How to Address Children's Online Safety in the United States

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Protecting children from online harms requires a careful balance between ensuring safety and safeguarding free speech, user privacy, and parents' rights. The most effective approach would split responsibility between the government, parents, and online services.

KEY TAKEAWAYS

- Debates over how best to protect children are much older than the Internet, and the harms children face online are many of the same harms children face in the physical world.

- Existing federal legislation outlaws child sexual exploitation in both the physical and digital worlds and protects the privacy of children under age 13, while states have more recently passed laws imposing specific requirements on online services.

- Many of the current proposals to protect children online do not strike the right balance, overburdening parents or businesses or trampling on users' rights in the name of safety.

- A more effective approach requires regulation in areas such as privacy, digital identification, and child labor combined with industry-led efforts to give parents and children more control over their online experience.

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INTRODUCTION

Louisiana became the first state to pass a law, in 2022, mandating that websites containing at least one-third adult content verify their users' ages to ensure none are under 18.[1] Within a matter of months, other states followed, creating age verification requirements not just for adult websites but also for social media platforms. These laws reignited the debate surrounding children's safety online, raising questions of what potential harms children face in the digital world, whose job it is to protect children from those harms, and what form that protection should take.

Some child safety advocates argue that the Internet, and particularly social media, is responsible for a vast array of potential harms to younger users—including, but not limited to, bullying, addiction, sexual exploitation, and poor physical and mental health outcomes such as depression, body image disorders, self-harm, and lack of physical activity and exercise. On the other hand, the Internet and social media can and have improved young people's lives, connecting them with entertainment, education, and community. Ensuring young people get the best possible online experience—balancing safety with utility—is difficult considering every child and teenager has different needs and faces unique circumstances. One-size-fits-all regulation—such as age verification mandates—will not solve all these issues.

This report dives into the current debate surrounding children's online safety, beginning with existing legislation at the federal and state levels, including child sexual exploitation law, children's privacy legislation, and state age-appropriate design and age verification laws. It then analyzes the different proposals to address various children's online safety issues, including privacy, age verification, harmful content, child sexual abuse, and child labor. Finally, it recommends 10 steps the federal government should take to effectively protect children online without placing an undue burden on online services or infringing on users' free speech and privacy or parents' rights:

1. The Federal Trade Commission (FTC) should update the Children's Online Privacy Protection Act (COPPA) rule to reflect technological changes since 2013 while maintaining COPPA's actual knowledge standard and remaining within the law's scope of protecting children's individually identifying information.

2. Congress should pass comprehensive federal privacy legislation that addresses actual privacy harms, preempts state laws, and includes additional protections for children between ages 13 and 17.

3. Congress should pass legislation creating a national, interoperable framework for securely issuing and validating digital IDs across all levels of government.

4. Congress should provide more funding for research and testing of photo-based artificial intelligence (AI) age estimation.

5. Congress should pass legislation requiring device operating systems to create an opt-in "trustworthy child flag" and requiring apps and websites that serve age-restricted content to check for this signal.

6. Congress should amend COPPA so that websites directed at a general audience with common features, such as user feedback forms or customer service chatbots, are not required to obtain parental consent to collect information from users indicated as children by a trustworthy child flag.

7. Congress should pass legislation establishing a government-led forum to create a voluntary industry standard for interoperability on cross-platform parental controls.

8. Congress should increase funding for law enforcement to investigate child sexual abuse material (CSAM) reports and prosecute perpetrators.

9. Congress should pass federal legislation similar to the Coogan Act and Indiana's child influencer legislation that protects child performers in traditional and digital media.

10. Congress should provide funding for digital literacy campaigns that teach both children how to stay safe online and parents how to keep their children safe online.

THE CURRENT DEBATE

Debates over how best to protect children, and what potential harms society needs to protect children from are much older than the Internet and encompass much more than online harms. Problems facing children in society have never been easy to solve, and solutions to those problems often raise similar concerns to many of the proposed solutions to online harms, such as free speech, privacy, and parents' rights.

For example, the debate over how to protect children from gun violence in schools has been a key issue in America, particularly since the Columbine High School shooting in 1999.[2] The number of school shootings has trended upward since then, with a temporary dip in 2020 as many children were social distancing and learning online at the height of the COVID-19 pandemic. In 2023 alone, there were 82 school shootings.[3] Proposed solutions range from gun control to increasing school security and mental health resources, with fierce partisan debate over the effectiveness of these solutions and their Second Amendment implications.

Issues at the heart of the debate surrounding children's use of social media, such as youth mental health and suicide or youth body image and disordered eating, are not restricted to the digital world either. Diagnoses of depression and anxiety in children have increased over time, from 5.4 percent in 2003 to 8.4 percent in 2011–2012.[4] These mental health conditions can be life-threatening, with nearly 19 percent of adolescents ages 12 to 17 reporting that they seriously considered suicide and nearly 9 percent attempting suicide over a 2018–2019 reporting period.[5]

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Body image and disordered eating also pose serious risks. Eating disorders such as anorexia nervosa and bulimia have high mortality rates and cause long-term health impacts even for those who recover.[6] An estimated 2.7 percent of U.S. adolescents have, do, or will suffer from an eating disorder.[7] Social media use is just one of the many theorized environmental and genetic factors that might impact a young person's risk of developing a psychiatric malady such as depression, anxiety, or an eating disorder. Likewise, bullying—another significant problem among young people—is much older than social media and the Internet.

No amount of regulation will completely eradicate all potential harms that children face in the digital and physical worlds. The issue at hand, then, is finding the balance of regulation that effectively addresses concrete harms without overly infringing on everyday Americans' civil liberties, including their rights to privacy and free speech. Not only do regulations sometimes infringe on adults' rights to privacy and free speech, but these regulations also sometimes