

Connecticut HB 6857, An Act Concerning the Attorney General's Recommendations Regarding Social Media and Minors.

LETTER OF OPPOSITION

May 9, 2025

Dear House Minority Leader Candelora and Members of the Connecticut General Assembly:

On behalf of NetChoice, a trade association working to make the internet safe for free enterprise and free expression, I write to express our strong opposition to House Bill HB 6857 which would require social media platforms in Connecticut to verify users' ages, obtain parental consent for minors, and limit algorithmic content for minors. NetChoice respectfully asks that you **oppose** the legislation as it:

- Fails to protect a single citizen from harm
- Puts minors's sensitive data at risk
- Violates the 1st Amendment of the US Constitution

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 HB 6857 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.

HB 6857 Violates the 1st Amendment of the US Constitution- At Least Twice Over

HB 6857 presents at least two independent First Amendment violations. First, it would infringe on the rights of users to receive protected expression without first having their age "determined" by the website and, if the user is "determined" to be a minor, securing parental consent. Second, it would infringe on the rights of *websites* to disseminate their own "distinctive expressive offering" to users without engaging in some form of age-verification.

Last year, California enacted a law similar to HB 6857. But California is currently prohibited from enforcing it. At the very least, if the legislature is not convinced of HB 6857 unconstitutionality, it should wait until the California litigation is resolved before advancing the bill.

Age-Verification and Parental Consent Requirements are Unconstitutional

Restrictions on the access to and enjoyment of speech are rarely permitted. Indeed, restrictions are permitted only for certain categories of speech, and the Court has been careful to articulate such categories as obscenity, incitement, true threats, and fighting words. But the government cannot create new categories of unprotected speech to solve some perceived social harm. *Brown*, 564 U.S. at 792. And, as *Packingham* recognized, social media is home to troves of protected, valuable speech. 582 U.S. at 105.

When the government has attempted to restrict access to speech through requirements for speakers to “determine” or “verify” the age of audience members, the Supreme Court routinely struck them down. Such restrictions impermissibly chill speech by dissuading otherwise willing speakers and listeners from participating. The government may not impose barriers as a precondition to speak or receive the speech of others. See *Reno v. ACLU*, 521 U.S. 844, 855-857 (1997); *Ashcroft v. ACLU*, 542 U.S. 656 (2004). Similarly, the Supreme Court also invalidated parental consent requirements to access lawful speech. *Brown*, 564 U.S. 786 (2011).

While HB 6857 does not purport to prevent access to social media websites outright, it *does* restrict access to the website’s “distinctive expressive offering.” *Moody v. NetChoice*, 603 U.S. at 738. That offering is protected expression, and the government may not prevent access to that offering any more than it could dictate how the *New York Times* or *Wall Street Journal* arrange articles in their newspapers.

Restrictions on Dissemination of Lawful Speech are Unconstitutional

Distinct from the First Amendment injury HB 6857 inflicts on the viewers, readers, and users of social media websites, the law inflicts a separate injury on *websites* because it prevents them from freely offering their own “distinctive expressive offering.”

The bill would make it unlawful for social media websites to offer content that is “recommended, selected, or prioritized” to users without either determining the user is an adult or obtaining parental consent for minors. This restriction prevents the exercise of editorial discretion. The judgment about what content to display “rest[s] on a set of beliefs about which messages are appropriate” to prioritize and display to users is expressive. And the government does not have the authority to alter those decisions merely because it believes it would make better choices. *Id.* at 738.

The Supreme Court’s decision last term in *NetChoice* emphatically held that the personalized feeds available on social media websites like Facebook and YouTube are protected expression under the First Amendment. Because HB 6857 would prevent the exercise of editorial discretion by prohibiting the use of these personalized feeds, it is unconstitutional.

HB 6857 Puts Minors' Sensitive Data at Risk

The privacy and data security risks posed by HB 6857 are substantial and far-reaching. The bill's core mandate for age verification would force online platforms to implement sweeping data collection practices affecting every Connecticut resident who uses these services, not just minors. This would necessitate gathering sensitive personal information such as government IDs, birth certificates, or other identifying documents from all users to establish their age with certainty. This massive collection of sensitive personal data would create an attractive target for hackers and data breaches, exposing Connecticut residents to identity theft and other privacy violations.

Furthermore, the "verifiable consent" requirements would extend these privacy concerns to parents and guardians. Platforms would need to implement systems to authenticate parental relationships and verify parental identity, potentially requiring even more sensitive documentation such as birth certificates, adoption papers, or court orders establishing guardianship. This creates a cascading effect of data collection where families must surrender significant personal information simply to access common online services.

The bill creates an irreconcilable contradiction regarding data retention. While it requires immediate deletion of information collected for age verification, it simultaneously demands that platforms continuously enforce age-specific restrictions like time limits and notification controls. Platforms cannot logically comply with both mandates – they cannot know a user is a minor (to apply restrictions) while also deleting the very information that established their status as a minor. This paradox would likely result in platforms retaining more data for longer periods to demonstrate compliance, further increasing privacy risks.

* * * * *

Again, we respectfully ask you to **oppose HB 6857**. 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.¹

Sincerely,

Amy Bos
Director of State and Federal Affairs
NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

¹ The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.