

Summary of the Senate Committee on Economic Development's Meeting on S.289.

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S.289: “An act relating to age-appropriate design code.”

- Requires any entity that develops and provides online services that children are likely to use to consider the “best interest” of children.¹
 - “Best interest” means the service does not result in:
 1. Foreseeable physical or financial harm.
 2. Foreseeable psychological or emotional harm.
 3. Offensive intrusion on reasonable privacy expectations.
 4. Discrimination based on race, color, religion, national origin, disability, sex, or sexual orientation.
- Entities must conduct “a data protection impact assessment for an online service product, or feature that is reasonably likely to be accessed by children.”
 - Following the assessment, the entity must formulate a plan to correct for practices that violate the law.
- Practices the law would result in:
 - Screen time limits.
 - Limits to push notifications.
 - Prohibition on “addictive design features.”²

Social media's affect on children:

- Many teens and children want to spend less time on their phone, but are unable to. This is due to the design of social media apps, but also the social pressures they create.³
- 73% of high schoolers and 57% of middle schoolers report spending 3 hours or more a day on screens
- 30% of adolescents were on screens until at least midnight on school nights.
- 25% of 9-17 report exposure to sexually graphic content.
- High social media use is directly correlated with higher rates of suicidal ideation and depression among children.
- Sleep deprivation is a common outcome of frequent use of social media and the internet. Inadequate sleep can have a myriad of harmful effects on children.

¹ According to Marisa Shea, Senior Policy Manager, 5Rights, “best interest” is being defined in a “narrowly tailored” and legally robust way.

² Examples of addictive features include mechanisms for infinite scrolling, time engineered notifications, etc.

³ Testimony to support this came from Juniper Galvani, Local Vermont Youth Advocate and Junior at Mansfield High School as well Dr. Heidi Schumacher, Pediatrician and Assistant Professor of Pediatrics at the Larner College of Medicine at the University of Vermont

Tech companies current practices:

- Social media has changed drastically in the last decade.
 - Early 2010s: Mostly self directed curation. Content primarily consists of family, friends, etc.
 - 2020s: Algorithmically driven. Strong incentive to keep people engaged for as long as possible. There is a functionally infinite pool of content.
- Children are a “goldmine” for companies.
 - In 2023, social media companies collectively made more than \$11 billion in advertising revenue from minors.
 - Their underdeveloped brains make them particularly sensitive to the addictive designs of social media platforms.
- Internal research from Meta indicates that provocative and extreme content are better for user retention.
 - Meta currently profits from more than 90,000 accounts that were classified as promoting or encouraging eating disorders.

Legal issues:

- A similar law in California, titled the “Children's Data Privacy Act,” was struck down by a District Court judge. Appeals are underway.
 - The appeal is being supported by around 60 experts. This includes 21 state attorney generals, members of the Federal Trade Commission, several law professors, etc.
- There are free speech concerns. Tech companies argue that regulation of their platforms in this manner is a violation of the 1st Amendment.
 - Language in S.287 has been drafted to avoid similar challenges.
 - More “narrowly tailored.”
 - Bases upon specific, well defined harms.