

## **Rhode Island HB 5291, creates the Rhode Island Social Media Regulation Act**

### **OPPOSITION TESTIMONY**

March 26, 2025

#### **Rhode Island General Assembly House Innovation and Technology Committee**

Chair Baginski, Vice-Chair Handy, Vice-Chair Carson and Members of the House Innovation and Technology Committee.

I write today in strong opposition to HB 5291, legislation that would institute an unconstitutional age verification regime for Rhode Island's internet, threatening the First Amendment rights of citizens of every age and particularly threatening the digital privacy and security of Rhode Island's children. While well intentioned, similar bills across the country have already been placed on hold by federal courts, would invite costly litigation borne by the state and her taxpayers, and would fail to protect a single child from online harms.

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 and empower parents online. NetChoice members take teen safety seriously and have rolled out new features, settings, parental tools, and protections to better empower parents in monitoring their children's use of social media. We ask that you oppose the unconstitutional HB 5291 and instead focus legislative conversation about how best to protect minors online and consider alternatives that do not raise constitutional issues.

#### **Similar Laws are Already Being Challenged and Blocked**

This bill's provisions are legally identical to a number of other state bills that have already been challenged and have been blocked from going into effect. While the legal proceedings are still ongoing in states like Tennessee, Florida, and Louisiana, challenges to Arkansas, Ohio, Utah, and Mississippi have

seen their age verification and parental consent laws enjoined.<sup>1</sup> This shows quite clearly that bills like HB 5291 don't provide a fruitful legislative path to child safety or parental empowerment.

## **A Threat to Free Speech and Privacy**

HB 5291 faces substantial First Amendment challenges. The bill's age verification mandate for all users effectively creates a "digital ID card" requirement that infringes on adults' right to access constitutionally protected speech anonymously.

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.

Additionally, the Supreme Court has invalidated parental consent requirements when they impermissibly chill access to lawful speech.<sup>2</sup> 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."<sup>3</sup>

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<sup>1</sup> See NetChoice Litigation Center docket, [Litigation Center - NetChoice](#)

<sup>2</sup> *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786 (2011).

<sup>3</sup> *NetChoice v. Yost*, 716 F. Supp. 3d 539, 558 (S.D. Ohio 2024).

While we share the legislature's goal of protecting young people online, HB 5291's approach would also create significant privacy and security concerns while potentially limiting beneficial online interactions for Rhode Island's youth.

As we have seen, no safeguards can protect against data breaches. According to Child Identity Fraud Reports from Javelin Strategy and Research, nearly 2 million children were victims of identity theft in 2023. Some research has shown that a quarter of children will be the victims of identity theft by the time they turn 18. The problem is worse for children in the child welfare and foster systems.<sup>4</sup> Meanwhile, the 2019 hack of Pearson (a school technology provider) exposed information of thousands of children, including their names, birthdates, and email addresses.<sup>5</sup> Even government agencies responsible for storing personal information have been subject to massive data breaches. 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 bigger targets for hackers.

Predators are also of major concern anytime the government is considering centralizing huge swaths of children's data. More concerningly, given the parental requirements in the bill, the government is not simply mandating the collection of personal identifiable information for children, but enough data on their parents and guardians to establish a legal connection to said children. Online predators will be particularly focused on identifying, stealing, and weaponizing this kind of information against the same vulnerable group that the state is seeking to protect. A "child safety" bill that weakens protections for kids online is no true child safety bill.

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.

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For these reasons, we respectfully ask you to **oppose HB 5291**. As ever, 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>6</sup>

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<sup>4</sup> R Street Institute, 2024 [Child Identity Theft Is a Huge Problem. The Solutions Are Simple. - R Street Institute](#)

<sup>5</sup> 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>.

<sup>6</sup> The views of NetChoice expressed here do not necessarily represent the views of NetChoice members.

Sincerely,

Zachary Lilly  
Deputy 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.*