



Testimony

Senate Bill 417 Testimony Before 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 417.

The Foundation is grateful for your leadership on keeping kids safe online. SB 417 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, The Foundation published a comprehensive report on the [risks kids face online](#). Two findings are relevant to SB 417: 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 15 years. Among the sobering statistics:

- 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](#).”
- According to a 2019 Common Sense Media report, 53% of minors under age 11 and [84% of teenagers have a smartphone](#).
- 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.
- 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

continued

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].”

In addition to the considerable opportunity costs for excessive screen time, 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 was 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%).

Parental empowerment, educating kids and adults on online harms and ways to stay safe, and sound policymaking—[together](#)—will go a long way to keeping kids safe online. SB 417 helps address these concerns by requiring a default filter on electronic devices activated in the state of Texas. This is not a novel concept. [Utah](#) enacted a device filtering law in 2021. According to NCOSE, [Texas and at least seven other states](#) may consider default filtering legislation this session: South Carolina, Tennessee, Montana, Louisiana, Alabama, Idaho, and Iowa.

As noted, SB 417 would require devices activated in Texas to automatically enable a filter on smartphones and tablets capable of connecting to a cellular network or the internet. This would filter and limit kids’ access to explicit, harmful content on the device. Furthermore, this is a parental empowerment bill. Having the filter activated by default is a tool for parents that can otherwise be difficult to find or activate. Furthermore, it empowers parents to disable the filter if they so choose.

The opposition’s concerns are overstated. First, this bill is neither unreasonable nor burdensome. It is the industry’s failure to act in a responsible manner to limit the harms of its products on children that necessitates state policymaking. This is not a requirement on the hardware side but on the software side. The software to do this is readily available, already on most devices, and is not the economic or compliance burden manufacturers and trade associations claim. They merely need to [flip the switch to on](#).

Second, the risks of litigation are overstated. The bill contains a [good faith exception](#): “a manufacturer does not violate this chapter if the manufacturer makes a good faith effort to provide an electronic device that automatically enables a filter”. The good faith immunity is wide enough that a truckload of electronic devices could drive through it. Regardless, this enforcement and penalty provisions for manufacturers and nonparent violators—in a revised form—are important to deter bad actors.

Third, this bill passes constitutional muster. In [Ashcroft v. ACLU](#), the Supreme Court found that filtering capabilities are a less restrictive means of protecting kids from harmful content online. While the Foundation supports SB 417 and filtering

laws, a 2004 Supreme Court case striking down a 1998 federal law might well be outdated precedent in the digital landscape of 2023.

Accordingly, we hope the Legislature will go further this session and take up other measures to keep kids and vulnerable users safe online. Again, we are grateful for your consideration of SB 417 today. Many of the harms of exposure to explicit content can be mitigated by simply requiring manufacturers to flip the filtering switches they already have on. We hope you will explore further avenues to keep kids safe online this session. The Foundation stands at the ready to support your efforts however we can.

Sincerely,

The Honorable Zach Whiting, Policy Director and Senior Fellow
David Dunmoyer, Campaign Director
Better Tech for Tomorrow

Texas Public Policy Foundation
901 Congress Avenue
Austin, TX 78701

512-472-2700 (office)
zwhiting@texaspolicy.com
ddunmoyer@texaspolicy.com

About Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.

