

Maine HP 530, an Act to Regulate Social Media Use by Minors

OPPOSITION TESTIMONY

March 17, 2025

Dear Chair Carney, Chair Kuhn, and Members of the Joint Judiciary Committee:

On behalf of NetChoice, a national trade association working to make the internet safe for free enterprise and free expression, we write to express our opposition to HP 530 which would ban social media for those under 14, require all users of social media to verify their ages, and prohibit young people from accessing social media without verifiable parental consent.

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 HP 530 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.

Key Concerns:

1. HP 530 imposes unconstitutional age-verification and parental consent requirements;
2. Age-verification and parental consent presents heightened threats to privacy and undermines the state's interest in protecting the privacy of minors.
3. Age-verification usurps parental decision making.

HP 530 core provisions are unconstitutional and are already being actively litigated in other states:

This legislation raises serious First Amendment concerns by restricting the speech rights of minors. The bill's complete prohibition on social media access for those under 14 and the strict parental consent requirements for 14 and 15-year-olds represent an overly broad restriction on speech that is unlikely to survive constitutional scrutiny.

The bill's restrictions on minors' access to social media platforms raise First Amendment concerns by limiting their ability to access information and engage in protected speech. Courts have consistently recognized that minors have constitutional rights to receive information and ideas through various media. The bill's requirements would effectively create a barrier to constitutionally protected speech, as platforms would be required to verify age before allowing access to any content. This constitutes a prior restraint on speech, which courts have traditionally viewed with particular skepticism. Similar provisions have been challenged in federal court and laws in Utah, Mississippi, Arkansas, and Ohio are currently enjoined.

Additionally, the Supreme Court has invalidated parental consent requirements when they impermissibly chill access to lawful speech.¹ In *Brown v. Entertainment Merchants Association*, the Court struck down a California law restricting minors' access to violent video games without parental consent. The Court rejected the notion that a new category of unprotected speech could be created for speech directed at children, emphasizing that minors are entitled to significant First Amendment protection. Justice Scalia's majority opinion noted that the government cannot "restrict the ideas to which children may be exposed" simply because it disagrees with them.

When other courts have examined age-verification and parental consent laws, *Brown* governs. For example, when the District Court for the Southern District of Ohio reiterated that parental consent laws do not enforce parental authority but enforces *governmental* authority subject to a parental veto. "[Ohio's parental consent law] appears to be exactly that sort of law. And like content-based regulations, laws that require parental consent for children to access constitutionally protected, non-obscene content, are subject to strict scrutiny."²

Age-Verification and parental consent requirements undermine privacy:

While we share the legislature's goal of protecting young people online, HP 530's approach would create significant privacy and security concerns while potentially limiting beneficial online interactions for Maine's youth.

The bill effectively requires every internet user—regardless of age—to submit personal documentation, such as a government-issued ID, to access social media. This means websites would need to collect and store sensitive information, creating massive databases that will inevitably become targets for hackers. This runs counter to best practices of data minimization and could make Maine residents more susceptible to identity theft and fraud.

¹ *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786 (2011).

² *NetChoice v. Yost*, 716 F. Supp. 3d 539, 558 (S.D. Ohio 2024).

As we have seen, no number of safeguards can ensure against data breaches. According to Child Identity Fraud Reports from Javelin Strategy and Research, nearly 2 million children were victims of identity theft in 2022³. Meanwhile, the 2019 hack of Pearson (a school technology provider) exposed information of thousands of children, including their names, birthdates, and email addresses.⁴ Even government agencies responsible for storing personal information have been subject to massive data leaks.⁵ Mandating that websites or services collect sensitive personal data on minors as a precondition for accessing vast swaths of online speech substantially increases these risks. They also make websites juicier targets for hackers.

Accordingly, state legislatures should evaluate whether their proposed policies would advance privacy protections or simply subject minors and adults to greater vulnerability in their online lives.

HP 530 Age Verification proposals undermines traditional parental authority

Poorly designed age verification laws not only face legal challenges, but also encroach upon parents' long-established prerogatives in guiding their children's upbringing and online activities. Many online platforms have implemented robust parental control features. For example, some online platforms have led the way with impressive suites of tools for parents and teens to better protect themselves. Additional parental controls are available at the device level. For example, iPhones and iPads empower parents to limit the amount of time their children can spend on the device, choose which applications (e.g., YouTube, Facebook, Snapchat, or Instagram) their children can use, set age-related content restrictions for those applications, filter online content, and control privacy settings. This market-driven approach encourages innovation and allows for diverse solutions that can cater to different needs and preferences.

In reality, every family has different needs. Some parents may allow their child to use YouTube Kids for educational videos, and others may choose to let their teen join a moderated online community to discuss their hobbies or interests. These are choices that parents and guardians should have the right to make depending on their own child's needs—rather than the government mandating how families in Maine use the internet.

Given the constitutional problems presented by a ban of under 14 year olds, age-verification and parental consent, NetChoice urges you to oppose HP 530 to avoid identical constitutional pitfalls. Instead, we respectfully ask you to work with industry stakeholders to develop more effective

³ Javelin, *1.7 Million U.S. Children Fell Victim to Data Breaches According to Javelin's 2022 Child Identity Fraud Study*, (Oct. 26, 2022) (last visited Mar. 22, 2024),

⁴ Lindsay McKenzie, *Pearson Hack Exposes Thousands of Students' Data*, INSIDE HIGHER ED (Aug. 4, 2019), <https://www.insidehighered.com/quicktakes/2019/08/05/pearson-hack-exposes-thousands-students%E2%80%99-data>.

⁵ Sean Lyngaas, *Millions of Americans' personal data exposed in global hack*, CNN POLITICS, June 16, 2023, <https://www.cnn.com/2023/06/16/politics/cyberattack-us-government/index.html>.

approaches to protecting young people online while preserving their privacy and access to beneficial digital services. As always, we offer ourselves as a resource to discuss any of these issues with you in more detail.

Sincerely,

Amy Bos

Director of Federal and State Affairs

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