



## Senate Bill 2021

### Testimony to the Texas Senate State Affairs Committee

Dear Chair Hughes and Committee Members:

My name is Zach Whiting, policy director and senior fellow for Better Tech for Tomorrow, an initiative of the Texas Public Policy Foundation. I am testifying in support of SB 2021.

The Foundation is grateful for your leadership on keeping kids safe online. SB 2021 is an important first step, and we are encouraged to see several other bills filed this session that we hope your committee will expeditiously take up.

In January 2023, TPPF published a comprehensive report on the [risks kids face online](#). Two findings from the report and our previous testimony are relevant to SB 2021: 1) how many kids have digital devices and the significant amount of time they spend on them, and 2) the serious harms kids face online, particularly exposure to explicit content.

Access to, use of, and time on screens—particularly smartphones and tablets—has dramatically increased in the last fifteen years. Among the sobering statistics:

- According to a 2019 Common Sense Media report, 53% of minors under age 11 and [84% of teenagers have a smartphone](#).
- An August 2022 Pew Research Center poll on teen social media and online use found “that the vast majority of teens have access to digital devices, such as smartphones (95%), desktop or laptop computers (90%) and gaming consoles (80%). And the study shows there has been an uptick in daily teen internet users, from 92% in 2014-15 to 97% today. In addition, the [share of teens who say they are online almost constantly has roughly doubled since 2014-15 \(46% now and 24% then\)](#) [emphasis added].”
- A Kaiser Family Foundation survey found a [dramatic increase in daily media use](#) from 2005 to 2010: “Today, 8-18 year-olds devote an average of 7 hours and 38 minutes (7:38) to using entertainment media across a typical day (more than 53 hours a week). ... The amount of time spent with media increased by an hour and seventeen minutes a day over the past five years, from 6:21 in 2004 to 7:38 today. And because of media multitasking, the total amount of media content consumed during that period has increased from 8:33 in 2004 to 10:45 today.”
- That “totals [114 full days of media use in a year](#).”
- In 2017, NBC News reported that “teens [are] averaging [more than 6.5 hours of screen time every day](#).”
- NPR reports that those aged 8–12 spend five hours a day and teenagers spend [more than seven hours](#) a day on their phones.
- The American Academy of Child & Adolescent Psychiatry notes: “On average, children ages 8-12 in the United States spend 4-6 hours a day watching or using screens [including smartphones and tablets], and teens spend [up to 9 hours](#).”
- Forbes reported on a 2021 study which found that Americans spent on average [1,300 hours a year on social media](#)—that is more than 3.5 hours per day—[up from 90 minutes a day](#) in 2012.

In addition to the considerable opportunity costs for excessive screen time, we have previously written on how kids are exposed to [significant risks and harms on electronic devices](#), including exposure to explicit content. According to an Institute for Family Studies (IFS) report, “[86% of parents agree](#) it is too easy for kids to find sexually explicit content online.” And data backs this up. According to a Common Sense Media report, 73% of those 17 or younger, 54% of those 13 or younger, and 15% of those 10 or younger [have seen pornographic content](#). The average age of initial exposure is 12 years old. Fifty-eight percent were exposed accidentally, while 44% sought it out. According to a 2016 survey reported on by CovenantEyes, 81% of teenage respondents [most often used a smartphone or tablet to view pornography](#)—57% using a smartphone and 24% using a tablet. Only 7% used a home computer.

Exposure to explicit content—especially in the still developing and impressionable brains of kids—can have serious consequences. The brain’s reward center can be hijacked by a [dopamine-seeking feedback loop](#) which can rewire the functionality of different parts of the brain. Consumption of explicit content can also [negatively affect social relationship](#)—especially intimate relationships. It also [drives sex trafficking](#) and [increased sexual violence](#) on screen and in the intimate lives of consumers.

Furthermore, [parents say they need more help keeping their kids safe online](#). The Pew Research Center found that parents need help educating themselves about online safety. Sixty-six percent think parenting is harder in the digital age, 71% are anxious about the effects of their kids’ screen time, 71% think their kids’ smartphone use is causing more harm than good, and 61% seek advice from medical professionals, with a slightly lesser amount seeking advice from other parents (55%) and teachers (45%).

SB 2021 is a strong public policy response to a disturbing and growing problem. If more than one third of content distributed by a commercial entity is sexual material harmful to minors, SB 2021 would require the entity to use reasonable age verification measures to verify users are at least 18 years old. This is not novel nor unreasonable.

First, federal law already requires age verification on many websites and online services. The Children’s Online Privacy Protection Act (COPPA) requires [verifiable parental consent](#) for online operators that have content directed at children or knowingly collect information on children under 13. Second, protecting minors from accessing sexual material harmful to minors is long accepted by lawmakers and courts. To be clear, SB 2021 is not a puritanical ban on pornography—it is an age-limitation on accessing a harmful product. Texas already places age limitations on numerous behaviors including driving, drinking, smoking, and joining the military. Indeed, the state has a compelling interest in extending age verification requirement for accessing sexual material harmful to minors. Finally, this has been done before. [Louisiana](#) enacted a similar law which went into effect in 2023 requiring age verification to access explicit websites.

There are several concerns raised about the bill that can easily be dispatched with. Much is made about the [difficulty of online age verification](#). This is of no moment. First, as mentioned above, this is already a well-recognized requirement under COPPA. Second, some argue the government should not engage in this issue because commercial entities are already making (ineffective) [efforts](#) at age verification and creating a safer online experience for kids. Yet one cannot seriously make both arguments at the same time: 1) it is too hard to do it but 2) do not legislate because we are already doing it.

As a related matter, some raise concerns about the amount of data collected on them by showing an ID during verification process. These concerns miss the mark. First, both [Louisiana’s law](#) and Texas’ SB 2021 allow verification by government-issued identification or a commercially reasonable method of verification. Each of these methods are already recognized methods under COPPA and are widely used commercially. There are many well-known *companies that already do* instantaneous third-party age verification, including LexisNexis. Second—*importantly*—the bill requires that any information collected can be used only for verification purposes and then must be deleted. Misuse or abusive data practices violate the bill. Third, these concerns sidestep the vast amount of data collected in general. This is a topic the Foundation has [written](#) and [testified](#) on at great length. Indeed, it’s not the data collected by age verification that should trouble you—which, again, must be deleted. It is [all the data collected on you](#) and monetized by commercial entities that should concern you.

Again, we are grateful for your consideration of SB 2021 today. We hope the Legislature will go further this session and take up other measures to keep kids and vulnerable users safe online. The Foundation stands at the ready to support your efforts however we can.

Sincerely,

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