

November 28, 2022

Re: Opposition to S. 3663's Threats to Minors' Privacy and Safety Online

Dear Majority Leader Schumer, Chairwoman Cantwell, and Ranking Member Wicker:

We, the undersigned organizations, believe that the privacy, online safety, and digital well-being of children should be protected. However, S. 3663, the "Kids Online Safety Act" (KOSA), would undermine those goals for all people, but especially children, by effectively forcing providers to use invasive filtering and monitoring tools; jeopardizing private, secure communications; incentivizing increased data collection on children and adults; and undermining the delivery of critical services to minors by public agencies like schools. We oppose this bill.

KOSA establishes a burdensome, vague "duty of care" to prevent harms to minors for a broad range of online services that are reasonably likely to be used by a person under the age of 17. While KOSA's aims of preventing harassment, exploitation, and mental health trauma for minors are laudable, the legislation is unfortunately likely to have damaging unintended consequences for young people. KOSA would require online services to "prevent" a set of harms to minors, which is effectively an instruction to employ broad content filtering to limit minors' access to certain online content. Content filtering is notoriously imprecise; [filtering used by schools and libraries](#) in response to the Children's Internet Protection Act has curtailed access to critical information such as sex education or [resources for LGBTQ+ youth](#). Online services would face substantial pressure to over-moderate, including from state Attorneys General seeking to make political points about [what kind of information is appropriate](#) for young people. At a time when books with LGBTQ+ themes are [being banned from school libraries](#) and people providing healthcare to trans children are being falsely accused of "[grooming](#)," KOSA would cut off another vital avenue of access to information for vulnerable youth.

KOSA would also require platforms to enable parental supervision of minors' use of their services, including controlling who the minor can communicate with and limiting minors' access to certain kinds of content. While parental control tools can be important safeguards for helping young children learn to navigate the Internet, KOSA would cover older minors as well, and would have the practical effect of enabling parental surveillance of 15- and 16-year-olds. Older minors have their own independent rights to privacy and access to information, and not every parent-child dynamic is healthy or constructive. KOSA risks subjecting teens who are experiencing domestic violence and parental abuse to additional forms of digital surveillance and control that could prevent these vulnerable youth from reaching out for help or support. And by creating strong incentives to filter and enable parental control over the content minors can access, KOSA could also jeopardize young people's access to end-to-end encrypted technologies, which they depend on to access resources related to [mental health](#) and [to keep their data safe from bad actors](#).

Moreover, KOSA would counter-intuitively encourage platforms to collect more personal information about *all* users. KOSA would require platforms "reasonably likely to be used" by

anyone under the age of 17—in practice, virtually all online services—to place some stringent limits on minors’ use of their service, including restricting the ability of other users to find a minor’s account and limiting features such as notifications that could increase the minor’s use of the service. However sensible these features might be for young children, they would also fundamentally undermine the utility of messaging apps, social media, dating apps, and other communications services used by adults. Service providers will thus face strong incentives to employ age verification techniques to distinguish adult from minor users, in order to apply these strict limits only to young people’s accounts. Age verification may require users to provide platforms with personally identifiable information such as date of birth and government-issued identification documents, which can threaten users’ privacy, including through the risk of data breaches, and chill their willingness to access sensitive information online because they cannot do so anonymously. Rather than age-gating privacy settings and safety tools to apply only to minors, Congress should focus on ensuring that all users, regardless of age, benefit from strong privacy protections by passing comprehensive privacy legislation.

Finally, KOSA’s provisions may also unduly burden and even undermine the work of key institutions that serve minors, including schools. Students increasingly use a wide range of technology in school settings, through learning platforms, student information systems, online gradebooks, parental portals, and tools for sharing student data with other governmental entities to determine eligibility for benefits. Provisions in KOSA, however, broadly permit parents and children to opt out of algorithmic systems and to delete minors’ personal data from a broad range of online services, including this kind of education technology. This may undermine algorithmic systems that provide core services like school or transportation assignments and allow the deletion of permanent records such as unflattering grades or disciplinary actions. These two provisions alone demonstrate that this bill will have unintended consequences on the delivery of core educational services to minors. Overbroad provisions without tailoring for schools may unintentionally burden the provision of educational and other services to students.

In short, while KOSA has laudable goals, it also presents significant unintended consequences that threaten the privacy, safety, and access to information rights of young people and adults alike. We urge members of Congress not to move KOSA forward this session, either as a standalone bill or attached to other urgent legislation, and encourage members to work toward solutions that protect young people’s rights to privacy and access to information and their ability to seek safe and trusted spaces to communicate online.

Signed,

The 6:52 Project Foundation, Inc.
Advocacy For Principled Action In Government
Advocates for Youth
Advocating Opportunity
American Association of School Librarians
American Atheists
American Civil Liberties Union

American Humanist Association
American Library Association
Arkansas Black Gay Men's Forum
ARTICLE 19
Assembly Four
Black and Pink National
Center for Democracy & Technology
CenterLink: The Community of LGBT Centers
COLAGE
Copia Institute
Defending Rights & Dissent
EducateUS: SIECUS In Action
Electronic Frontier Foundation
Equality Arizona
Equality California
Equality Federation
Equality Michigan
Equality New Mexico
Equality Ohio
Equality Texas
Equality Utah
Equality Virginia
Erotic Service Provider Legal Education & Research Project
EveryLibrary Institute
Fair Michigan Justice Project
Fair Wisconsin
Fairness Campaign
Fight for the Future
FORGE, Inc.
Freedom From Religion Foundation
Freedom Network USA
Freedom Oklahoma
Freedom to Learn Advocates
Georgia Equality
GLAAD
GLSEN
The Human Trafficking Prevention Project
Indivisible Bainbridge Island
Indivisible Bellingham
Indivisible Plus Washington
Indivisible Whidbey Island
Internet Society
Jews for a Secular Democracy

Lexington Pride Center
LGBT Technology Partnership
Los Angeles LGBT Center
Louisiana Trans Advocates
Lower Columbia Indivisible
Loyola University Chicago School of Law NLG chapter
Massachusetts Transgender Political Coalition
National Center for Lesbian Rights (NCLR)
National Health Care for the Homeless Council
New America's Open Technology Institute
Old Pros
One Iowa
Organization for Identity and Cultural Development (OICD)
OutNebraska
Presente.org
PROMO - Missouri
Ranking Digital Rights
Reframe Health and Justice
Restore the Fourth
Right To Be
Secular Student Alliance
The Sex Workers Project of the Urban Justice Center
Silver State Equality-Nevada
Snohomish County Indivisible
Superbloom (previously known as Simply Secure)
SWOP Behind Bars
TAKE
TechFreedom
TransAthlete.com
Transgender Education Network of Texas (TENT)
TransOhio
The Tor Project
University of Iowa College of Law NLG Chapter
University of Michigan Dearborn - Muslim Student Association
WA People's Privacy
Wallingford Indivisible
Whitman-Walker Institute
Wikimedia Foundation
Woodhull Freedom Foundation
Wyoming Equality
Yale Privacy Lab