

## Utah HB 464

## Opposition Testimony

February 14, 2024

### Utah House of Representatives House Judiciary Committee

NetChoice respectfully asks that you **oppose HB 464** into law as it inappropriately politicizes an inconclusive and underdeveloped area of psychological research and would unleash the trial bar upon Utah to calamitous effect.

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.

While the goal of protecting children online is a vital one, the legislation before the committee is not a child safety bill. Indeed, after a half-hearted attempt by the state to defend a previous iteration of the legislation in court, HB 464 represents a total capitulation to actually legislate on the issue of child safety. Instead, the bill seeks to pretend that the still developing science related to minors' use of digital tools is conclusive, argues that the "conclusion" is that those tools are a health emergency, and instead of crafting solutions, allows an open-ended system for lawsuits facilitated by the trial bar. It is a total repudiation of what the bill authors claim is their sacred responsibility.

For these reasons we ask that you **not advance HB 464**.

### Politicizing the Science Around Children's Online Safety

Not all children are the same. Common sense and the existing research on children's online safety bears this out. There is no question that certain children are not mature enough to use particular online tools and services. Others, however, are. The only people in a qualified position to judge the difference are the parents of Utah's children, not its legislature.

HB 464 erroneously places its thumb on the scale by mischaracterizing the nature of psychological research related to children’s online safety. It claims that, “social media services are designed without sufficient tools to allow adequate parental oversight,” and that the negative side effects of social media are so great as to justify a “society wide” i.e. government response.

This however, is false. For one, there is no body of research that makes categorical claims on the use of online services by young people. While a percentage of young girls seem to be at a higher risk for negative effects from social media use related to body image, a greater proportion of young boys derive significant benefit from that same service.<sup>1</sup> Indeed, a report from the American Psychological Association<sup>2</sup> indicates the same reality: some children benefit from these tools and services while others are at higher risk. The most comprehensive independent study on the subject, coming out of Oxford University, has shown there is no correlation between Facebook and negative health outcomes at all.<sup>3</sup>

For example, one fourteen year old may find a fitness account that helps them learn to start going to the gym and eating healthy. A similarly aged young person could see the same exact content and process it in a way that leads them to develop body image issues and related challenges. Ultimately, a parent or guardian has the ability to understand their child and place themselves in between them and the device. While this is not a simple matter, especially when a teen wants to access the underlying content, there is no meaningful alternative to parental involvement that appreciates the benefits of digital engagement, the rights of children and adults, and actually addresses unhealthy behaviors and usage.

The characterization of safety technology in HB 464 leads Utah parents down a more dangerous path. According to the bill, tools largely do not exist and they cannot keep children safe. This type of sensationalization will lead parents throughout the state to forgo these tools altogether. Companies offer filtering at the router and device levels, there are tools to block the downloading of apps, there are services to link devices and accounts to track what your children are doing. There are even methods to limit screen time, beyond the tried and true method of taking away the phone. The state would do well to promote these services and help parents become more aware of them.

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<sup>1</sup> [Social Media and Youth Mental Health \(hhs.gov\)](https://www.hhs.gov/healthypeople/about/press-releases/2015/05/20150514-social-media-youth-mental-health)

<sup>2</sup> [American Psychological Association Health Advisory on Social Media Use in Adolescence \(apa.org\)](https://www.apa.org/health/advisory-social-media-use-adolescence)

<sup>3</sup> [OII | No evidence linking Facebook adoption and negative well-being: Oxford study](https://www.oxfordjournals.org/doi/abs/10.1093/oxfpub/adv001)

## Unleashing the Progressive Trial Bar

HB 464 shifts then to offering zero solutions to the plethora of public health issues it alleges are related to social media use. No increase for school counselors or mental health resources. No improvement to education or a public service campaign to empower parents. Instead, the legislation gives up and turns over the responsibility of child welfare to the trial attorneys. That a Republican legislature could come to the conclusion that the trial bar, not parents, are the best people to raise children and make decisions for families is beyond comprehension. HB 464 will lead to zero meaningful outcomes for children in Utah. Instead, the state will be blanketed with frivolous lawsuits in a similar vein to states like California and Illinois.<sup>4</sup>

This position raises significant constitutional concerns, as HB 464 was filed as a direct attempt to avoid constitutional scrutiny defending SB 152 and HB 311 (*NetChoice v. Reyes*). It is disturbing to watch the legislature, aware that their previous legislation is likely in violation of the First Amendment, follow it up by passing legislation that amounts to a catastrophic financial penalty on an entire industry for hosting content that the state does not like. Proponents of HB 464 may be under the impression that a court will read it as wholly separate from the legal questions in *NetChoice v. Reyes*. This would not be a safe bet.

Again, we respectfully ask you to **oppose HB 464**. 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.<sup>5</sup>

Sincerely,

Zach Lilly

Deputy Director of State & Federal Affairs, NetChoice

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

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<sup>4</sup> [Illinois Biometric Privacy Cases Jump 65% After Seminal Ruling \(bloomberglaw.com\)](https://www.bloomberglaw.com/news/illinois-biometric-privacy-cases-jump-65-after-seminal-ruling)

<sup>5</sup> The views of NetChoice expressed here do not necessarily represent the views of NetChoice members.