teens who spend five or more hours a day on social media are [71% more likely to have one or more risk factors for suicide](#) than those who spend less than an hour a day. That's a terrifying number when you consider that 81% of 14 to 22 year-olds said they use social media either "daily" or "almost constantly."

This constant use is by design. Social media companies engineer their products to keep kids online as much as possible – through algorithms, notifications, and endless scrolling – because it makes them money. These manipulative tactics harm users, especially the youngest and most vulnerable. Regulating the tech products our children use is way overdue. We have nutrition labels on food packaging, rigorous testing for cribs and car seats, and yet the technology most children use daily has few to no safeguards.

More than 80% of Americans say they want laws that force social media platforms to take steps to make kids safer online. We agree with President Biden, who in his State of the Union address said that "we must hold social media platforms accountable for the experiment they're conducting on our children for profit." But families can't wait for Congress to act. Maryland has the opportunity to lead the nation in protecting children online and prioritizing young people's

mental, physical, and emotional health over profits for private companies. The best way to do that is design codes.

Design codes are proven to work to protect children. The UK implemented the Age Appropriate Design Code in September 2021. Since then, tech companies have made changes to products that children use to ensure their data isn't needlessly collected and that product design is not detrimental to their health and well-being.

We believe Maryland children deserve these protections too, and we need your help getting them for our kids.

We call on Maryland lawmakers to put children's interests ahead of those of the tech industry by supporting the Age Appropriate Design Code Act, SB 571 (Sens. Kramer, Hester, and West).

Maryland Parent Experiences

Daughter suffering from depression due to social media. -Katie V, Catonsville, MD

I can't stop comparing myself to what I see on social media. My son is 9 and it affects him as well. -Erin J, New Market, MD

I nearly lost my daughter to suicide at 14. Her depression and anxiety took over her life. Her eating disorder had her hospitalized and we are blessed that she is alive now as an adult. -Joseline C, Severn, MD

My 16 year old daughter is in recovery from anorexia, anxiety, and self harm. I have no doubt that this was in no small part fueled by toxic social media. -Helen F, Takoma Park, MD

Signing for my teen, who has anxiety and depression as a result of social media. -Mashel W, Columbia, MD

Social media can lead to eating disorders. It did it to my daughter. -Ed B, Germantown, MD

My 19 year old daughter faced so much bullying and self image issues because of social media. She survived, but it was horrible. -Isaac R, MD

My daughter is currently in treatment for an eating disorder. I have seen many of these same photos and videos on her phone. We need to save our children! -Kelli M, Sparrows Point, MD

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Barbara Winner
Arnold, MD

Jane Randall
Chestertown, MD

Jerry Cohen
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Laurel, MD

Christine McComas
Woodbine, MD

Laine Malcotti
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Len Elmlund
MD

SB 571 MD Kids Code_Digital Harbor Foundation_fav.

Uploaded by: Siobhan Hayes

Position: FAV

Good afternoon Chair and members,

It is an honor to speak with this committee today in support of the Maryland Kids Code. My name is Siobhan Hayes, I am the Tech Lab Director at Digital Harbor Foundation. Digital Harbor Foundation is a nonprofit organization focused on disrupting the root causes of the digital divide in our communities. Our work focuses on promoting digital inclusion through developing innovative, equity-based STEM learning experiences for youth, educators, organizations, and communities.

At Digital Harbor Foundation we focus on preparing youth to use technology wisely and teaching their peers how to use it wisely. We continue to do this by:

1. We facilitate equity-based STEM learning experiences for youth and educators, to empower youth to transition from being *consumers* of technology to *creators* of technology.
2. We provide youth and families with affordable broadband, and empower youth and family members to be “Digital Navigators” and promote digital skills in their communities.
3. We support a portfolio of “Tech-for-Good” startups that serve as a model to youth and industry that technology companies can be designed to elevate society.

While at Digital Harbor we are working on the youth side of the equation, we fully agree that technology companies must be held accountable for their design decisions. Technology companies whose business is based on interactions with youth bear a responsibility in designing products that encourage and support the growth of their youngest users.

The Maryland Kids Code provides necessary guardrails to keep companies from collecting sensitive and personal data from children to and to design with their online safety at the center.

The Code appropriately recognizes that to fully participate in society and learn, children need to be online and should be able to benefit from all the internet has to offer, but we have an obligation to ensure that their online experiences are safe and their privacy is protected.

The digital divide is real. Access to digital skills and knowledge varies widely depending on many factors, including location and socioeconomic status. The proposed online

protections for children acknowledge that a child's level of online safety should not depend solely on a parent's digital skills and knowledge. It is up to all of us to ensure that Tech Companies are held accountable to design standards that support the well-being of our children.

Person centered design is not a new concept. It has been around for decades and is present in many of the digital products we use daily.

But many online platforms have avoided this approach especially when it is more lucrative to collect and sell consumer data, including data of children.

The Maryland Kids Code is simple: it requires technology companies to design products that are safe for anticipated audiences, protecting their privacy and well-being.

This is a fundamental step in continuing to create safe places for children to learn and grow, and absolutely necessary in fostering the next generation that Digital Harbor Foundation envisions: A generation of youth who grow up to become creative and ethical technology leaders, who build technologies and organizations that have a positive impact on the world.

Thank you for your time and we are pleased to ask that the committee recommend a favorable report on the 2024 Maryland Kids Code.

Kids Code - testimony - senate - 2024 - SB571 FAV.

Uploaded by: Stephanie Erdice

Position: FAV



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 603
Stephanie Erdice, Associate Director
Lisae C. Jordan, Executive Director & Counsel
February 14, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Finance Committee to report favorably on Senate Bill 603.

Senate Bill 603 – Kids Code – Helping to Prevent Sexual Exploitation

Senate Bill 603 would require a business that offers an online product likely to be accessed by children to complete a certain data protection impact assessment, prohibit a business from offering a certain online product before completing a data protection impact assessment, require businesses to document certain risks associated with certain online products, require certain privacy protections for certain online products, and prohibit certain data collection and sharing practices.

The Maryland Coalition Against Sexual Assault defers to other witnesses regarding the technological aspect of this bill. We are not experts in technology, but we are experts on preventing and responding to on-line sexual exploitation, predation, and harassment of children. This is an enormous problem for our state and our children, and the threat is growing. The National Center for Missing & Exploited Children's CyberTipline offers the public and online electronic service providers an easy way to quickly report suspected incidents of sexual exploitation of children online. Since 2012, they have seen an **8000% (eight-thousand) increase** in tips to this cyberline. This includes:

- over 80,000 reported incidents of online enticement of children for sexual acts;
- over 35,600 reported incidents of unsolicited obscene materials sent to a child;
- almost 32 million reported incidents of child pornography

At a hearing to punish criminals who solicit children to send them images of their intimate body parts, the Maryland State's Attorneys' Association reported on some of our experiences in Maryland:

It is a most common practice for the online predator to encourage the purported youth to manufacture CSAM (Child Sexual Abuse Material) and send it to the predator. Conversely, the predator frequently sends pictures of his own genitalia to the purported minor. It is a common part of the grooming process as ultimately the predator wishes to engage in actual sexual conduct with a minor.

The National Center for Missing and Exploited Children explains that there is an increase in children being victimized by "financial sextortion, a crime in which kids are targeted to share explicit photos and then threatened by offenders that they will share the images with the child's friends, family, or others if they don't give the blackmailer money. Several of these cases have had tragic outcomes with panicked children taking their own lives." Maryland Criminal Law §3-709 creates criminal penalties to punish the offenders engaging in these heinous acts, but SB603 would help prevent them.

MCASA strongly supports Senate Bill 603 because the Kids Code will help *prevent* crimes and *protect* our kids against sexual predators and sexual exploitation.

**The Maryland Coalition Against Sexual Assault urges the
Finance Committee to
report favorably on Senate Bill 603**

MPA_Comm_SB571_LetterOfSupport_20240213.pdf

Uploaded by: stephanie wolf

Position: FAV



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Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

February 13, 2024

Bill: Senate Bill 571 – Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)

Position: Support

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Committee:

The Maryland Psychological Association (MPA), which represents over 1,000 doctoral-level psychologists throughout the state, is writing in SUPPORT of Senate Bill 571– Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code), which will result in a safer Internet environment for children in Maryland. Additionally, this bill will address how companies operating in Maryland collect, store, and use children’s personal private data. Online contributions to poorer mental health outcomes for children are at the forefront of parent’s minds, and are ongoing in our public discourse. Even the best prepared families with the tightest controls on devices cannot truly control their children’s content exposure and experiences under the current system. At present Maryland’s children are encountering predators on social media platforms who negatively impact their mental health and neurodevelopment. Access to the Internet has brought the world’s predators into our homes through our devices. These companies have known of this problem, have ignored this problem, and can solve this problem. This bill is a first step in a change of direction for keeping Maryland’s children safe and their data protected.

Thank you for considering our comments on SB 571. If we can provide any additional information or be of any assistance, please do not hesitate to contact the Chair of MPA’s Legislative Committee, Dr. Stephanie Wolf, at mpalegislativecommittee@gmail.com.

Respectfully submitted,

Brian Corrado, Psy.D.

Brian Corrado, Psy.D.
President Chair,

Stephanie Wolf, JD, Ph.D.

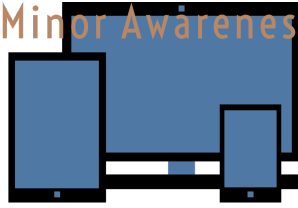
Stephanie Wolf, JD, Ph.D.
MPA Legislative Committee Chair

SB571_Minor_Fav.pdf

Uploaded by: Todd Minor

Position: FAV

Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

Greetings to the honorable and esteemed members of the Maryland House/Senate. My name is Todd Minor Sr. I am here with my wife, Mia, and our family to advocate for the passage of the Maryland Kids Code Bill in the House and Senate.

First, we thank Bill sponsors Maryland State Sen. Ben Kramer, Del. Jared Solomon, and Del. C.T. Wilson, who have shown their continuing commitment to online child safety. We also want to thank our partners in advocacy, the 5 Rights Foundation, Parents Together, and Fairplay for Kids.

By sharing our story, we hope to help keep other children and families from going through the tragic events we have endured. We want to drive home that our children aren't as safe as possible while online until this bill is passed and made law in our state.



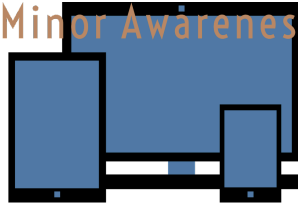
Our son, Matthew Emmanuel Minor (Matt), was a very loving & compassionate child. He was a big hugger. Matthew had a very charismatic & loving personality and had a wonderful smile that would light up the room. Matthew was active in martial arts, football, and basketball. He cherished his time at our family gatherings, especially those at the family farm in Tappahannock, Virginia. Matthew mentioned several times wanting to serve his country by joining the military like his father and grandfather—a family tradition. Matt was considered an "ambassador" of Accokeek Academy, where he attended school. He showed the new kids where their classes were and defended them against anyone picking on them. Also, instinctively, Matt was active in his church, academy, and the local community. At the tender age of 12, he understood you can show no more excellent care for someone than protecting others.

On the evening of March 7th, our world was devastated and forever changed by our son TJ pleading to us to come upstairs and that something terrible had happened to Matthew. Although my wife Mia was starting new treatments for multiple sclerosis, and I was recovering from a recent surgery to remove cancer that subsequently resulted in a leg injury, rendering me unable to walk, the adrenaline kicked in, and I was immediately running upstairs without my walker to check on Matt.

My military training kicked in, and I started assessing the situation. Matt had something tied around his neck. Why was that there? Find out later, I told myself. I



Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

removed the cord, and I began CPR. Mia called 911,. While doing this, we asked the almighty why this was happening and to take us instead; he was only 12. I continued to perform CPR until the EMTs showed up. Around 2:30 am at the hospital, the doctor came in and notified us that Matthew died. It was unbelievable and shocking; we had just eaten dinner.

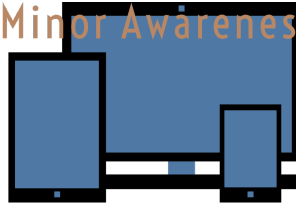
While speaking with the police detective, we discovered the choking challenge or the "blackout" challenge that kids were participating in on YouTube and TikTok.

This fact was also supported by talking with children who confirmed Matt was participating in the choking challenge at Matt's tribute service the day before his funeral. What are these social media challenges? We asked ourselves, what can we do about it?

With the support of our Pastors at Victory Church, our family (T.J., Momma Ruth, Tiffany, Jonathan, Tray and John), extended family, and fellow parents and community, we created the Matthew E. Minor Awareness Foundation to bring awareness about the hidden dangers of the internet to our children and teens, such as online cyberbullying, self-harm, cyberdares, i.e. (Knock-out challenges/ Blackout Challenge) and helping families cope with grief after losing a loved one. We have also established a college scholarship fund for local college-bound students in the D.C., MD, and V.A. areas to further their future educational goals. We aspire to make this a national scholarship in due time.

- We've joined forces with other parents, educators, mental health professionals, and other concerned community members to support the Maryland Kids Code bill and similar legislative efforts nationwide, becoming voices in a growing movement that seeks to hold tech companies accountable.
- These laws, which are age-appropriate design model bills, represent a critical step in shifting the burden of online safety from resting solely on families to being shared with the digital platforms themselves from the moment they design their products.
- We need legislative action to force social media companies and other digital service providers to prioritize the well-being of their youngest users.. a framework that could prevent other families from enduring the kind of pain ours has faced.
- The Maryland Age-Appropriate Design Code Bill would require tech companies to prioritize the safety of children – instead of profits. There is a similar law in place in the United Kingdom that has led to an immediate change for kids in the U.K. — including

Matthew E. Minor Awareness Foundation



Putting Children's Safety on Social Media, First

Talking Points:

MD Senate & House -Annapolis Feb13th and Feb 14th

TikTok turning off strangers' ability to message kids, Google turning on Safe Search by default, and YouTube turning off autoplay by default for users under the age of 18.

- Our children in Maryland and the U.S. don't have these protections yet, but the Age-Appropriate Design Code could help to change that.



- If laws such as the Maryland Kids Code were in place, this tragedy would not have happened to our family.
- We ask you to support and pass the Maryland Kids Code Bill, so this does not happen to other children and families.

Let us tell the rest of the country a loud message that Maryland values its children's safety above anything else.

CPD Written Testimony SB 571 SUPPORT with AMENDMEN

Uploaded by: Hanna Abrams

Position: FWA

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CONSUMER PROTECTION DIVISION

WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Direct Dial No.
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February 14, 2024

TO: The Honorable Pamela Beidle, Chair
Finance Committee

FROM: Hanna Abrams, Assistant Attorney General

RE: Senate Bill 571 – Consumer Protection – Online Products and Services –
Data of Children (Maryland Kids Code) (SUPPORT WITH
AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General supports Senate Bill (“SB 571”), sponsored by Senators Kramer, Hester, and West, with amendments. Senate Bill 571 places restrictions on what companies can do with children’s data, including tracking location and profiling, puts limitations on manipulative or deceptive design patterns, and includes transparency measures so users are aware of and consent to the use of their information.

Governments have an important interest in protecting children. Twenty-five years ago, the federal Children's Online Privacy Protection Act (COPPA)¹ was enacted to give parents control over what information is collected from their kids online. Then, in 2009, the Maryland legislature passed the Online Child Safety Act to “promote the dissemination of qualifying parental controls for the protection of children in the State subject to appropriate and beneficial oversight by their parents and families.”² The Online Child Safety Act imposed additional requirements on providers because Maryland’s legislature understood the importance of protecting children online. Today, however, these regulations are no longer adequate because the ways children interact with technology have evolved and the segments of children’s lives that online services touch have expanded exponentially.

¹ COPPA requires websites and online services to obtain consent from parents before collecting personal information from kids younger than 13. Under the law, parents have the right to review their child’s information, delete it and refuse to permit further collection.

² Md. Code Ann., Com. Law § 14-3702.

Until recently, technology companies have been able to create environments they know will harm children without any repercussions. For example, Meta’s internal documents demonstrated that the company knew its Instagram app was harmful to teens and, even with this knowledge, began expanding to even younger audiences.³ Many companies also use deceptive design patterns (or dark patterns) to keep users engaged and lead them to make choices that run counter to their interests. Maryland, along with 40 other states, was forced to sue Meta for violations of COPPA to halt these practices, but existing laws are no longer adequate.

Making the internet safer for children means fostering moderated, non-toxic online experiences for young audiences and ensuring that online services are not permitted to use deceptive design patterns or overlook the age of and impact on their audience. Senate Bill 571 narrowly tailors its regulation to directly advance the substantial governmental interest of protecting children by requiring platforms to assess any negative impacts that their products might have on children, prohibiting profiling by default, and limiting the processing of children’s data. In addition, SB 571 prohibits the use of deceptive design patterns that mislead and confuse underage users. Thus, SB 571 imposes permissible limits on *commercial* activity aimed at protecting children from documented harms.

We support SB 571 with three amendments that will conform it to Maryland’s existing consumer protection regulatory structure:

1. **Utilize the existing penalty structure found in Title 13.** The Consumer Protection Division already has an existing enforcement mechanism and penalty structure and it would be an unnecessary administrative and systemic burden to create a separate mechanism to enforce SB 571.⁴
2. **Remove the right to cure (§14-4609).** Under this provision, businesses would only be considered in violation if they failed to cure an alleged violation within ninety (90) days of receiving notice of suspected noncompliance. This is an unwarranted and unnecessary “grace period” which would fundamentally alter and restrict the authority of the Division, dilute our ability to protect Maryland consumers, and impose a significant administrative burden on the Division.
3. **Include the opportunity for individual recovery pursuant to the Consumer Protection Act.** Allowing individuals to enforce SB 571 supplements the limited resources of the Attorney General’s Office and is necessary to ensure business’ accountability. The Consumer Protection Act provides such a right. Contrary to the contentions of critics of the CPA’s private right of action, the existing remedy balances the needs of the individual with the risks of overeager litigants by only permitting recovery in cases of actual harm. Given the potential significant and individualized harms that we have seen in connection with children and social media, we believe that parents should have the ability to pursue a remedy where appropriate.

³ J. Bursztynsky, *Facebook Documents Show How Toxic Instagram Is for Teens* (Sept. 14, 2021), <https://www.cnn.com/2021/09/14/facebook-documents-show-how-toxic-instagram-is-for-teens-wsj.html>.

⁴ After §14-4608(a)(1) add: “(2) subject to the enforcement and penalty provisions contained in Title 13 of this article” and delete §14-4608(b)-(c).

Senate Bill 571 aims to place accountability, user empowerment, and transparency at the heart of the rules for children's online participation. Accordingly, we urge the Finance Committee to issue a favorable report on SB 571 with the amendments discussed.

cc: Members, Finance Committee
The Honorable Benjamin F. Kramer
The Honorable Katie Fry Hester
The Honorable Chris West

SPSC - MD SB 571 (AADC) - Unfavorable Testimony 02

Uploaded by: Andrew Kingman

Position: UNF

STATE PRIVACY & SECURITY COALITION

February 09, 2024

Chair Pamela G. Beidle
Vice Chair Katherine A. Klausmeier
Senate Finance Committee
Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Re: Age Appropriate Design Code (SB 571) - Unfavorable

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Committee,

The State Privacy & Security Coalition (SPSC), a coalition of over 30 companies and six trade associations in the retail, technology, telecom, payment card, and healthcare sectors, writes to respectfully request an unfavorable report of SB 571. Although this bill's language has been modified from last year's version, the significant constitutional and privacy issues remain. SPSC continues to be willing to find a path forward that mitigates these issues while still providing strong protections for children's online privacy.

While some provisions of the bill have changed, the singular threshold of 18 years has not, and while there is a new provision stating that businesses shall not be required to use age verification, this is meaningless given the rest of the bill's requirements. In practice, age verification will necessarily continue to be the main way that businesses will be able to comply with the act; alternatively, they will need to censor *all* content on the internet.

Put another way: how would a company comply with a law that establishes distinct standards and compliance requirements for individuals under 18 years of age without knowing if its users are under 18 years of age?

As the Court in *Bonta* noted about age verification methods:

“Even the evidence cited by the State about the supposedly minimally invasive tools indicates that consumers might have to permit a face scan, or that businesses might use ‘locally-analyzed and stored biometric information’ to signal whether the user is a child or not...Further...age estimation in practice is quite similar to age verification, and – unless a company relies on user self-reporting of age, which provides little reliability – generally requires either documentary evidence of age or automated estimation based on facial recognition.”¹

Importantly, this is not an issue where there is a clear divide between the business community's and numerous civil society organizations' positions – to the contrary, many civil society

¹ *NetChoice LLC v. Bonta* (N.D. Cal 2023), pages 22-23, available at <https://law.justia.com/cases/federal/district-courts/california/candce/5:2022cv08861/406140/74>.

STATE PRIVACY & SECURITY COALITION

organizations agree that this bill's unintended consequences and constitutional vulnerabilities – which will lead to prolonged litigation before the bill will go into effect – outweigh the bill's benefits. Do not take our word for it – here are the words of these groups themselves:

“We believe very strongly that young people, especially LGBTQ young people...need safer standards to protect them on the internet, but with due respect...we do not believe this is the way to do this...we fear that loose definitions such as “best interests of the child,” would open up especially LGBTQ content or conduct from being accessible to young, queer and trans people who are in desperate need.” -Marshall Martinez, Executive Director of Equality New Mexico.²

“We cannot support this bill in its current form. We’re concerned that by design, this bill gives a lot of discretion to the AG to determine what is and is not harmful content, as well as some of the broad language and ...and the incentives that that might create for platforms to restrict access to platforms that is constitutionally protected.” - Naomi Valdez, Director of Public Policy at ACLU New Mexico.³

Groups such as GLAAD, the ACLU, National Center for Lesbian Rights, the Human Trafficking Project, and over 80 others have signed onto a letter⁴ from the Center for Democracy and Technology opposing the federal Kids Online Safety Act, which suffers from many of the same issues. The letter states in part:

“KOSA would require online services to ‘prevent’ a set of harms to minors, which is effectively an instruction to employ broad content filtering to limit minors’ access to certain online content. Content filtering is notoriously imprecise; filtering used by schools and libraries...has curtailed access to critical information such as sex education or resources for LGBTQ+ youth.”

Finally, the bill continues to discriminate among speakers without any stated rationale. In *Bonta*, the court noted that the State’s argument was weakened by the “clear targeting of certain speakers – i.e., a segment of for-profit companies but not governmental or non-profit entities.”⁵ The same issue appears in this bill.

We continue to be interested in finding a constitutional path forward that can provide protections for children without impermissibly infringing on speech, or creating anti-privacy incentives for data collection. We would also be very willing to engage in stakeholder discussions to accomplish our shared goal of increasing protections for children in online spaces.

² <https://sg001-harmony.sliq.net/00293/Harmony/en/PowerBrowser/PowerBrowserV2/20240207/-1/74572> (New Mexico Senate Committee on Tax, Business, and Transportation, January 29 hearing.

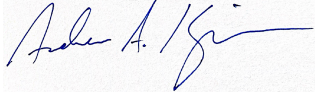
³ *Id.*

⁴ <https://cdt.org/press/more-than-90-human-rights-and-lgbtq-groups-sign-letter-opposing-kosa/>

⁵ *Bonta* at 15.

STATE PRIVACY & SECURITY COALITION

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Andrew A. Kingman", is written over a light gray rectangular background.

Andrew Kingman

Counsel, State Privacy & Security Coalition

Maryland SB 571 ESA Letter 2.14.2024 FINAL.pdf

Uploaded by: Andrew O'Connor

Position: UNF

February 14, 2024

The Honorable Pamela Beidle
Chair, Senate Finance Committee
Maryland State House
110 State Circle
Annapolis, MD 21401

RE: SB 571 (Age-Appropriate Design Code) - Unfavorable

Dear Chair Beidle, Vice-Chair Klausmeier, and Members of the Senate Finance Committee,

For nearly three decades, members of the Entertainment Software Association (ESA), the trade association representing video game publishers and console makers, have invested and developed leading-edge content moderation tools, as well as parental and user controls, to successfully make games safer for kids and teens online. As an industry, we believe in protecting children and teens online and appreciate your leadership to ensure online platforms frequented by children and teens are safe. As the innovators, creators, publishers, and business leaders who are transforming the video game industry, ESA members understand that online safety is critically important. For that reason, we thank you for the opportunity to provide comment on SB 571, the Age-Appropriate Design Code Act.

In today's 21st century media landscape, consumers value video games and consider them to be an important part of their entertainment. In fact, in a recent survey, more than 80 percent of Americans reported that video games bring them joy, reduce stress, and improve their cognitive skills.¹ Many consumers have adopted video game play as family entertainment, and 76 percent of parents reported that they play video games with their children.² Accordingly, due to the widespread use of video games across different age groups, ESA's members have made significant investments to protect all video game players online, especially children and teens.

Additionally, 74 percent of parents who have children that play video games use the industry's rating system to select age-appropriate games, which was developed, and is enforced, by the Entertainment Software Rating Board (ESRB).³ Also, ESA member companies continuously invest in the development of in-game features to empower parents and protect children, such as tools to restrict communications and block purchasing capabilities so families can choose the setting that are right to create a safe environment for video game play.

¹ See 2023 ESA Essential Facts, available at <https://www.theesa.com/2023-essential-facts/>.

² *Id.*

³ *Id.*

To continue to encourage ESA member companies' long track record of investment in providing a safe online environment for its users, ESA urges Maryland legislators consider adopting a safe harbor standard, that would recognize industries that have taken a proactive approach to protecting children online. The ratings system, advertising guidelines, and other tools set forth by the ESRB are recognized and effective tools that are foundational to the video game industry's approach to protecting children. On top of these industry standards, ESA member companies implement various features and tools into their products that allow families to customize their gaming experiences. We ask that the Maryland legislature recognize these efforts and utilize our expertise in crafting this legislation.

A Safe Harbor is Necessary to Protect the Video Game Industry's First Amendment Rights

The First Amendment has been fundamental to the growth of the video game industry. Free speech protections for video game publishers, developers, artists, and storytellers have enabled the industry's groundbreaking experiences in interactive entertainment. In 2011, the U.S. Supreme Court confirmed that video games are expressive works protected by the First Amendment and that efforts to limit or ban video game content violates publishers' free speech rights.⁴ These First Amendment rights have helped enable video game companies to develop new worlds and story lines into an industry with a domestic economic impact of over \$90 billion that provides high-skilled jobs and other economic benefits across the United States.

Unfortunately, while SB 571 is well-intentioned, we are concerned that the data processing and design requirements of this bill will have a chilling effect on the speech of our members. Specifically, by directing companies to operate in the "best interest of the child" without creating a workable standard and definitions, SB 571 will expose companies to undue risk and liability. As a result, video game publishers may seek to limit user access to online content and limit data processing more than what is necessary to prevent the harm, thus chilling speech and curbing innovation, creativity, and development.

Notice Requirements for the Video Game Industry Are Duplicative and Burdensome

In addition, the notice requirements for companies with products or services that are deemed "reasonably likely" to be accessed by a variety of age ranges are unduly burdensome, as this bill would require companies to provide a variety of disclosures in a manner appropriate for each age range accessing the product or service. This requirement is redundant for ESA member companies, as many of them already provide such notice through their ratings system and advertising guidelines. Also, all ESA members already comply with existing federal and state privacy laws and adding these duplicative and burdensome requirements will only complicate the growing patchwork of laws and regulations. Accordingly, adopting a safe harbor framework will avoid these duplicative efforts and

⁴ See *Brown v. Entertainment Merchants Assn, et al.*, 564 U.S. 786 (2011).

incentivize good actors. It would also boost the investment that many companies have already made in online safety tools to protect children and teens.

ESA and its members recognize the importance of children' online safety and want to be a resource to Maryland legislators as you try to navigate this complicated and evolving landscape. Thank you for your consideration. Please reach out to the undersigned with any questions.

Sincerely,

Andrew O'Connor
Director, State Government Affairs
The Entertainment Software Association

NetChoice Testimony against MD SB 571.pdf

Uploaded by: Carl Szabo

Position: UNF

Maryland SB 571

OPPOSITION TESTIMONY

Feb. 09, 2024

Maryland State Senate Economic Matters Committee

NetChoice respectfully asks that you **oppose** SB 571, legislation that would chill lawful speech online and negatively impact Maryland's vibrant small business community. Indeed, similar Data Privacy Impact Assessment (DPIA) requirements that are similar to the one contemplated in this bill have already been challenged and are currently enjoined.¹

While well-intentioned, SB 571 has significant flaws:

1. SB 571's DPIA will chill speech and are therefore unconstitutional under the First Amendment—and already being actively litigated in other states;
2. The chilling effect of SB 571 would negatively impact Maryland's small business community; and
3. Would result in Maryland's minors seeing more ads for products and activities that are illegal for them to buy or do.

NetChoice is a trade association of leading internet businesses that promotes the value, convenience, and choice that internet business models provide to American consumers. Our mission is to make the internet safe for free enterprise and free expression.

We share the sponsor's goal to better protect minors from harmful content online. NetChoice members have taken issues of teen safety seriously and in recent years have rolled out numerous new features, settings, parental tools, and protections to better empower parents and assist in monitoring their children's use of social media. We ask that you oppose SB 571 and instead use this bill as a way to jumpstart a larger conversation about how best to protect minors online and consider alternatives that do not raise constitutional issues.

¹ *NetChoice v. Bonta*, 2023 WL 6135551 (N.D. Cal.).

1. SB 571's DPIA Requirements will chill constitutionally protected speech.

SB 571 contains several constitutional defects. Chief among them is the requirement that “covered entities” (i.e., websites) produce a Data Privacy Impact Assessment (DPIA) and outline the potential negative impacts of their services and features—which must be made available to the government upon request. These requirements will necessarily chill websites’ lawful speech by discouraging them from innovating new ways to disseminate and communicate information.

DPIAs Violate the First Amendment and Chill Speech

As a general matter, the government may not compel speech or force someone to espouse a view on a subject.² Indeed, the Court has only permitted the government to compel speech in exceedingly narrow circumstances. Such cases must involve: 1) commercial advertisements that are, 2) inherently false or misleading. In such cases, the court may compel speech about *purely factual and non-controversial* information to eliminate the deception.³

Yet, SB 571’s DPIA requirements do not concern commercial advertisements nor do they compel “purely factual and non-controversial information.” Rather, the DPIA’s require websites to speculate about the potential harms of their websites, features, products, and designs. But the features, designs, and services of websites are *speech*. In other words, the DPIA provision demands that websites speculate about the potential harms of their own speech and the dissemination thereof.⁴

In 2021, California passed its own Age-Appropriate Design Code. And, like this proposal, California’s AADC required websites to create DPIAs. When challenged, the district court struck down the AADC, including the DPIA requirement, and found that by requiring websites to speculate about the harms of their *designs* (i.e., content) the law impermissibly compelled speech.⁵ Indeed, the district court found that the DPIA did not advance the state’s interest in securing minor privacy because the DPIA concerned the potential harms of being exposed to certain *content* rather than from actual data management practices.⁶

² *Wooley v. Maynard*, 430 U.S. 705 (1977) (striking down a requirement to display the state’s preferred message); *W. Va. State Bd. of Ed. v. Barnette*, 319 U.S. 624 (1943) (striking down requirements to profess the State’s desired message).

³ *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985).

⁴ *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011) (the dissemination of information is speech for purposes of the First Amendment); see also *303 Creative v. Elenis*, 600 U.S. 570 (2023)

⁵ See *NetChoice v. Bonta*, 2023 WL 6135551*, *20-21 (N.D. Cal.). (compelling speech about website designs violates the First Amendment).

⁶ *Id.*

Further, by requiring websites to turn over the DPIAs about their new and existing services and how they measure up to the “best interests of children standard” to the government on demand, websites will be disincentivized from innovating. Indeed, the looming specter of government review and inspection of a website’s features will discourage the offering of new features (which would then be subject to review) and thereby chills the dissemination of speech.⁷

SB 571 Chills Commercial Advertising

One clear example of SB 571’s chilling effect pertains to the requirements that websites assess the “foreseeable harm” of personalized advertising. The First Amendment protects commercial speech—including advertising—and the State cannot impose its desires in an attempt to advance its view of what is “correct.”⁸

Yet, SB 571 requires that websites disclose the potential harms of personalized advertising. Such harm includes “financial harm.” By including a requirement to speculate about the potential “financial harms” of personalized advertising, services will be less inclined to offer such services. By attempting to steer websites away from making certain decisions about their own offerings and how they display content, the DPIA requirement would also interfere with websites’ editorial discretion—the ability to make editorial choices free from coercion or pressure from the government.⁹

2. SB 571 undermines the benefits of personalized ads to Maryland’s minors and small business community.

If passed, the chilling effect on personalized advertising will be felt most deeply by Maryland’s minors and small business community.

Harm to Maryland’s Teens

Personalized advertisements help make sure that when we see content it is personalized for us. **That is a good thing.**

Personalized ads make sure that women don’t see ads for men’s products and vice-versa. But when it comes to Maryland’s minors, personalized ads become even more important. Personalized ads help

⁷ See *Nat’l Inst. of Family & Life Advocates v. Becerra*, 138 S.Ct. 2361 (2018) (burdensome disclosure requirements impermissibly chill speech).

⁸ *44 Liquormart v. R.I.*, 517 U.S. 484 (1996) (striking down a ban on advertising alcohol prices).

⁹ See *Atty. Gen. Fla. v. NetChoice*, 34 F.4th 1196 (11th Cir. 2022).

make sure that our teens don't see ads for things that are illegal for them to do or buy. Consider advertisements for alcohol, gambling, and physical enhancement medicines. Personalized ads helps make sure that these ads are only seen by those who can purchase and use them, not by our teens.

But under SB 571, the benefits and protections of personalized ads are annihilated for minors resulting *in a less safe environment for Maryland minors.*

Harm to Maryland's Small Businesses

Small businesses, especially new market entrants, rely on cost-effective measures to increase their reach and get in front of relevant audiences. Personalized advertising is a key factor in this strategy.

By discouraging the use of personalized advertising online, SB 571 would make it more difficult for new businesses to reach customers in cost-effective ways. Cost-effective marketing can mean the difference between success or failure, profit or bankruptcy. In the aggregate, by precluding Maryland businesses from communicating effectively and efficiently with willing customers, it will negatively impact the economy of the state and the quality of life for small business owners and all Marylanders.

Maryland should avoid the mistakes made by California. Protecting minors online is important, but an unconstitutional law protects no one. In fact, the unintended consequences of SB 571 stand to actually *harm* Marylanders and their quality of life. Instead of repeating California's mistakes, Maryland should enact legislation with a real chance of making a difference for its citizens—adults and minors alike. Online safety and data protection are important, to achieve these goals, we recommend adopting educational models like those passed in Florida and Virginia. We believe educating students and adults about how to use the internet in a safe and responsible manner, and avoiding heavy handed government mandates is the best path forward.

Again, we respectfully **ask you to oppose SB 571**. As always we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.¹⁰

Sincerely,
Carl Szabo
Vice President & General Counsel, NetChoice

NetChoice is a trade association that works to protect free expression and promote free enterprise online.

¹⁰ The views of NetChoice expressed here do not necessarily represent the views of NetChoice members.

2024-02-14 CCIA Written Opposition Testimony for M

Uploaded by: Jordan Rodell

Position: UNF



February 14, 2024

Senate Finance Committee
Attn: Tammy Kraft, Committee Manager
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 571 - "Consumer Protection – Online Products and Services – Data of Children (Maryland Kids Code)" (Unfavorable)

Dear Chair Beidle and Members of the Senate Finance Committee:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose SB 571 in advance of the Senate Finance Committee hearing on February 14, 2024.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms.¹ Proposed regulations on the interstate provision of digital services therefore can have a significant impact on CCIA members. In recent sessions, there has been a notable surge in state legislation concerning children's online safety. Acknowledging policymakers' valid concerns about the online privacy of young individuals, it is imperative to prioritize the establishment of a comprehensive data privacy law applicable to all consumers. This law should incorporate safeguards for sensitive data, specifically addressing information commonly linked to younger users.

CCIA holds a firm conviction that children are entitled to a higher level of security and privacy in their online experiences. Presently, our members are actively engaged in various initiatives to integrate robust protective design features into their websites and platforms.² CCIA's members have been leading the effort to implement settings and parental tools to individually tailor younger users' online use to the content and services that are suited to their unique lived experience and developmental needs. For example, various services allow parents to set time limits, provide enhanced privacy protections by default for known child users, and other tools to allow parents to block specific sites entirely.³

This is also why CCIA supports the implementation of digital citizenship curriculum in schools, to not only educate children on proper social media use but also help educate parents on what mechanisms presently exist that they can use now to protect their children the way they see fit and based on their family's lived experiences.⁴ In fact, in 2023, the Maryland Senate introduced SB 799 which aimed at enhancing media literacy skills in young people, including through the requirement to develop and publish a cyber safety guide that, among other things, is used to promote good decision-making when using online media and responsible internet use.

It should also be recognized that protecting children from harm online does not include a generalized power to restrict ideas to which one may be exposed. Speech that is neither obscene to young people nor subject to

¹ For more than 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

² Jordan Rodell, *Why Implementing Education is a Logical Starting Point for Children's Safety Online*, Disruptive Competition Project (Feb. 7, 2023), <https://www.project-disco.org/privacy/020723-why-implementing-education-is-a-logical-starting-point-for-childrens-safety-online/>.

³ Competitive Enterprise Institute, *Children Online Safety Tools*, <https://cei.org/children-online-safety-tools/>.

⁴ See *supra* note 2.

other legitimate laws cannot be suppressed solely to protect young online users from ideas or images that a legislative body disfavors. Proposals to keep children safe online should be established through a risk-based approach to developing protections for different ages of users and by focusing on tangible harm. While CCIA shares the goal of increasing online safety, this bill presents the following concerns.

1. The bill lacks narrowly tailored definitions.

As currently written, the bill defines a child as anyone under 18. Due to the nuanced ways in which children under the age of 18 use the internet, it is imperative to appropriately tailor such treatments to respective age groups. For example, if a 16-year-old is conducting research for a school project, it is expected that they would come across, learn from, and discern from a wider array of materials than a 7-year-old on the internet playing video games. We suggest changing the definition of “child” to a user under the age of 13 to align with the federal Children’s Online Privacy Protection Act (COPPA) standard. This would also allow for those over 13, who use the internet much differently than their younger peers, to continue to benefit from its resources.

The bill would also require businesses to provide any privacy information, terms of service, policies, and community standards concisely, prominently, and using “clear language suited to the age of children likely to access that online service, product, or feature”. The definition of “clear language suited to the age of children likely to access online services” is not defined and leaves room for significant subjective interpretation. If a child is defined as anyone under 18, one could expect a wide variation of reading comprehension skills across such a wide age group — a 17-year-old would presumably have better reading comprehension skills than that of a 5-year-old. Without “clear language” being defined, the bill would be difficult to comply with.

Additionally, the definition of “best interests of a child” is incredibly vague and impossible to operationalize at scale, creating moving goalposts for compliance. The benefit of a dynamic marketplace is that online businesses can tailor their services and products to what is most relevant and useful to their specific audience. Private online businesses will not be able to coherently or consistently make diagnostic assessments of users, including what could be “physically, financially, or emotionally” harmful to them. Humans in general, especially children, have very nuanced opinions surrounding what may be harmful to them. The diverse lived experiences of children, teens, and adults vary significantly, leaving businesses without a comprehensive roadmap to navigate each user’s unique perspective. Determining the optimal solutions for the well-being of each and every young individual engaging with an online platform poses a serious feasibility challenge.

2. The bill’s provisions addressing the “profiling” of a child and the enforcement of penalties for violations pose significant questions regarding compliance.

In order to achieve meaningful children’s safety protections, it is imperative for businesses to have a roadmap of how to properly comply and avoid unintentional violations.⁵ This measure provides broad strokes of *what* is expected of businesses but does not portend *how* businesses may achieve those objectives. Instead, businesses may be allowed to “profile a child by default” under certain circumstances. CCIA interprets this as necessitating businesses to distinguish users aged below and above 18. We recommend providing clarity on the procedures businesses should follow to determine the age of users online, specifically when “profiling” them as children. Without a proper mechanism in place, businesses may encounter challenges in accurately

⁵ Digital Trust & Safety Partnership, *Age Assurance: Guiding Principles and Best Practices* (Sept. 2023), https://dtspartnership.org/wp-content/uploads/2023/09/DTSP_Age-Assurance-Best-Practices.pdf.

determining the age of each individual user, potentially resulting in unintended violations for which the business may be held liable.

CCIA cautions against conflating concepts regarding “profiling” or estimating the age of users.⁶ For example, when a website asks a user to make a self-attestation of their age, such as on a website for alcohol products, the owner of that website is not held liable if that user chooses to mischaracterize their identity. Similar self-attestation measures are currently in place for social media platforms and other digital services, and the burden is on the consumer to be forthcoming and honest about the age and birth date they enter. This, however, would change under SB 571 — if online services were to rely on self-attestation for estimates but then in-turn be held liable for mischaracterizations, this would unreasonably treat the business as the bad actor. Further, it is unclear what impact the use of VPNs and similar mechanisms to evade state-specific age verification requirements by users could have on organizations’ liability under this bill.

To achieve compliance and avoid the proposed penalties for violations, it is likely that “profiling” or age estimation would effectively amount to age verification. Current commercially available facial recognition and other mechanisms that provide age estimation cannot sufficiently accomplish what lawmakers are expecting.⁷ The AADC purports not to require age verification, but the definitions and policy itself are so vague that sites will have no choice but to implement some kind of age verification technology to achieve compliance, and unfortunately, SB 571’s approach includes these same pitfalls. Such verification requirements then raise questions about potential conflicts with data minimization principles and other consumer data privacy protection measures.

CCIA is concerned that businesses may be forced to collect age verification data, which would paradoxically force companies to collect a higher volume of data on children.⁸ Businesses may be forced to collect personal information they don’t want to collect and consumers don’t want to give, and that data collection creates extra privacy and security risks for everyone. Further, the Commission Nationale de l’Informatique et des Libertés (CNIL) analyzed several existing online age verification solutions but found that none of these options could satisfactorily meet three key standards: 1) providing sufficiently reliable verification; 2) allowing for complete coverage of the population, and; 3) respecting the protection of individuals’ data, privacy, and security.⁹ Though the intention to keep kids safe online is commendable, this bill is counterproductive to that initiative by requiring more data collection about young people.

3. This bill may result in denying services to all users under 18. Limiting access to the internet for children curtails their First Amendment right to information accessibility, including access to supportive communities that may not be open discussion forums in their physical location.

The First Amendment, including the right to access information, is applicable to teens. Vague restrictions on protected speech cannot be justified in the name of “protecting” minor users online nor is a state legislative

⁶ Khara Boender, *Children and Social Media: Differences and Dynamics Surrounding Age Attestation, Estimation, and Verification*, Disruptive Competition Project (May 10, 2023),

<https://www.project-disco.org/privacy/children-and-social-media-differences-and-dynamics-surrounding-age-attestation-estimation-and-verification>.

⁷ Berin Szóka, *Comments of TechFreedom In the Matter of Children’s Online Privacy Protection Rule Proposed Parental Consent Method; Application of the ESRB Group for Approval of Parental Consent Method*, TechFreedom (Aug. 21, 2023),

<https://techfreedom.org/wp-content/uploads/2023/08/Childrens-Online-Privacy-Protection-Rule-Proposed-Parental-Consent-Method.pdf>.

⁸ Caitlin Dewey, *California’s New Child Privacy Law Could Become National Standard*, The Pew Charitable Trusts (Nov. 7, 2022),

<https://pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/11/07/californias-new-child-privacy-law-could-become-national-standard>.

⁹ *Online age verification: balancing privacy and the protection of minors*, CNIL (Sept. 22, 2022),

<https://www.cnil.fr/en/online-age-verification-balancing-privacy-and-protection-minors>.

body the arbiter of what information is suitable for younger users to access. Moreover, when businesses are required to deny access to social networking sites or other online resources, this may also unintentionally restrict children's ability to access and connect with like-minded individuals and communities. For example, children of racial or other minority groups may not live in an area where they can easily connect with others that represent and relate to their own unique experiences. An online central meeting place where kids can share their experiences and find support can have positive impacts.

The hyperconnected nature of social media has led many to allege that online services may be negatively impacting teenagers' mental health. However, some researchers argue that this theory is not well supported by existing evidence and repeats a "moral panic" argument frequently associated with new technologies and new modes of communication. Instead, social media effects are nuanced,¹⁰ small at best, reciprocal over time, and gender-specific. Additionally, a study conducted by researchers from Columbia University, the University of Rochester, the University of Oxford, and the University of Cambridge found that there is no evidence that associations between adolescents' digital technology engagement and mental health problems have increased.¹¹ Particularly, the study shows that depression's relation to both TV and social media was practically zero. The researchers also acknowledged that it is possible, for example, that as a given technology becomes adopted by most individuals in a group, even individuals who do not use that technology could become indirectly affected by it, either through its impacts on peers or by them being deprived of a novel communication platform in which social life now takes place.

4. Related proposals with similar requirements for online businesses are currently being litigated in two different jurisdictions.

When the federal Communications Decency Act was passed, there was an effort to sort the online population into children and adults for different regulatory treatment. That requirement was struck down by the U.S. Supreme Court as unconstitutional because of the infeasibility.¹² After 25 years, age authentication still remains a vexing technical and social challenge.¹³ California and Arkansas recently enacted legislation that would implement age verification and estimation requirements — each law is currently facing a legal challenge due to constitutional concerns, and judges recently put both laws on hold until these challenges can be fully reviewed.¹⁴ CCIA recommends that lawmakers permit this issue to be more fully examined by the judiciary in these ongoing challenges before burdening businesses with legislation that risks being invalidated or passing on expensive litigation costs to taxpayers.

5. Businesses operating online depend on clear regulatory certainty across jurisdictions nationwide.

Existing U.S. law provides websites and online businesses with legal and regulatory certainty that they will not be held liable for third-party content and conduct. By limiting the liability of digital services for misconduct by third-party users, U.S. law has created a robust internet ecosystem where commerce, innovation, and free expression thrive — all while enabling providers to take creative and aggressive steps to fight online abuse.

¹⁰ Amy Orben *et al.*, *Social Media's enduring effect on adolescent life satisfaction*, PNAS (May 6, 2019), <https://www.pnas.org/doi/10.1073/pnas.1902058116>.

¹¹ Amy Orben, Andrew K. Przybylski, Matti Vuorre, *There Is No Evidence That Associations Between Adolescents' Digital Technology Engagement and Mental Health Problems Have Increased*, Sage Journals (May 3, 2021), <https://journals.sagepub.com/doi/10.1177/2167702621994549>.

¹² *Reno v. ACLU*, 521 U.S. 844 (1997).

¹³ Jackie Snow, *Why age verification is so difficult for websites*, The Wall Street Journal (Feb. 27, 2022), <https://www.wsj.com/articles/why-age-verification-is-difficult-for-websites-11645829728>.

¹⁴ *NetChoice, LLC v. Bonta* (N.D. Cal. 5:22-cv-08861); *NetChoice, LLC v. Griffin* (W.D. Ark. 5:23-cv-05105).



Ambiguous and inconsistent regulation at the state level would undermine this business certainty and deter new entrants, harming competition and consumers. This particularly applies to new small businesses that tend to operate with more limited resources and could be constrained by costs associated with compliance. While larger companies may be able to more easily absorb such costs, it could disproportionately prevent new smaller start-ups from entering the market.

Further, careful consideration of what constitutes best practice should consider inputs from practitioners and relevant stakeholders. Online businesses are already taking steps to ensure a safer and more trustworthy internet – recently, leading online businesses announced¹⁵ that they have been voluntarily participating in the Digital Trust & Safety Partnership (DTSP) to develop and implement best practices and recently reported on the efforts to implement these commitments.¹⁶ We urge lawmakers to study both the benefits and drawbacks of teen safety and privacy requirements and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions.

* * * * *

While we share the concerns of the sponsor and the Senate Finance Committee regarding the safety of young people online, we encourage Committee members to resist advancing legislation that is not adequately tailored to this objective. We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Jordan Rodell
State Policy Manager
Computer & Communications Industry Association

¹⁵ Margaret Harding McGill, *Tech giants list principles for handling harmful content*, Axios (Feb. 18, 2021), <https://www.axios.com/techgiants-list-principles-for-handling-harmful-content-5c9cfba9-05bc-49ad-846a-baf01abf5976.html>.

¹⁶ See, e.g., DTSP, *The Safe Assessments: An Inaugural Evaluation of Trust & Safety Best Practices* (July 2022), https://dtspartnership.org/wp-content/uploads/2022/07/DTSP_Report_Safe_Assessments.pdf (Appendix III: Links to Publicly Available Company Resources), at 37.

MD SB 571_UNFAV_Kirsten DSouza.pdf

Uploaded by: Kirsten DSouza

Position: UNF



Testimony of Kirsten D'Souza
Coalitions Director
Chamber of Progress
Re: MD SB 571

February 14, 2024

Good afternoon Chair Beidle and members of the Committee:

My name is Kirsten D'Souza and I serve as the Coalitions Director for the Chamber of Progress, a tech industry coalition committed to ensuring all Americans benefit from technological leaps. Our corporate partners include companies like Amazon and Google but our partners do not have a vote on or veto over our positions.

We urge your committee to oppose SB 571 which will impose fundamental changes to how critical online services work, rendering many of them unusable for vulnerable populations in Maryland.

One of Chamber of Progress's top priorities is ensuring children have access to safe and inclusive online spaces. Unfortunately, many regulations and policies modeled after Age-Appropriate Design Code with the intention of protecting children may end up doing more harm than good by exacerbating the vulnerabilities of marginalized young people.

For minors, social media connections can provide a lifeline.

In the CDC's latest [Adolescent Behaviors and Experiences Survey](#), more than half (55%) of young people experienced emotional abuse in the home and more than 10% reported experiencing physical abuse in the home. A majority of adolescents [report](#) that social media helps them feel more accepted (58%).

The support social media offers from peers to mitigate stress can be especially important for youth who are often marginalized, including racial, ethnic, and sexual and gender minorities. For example, minors within the [LGBTQ+ community](#) use social media to find friends, seek emotional support, and search for information about their identities and health - especially those growing up in unsupportive families or communities.

There may be unintended consequences concerning the definition of "harm" to minors,



including over-moderation.

We are concerned about SB 571 lacking a clear specific definition of “harm” to minors.

This provision will cause social media platforms to avoid litigation by over moderating. This disproportionately impacts young people of color, as [social media has provided a platform for teens and students of color](#) to speak up against racial prejudice, with 82% of Black and Hispanic users stating that social media is effective for creating sustained social movements and preserving historically-marginalized groups’ access to protected speech.

Fearful that the Attorney General may deem certain content “harmful” to some or all minors, or find a company’s newly required child-centric data protection assessments inadequate, online services will be pressured to identify remote or unlikely harms—and to self-censor accordingly. The AADC will thus discourage websites from hosting and promoting content—for users under the age of 18 and for adults, due to age-assurance challenges—including critical resources that underprivileged children rely on to deal with familial and personal crises.

We agree with the need to build in greater protections for young users, but some of this bill’s requirements would end up harming vulnerable users. Accordingly, we request you **oppose SB 571.**

Thank you,

Kirsten D’Souza
Coalitions Director

[MD] SB 571 Child Privacy_TechNet_pdf.pdf

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Position: UNF



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February 13, 2024

The Honorable Pam Beidle
Chair
Senate Finance Committee
Maryland Senate
3E Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: SB 571 (Kramer) - Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code).

Dear Chair Beidle and Members of the Committee,

On behalf of TechNet, I'm writing to offer remarks on SB 571 related to children's data privacy.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.2 million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, and Washington, D.C.

TechNet strongly believes children deserve a heightened level of security and privacy and there are several efforts within the industry to incorporate protective design features into their websites and platforms. Our companies have been at the forefront of raising standards for teen safety and privacy across the industry by creating new features, settings, parental tools, and protections that are age appropriate and tailored to the differing developmental needs of young people. Our member companies are committed to providing a safe, age-appropriate experience for young people online; however, we are opposed to this bill's approach for several reasons.

The requirement that companies consider the "Best interests of children" is incredibly difficult to interpret. Different companies, even parents in one household, will have very different interpretations of what is and isn't in the "best interests" of children. In addition, the definition "Reasonably likely go be accessed

by children” is an overinclusive standard and would capture far more websites and platforms. Consideration should be given to websites, such as online news, which are likely to be accessed by users of all ages and do not require visitors to register to view content. Additionally, this bill is preempted by the Children’s Online Privacy Protection Act, or “COPPA”. SB 571 would change the threshold from COPPA’s “directed to children” to “reasonably likely to be accessed by children”.

SB 571 would require companies to set default privacy settings to a high level and restrict use of algorithms to augment, inform, or analyze the customer experience unless the company can prove with reasonable certainty the user is not a minor. Furthermore, companies would be required to prepare data protection impact assessments on data management and processing practices, targeted advertising, automatic playing of media, rewards, notifications, algorithms, and “any other factor that may indicate that the online product is designed and offered in a manner that is consistent with the best interests of children”. Again, the reference to “any other factor” is overinclusive and ambiguous, making compliance with this provision difficult.

There is currently a preliminary injunction against the California AADC, which contains similar provisions outlined in SB 571. The lawsuit brought alleged that the AADC violates the First and Fourth Amendments and the Dormant Commerce Clause, is unconstitutionally vague, and is preempted by COPPA and Section 230 of the Communications Decency Act. Because of this pending litigation, TechNet recommends waiting until the litigation is concluded before considering similar legislation.

In conclusion, the best way to keep young people safe online is by promoting the education of safe internet practices. We support policies that help prepare young people to be a successful part of a global, interconnected, and technology-driven economy. Such policies include supporting digital learning resources and technology integration in student learning environments, fully funded K-12 education, and rigorous computer science standards. Digital citizenship education is a top priority for TechNet and its member companies. Several businesses participate in the Digital Trust & Safety Partnership (DTSP), which outlines best practices for those operating in the digital space. We would suggest that concerned stakeholders proactively partner with organizations and companies supporting digital citizenship and online safety education.

TechNet also suggests shifting the focus to an omnibus privacy solution, such as the one being proposed in Maryland presently, and other states’ models. Other states’ omnibus privacy laws already include children’s data protections and rights to access, correct, port, and delete personal data. An omnibus privacy law to cover the protection of minors would provide for increased flexibility for Maryland businesses, parents, and those under eighteen, as well as the interoperability among states.

We recognize the importance of strong protections for children and teens, but those efforts should account for teens' autonomy and aim to achieve consistency with emerging norms. For the above stated reasons, including pending litigation, TechNet is opposed to SB 571. Thank you for your time and we look forward to continuing these discussions with you.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

MDDC Oppose SB571.pdf

Uploaded by: Rebecca Snyder

Position: UNF



Maryland | Delaware | DC Press Association

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To: Senate Finance Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: February 14, 2024

Re: SB571 - OPPOSE

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of newspaper publications, from large metro dailies such as the Washington Post and the Baltimore Sun, to hometown newspapers such as the Star Democrat and Maryland Independent, to publications such as The Daily Record, Baltimore Jewish Times, and online-only publications such as the Baltimore Banner, MoCo 360, Maryland Matters and Baltimore Brew.

The Press Association cannot support SB 571 as written. The goals of the legislation, protecting children from undue digital influence and advertising are laudable, however, this legislation captures news media and its efforts to support news operations through advertising in its cross hairs. We appreciate the work and compromise that went into discussions with the sponsor last year to clarify that content is not the focus and we believe the bill is better for it. However, in reviewing the new bill to last year's version, there remain a few areas of concern.

The Press Association recently recorded a podcast episode with noted privacy expert, Cobun Zweifel-Keegan, Managing Director of the International Association of Privacy Professionals. [Listen to learn more](#) about the issue and the context of these types of bills nationally and internationally.

Ideally, there would be an exemption for news media, either using language from the federal Kids Online Safety Act, or Maryland's own definition of a "news media entity." Maryland has already decided that digital advertising restrictions should apply to social media platforms and not news media, as news media is exempt from digital advertising taxes. NOT granting a media exemption would be confusing.

This bill casts the net so wide with the term "covered entities" and news media gets lumped in with the covered entities. Here's why news media is different.

- Per the Communications Decency Act of 1996 Section 230, social media platforms are not responsible for the content on your platform. News publishers are directly responsible for the content, moreover that *is* our platform. We already take responsibility for the content and are liable for it. Social media does not, by design.
- Social media and "big tech" collects an enormous amount of data on its users. Think about all the information that platforms have: birthdays, facial recognition, pictures, videos, chats, and conversations with friends. Now think about local news. What does it take to sign up to get alerts or even a subscription? News media doesn't care who reads the content.



We believe a strong news media is central to a strong and open society.

Read local news from around the region at www.mddcnews.com

- We don't know many details about our readers. Children read our material, but our consumers (those we collect data from) are definitely NOT children. Based on our latest industry survey, What we know about our audience is this – based on our industry survey, our readers skew overwhelmingly over 21.

Free speech restraints would have a disproportionate impact on consumers of news media. Because the Maryland Kid Code's knowledge standard is "reasonably likely to be accessed" and not an actual knowledge standard, the bill imposes a practical quandary for covered entities, including news media entities. Publishers would need to choose between verifying the age of individual users or, alternately, adjusting content and data processing practices for all users. An unknown bar means that publishers must go through all the steps in the bill to protect themselves, often at significant costs.

The California Age Appropriate Design Code Act (CAADCA) was enjoined as overly broad because its prescriptive requirements for age estimation and the requirement to apply data protection for both children and adults could restrain a great deal of free speech, as content providers may choose not to cover topics or events that may be of interest to children at all, in order to avoid running afoul of the CAADCA. If enacted without amendment, the Maryland Kids Code could face similar challenges as its knowledge standard could restrain a great deal of free speech if covered entities choose to either exclude children entirely or limit adults' access to that which is (arbitrarily) age-appropriate for minors.

In striking down the California Age Appropriate Design Code Act, Judge Labson Freeman found that requiring covered businesses to consider various potential harms to children would make it "almost certain that news organizations and others will take steps to prevent those under the age of 18 from accessing online news content, features, or services."

Other areas of concern include:

1. We believe the bill's broad definition of "profiling" would include virtually any form of automated processing, including that used to support advertising, which is a critical revenue stream for sustaining the news media industry. The trusted, curated content is the "online product" of news media, but the language as written could significantly curtail expected targeted advertising practices, which we understand is not the bill's intent. We again recommend amending the language to 14-4606.(2)(1) to state: "Profiling is necessary to provide or support the online product, and is done only with respect to the aspects of the online product that the child is actively and knowingly engaged with; or The covered entity can demonstrate a compelling reason that profiling is in the best interests of children not materially detrimental to the child."

We appreciate the additional qualification that limits the definition of "profiling" to processing that results in an assessment or judgment about an individual, but believe these could be overbroad. We instead recommend following other states' profiling language: Amend 14-4601.(S)(2) to state: "" profiling" does not include the processing of personal data that does not result in an assessment or judgment about an individual—legal or similarly significant effects concerning an individual."

2. In recognition of the expanded provisos included in 14-4610, we suggest including additional language that explicitly acknowledges the right of free speech pursuant to the First Amendment, as modeled by other states' enacted consumer privacy legislation. Add to 14-4610.(5): "Nothing in this chapter shall be construed as an obligation imposed on operators that adversely affects the rights or freedoms of any persons, such as exercising the right of free speech under the First Amendment to the United States Constitution."

3. The expanded definition of “collect” to include active and passive data from the consumer, especially when coupled with the bill’s lack of an actual knowledge standard, opens the door to unknowing statutory violations of the bill where no harm was intended.

We recommend reverting to the prior definition of “collect” at 14-4601.(F), consistent with other legislative efforts around data processing.

4. Expanding “personal data” to include “derived data” to incorporate correlations, predictions, assumptions, inferences, or conclusions similarly expands the likelihood of an unknowing statutory violation. Critically, it has not been included in other children’s online safety legislation in this format. We recommend reverting to the prior bill version’s incorporation and striking 14-4601.(M).

We urge an unfavorable report.

FINAL MD SB 571 Testimony - Josh Withrow.pdf

Uploaded by: Robert Melvin

Position: UNF



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Testimony from:
Josh Withrow, Fellow, Tech & Innovation Policy, R Street Institute

Testimony in Opposition to SB 571, the “Consumer Protection-Online Products and Services-Data of Children (Maryland Kids Code)”

February 13, 2024

Maryland Senate Finance Committee

Chairwoman Beidle and members of the committee,

My name is Josh Withrow, and I am a fellow with the Technology and Innovation Policy team at the R Street Institute (“R Street”), which is a nonprofit, nonpartisan, public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including the technology and innovation sector.

We are concerned that in pursuit of the worthy goal of protecting children, SB 571 places a duty of care upon online services that would make it nearly impossible to know if they comply, and which would place unconstitutional burdens on both platforms’ and users’ freedom of speech.

SB 571 and its companion, HB 603, are substantially similar to last year’s proposed Maryland’s Age Appropriate Design Code (AADC) Act and would still be entered under that name in statute. Much of the legislation is borrowed from the law of the same name passed by California in 2022, which in turn is based on the British age-appropriate design code.¹ Notably, Maryland’s AADC specifically refers businesses covered by this law to “look to guidance and innovation” from its California and U.K. predecessors “when developing online products that are likely to be accessed by children,” effectively outsourcing the specifics of enforcement to those outside regulators.²

Many of the AADC’s provisions deal with regulating the collection, storage, use and sale of data collected on minors. Like many other states, Maryland operates without a comprehensive data privacy and security law. While SB 571 mirrors the United Kingdom’s and California’s respective AADC laws, it is essential to note that the United Kingdom and California have comprehensive privacy and security laws to fill in any gaps. We firmly believe that Congress should act to preempt a patchwork of state comprehensive privacy laws, but acting on a narrower bill without broader protections is also problematic. In addition, should this bill motivate digital services to implement stricter age verification procedures, these may cause further data privacy and security concerns as websites—or the third-party services they employ—will have to process more personally identifying information.³



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As R Street has pointed out with respect to California's AADC, the vagueness in defining terms that plagues much of the AADC's text means that how the law will actually be enforced rests in the hands of bodies like California's Children's Data Protection Working Group and the California Privacy Protection Agency.⁴ These outside regulators will determine, in the future, how to interpret whether online services that are "likely to be accessed by children" have considered "the best interests of children" in the design of their products, and what product designs are sufficient to prevent minors from being exposed to "potentially harmful" material. These definitions are so vague as to make advance compliance on the part of companies nearly impossible, yet they will be exposed to state-led litigation accompanied by hefty financial penalties for failure to comply.

Partially because of this uncertainty, online services are incentivized to take countermeasures that are likely to restrict free speech online greatly. For example, although neither California's nor Maryland's AADC proposals explicitly mandate that websites enact strict age verification, both place online services in a dilemma that is likely to push them toward some form of age assurance in practice. SB 571 does improve upon last year's version by specifying that it should not "be interpreted or construed to... require a covered entity to implement an age-gating requirement."

In practice, however, it is likely that the vagueness of what makes a site "reasonably likely to be accessed by children" will lead to many covered platforms feeling obliged to enact age-gating even in the absence of a hard mandate that they do so. The existing methods that websites can employ to estimate or verify age are all to some extent intrusive and imperfect, and all create a barrier to accessing a given website or app.⁵

Maryland's AADC is likely to run afoul of the First Amendment due to its strong inducement for online platforms to over-censor content in order to avoid being penalized under the law's vague concept of what might be harmful to minors. Every digital service is required to file a Data Protection Impact Assessment within 90 days of introducing any new service that minors might conceivably access, which requires them to "determine whether the online product is designed and offered in a manner consistent with the best interests of children." Under threat of massive fines for misjudging what may be hypothetically not in the best interests of children, many platforms will certainly default to taking down all content on entire subjects, which is likely to remove self-help and educational material along with anything genuinely harmful.⁶

This pressure to over-censor content is a core flaw with the very design concept of the Age Appropriate Design Code. The British law from which the AADC derives did not need to consider the First Amendment's stringent protections of freedom of access to speech, but a U.S. law does. California's AADC is already under injunction, with a District Court judge ruling that it is likely to be found in



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violation of the First Amendment because of the pressure it creates for platforms to censor otherwise legal content.⁷ This legislation would almost certainly attract a similar constitutional challenge, at great cost to Maryland taxpayers.

The Maryland Kids Code, like laws it largely copies from, is worthy in its intent and aim to address the real and significant problems raised by minors who come into contact with harmful content and individuals on the internet. However, the law is simply too vague for even the most conscientious online service to be able to comply with, and would thus pose a likely unconstitutional burden on both platforms' and users' rights to free speech. Thus, we ask that legislators oppose SB 571.

Thank you for your time,

Josh Withrow
Fellow, Technology & Innovation Policy
R Street Institute
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jwithrow@rstreet.org

¹ Assembly Bill No. 2273, The California Age Appropriate Design Code Act, California Legislature; "We Need to Keep Kids Safe Online: California has the Solution," 5 Rights Foundation, last accessed March 3, 2023. <https://californiaaad.com>; "Introduction to the Age appropriate design code," U.K. Information Commissioner's Office, last accessed March 3, 2023. <https://ico.org.uk/for-organisations/guide-to-data-protection/ico-codes-of-practice/age-appropriate-design-code>.

² Senate Bill 571, Maryland Kids Code, General Assembly of Maryland. <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0571?ys=2024RS>

³ Shoshana Weissmann, "The Fundamental Problems with Social Media Age Verification," R Street Institute, May 16, 2023. <https://www.rstreet.org/commentary/the-fundamental-problems-with-social-media-age-verification-legislation/>.

⁴ Chris Riley, "Opportunities for Improvement to California's Age-Appropriate Design Code and Similar Laws," R Street Institute, Nov. 17, 2022. <https://www.rstreet.org/commentary/opportunities-for-improvement-to-californias-age-appropriate-design-code-and-similar-laws>.

⁵ "Online age verification: balancing privacy and the protection of minors," Commission Nationale de l'Informatique et des Libertés, Sept. 22, 2022. <https://www.cnil.fr/en/online-age-verification-balancing-privacy-and-protection-minors>.

⁶ Tamra Moore and Christopher P. Eby, "Amici Curiae Brief of Chamber of Progress, IP Justice, and LGBT Tech Institute in Support of Plaintiff's Motion for Preliminary Injunction," King & Spalding LLP, March 1, 2023.



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<http://progresschamber.org/wp-content/uploads/2023/03/AS-FILED-Ex.-A-Amici-Curiae-Brief-of-Chamber-of-Progress-et-al.-NetChoice-1.pdf>.

⁷ “Order Granting Motion for Preliminary Injunction,” Case No. 22-cv-08861-BLF, U.S. District Court Northern District of California, San Jose Division, <https://netchoice.org/wp-content/uploads/2023/09/NETCHOICE-v-BONTA-PRELIMINARY-INJUNCTION-GRANTED.pdf>.

SB 571_MDCC_Maryland Kids Code_INF.pdf

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Position: INFO



MARYLAND
Chamber of Commerce

LEGISLATIVE POSITION

Letter of Information

Senate Bill 571

Consumer Protection - Online Products and Services - Data of Children (Maryland Kids Code)

Senate Finance Committee

Wednesday, February 14, 2024

Dear Chairwoman Beidle and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce (the Chamber) is the leading voice for business in Maryland. We are a statewide coalition of more than 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic growth and recovery for Maryland businesses, employees, and families.

Senate bill 571 creates a new framework for safeguarding the online privacy of children. As Maryland considers legislation addressing the important issue of ensuring a safe environment for children online, we encourage the committee to consider the suit which was filed in the U.S. District Court for the Northern District of California which was brought against California's Age-Appropriate Design Code Act, initially scheduled to go into effect in 2024. In September 2023, a judge blocked California from enforcing the new law, saying the law's commercial speech restrictions violate the first amendment. Since that time, California's Attorney General has attempted to overturn the injunction, that process is now underway in the courts. Deadlines for briefs are scheduled through mid-March.

The Maryland Chamber of Commerce is recognizing the importance of this current suit as SB 571 is patterned after the recently passed California law violating the first amendment. We appreciate your consideration of these comments on SB 571.

MDCHAMBER.ORG

60 West Street, Suite 100, Annapolis 21401 | 410-269-0642

Joint Ad Trade Letter in Opposition to Maryland SB

Uploaded by: Travis Frazier

Position: INFO



February 12, 2024

Senator Pamela Beidle
Chair of the Maryland Senate
Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Senator Benjamin F. Kramer
401 Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Senator Chris West
322 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Delegate Brian M. Crosby
231 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Sara Love
210 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

Senator Katherine Klausmeier
Vice Chair of the Maryland Senate
Finance Committee
123 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Senator Katie Fry Hester
304 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Delegate C. T. Wilson
Chair, Maryland House Economic Matters
Committee
231 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401

Delegate Jared Solomon
312 Lowe House Office Building
6 Bladen Street
Annapolis, MD 21401

RE: SB 571 and HB 603 – Maryland Age-Appropriate Design Code Act

Dear Chair Beidle, Vice Chair Klausmeier, Senator Kramer, Senator Hester, Senator West, Chair Wilson, Vice Chair Crosby, Delegate Solomon, and Delegate Love:

We write to respectfully express our concerns with **SB 571 and HB 603**,¹ the Maryland Age-Appropriate Design Code Act (“Maryland Kids Code”). While we strongly agree with protecting Maryland’s children online, these bills would subject an excessively large range of companies to severe requirements and restrictions that would hamper innovation and hurt Maryland consumers.

As the nation’s leading advertising and marketing trade associations, we collectively represent thousands of companies across the country. These companies range from small businesses to household brands, advertising agencies, and technology providers. Our combined membership includes more than 2,500 companies that power the commercial Internet, which accounted for 12

¹ Maryland SB 571 (Gen. Sess. 2024), located [here](#) and Maryland HB 603 (Gen. Sess. 2024), located [here](#).

percent of total U.S. gross domestic product (“GDP”) in 2020.² Our group has more than a decade’s worth of hands-on experience it can bring to bear on matters related to consumer privacy and controls. We would welcome the opportunity to engage with you further issues with the Maryland Kids Code outlined here.

I. The Maryland Kids Code is modeled after legislation in California that a court found to likely violate the First Amendment of the U.S. Constitution. Maryland should not advance bills that are based on legislation being challenged in the courts.³ The Maryland Kids Code contains several provisions that very likely abridge First Amendment and Fourth Amendment protections, as well as the Due Process and Commerce Clause of the United States Constitution. California courts granted a preliminary injunction halting enforcement of a very similar law enacted in California based on these challenges.⁴ Maryland’s legislature should not follow in California’s footsteps by passing a law that abridges minors’ constitutional protections and risks being invalidated.

II. The Maryland Kids Code sweeps in any property that displays even minimal advertising that could appeal to U-18s, which will result in nearly every company falling under the bills’ reach. For example, the bills could be read to apply to the online offerings of clothing retailers, professional sports organizations, and restaurants, simply because it’s possible 17-year-olds may access them. In addition, to help ensure “children” are not “likely” to access an online service, product or feature, businesses may require visitors to pass through “age gates” for access. Anyone attempting to access a website would have to provide specific age information to the site owner before reading its contents. The legislation would significantly hamper an individual’s ability to seamlessly move from one website to the next to reach desired information or content. Moreover, the bills’ onerous standards and broad reach will severely hinder companies from doing business in Maryland and degrade the consumer experience online.

III. The Maryland Kids Code would deprive Maryland’s youth of access to and benefit from the Internet. The bills would prevent Maryland’s minors from accessing a wealth of information that otherwise would be at their fingertips. Shrinking the variety of content, viewpoints, voices, and information 17-year-olds can reach will not protect them, but instead will ensure they will not have the same experience with the Internet as their contemporaries living in other states, such as Virginia or Washington D.C. Maryland’s youth do not require a protectionist shield from information about the world. The bills will turn off Maryland minors’ access to the greatest informational resource in modern history.

IV. The Maryland Kids Code’s definition of “child” to include teens will make them lose access to future opportunities. The bills prohibit use of personal information about a child for any reason other than the reason the personal information was collected. This prohibition could functionally end access to information for Maryland high school seniors, which would deprive them of the ability to learn about colleges, trade programs, military recruitment, and myriad opportunities for their future. Maryland should not enact a law that could hurt minors’ ability to plan for their futures.

² John Deighton and Leora Kornfeld, *The Economic Impact of the Market-Making Internet*, INTERACTIVE ADVERTISING BUREAU, 15 (Oct. 18, 2021), located at https://www.iab.com/wp-content/uploads/2021/10/IAB_Economic_Impact_of_the_Market-Making_Internet_Study_2021-10.pdf.

³ Complaint, *NetChoice LLC v. Bonta* (N.D. Cal., Dec. 14, 2022), located [here](#).

⁴ Order Granting Motion for Preliminary Injunction, *NetChoice LLC v. Bonta* (N.D. Cal., Sept. 18, 2023), located [here](#).

While we understand the need to protect children as they navigate the Internet, the Maryland Kids Code is the wrong way to accomplish this goal. The over-broad definitions included in the bills mean that while intended to protect children, the bills will apply to many websites and applications with intended audiences outside of this scope. Imposing the bills' requirements onto most of the Internet will decrease innovation, remove vital benefits of the internet for children, harm the consumer experience, and hamper the data driven economy.

* * *

We and our members support privacy protections for children. We believe, however, that the Maryland Kids Code takes the wrong approach to such protections. We therefore respectfully ask you to decline to advance the bills.

Thank you in advance for your consideration of this letter.

Sincerely,

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