



March 27, 2025

The Honorable Jacquelyn "Jackie" Baginski
Chair, Committee on Innovation, Internet & Technology
Rhode Island House of Representatives
82 Smith Street
Providence, RI 02903

Re: Please oppose HB 5830

Dear Chair Cunningham and members of the Committee:

Thank you for the opportunity to submit testimony regarding HB 5830 for the record. On behalf of the Chamber of Progress, a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advances, I urge you to **oppose HB 5830**, which could disproportionately harm historically marginalized youth in Rhode Island and threaten to violate First Amendment rights, likely leading to a protracted and unwinnable legal battle.

We recognize the efforts of HB 5830 to address harm to minors, and we remain committed to advocating for policies that prioritize online safety for young people. To that end, we appreciate your inclusion of the time-tested actual knowledge standard. However, we must also emphasize the importance of safeguarding fundamental rights such as freedom of speech and privacy, and we are concerned about the potential harm this bill may cause to youth in Rhode Island.

Data Protection Impact Assessments guarantee litigation and raise major First Amendment issues

For any business providing an “online service, product, or feature” that is “reasonably likely to be accessed by children,” HB 5830 mandates that the platform complete Data Protection Impact Assessments (DPIAs) before publishing that new functionality. Because all websites could be accessed by a child and all websites carry a nonzero risk of harm to children, HB 5830’s DPIA requirements effectively chill internet services from developing new products and features—even products and features that could materially benefit and improve safety for children—to avoid future litigation risks associated with their DPIAs. The Ninth Circuit Court of Appeals, assessing just such a requirement in California’s Age Appropriate Design Code Act, held that the Act unconstitutionally

compelled websites' protected speech and deputized websites into serving as censors for the government, in violation of the First Amendment.¹

Furthermore, recent rulings from courts in Arkansas,² Utah,³ Mississippi,⁴ and Ohio⁵ underscore the principle that regulatory measures impacting the core editorial and curatorial functions of social media companies, even when intended to safeguard young users, are subject to rigorous constitutional scrutiny under the First Amendment.

HB 5830 directly contradicts established legal precedent. As the Supreme Court emphasized in *Moody v. NetChoice*, the First Amendment restricts governmental interference with the editorial discretion of private entities.⁶ And the Supreme Court has routinely held that the First Amendment protects the rights of individuals, regardless of age, to access lawful expression. HB 5830, through its content-based and speaker-based restrictions, unequivocally infringes upon these fundamental freedoms. Moreover, similar legislative efforts aimed at restricting minors' access to protected speech have been met with significant judicial skepticism.⁷ Courts have consistently demanded a compelling justification for such measures, alongside concrete evidence of their necessity and effectiveness in mitigating harm. The failure to meet this high bar of constitutional scrutiny renders these attempts legally untenable.

As such, HB 5830 not only contravenes core constitutional values but also is likely to be adjudicated as unconstitutional on the grounds of the First Amendment, among other legal and policy considerations.

Platforms may over-moderate for all users, disparately impacting historically marginalized youth

The “reasonable care” provision in HB 5830 is well-intentioned but ultimately overly broad. The bill effectively imposes liability on covered entities with “the duty to use reasonable care to avoid any heightened risk of harm to known children” without clearly

¹ *NetChoice, LLC v. Bonta*, 113 F.4th 1101, 1117 (9th Cir. 2024)

² *NetChoice, LLC v. Griffin*, No. 5:23-cv-05105 (W.D. Ark. filed June 29, 2023). “If the State’s purpose is to restrict access to constitutionally protected speech based on the State’s belief that such speech is harmful to minors, then arguably Act 689 would be subject to strict scrutiny.”

³ *NetChoice, LLC v. Reyes*, No. 2:23-CV-00911-RJS-CMR, 2024 WL 4135626 (D. Utah Sept. 10, 2024)

⁴ *NetChoice, LLC v. Fitch*, No. 1:24-CV-170-HSO-BWR, 2024 WL 3276409 (S.D. Miss. July 1, 2024)

⁵ *NetChoice, LLC v. Yost*, 2024 WL104336 (S.D. Ohio Jan. 9, 2024). “As the [Supreme] Court explained, ‘[s]uch laws do not enforce parental authority over children’s speech and religion; they impose governmental authority, subject only to a parental veto.’ The Act appears to be exactly that sort of law. And like other content-based regulations, these sorts of laws are subject to strict scrutiny.”

⁶ *Moody v. NetChoice, LLC*, 144 S. Ct. 2383, 2405, 219 L. Ed. 2d 1075 (2024)

⁷ The *Griffin* Court noted “[E]ven though the State’s goal of internet safety for minors is admirable, ‘the governmental interest in protecting children does not justify an unnecessarily broad suppression of speech addressed to adults.’” Similarly, the *Bonta* Court found that the California Age Appropriate Design Code is not based on any direct evidence demonstrating a causal link between social media use and harm to younger users.

defining these terms or outlining objective enforcement criteria. This ambiguity could lead to arbitrary enforcement and unintended censorship, as platforms may over-moderate content to avoid potential liability, resulting in a diminished experience for users of *all* ages and restricting vulnerable youth from the resources they need the most.

Marginalized and at-risk youth have the most to gain from social media engagement, particularly if they face adversity or isolation offline. Researchers have identified that social media can be beneficial by offering meaningful social interactions, confirmed by a Pew survey indicating 81% of American teens say social media makes them feel more connected, while 68% say social media makes them feel that they have a support network in face of hardship.⁸ The network benefit is most critical for marginalized youth, including but not limited to youth of color,⁹ LGBTQ+ youth, youth with disabilities,¹⁰ Neurodiverse youth, and low-income youth. Common Sense Media reports that for Black, Latino, and LGBTQ+ youth “social media is a vital source of connection, news, and inspiration.”¹¹

Social media can save lives—particularly for vulnerable youth lacking supportive in-person environments. The Lancet Medical Journal's recent Commission on Self-Harm finds that social media use may have protective effects for individuals at risk of self-harm who are isolated or otherwise have difficulties forming in-person connections.¹² For many, these platforms provide a lifeline to supportive communities, offering access to mental health resources, peer support, and crisis intervention tools that may not otherwise be available. This is particularly true for LGBTQ+ youth who use online platforms to seek emotional support, search for information about their identities, and find communities that accept them when their own parents do not.¹³ In Vermont, 42% of LGBTQ+ youth do not consider their home to be an affirming environment,¹⁴ while 68% of LGBTQ+ youth nationwide reported finding online spaces to be supportive, and 64% identified role models on social media.¹⁵

We agree that greater protections for young users are needed, but this bill's

⁸ Zain Jafar, et. al., at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10439458/#R18>

⁹ Thomas, A., Jing, M., Chen, H. Y., & Crawford, E. L. (2023). Taking the good with the bad?: Social Media and Online Racial Discrimination Influences on Psychological and Academic Functioning in Black and Hispanic Youth. *Journal of youth and adolescence*, 52(2), 245–257. <https://doi.org/10.1007/s10964-022-01689-z>

¹⁰ See <https://www.nytimes.com/2019/06/05/learning/im-a-disabled-teenager-and-social-media-is-my-lifeline.html>

¹¹ See https://www.common Sense Media.org/sites/default/files/research/report/2024-double-edged-sword-hopelab-report_final-release-for-web-v2.pdf

¹² Moran, P., Chandler, A., Dudgeon, P., Kirtley, O. J., Knipe, D., Pirkis, J., Sinyor, M., Allister, R., Ansloos, J., Ball, M. A., Chan, L. F., Darwin, L., Derry, K. L., Hawton, K., Heney, V., Hetrick, S., Li, A., Machado, D. B., McAllister, E., McDaid, D., ... Christensen, H. (2024). The Lancet Commission on self-harm. *Lancet* (London, England), 404(10461), 1445–1492. [https://doi.org/10.1016/S0140-6736\(24\)01121-8](https://doi.org/10.1016/S0140-6736(24)01121-8)

¹³ Michele Ybarra, et. al., “Online social support as a buffer against online and offline peer and sexual victimization among U.S. LGBT and non-LGBT youth.” *Child Abuse & Neglect* vol. 39 (2015). <https://www.sciencedirect.com/science/article/pii/S014521341400283> [X?via%3Dihub](#)

¹⁴ See <https://www.thetrevorproject.org/wp-content/uploads/2022/12/The-Trevor-Project-2022-National-Survey-on-LGBTQ-Youth-Mental-Health-by-State-Vermont.pdf>

¹⁵ See <https://www.thetrevorproject.org/survey-2024/>

requirements would undermine those protections and harm vulnerable users. Instead of imposing a vague “duty to use reasonable care” requirement, Rhode Island should focus on strengthening digital literacy and parental tools to empower families while preserving access to information.

For these reasons, we respectfully urge you to **oppose HB 5830**.

Sincerely,

A handwritten signature in black ink, appearing to read "B. January". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'B'.

Brianna January
Director of State & Local Government Relations, Northeast US