

# Age Assurance & Age Verification Laws in the United States

September 2024



Centre for Information Policy Leadership

HUNTON ANDREWS KURTH

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## Age Assurance & Age Verification Laws in the United States

CIPL Discussion Paper  
September 2024

### EXECUTIVE SUMMARY

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Legislation requiring the use of age assurance or age verification measures to promote safe online experiences for children and young people is gaining traction in the United States. At present, 21 states have enacted laws with age assurance provisions, the majority of which seek to block minors from accessing pornographic content. To a lesser extent, age assurance provisions also appear in laws seeking to prevent minors from creating or maintaining social media accounts.

There is little agreement among the states, however, regarding the methods or tools to use when verifying the age of online users. In addition, there appears to be little recognition that age assurance alone is not a panacea. Keeping children safe online and protecting their privacy and other rights will require a combination of measures, such as privacy and safety by design and default, appropriate user-centric transparency, content moderation and personalization of content, parental consent, family-specific controls, and age-appropriate services (or child-friendly spaces within services).

At the federal level, the proposed Kids Online Safety & Privacy Act (S.2073) would require the Secretary of Commerce, in coordination with the Federal Communications Commission and the Federal Trade Commission, to conduct a study and prepare a report that evaluates “the most technologically feasible methods and options” to verify age at the device or operating system level. CIPL would welcome such a report. An evaluation of the efficacy and practicality of the available options and methods will be essential to assess the safety and privacy concerns these laws seek to address in a holistic manner.

With these considerations in mind, CIPL has prepared this discussion paper to identify technical, practical, and legal challenges affecting stakeholders in this space and society more broadly. It is intended to serve as a starting point for understanding the challenges and exploring the opportunities to address the privacy and safety concerns at stake.

### CIPL Policy Recommendations Moving Forward

1. Engage with diverse stakeholder groups to understand different perspectives.
2. Create laws/rules that reflect a holistic understanding of relevant and competing rights and interests.
3. Adopt a risk-based approach that supports flexible, outcomes-based requirements.
4. Promote solutions enabling parents to exercise appropriate supervision and control.
5. Adopt clear, consistent terminology.
6. Promote the use of complementary measures to supplement age assurance tools.
7. Encourage privacy by design and the use of privacy-enhancing technologies (PETs).
8. Create standards consistent with other states and countries to foster interoperability.
9. Anticipate legal challenges on constitutional and other grounds.

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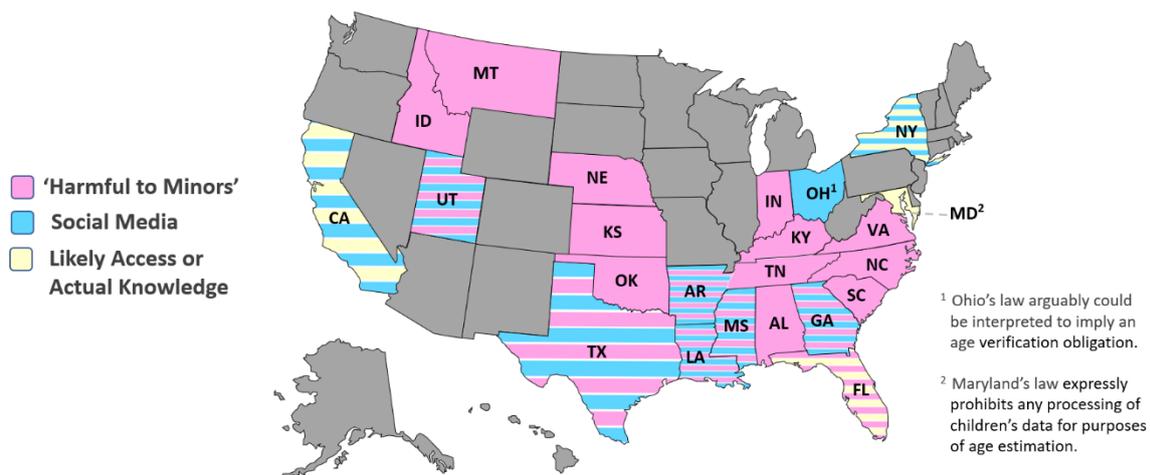
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**TYPES OF AGE ASSURANCE LAWS**

This paper is limited to an examination of U.S. state laws enacted with the aim to create safer online spaces for minors with the assistance of age assurance or age verification measures. Such laws generally fall within one of three categories: (1) those seeking to prevent minors from accessing pornographic and other content deemed harmful to them; (2) those seeking to prevent minors from creating or maintaining social media accounts without parental consent; and (3) those seeking to afford greater privacy and safety protections more broadly when minors are either likely to access or known to access a given site or service. The age assurance provisions in all of these laws are set forth in [Appendix A](#).

An overview of the current landscape is reflected in Figure 1. States with striped entries have laws addressing more than one of the above categories.

**Age Verification Laws in the U.S.**



Source: Centre for Information Policy Leadership (CIPL) at Hunton Andrews Kurth LLP © 2024

Figure 1

## A. 'Harmful to Minors'

U.S. state laws that require the use of age verification and/or age assurance methods are principally found in the context of legislation that seeks to prevent minors from accessing pornographic or other material deemed “harmful to minors” (hereinafter referred to as “HTM”). Generally, HTM laws require commercial entities that “knowingly and intentionally” publish or distribute HTM material to confirm or verify, with the use of age verification systems, that individuals seeking to access the material are 18 years of age or older. Currently, 19 states have enacted such laws.<sup>1</sup>

The age verification measures in HTM laws apply solely to entities publishing material that (i) appeals to the “**prurient interest**,” (ii) depicts or describes sexual content in a way that is “**patently offensive**,” and (iii) lacks any “**serious literary, artistic, political, or scientific value**.” Such elements derive from the so-called *Miller* test, which sets forth the U.S. Supreme Court’s definition of “obscene” and therefore unprotected speech.<sup>2</sup> That said, these laws do not purport to keep indecent (or patently offensive) material away from adults, who have a First Amendment right to indecent but not obscene speech.<sup>3</sup> Rather, they seek to prevent access to *minors*.

Several of these laws are being challenged in courts, as discussed more fully [below](#).

## B. Social Media

Age assurance provisions also appear in laws related to the use of social media platforms. In general, these laws are intended to safeguard the well-being and mental health of minors, requiring parental consent for minors to create or maintain social media accounts, and in some instances raising the

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<sup>1</sup> **Alabama** (Alabama Legislative Acts, Act 2024-97, eff. Oct. 1, 2024); **Arkansas** (Ark. Code Ann. §§ 4-88-1301 to 4-88-1305); **Florida** (Fla. Stat. §501.1737, eff. Jan. 1, 2025); **Georgia** (2024 Ga. Laws 2024, Act 463, eff. July 1, 2025); **Idaho** (2024 Idaho Session Laws, ch. 113, eff. July 1, 2024); **Indiana** (Indiana Code §§ 24-4-23-1 to 24-4-23-17, eff. July 1, 2024); **Kansas** (2024 Kan. Sess. Laws ch. 28, eff. July 1, 2024); **Kentucky** (2024 Ken. Acts ch. 106, eff. July 15, 2024); **Louisiana** (La. Rev. Stat. § 9:2800.29, La. Rev. Stat. § 51:2121); **Mississippi** (Miss. Code § 11-77-5); **Montana** (Mont. Code Ann. § 30-14-159); **Nebraska** (LB1092, eff. July 19, 2024); **Oklahoma** (2024 Okla. Sess. Laws ch. 181, eff. Nov. 1, 2024); **North Carolina** (N.C. Gen. Stat. § 66-501); **South Carolina** (S.C. Code § 37-1-310, eff. Jan. 1, 2025); **Tennessee** (2024 Tenn. Pub. Acts ch. 1021, eff. Jan. 1, 2025); **Texas** (Tex. Civ. Prac. & Rem. Code §§ 129B.001 to 129B.006); **Utah** (Utah Code §§ 78B-3-1001 to 78B-3-1002), and **Virginia** (Va. Code § 8.01-40.5).

The laws from Florida and Georgia are not exclusively HTM laws; they also impose restrictions on minors’ ability to create and maintain social media accounts. While Florida’s law does not expressly require social media platforms to use age verification measures to determine whether a user is a minor, Georgia’s law requires operators “to make commercially reasonable efforts to verify the age of account holders.” Ga. Code §39-6-2 (eff. July 1, 2025).

<sup>2</sup> *Miller v. California*, 413 U.S. 15 (1973). Under *Miller*, a determination of whether speech is obscene and thus unprotected by the First Amendment must analyze three factors: (a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

<sup>3</sup> *Sable Communications of California, Inc. v. FCC*, 492 U.S. 115, 126 (1989)

minimum age for a minor to create or maintain a social media account. Currently, six states have enacted such laws.<sup>4</sup> A number of these laws have been challenged in courts, discussed [below](#).

Laws passed in New York and California are slightly different in that they prohibit operators of an internet-based service or application from providing an “addictive feed” to a minor without parental consent.<sup>5</sup> Neither law contains an age assurance provision per se, but both direct the state attorney general to adopt regulations regarding age assurance.

### C. Likely Access or Actual Knowledge

Other laws include age assurance provisions outside the context of the HTM content and social media use.

California’s Age-Appropriate Design Code (AADC) law<sup>6</sup>—which is the subject of an ongoing legal challenge<sup>7</sup>—applies to online services, products, or features **likely to be accessed by children**. It includes a provision that requires age estimation “with a reasonable level of certainty appropriate to the risks that arise.”<sup>8</sup> Maryland has also adopted an AADC law that incorporates a “likely to be accessed” standard<sup>9</sup> but expressly **prohibits** any processing of children’s data for purposes of age estimation.<sup>10</sup>

New York’s Child Data Protection Act<sup>11</sup> is similar to AADC-type laws to the extent it pertains to websites and services **primarily directed** to minors. Its scope is broader, however, and also covers website operators with **actual knowledge** that a given user is a minor. This law also seeks to ensure privacy protection by default for anyone under the age of 18.

Florida’s Digital Bill of Rights<sup>12</sup> is not a child-specific law, but it does include specific obligations related to the processing of personal data of a “**known child**,” defined as “a child under circumstances of which a controller has **actual knowledge** of, or **willfully disregards**, the child’s age.”<sup>13</sup> Although the

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<sup>4</sup> **Arkansas** (Ark. Code Ann. § 4-88-1402(c)); **Louisiana** (La. Rev. Stat. § 51:1752 [effective July 1, 2025]); **Georgia** (2024 Ga. Laws 2024, Act 463, eff. July 1, 2025); **Mississippi** (2024 Miss. Laws ch. 456, HB 1126, § 4 [effective July 1, 2024]); **Texas** (Tex. Bus. & Com. Code § 509.057); and **Utah** (Utah Code § 13-71-101(2)).

<sup>5</sup> **California** (SB-976, Chapter 321, Statutes of 2024 [effective Jan. 1, 2027]); **New York** (N.Y. Gen. Bus. Law § 1501 [effective on the 180th day after the office of the attorney general promulgates rules and regulations necessary to effectuate the provisions of this act]).

<sup>6</sup> Cal. Civ. Code § 1798.99.28 et seq.

<sup>7</sup> *NetChoice, LLC v. Bonta*, Docket No. 22-CV-08861 (N.D. Cal.); 9th Cir. Docket No. 23-2969. On August 16, 2024, the U.S. Court of Appeals for the Ninth Circuit affirmed, in part, a preliminary injunction that blocked California’s AADC Act from entering into effect. See *NetChoice v. Bonta*, 2024 BL 283998 (9th Cir. decided Aug. 16, 2024).

<sup>8</sup> Cal. Civ. Code § 1798.99.31(a)(5).

<sup>9</sup> Md. Code, Com. Law § 14-4601 et seq. (effective Oct. 1, 2024).

<sup>10</sup> Md. Code, Com. Law § 14-4606(a)(8) (effective Oct. 1, 2024).

<sup>11</sup> N.Y. Gen. Bus. Law §§ 899-EE to 899-MM (effective June 20, 2025).

<sup>12</sup> Fla. Stat. §501.701 et seq.

<sup>13</sup> Fla. Stat. §501.702(17).

statute itself does not contain an age verification provision, the rules supporting implementation of the statute provide a **safe harbor** for controllers who use a reasonable age verification method, noting that use of a reasonable age verification measure will bar a finding of “**willful disregard**.”<sup>14</sup>

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<sup>14</sup> Fla. Admin. Code Ann. r. 2-3.003.

## SCOPE OF AGE ASSURANCE LAWS

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### A. In General

Most U.S. laws, especially those addressing HTM content, use the term “**age verification**” (or “*reasonable age verification*”) to describe the process of ensuring that individuals seeking access to HTM content are at least 18 years of age. To clarify, businesses covered by these laws need not verify an individual’s *specific age*, but simply whether an individual falls above or below the 18-year-old threshold.

That said, the age verification requirement applies to *anyone* seeking access, which of course means that it applies to both minors and adults. While the methods for determining whether one is 18 or older vary from statute to statute (as explained more fully [below](#)), the obligation to block access to minors rests exclusively with the businesses providing such content. Moreover, it is limited to the statutorily mandated age verification methods. No other means of blocking access—such as parental controls—are addressed in these laws.

While social media laws are similarly framed around an age threshold (either 16 or 18, as discussed [below](#)), the age verification provisions are typically supplemented with a parental consent “override” feature. Under these laws, minors are not permitted to create or maintain a social media account without the express consent of a parent or guardian.<sup>15</sup>

The portion of Florida’s law that pertains to social media platforms contains no age verification provisions, but it sets forth a more complex parental consent structure depending on the age of the minor.<sup>16</sup> Specifically, it permits minors who are 14 or 15 to become account holders with parental consent, but prohibits anyone under the age of 14 to create or maintain an account, regardless of consent. There are no restrictions for those 16 or older.

New York’s Stop Addictive Feeds Exploitation (SAFE) for Kids Act<sup>17</sup> uses the term “**age determination**” and it directs the New York Attorney General to promulgate regulations that identify “commercially reasonable and technically feasible methods” for businesses to determine if an individual is a covered

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<sup>15</sup> See, e.g., Arkansas (Ark. Code § 4-88-1402 [preliminarily enjoined: *NetChoice LLC v. Griffin*, 2023 US Dist Lexis 154571, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023)]); Louisiana (La. Rev. Stat. § 51:1752 [effective July 1, 2025]); Mississippi (2024 Miss. Laws ch. 456 [preliminarily enjoined: *NetChoice LLC v. Fitch*, 2024 US Dist Lexis 115368 (S.D. Miss., July 01, 2024)]); and Utah (Utah Code §13-71-204 [legal challenge pending, *NetChoice LLC v. Reyes*, Docket No. 2:23-cv-00911 (D. Utah, Amended Complaint filed May 3, 2024)]).

<sup>16</sup> See, e.g., Fla. Stat. §501.1736 (effective 1/1/2025).

<sup>17</sup> N.Y. Gen. Bus. Law § 1501.

minor.<sup>18</sup> California’s Protecting Our Kids from Social Media Addiction Act similarly directs the California Attorney General to adopt regulations, but it uses the term “**age assurance**.”<sup>19</sup>

California’s Age-Appropriate Design Code Act—which addresses neither HTM content nor social media usage specifically—uses the term “**age estimation**” rather than “age verification” or “age assurance.” As mentioned [above](#), Maryland’s Age-Appropriate Design Code Act does not include an age estimation provision and actually **prohibits** any processing of children’s data for purposes of age estimation.

**ISSUES FOR CONSIDERATION:**

- Do differences in terminology—assurance/verification/estimation/determination—represent different regulatory expectations, thereby posing compliance challenges?
- What is the common understanding for what constitutes “reasonable” age assurance?
- Age verification alone is not a panacea. Promoting children’s safety and privacy will require a combination of measures. What other measures should be encouraged to supplement age assurance tools?

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<sup>18</sup> On August 1, 2024, the Office of the New York State Attorney General (OAG) released two Advanced Notices of Proposed Rulemaking (ANPRM) for the SAFE for Kids Act and the Child Data Protection Act. While the OAG began the rulemaking pursuant to the statutory mandate, it noted that these ANPRMs are not part of the formal rulemaking process but are nevertheless a crucial step in gathering information from stakeholders before proposing formal rules. See <https://ag.ny.gov/resources/individuals/consumer-issues/technology/protecting-children-online>.

<sup>19</sup> SB-976, Chapter 321, Statutes of 2024 (effective Jan. 1, 2027).

## B. Age Threshold

Online businesses operating in the U.S. are accustomed to affording special protections to those under the age of 13 pursuant to the Children's Online Privacy Protection Act (COPPA).<sup>20</sup> The new state laws with age assurance requirements generally adopt 18 as the threshold, but there are a few exceptions.

Georgia's law, for example, adopts a 16-year-old threshold for the portion of its law that addresses social media obligations and 18 for the portion that covers pornographic content.<sup>21</sup> Louisiana's social media law defines a minor as an individual who is "under the age of sixteen *and is not emancipated or married.*"<sup>22</sup> Utah's social media law makes similar exceptions for those not emancipated or married, but sets the threshold at 18.<sup>23</sup> North Carolina uses the same definition—"individual who is less than 18 years old and is not married or judicially emancipated"<sup>24</sup>—but applies it to its HTM law.<sup>25</sup> Ohio's social media law provides no marriage exception, but it does include an emancipation exception and sets the threshold at 16.<sup>26</sup>

### ISSUES FOR CONSIDERATION:

- How are businesses to assess marital status or legal emancipation?
- How are businesses to accommodate for different threshold ages across jurisdictions?

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<sup>20</sup> 15 USC § 6501(1).

<sup>21</sup> 2024 Ga. Laws 2, Act 463.

<sup>22</sup> La. Rev. Stat. § 51:1751(9) [effective July 1, 2025] (emphasis added).

<sup>23</sup> Utah Code § 13-71-101(8) [effective Oct. 1, 2024].

<sup>24</sup> N.C. Gen. Stat. § 14-190.13(3).

<sup>25</sup> N.C. Gen. Stat. § 66-500(b)(3).

<sup>26</sup> Ohio Rev. Code § 1349.09(A)(2) [preliminarily enjoined, see *NetChoice, LLC v. Yost*, 2024 US Dist Lexis 24129, 2024 WL 555904 (S.D. Ohio Feb. 12, 2024)].

### C. Entities Covered

The type of entity covered by age assurance laws depends on the context of the law.

#### 1. Entities Covered by HTM Laws

HTM laws generally pertain to commercial entities that “knowingly and intentionally” publish a “substantial portion” of material that satisfies the statutory definition of “harmful to minors.”

In most laws, a substantial portion is defined as more than one third of the content on the site. Kansas is the sole outlier with a 25% threshold.<sup>27</sup>

As for defining “harmful to minors” (which is reproduced in [Appendix B](#)), most of the laws require the three elements of the *Miller* test—i.e., content that (1) appeals to the prurient interest; (2) is patently offensive; and (3) lacks serious literary, artistic, political, or scientific value.<sup>28</sup> The laws from Georgia and Tennessee, however, do not require all three elements. Georgia’s law uses the conjunction “or” instead of “and” when listing the three elements.<sup>29</sup> Tennessee’s law omits the second element entirely.<sup>30</sup>

Moreover, most of the laws describe what is “patently offensive” in graphic detail, listing specific body parts<sup>31</sup> and/or sexual acts.<sup>32</sup> Only one state—Oklahoma—includes non-sexual content in its definition of what is “harmful to minors,” viz., “any description, exhibition, presentation or representation, in whatever form, of **inappropriate violence**.”<sup>33</sup>

Nearly all of the laws exempt news-gathering organizations from the scope of their coverage,<sup>34</sup> and they similarly provide that internet service providers, search engines, and cloud providers cannot be held liable solely by providing access or connection to or from a covered entity.

#### ISSUES FOR CONSIDERATION:

- How do exemptions for certain content providers serve as a ground for constitutional and other challenges, e.g., do they potentially render the government’s compelling interest underinclusive?
- How are businesses to measure whether they meet the “substantial portion” threshold?

<sup>27</sup> 2024 Kans. Sess. Laws, ch. 28, section 1(a).

<sup>28</sup> Identified as elements [1](#), [2](#), and [3](#) in [Appendix B](#).

<sup>29</sup> Ga. Code §39-5-5(a)(4) [effective July 1, 2025]. Noted as element [9](#) in [Appendix B](#).

<sup>30</sup> 2024 Tenn. Acts, ch. 1021, s 1. Again noted as element [9](#) in [Appendix B](#).

<sup>31</sup> Identified as element [4](#) in [Appendix B](#). See laws from AL, AR, FL, GA, ID, IN, KS, KY, LA, MT, NC, OK, SC, TN, TX, UT, and VA.

<sup>32</sup> Identified as element [6](#) in [Appendix B](#). See laws from AR, FL, GA, ID, KY, LA, MS, MT, OK, SC, TN, TX, and UT.

<sup>33</sup> Identified as element [10](#) in [Appendix B](#). See 21 Okla. Stat § 1040.75 [effective Nov. 1, 2024].

<sup>34</sup> Kansas, Kentucky, and Virginia do not expressly exempt news-gathering organizations.

## 2. Entities Covered by Social Media Laws

State social media laws vary widely in their description of entities covered, and oftentimes the descriptions of entities NOT covered are longer than the description of the covered entities themselves. For example, Louisiana’s law lists 21 separate functions of what a “social media platform” does NOT do.<sup>35</sup>

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<sup>35</sup> La. Rev. Stat. § 51:1751(b) [effective 7/1/2025]:

“Social media platform” shall not include an online service, website, or application where the predominant or exclusive function is any of the following:

- (i) Electronic mail.
- (ii) A service that, pursuant to its terms of use, does not permit minors to use the platform and utilizes commercially reasonable age assurance mechanisms to attempt to prohibit minors from becoming an account holder or user.
- (iii) A streaming service that provides only licensed media in a continuous flow from the service, website, or application to the end user and does not obtain a license to the media from a user or account holder by agreement to its terms of service.
- (iv) News, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to, directly related to, or dependent upon provisions of the content.
- (v) Online shopping or electronic commerce, if the interaction with other users or account holders is generally limited to the ability to upload a post and comment on reviews, the ability to display lists or collections of goods for sale or wish lists, and any other function that is focused on online shopping or electronic commerce rather than interaction between users or account holders.
- (vi) Interactive gaming, virtual gaming, or an online service that allows the creation and uploading of content and the communication related to that content for the purpose of interactive gaming, educational entertainment, or associated entertainment.
- (vii) Photograph editing that has an associated photograph hosting service if the interaction with other users or account holders is generally limited to liking or commenting.
- (viii) Single purpose community groups for public safety if the interaction with other users or account holders is limited to that single purpose and the community group has guidelines or policies against illegal content.
- (ix) Career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services.
- (x) Business-to-business software.
- (xi) A teleconferencing or videoconferencing service that allows reception and transmission of audio and video signals for real-time communication.
- (xii) Cloud storage.
- (xiii) Shared document collaboration.
- (xiv) Cloud computing services, which may include cloud storage and shared document collaboration.
- (xv) Providing access to or interacting with data visualization platforms, libraries, or hubs.
- (xvi) Permitting comments on a digital news website if the news content is posted by only the provider of the digital news website.
- (xvii) Providing or obtaining technical support for a platform, product, or service.
- (xviii) Academic, scholarly, or genealogical research.
- (xix) Internet access and broadband service.
- (xx) A classified advertising service in which the provider of the online service, website, or application is limited to all of the following:
  - (aa) Permitting only the sale of goods.

Arkansas's law appears to be the only one that mentions a revenue threshold.<sup>36</sup>

**ISSUES FOR CONSIDERATION:**

- Can states align on the type of business they are seeking to regulate?
- Do other business models present the same or similar harms that social media laws are seeking to address?
- To the extent social media laws apply or do not apply based on a given service's "predominant function," how are businesses to gauge whether a particular function is "predominant"?

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(bb) Prohibiting the solicitation of personal service.

(cc) Posting or creating a substantial amount of the content.

(dd) Providing the ability to chat, comment, or interact with other users only if it is directly related to the provider's content.

(xxi) An online service, website, or application that is used by or under the direction of an educational entity, including a learning management system, a student engagement program, or a subject or skill-specific program, where the majority of the content is created or posted by the provider of the online service, website, or application and the ability to chat, comment, or interact with other users is directly related to the provider's content.

<sup>36</sup> "Social media platform" does not include a social media platform that is controlled by a business entity that has generated less than one hundred million dollars (\$100,000,000) in annual gross revenue. Ark. Code § 4-88-1401(8)(C).

### C. Entities Covered by Likely Access and Actual Knowledge Laws

California's AADC applies generally to businesses that provide an online service, product, or feature likely to be accessed by children.<sup>37</sup> Maryland's AADC applies to businesses that develop and provide online products that children "are *reasonably* likely to access,"<sup>38</sup> but it adds revenue and other considerations.<sup>39</sup> New York's Child Data Protection Act defines covered entities more broadly, but restricts its application to entities that *actually know of users who are minors* and to entities that *primarily direct their product to minors*, in whole or in part.<sup>40</sup> The provisions of Florida's Digital Bill of Rights applicable to the personal data of a "known child" apply to a controller that has "actual knowledge of, or willfully disregards, the child's age."<sup>41</sup>

#### ISSUES FOR CONSIDERATION:

- Can or should the definition of entities covered under these laws align with the definition of entities covered under state comprehensive privacy laws?
- Is actual knowledge a more practical standard than "likely to access"?

<sup>37</sup> Cal. Civ. Code § 1798.99.31.

<sup>38</sup> Md. Code, Com. Law § 14-4603 (emphasis added).

<sup>39</sup> Md. Code, Com. Law § 14-4601(h):

(1) "Covered entity" means a sole proprietorship, a limited liability company, a corporation, an association, or any other legal entity that:

- (i) Is organized or operated for the profit or financial benefit of its shareholders or other owners;
- (ii) Collects consumers' personal data or uses another entity to collect consumers' personal data on its behalf;
- (iii) Alone, or jointly with its affiliates or subsidiaries, determines the purposes and means of the processing of consumers' personal data;
- (iv) Does business in the State; and
- (v)
  1. Has annual gross revenues in excess of \$25,000,000, adjusted every odd-numbered year to reflect adjustments in the Consumer Price Index;
  2. Annually buys, receives, sells, or shares the personal data of 50,000 or more consumers, households, or devices, alone or in combination with its affiliates or subsidiaries, for the covered entity's commercial purposes; or
  3. Derives at least 50% of its annual revenues from the sale of consumers' personal data.

(2) "Covered entity" includes:

- (i) An entity that controls or is controlled by a business and that shares a name, service mark, or trademark that would cause a reasonable consumer to understand that two or more entities are commonly owned; and
- (ii) A joint venture or partnership composed of businesses in which each has at least a 40% interest in the joint venture or partnership.

<sup>40</sup> N.Y. Gen. Bus. Law § 899-EE.

<sup>41</sup> Fla. Stat. §501.702(17).

### D. Statutory Elements

U.S. state laws set forth an array of elements that can factor into a reasonable (or at least a statutorily acceptable) age assurance methodology. As displayed below in Figure 2, verification based on a government-issued ID is the most common element, with verification based on a digital ID and transactional data filling out the top three. While some older teens may possess a government-issued driver’s license or learner’s permit, they would rarely have a history of transactional data.

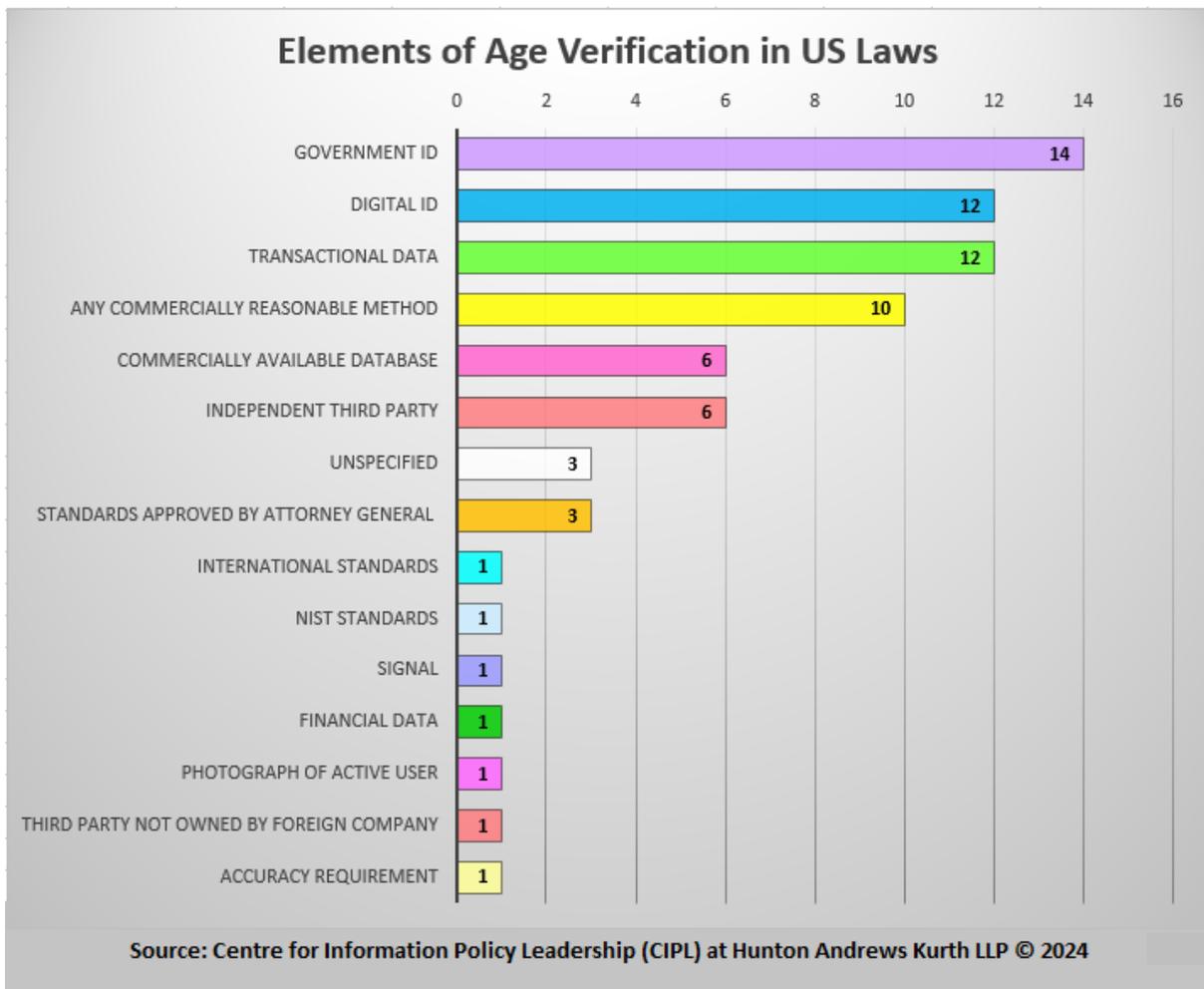


Figure 2

Please refer to [Appendix A](#) for a full description of the elements cited above.

Most laws prohibit the **retention** of personal information after an individual’s age has been verified, but other types of processing—such as sharing the data with third parties—are not addressed.

**ISSUES FOR CONSIDERATION:**

- Should laws specify the types of information that must be used for age verification purposes?
- What sort of information would be reasonable and reliable for children to provide?
- What restrictions should be placed on the further processing of personal information after collection?
- How are businesses to determine whether a given method is commercially reasonable?

## LEGAL CHALLENGES TO AGE ASSURANCE LAWS

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A number of age assurance laws have been challenged in court on constitutional and other grounds. As many of these challenges are ongoing, the following summaries provide the latest developments as of the time of this writing.

### A. Arkansas Social Media Law

*NetChoice v. Griffin*, W.D. Ark., Docket No. 5:23-cv-05105.

The Arkansas Social Media Safety Act was enjoined pursuant to a preliminary injunction entered August 31, 2023.<sup>42</sup> The Western District of Arkansas ruled that NetChoice has standing to assert a constitutional challenge and that it is likely to succeed on the merits of its First Amendment claim. Specifically, the court found that:

- The Act is unconstitutionally vague because it fails to adequately define which entities are subject to its requirements.
- The age-verification requirements are not narrowly tailored to address the harms that minors may face on social media, while at the same time placing an undue burden on both adults' and minors' access to constitutionally protected speech.

### B. California Age-Appropriate Design Code Act

*NetChoice v. Bonta*, N.D. Cal., Docket No. 5:22-cv-08861; 9th Cir. Docket No. 23-2969.

The Northern District of California entered a preliminary injunction on Sept. 18, 2023, enjoining enforcement of the California Age-Appropriate Design Code Act.<sup>43</sup> On August 16, 2024, the Ninth Circuit affirmed the preliminary injunction insofar as it enjoined enforcement of the Act's risk assessment report requirement, but it vacated the remainder of the injunction that addressed other provisions of the Act (including the age estimation provision), concluding that the district court failed to properly consider the facial nature of those challenges (i.e., treating them more like as-applied claims).<sup>44</sup>

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<sup>42</sup> *NetChoice v. Griffin*, 2023 US Dist Lexis 154571, 2023 WL 5660155 (W.D. Ark. 2023).

<sup>43</sup> *NetChoice, v. Bonta*, 692 F. Supp. 3d 924 (N.D. Cal. 2023).

<sup>44</sup> *NetChoice v. Bonta*, 2024 BL 283998 (9th Cir, decided Aug. 16, 2024).

### C. Indiana HTM Law

*Free Speech Coalition v. Rokita*, N.D. Ind., Docket No. 1:24-cv-00980.

The Northern District of Indiana entered a preliminary injunction on June 28, 2024, finding that the plaintiffs' facial overbreadth challenge to the age verification requirements set forth in Indiana Code § 24-4-23, et seq. is likely to succeed on the merits because the Act is likely overbroad.<sup>45</sup> In particular:

- The age verification requirements burden a significant amount of protected speech.
- The Act does not sufficiently advance the government's interests in protecting minors from harmful obscene speech because minors can easily circumvent the law using technology or searching for websites not covered by the Act.
- The Act is not narrowly tailored to the least restrictive means.<sup>46</sup>

### D. Louisiana HTM Law

*Free Speech Coalition v. LeBlanc*, E.D. La, Docket No. 2:23-cv-02123; 5th Cir., Docket No. 23-30780.

On Oct. 4, 2023, the Eastern District of Louisiana granted Louisiana's motion to dismiss a constitutional challenge to La. Rev. Stat. § 9:2800.29, which provides through private actions a civil remedy for damages against commercial entities who distribute harmful material to minors. Because the Act does not explicitly charge any government official or entity with enforcement, the court concluded that the Eleventh Amendment barred the lawsuit.<sup>47</sup> In particular, the court ruled that the plaintiffs have failed to show that their action fell within the exception to sovereign immunity recognized in *Ex Parte Young*.<sup>48</sup>

The plaintiffs subsequently appealed to the Fifth Circuit, but that appeal was dismissed without prejudice, presumably because of the Fifth Circuit's ruling in a challenge to a similar law from Texas (which will now be heard by the U.S. Supreme Court). See [below](#).

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<sup>45</sup> *Free Speech Coalition, Inc. v. Rokita*, 2024 BL 222011 (S.D. Ind. June 28, 2024).

<sup>46</sup> "There are two possible narrower, effective alternatives to restrict minors' access to harmful materials. First, Indiana could require a website to use age verification whenever a user attempts to access obscene content, instead of whenever a user enters a website that has obscene content. This would be immediately less restrictive because it narrows the reach of the statute to only that content which meets the harmful to minors test. ... Second, Indiana could make freely available and/or require the use of filtering and blocking technology on minors' devices." *Free Speech Coalition, Inc. v. Rokita, Id.* at [\*19].

<sup>47</sup> *Free Speech Coalition v. LeBlanc*, 697 F. Supp. 3d 534 (E.D. La. 2023).

<sup>48</sup> 209 U.S. 123 (1908). *Ex Parte Young* requires a state official have a particular duty to enforce a challenged law and the willingness to enforce.

### E. Mississippi Social Media Law

*NetChoice v. Fitch*, S.D. Miss., Docket No. 1:24-cv-00170.

On July 1, 2024, the Southern District of Mississippi granted in part the plaintiff's motion for preliminary injunction,<sup>49</sup> finding that Mississippi's law imposes content-based restrictions on speech and that it is likely to fail strict scrutiny.<sup>50</sup> In light of the U.S. Supreme Court's decision to hear the challenge regarding the Texas HTM law (see [below](#)), this case has been stayed.

### F. Ohio Social Media Law

*NetChoice v. Yost*, S.D. Ohio, Docket No. 2:24-cv-00047.

The Southern District of Ohio granted the plaintiff's motion for preliminary injunction on Feb. 12, 2024, concluding that Ohio's Parental Notification by Social Media Operators Act<sup>51</sup> is likely unconstitutional.<sup>52</sup> Although the Act does not contain an age verification requirement, it should be noted that the plaintiff did raise an argument that the Act may be "*atextually interpreted*" to require age verification procedures for all users. The court, however, did not address that argument given the state's assertion that it did not intend to enforce such a requirement.

### G. Texas HTM Law

*Free Speech Coalition v. Paxton*, W.D. Tex., Docket No. 1:23-cv-00917; 5th Cir., Docket No. 23-50627; S.Ct., No. 23-1122.

The challenge to Texas's HTM law—which requires age-verification measures along with the posting of "health warnings"<sup>53</sup>—has a long history. The day before the law was scheduled to take effect, the

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<sup>49</sup> *NetChoice v. Fitch*, 2024 US Dist Lexis 115368 (S.D. Miss. 2024).

<sup>50</sup> Strict scrutiny requires the government to prove that its law is narrowly tailored to advance a compelling governmental interest and that the law is the least restrictive means of advancing that interest. Victoria L. Killion, Congressional Research Service, R47986, *Freedom of Speech: An Overview* (March 29, 2024), available at <https://crsreports.congress.gov/product/pdf/R/R47986>.

<sup>51</sup> Ohio Rev. Code § 1349.09.

<sup>52</sup> *NetChoice v. Yost*, 2024 US Dist Lexis 24129, 2024 WL 555904 (S.D. Ohio 2024).

<sup>53</sup> Tex. Civ. Prac. & Rem. Code § 129b.004 provides:

A commercial entity required to use reasonable age verification methods under Section 129B.002(a) shall:

(1) display the following notices on the landing page of the Internet website on which sexual material harmful to minors is published or distributed and all advertisements for that Internet website in 14-point font or larger:

"TEXAS HEALTH AND HUMAN SERVICES WARNING: Pornography is potentially biologically addictive, is proven to harm human brain development, desensitizes brain reward circuits, increases conditioned responses, and weakens brain function."

Western District of Texas granted plaintiffs' motion for a preliminary injunction.<sup>54</sup> The Fifth Circuit affirmed the injunction with respect to the health warnings, but vacated the injunction against the age-verification requirement on grounds that it is “rationally related to the government's legitimate interest in preventing minors' access to pornography.”<sup>55</sup>

On July 2, 2024, the U.S. Supreme Court granted<sup>56</sup> a Petition for a Writ of Certiorari (“Petition”). The Petition claims that the Fifth Circuit applied the wrong standard of review,<sup>57</sup> i.e., applying rational-basis review rather than strict scrutiny. While it is possible that the Supreme Court's future opinion will address only the correct standard of review and not the merits of the challenge, even the Fifth Circuit's opinion “assumes” that the age verification requirement would fail strict scrutiny.<sup>58</sup>

To clarify, strict scrutiny would require Texas to prove that its law is narrowly tailored to advance a compelling governmental interest and that the law is the least restrictive means of advancing that interest.<sup>59</sup> While it is uncontested that pornography is generally inappropriate for children, and that the state may regulate a minor's access to pornography, the underlying district court decision<sup>60</sup> held that the statute was not narrowly tailored and overly restrictive. Citing the Third Circuit's holding in *ACLU v. Ashcroft*,<sup>61</sup> the district court noted that the age verification provision is constitutionally

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"TEXAS HEALTH AND HUMAN SERVICES WARNING: Exposure to this content is associated with low self-esteem and body image, eating disorders, impaired brain development, and other emotional and mental illnesses."

"TEXAS HEALTH AND HUMAN SERVICES WARNING: Pornography increases the demand for prostitution, child exploitation, and child pornography."; and

(2) display the following notice at the bottom of every page of the Internet website in 14-point font or larger:

"U.S. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION HELPLINE:  
1-800-662-HELP (4357)

THIS HELPLINE IS A FREE, CONFIDENTIAL INFORMATION SERVICE (IN ENGLISH OR SPANISH) OPEN 24 HOURS PER DAY, FOR INDIVIDUALS AND FAMILY MEMBERS FACING MENTAL HEALTH OR SUBSTANCE USE DISORDERS.

THE SERVICE PROVIDES REFERRAL TO LOCAL TREATMENT FACILITIES, SUPPORT GROUPS, AND COMMUNITY-BASED ORGANIZATIONS."

<sup>54</sup> *Free Speech Coalition v. Colmenero*, 689 F. Supp. 3d 373 (W.D. Tex. 2023).

<sup>55</sup> *Free Speech Coalition v. Paxton*, 95 F.4th 263, 267 (5th Cir. 2024).

<sup>56</sup> U.S. Supreme Court Docket No. 23-1122, available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-1122.html>.

<sup>57</sup> The Petition frames the “Question Presented” as: “Whether the court of appeals erred as a matter of law in applying rational-basis review to a law burdening adults’ access to protected speech, instead of strict scrutiny as this Court and other circuits have consistently done.”

<sup>58</sup> *Free Speech Coalition v. Paxton*, *supra*, at 273.

<sup>59</sup> Victoria L. Killion, Congressional Research Service, R47986, *Freedom of Speech: An Overview* (March 29, 2024), available at <https://crsreports.congress.gov/product/pdf/R/R47986>

<sup>60</sup> *Free Speech Coalition v. Colmenero*, 689 F. Supp. 3d 373 (W.D. Tex. 2023).

<sup>61</sup> *ACLU v. Ashcroft*, 322 F.3d 240 (3d Cir. 2003), *aff'd and remanded*, 542 U.S. 656 (2004)

problematic because it requires adults to “identify themselves” before accessing legal sexually explicit material, chilling them from accessing protected speech.<sup>62</sup>

#### H. Texas Social Media Law

*Computer & Communications Industry Ass’n. v. Paxton*, W.D. Tex, Docket No. 24-cv-00849.

On Aug. 30, 2024, the Western District of Texas granted in part a motion for preliminary injunction in a case challenging the Securing Children Online through Parental Empowerment (SCOPE) Act.<sup>63</sup> The court concluded that the plaintiffs have shown that the Act is a content-based statute and is therefore subject to strict scrutiny. With regard to the Act’s monitoring-and-filtering requirements, the plaintiffs have carried their burden in showing that the law’s restrictions on speech fail strict scrutiny, are unconstitutionally vague, and are preempted by the federal Communications Decency Act (47 U.S.C. § 230).

#### I. Utah HTM Law

*Free Speech Coalition v. Anderson*, D. Utah, Docket No. 2:23-cv-00287; 10th Cir., Docket No. 23-04104.

On Aug. 1, 2023, the District of Utah dismissed a challenge against Utah’s HTM law for lack of subject matter jurisdiction.<sup>64</sup> The court found that the suit against Utah’s Attorney General was barred because the statute vests enforcement authority with private citizens, not the AG. As in the Louisiana case discussed [above](#), the Eleventh Amendment barred the lawsuit, and the plaintiffs’ claims did not fall within the exception to sovereign immunity recognized in *Ex Parte Young*. The district court’s ruling has been appealed to the Tenth Circuit and was argued on March 20, 2024.

#### J. Utah Social Media Law

*NetChoice v. Reyes*, D. Utah, Docket No. 2:23-cv-00287.

A legal challenge to Utah’s Social Media Regulation Act of 2023 prompted the state legislature to repeal and replace its law with the Utah Minor Protection in Social Media Act. The challenge remains active, however, as the parties agreed that the plaintiff should amend its complaint. On July 22, 2024, the District of Utah made a ruling limited to the plaintiff’s challenge based on the federal Communications Decency Act (47 U.S.C. § 230). The court held that Section 230 does not preempt the provisions of Utah’s law that prohibit the use of autoplay, seamless pagination, and notifications on minors’ accounts.<sup>65</sup> The court’s opinion did not address claims related to the age verification provisions.

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<sup>62</sup> *Free Speech Coalition v. Colmenero*, *supra*, at 399.

<sup>63</sup> *Computer & Communications Industry Ass’n. v. Paxton*, No. 24-cv-00849 (W.D. Tex., Aug. 30, 2024).

<sup>64</sup> *Free Speech Coalition v. Anderson*, 2023 BL 264615 (D. Utah, Aug. 1, 2023).

<sup>65</sup> *NetChoice v. Reyes*, 2024 BL 249636 (D. Utah July 22, 2024).

On September 10, 2024, the district court ruled on the remaining claims and granted NetChoice’s request for a preliminary injunction,<sup>66</sup> stating:

The court recognizes the State's earnest desire to protect young people from the novel challenges associated with social media use. But owing to the First Amendment's paramount place in our democratic system, even well-intentioned legislation that regulates speech based on content must satisfy a tremendously high level of constitutional scrutiny. And on the record before the court, Defendants have yet to show the Act does.<sup>67</sup>

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<sup>66</sup> *NetChoice v. Reyes*, 2024 BL 316467 (D. Utah Sept. 10, 2024).

<sup>67</sup> *Id.*

## CIPL POLICY RECOMMENDATIONS MOVING FORWARD

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Given the inconsistencies among state laws and the legal objections raised, as well as the practical challenges related to age assurance requirements, CIPL offers the following principles to guide the discussion between law- and policymakers and stakeholders:

### ***1. Engage with diverse stakeholder groups to understand different perspectives.***

Solutions for age assurance should involve **actors across the online marketplace**, viz., telecommunications providers, online platforms, device manufacturers, app stores, online publishers, individual apps, and consumers (parents, minors, and other users). Regulators and policymakers will need to engage with all, with careful consideration of the relevant actors' capabilities and responsibilities. CIPL urges policymakers to document their findings in statements that summarize the diverse perspectives considered and the policy choices made.

### ***2. Create laws/rules that reflect a holistic understanding of relevant and competing rights and interests.***

The deployment of age assurance affects a number of **legal, ethical, and societal issues** that should be taken into consideration when requiring and implementing age assurance measures. The privacy and safety concerns of minors will need to be considered alongside the privacy concerns of other internet users, as well as the potential impacts on free speech, parental engagement, and state interests. Again, it is important to develop a factual record that reflects such holistic consideration of relevant rights and interests.

### ***3. Adopt a risk-based approach that supports flexible, outcomes-based requirements.***

Age assurance should follow a **risk-based approach**, and any risk assessment must be context-specific. There is no one-size-fits-all approach to age assurance. The utility and suitability of different age verification or assurance methodologies will depend on the risk context of the underlying service(s), or how and on what type of device the service is likely accessed. For example, services providing layered functionalities might require layered age assurance (i.e., age assurance requested at different access points) and/or the use of multiple methodologies at different stages. Moreover, laws establishing prescriptive requirements could limit or discourage the use of new and innovative methodologies.

### ***4. Promote solutions enabling parents to exercise appropriate supervision and control.***

Issues affecting the privacy and safety of children should also **recognize and support the role of parents** and legal guardians in safeguarding the well-being of children.

### ***5. Adopt clear, consistent terminology.***

Age assurance, age verification, age estimation, and age determination are not necessarily synonymous, and each term may represent **different regulatory expectations**. Age verification, for example, could be understood to require the verification of one's actual age. Age estimation implies a level of "wobble room" that can vary from state to state. The use of clear, consistent terminology will foster greater understanding and support compliance.

**6. Promote the use of complementary measures to supplement age assurance tools.**

Laws and regulations seeking to create safe spaces for children cannot rely on age assurance alone. Keeping children safe online and protecting their privacy and other rights will require a **combination of measures** to ensure compliance with various data protection and other legal requirements and regulatory guidance, such as privacy and safety by design and default, appropriate user-centric transparency, content moderation and personalization of content, parental consent, family-specific controls, and age-appropriate services (or child-friendly spaces within services).

**7. Encourage privacy by design and the use of privacy-enhancing technologies (PETs).**

While age assurance is part of digital safety by design, solutions must also come from a **privacy by design** approach. Data minimization, storage limitation, and data security must be balanced against the necessity to process data in line with the perceived risk. Regulators should incentivize the development and adoption of PETs.<sup>68</sup>

**8. Create standards consistent with other states and countries to foster interoperability.**

As CIPL has noted in the context of data protection, interoperability enables responsible provision of services across borders, broadens access, reduces compliance costs and improves compliance, increases legal certainty, and ensures consistent protection of the rights and interests of individuals.<sup>69</sup> Different jurisdictions will have their own priorities, legal traditions, and body of existing regulation, but they may be able to **coalesce around core principles and approaches** in considering age assurance. They can also take steps to codify interoperability through cross-recognition and certification mechanisms that operationalize such cross-recognition.

**9. Anticipate legal challenges on constitutional and other grounds.**

Governments should expect that strict scrutiny will apply to any potential age assurance regulation, so they should be prepared to show that the regulation is **narrowly tailored** to advance a compelling governmental interest and that it adopts the **least restrictive means** of advancing that interest.

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<sup>68</sup> CIPL White Paper - Privacy-Enhancing and Privacy-Preserving Technologies: Understanding the Role of PETs and PPTs in the Digital Age, December 12, 2023, available at <https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl-understanding-pets-and-ppts-dec2023.pdf>.

<sup>69</sup> CIPL, "Ten Principles for a Revised US Privacy Framework," March 2019, [https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl\\_principles\\_for\\_a\\_revised\\_us\\_privacy\\_framework.pdf](https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl_principles_for_a_revised_us_privacy_framework.pdf).

**APPENDIX A:**

**U.S. STATE LAWS CONTAINING AGE VERIFICATION REQUIREMENTS**

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<b>AL</b>	
	<i>An Act ... to provide age-verification requirements for the distribution of sexual material</i> ..... 26
<b>AR</b>	
	<i>Protection of Minors from Distribution of Harmful Material Act</i> ..... 26
	<i>Social Media Safety Act</i> ..... 26
<b>CA</b>	
	<i>California Age-Appropriate Design Code Act</i> ..... 27
	<i>Protecting Our Kids from Social Media Addiction Act</i> ..... 28
<b>FL</b>	
	<i>An Act relating to online protections for minors</i> ..... 28
	<i>Florida Digital Bill of Rights – Enforcement</i> ..... 29
<b>GA</b>	
	<i>Protecting Georgia's Children on Social Media Act of 2024</i> ..... 29
<b>ID</b>	
	<i>An Act relating to liability for publishers and distributors of material harmful to minors</i> ..... 29
<b>IN</b>	
	<i>Age Verification for Adult Oriented Websites</i> ..... 30
<b>KS</b>	
	<i>An Act ... relating to internet content that is harmful to minors ...</i> ..... 30
<b>KY</b>	
	<i>An Act relating to the protection of children</i> ..... 31
<b>LA</b>	
	<i>An Act ... relative to material harmful to minors ...</i> ..... 31
	<i>An Act ... relative to liability for publishers and distributors of material harmful to minors ...</i> ..... 31
	<i>Secure Online Child Interaction and Age Limitation Act</i> ..... 32
<b>MD</b>	
	<i>Maryland Age-Appropriate Design Code Act a.k.a. Maryland Kids Code</i> ..... 32
<b>MS</b>	
	<i>An Act to regulate pornographic media exposure to children ...</i> ..... 32
	<i>Walker Montgomery Protecting Children Online Act</i> ..... 33

**MT**

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<i>An Act revising internet laws related to material harmful to minors ...</i>	33
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**NE**

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<i>Online Age Verification Liability Act</i>	33
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**NY**

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<i>New York Child Data Protection Act</i>	34
<i>Stop Addictive Feeds Exploitation (SAFE) for Kids Act</i>	35

**NC**

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<i>Pornography Age Verification Enforcement (PAVE) Act</i>	36
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**OK**

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<i>An Act ... prohibiting commercial entities from distributing certain material ...</i>	36
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**SC**

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<i>Child Online Safety Act</i>	37
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**TN**

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<i>Protect Tennessee Minors Act</i>	38
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**TX**

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<i>An Act relating to the publication or distribution of sexual material harmful to minors ...</i>	39
<i>Securing Children Online through Parental Empowerment (SCOPE) Act</i>	39

**UT**

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<i>Online Pornography Viewing Age Requirements</i>	40
<i>Utah Minor Protection in Social Media Act</i>	41
<i>Utah Minor Protection in Social Media Act Rule</i>	42

**VA**

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<i>An Act relating to civil liability for publishing or distributing material harmful to minors ...</i>	44
<i>An Act ... relative to liability for publishers and distributors of material harmful to minors ...</i>	51

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
	Any commercially reasonable method		Enabled by device- or browser-based signals
	Recognized by international standards		Commercially available database
	NIST standards		Transactional data
	Digitized ID		Financial documents
	Government-issued ID		Photograph of active user
	Conducted by independent third party		Third party not owned by foreign company
	Accuracy requirement		Approved by AG
	Unspecified		
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
AL	<b>An Act ... to provide age-verification requirements for the distribution of sexual material</b> <b>2024 Ala. Laws No. 97, Section 2 [effective Oct. 1, 2024]:</b> REASONABLE AGE-VERIFICATION METHOD. Any commercially available software, application, program, or methodology that, when enabled, provides reasonable assurances that any individual accessing certain published material is 18 years of age or older.		
AR	<b>Protection of Minors from Distribution of Harmful Material Act</b> <b>Ark. Code Ann. § 4-88-1304:</b> (a) A commercial entity shall use a reasonable age verification method before allowing access to a website that contains a substantial portion of material that is harmful to minors. (b) Reasonable age verification methods under subsection (a) of this section include providing: (1) A digitized identification card, including a digital copy of a driver's license under § 27-16-601 et seq.; (2) Government-issued identification; or (3) Any commercially reasonable age verification method that holds an Identity Assurance Level 2 (IAL2).		  
AR ⚠ <sup>a</sup>	<b>Social Media Safety Act</b> <b>Ark. Code Ann. § 4-88-1402(c):</b> (1) A social media company shall use a third-party vendor to perform reasonable age verification before allowing access to the social media company's social media platform. (2) Reasonable age verification methods under subdivision (c)(1) of this section include providing (A) A digitized identification card, including a digital copy of a driver's license under § 27-16-601 et seq.; (B) Government-issued identification; or (C) Any commercially reasonable age verification method.		   

<sup>a</sup> *NetChoice v. Griffin*, 2023 US Dist Lexis 154571, 2023 WL 5660155 (W.D. Ark. Aug. 31, 2023).

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
	Any commercially reasonable method		Enabled by device- or browser-based signals
	Recognized by international standards		Commercially available database
	NIST standards		Transactional data
	Digitized ID		Financial documents
	Government-issued ID		Photograph of active user
	Conducted by independent third party		Third party not owned by foreign company
	Accuracy requirement		Approved by AG
	Unspecified		
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
CA ⚠ <sup>b</sup>	<b>California Age-Appropriate Design Code Act</b> <b>Cal. Civ. Code § 1798.99.31:</b> (a) A business that provides an online service, product, or feature likely to be accessed by children shall take all of the following actions: *** (5) Estimate the age of child users with a reasonable level of certainty appropriate to the risks that arise from the data management practices of the business or apply the privacy and data protections afforded to children to all consumers. *** (b) A business that provides an online service, product, or feature likely to be accessed by children shall not take any of the following actions: *** (8) Use any personal information collected to estimate age or age range for any other purpose or retain that personal information longer than necessary to estimate age. Age assurance shall be proportionate to the risks and data practice of an online service, product, or feature. <b>Cal. Civ. Code § 1798.99.32:</b> (d) The [California Children's Data Protection Working Group] ... shall make recommendations to the Legislature on best practices regarding, at minimum, all of the following: *** (3) Ensuring that age assurance methods used by businesses that provide online services, products, or features likely to be accessed by children are proportionate to the risks that arise from the data management practices of the business, privacy protective, and minimally invasive.		

<sup>b</sup> The U.S. Court of Appeals for the Ninth Circuit affirmed, in part, a preliminary injunction that blocked California’s AADC Act from entering into effect, agreeing with the district court that that the plaintiff is likely to succeed on its claim that the Act’s risk assessment report requirement facially violates the First Amendment. However, the appellate court vacated the district court’s preliminary injunction regarding challenges to other provisions, including the age estimation provision quoted above, because the district court failed to properly consider the facial nature of those challenges. *NetChoice v. Bonta*, No. 23-2969, decided Aug. 16, 2024.

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
	Any commercially reasonable method		Enabled by device- or browser-based signals
	Recognized by international standards		Commercially available database
	NIST standards		Transactional data
	Digitized ID		Financial documents
	Government-issued ID		Photograph of active user
	3P		Conducted by independent third party
	US		Third party not owned by foreign company
	%		Accuracy requirement
	AG		Approved by AG
	U		Unspecified
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
CA	<p><b>Protecting Our Kids from Social Media Addiction Act (SB-976, Chapter 321, Statutes of 2024)</b></p> <p><b>Cal. Health &amp; Safety Code §27006 [effective Jan. 1, 2027]:</b></p> <p>(a) This chapter may only be enforced in a civil action brought in the name of the people of the State of California by the Attorney General.</p> <p>(b) The Attorney General shall adopt regulations to further the purposes of this chapter, including regulations regarding age assurance and parental consent by January 1, 2027. The Attorney General may adopt regulations that provide for exceptions to this chapter, but only if those exceptions further the purpose of protecting minors.</p> <p>(c) In promulgating the regulations described in subdivision (b), the Attorney General shall solicit public comment regarding the impact that any regulation might have based on the nondiscrimination characteristics set forth in Section 51 of the Civil Code or in any other applicable law.</p>		
FL	<p><b>An Act relating to online protections for minors ...</b></p> <p><b>Fla. Stat. §501.1738(1) [effective Jan. 1, 2025]:</b></p> <p>"Anonymous age verification" means a commercially reasonable method used by a government agency or a business for the purpose of age verification which is conducted by a nongovernmental, independent third party organized under the laws of a state of the United States which:</p> <p>(a) Has its principal place of business in a state of the United States; and</p> <p>(b) Is not owned or controlled by a company formed in a foreign country, a government of a foreign country, or any other entity formed in a foreign country.</p> <p><b>Fla. Stat. §501.1737(1)(i) [effective Jan. 1, 2025]:</b></p> <p>"Standard age verification" means any commercially reasonable method of age verification approved by the commercial entity.</p> <p><b>Fla. Stat. §501.1737(2) [effective Jan. 1, 2025]:</b></p> <p>A commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on a website or application, if the website or application contains a substantial portion of material harmful to minors, must use either anonymous age verification or standard age verification to verify that the age of a person attempting to access the material is 18 years of age or older and prevent access to the material by a person younger than 18 years of age. The commercial entity must offer anonymous age verification and standard age verification, and a person attempting to access the material may select which method will be used to verify his or her age.</p>		  

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
	Any commercially reasonable method		Enabled by device- or browser-based signals
	Recognized by international standards		Commercially available database
	NIST standards		Transactional data
	Digitized ID		Financial documents
	Government-issued ID		Photograph of active user
	Conducted by independent third party		Third party not owned by foreign company
	Accuracy requirement		Approved by AG
	Unspecified		
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
FL	<p><b>Florida Digital Bill of Rights – Enforcement.</b>  <b>Fla. Admin. Code Ann. r. 2-3.003</b></p> <p>(1) Definitions – As used in this rule and Section 501.701, F.S.:</p> <p>(c) “Reasonable age verification” means any commercially reasonable method regularly used by the government or businesses for the purpose of age and identity verification.</p> <p>* * *</p> <p>(4) Willful Disregard –</p> <p>(a) A controller willfully disregards a consumer’s age if it, based on the facts or circumstance readily available to the controller, should reasonably have been aroused to question whether a consumer was a child and thereafter failed to perform reasonable age verification.</p> <p>(b) The department will not find a controller willfully disregarded a consumer’s age if that controller utilizes a reasonable age verification method with respect to all its consumers and that reasonable age verification method determined that the consumer was not a child unless the controller later obtained actual knowledge that the consumer was a child and failed to act.</p>		
GA	<p><b>Protecting Georgia's Children on Social Media Act of 2024</b>  <b>Ga. Code §39-5-5(a)(8) [effective July 1, 2025]:</b></p> <p>“Reasonable age verification” means to confirm that a person seeking to access published material that may have a substantial portion of material that is harmful to minors is at least 18 years of age.</p>		
GA	<p><b>Ga. Code §39-6-2 [effective July 1, 2025]:</b></p> <p>(a) The provider of a social media platform shall make commercially reasonable efforts to verify the age of account holders with a level of certainty appropriate to the risks that arise from the social media platform’s information management practices or shall apply the special conditions applied to minors under this chapter to all account holders.</p> <p>(b) The provider of a social media platform shall treat as a minor any individual such provider verifies to be under the age of 16 years.</p>		
ID	<p><b>An Act relating to liability for publishers and distributors of material harmful to minors ...</b>  <b>Idaho Code § 6-3802(10):</b></p> <p>"Reasonable age verification methods" include verifying that the person seeking to access the material is eighteen (18) years of age or older by:</p> <p>(a) Providing a digitized identification card as defined in this section; or</p> <p>(b) Requiring that the person attempting to access the material complies with a commercial age verification system that verifies age in one (1) or more of the following ways:</p> <p>(i) Government-issued identification; or</p> <p>(ii) Public or private transactional data.</p>		  

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
IN ⚠ <sup>c</sup>	<b>Age Verification for Adult Oriented Websites</b> <b>Ind. Code § 24-4-23-7</b> "Reasonable age verification method" means a method of determining that an individual seeking to access a website containing material harmful to minors is not a minor by using one (1) or more of the following methods: (1) A mobile credential. (2) An independent third party age verification service that compares the identifying information entered by the individual who is seeking access with material that is available from a commercially available data base, or an aggregate of data bases, that is regularly used by government agencies and businesses for the purpose of age and identity verification. (3) Any commercially reasonable method that relies on public or private transactional data to verify the age of the individual attempting to access the material. <b>Ind. Code § 9-13-2-103.4:</b> "Mobile credential" means digital data issued to a telecommunications device by the bureau under IC 9-24-17.5 of the information contained on the following: (1) A driver's license. (2) A learner's permit. (3) An identification card. The term does not include a motorcycle learner's permit issued under IC 9-24-8-3, a photo exempt driver's license issued under IC 9-24-11-5(b), or a photo exempt identification card issued under IC 9-24-16.5.		    
KS	<b>An Act ... relating to internet content that is harmful to minors ...</b> <b>2024 Kans. Sess. Laws, ch. 28, § 1 [effective July 1, 2024]:</b> (2) "Commercially reasonable method of age verification" means: (A) Any method expressly approved by the attorney general; or (B) any method that is certified in documented international standards for age verification as specified by the attorney general.		 

<sup>c</sup> *Free Speech Coalition, Inc. v. Rokita*, 2024 BL 222011 (S.D. Ind. June 28, 2024). Plaintiffs' facial overbreadth challenge to the age verification requirements is likely to succeed on the merits.

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 Recognized by international standards	 Commercially available database	 Third party not owned by foreign company	
 NIST standards	 Transactional data	 Accuracy requirement	
 Digitized ID	 Financial documents	 Approved by AG	
 Government-issued ID	 Photograph of active user	 Unspecified	
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
KY	<b>An Act relating to the protection of children</b> <b>2024 Ky. Acts ch. 106, § 13 [effective July 15, 2024]:</b> (1) "Age verification" means verifying that the person seeking access to the matter is eighteen (18) years old or older, through any of the following methods: (a) State-issued form of identification, including but not limited to an operator's license or personal identification card issued under KRS Chapter 186 that establishes age; (b) Identification issued by any agency of the United States government that establishes age; or (c) Any commercially reasonable method of identification that relies on public or private transactional data to verify that the person attempting to access the matter is at least eighteen (18) years of age or older;		 
LA ⚠ <sup>d</sup>	<b>An Act ... relative to material harmful to minors ...</b> <b>La. Rev. Stat. § 9:2800.29(D):</b> (8) "Reasonable age verification methods" include verifying that the person seeking to access the material is eighteen years of age or older by using any of the following methods: (a) Provide a digitized identification card as defined in R.S. 51:3211. (b) Require the person attempting to access the material to comply with a commercial age verification system that verifies in one or more of the following ways: (i) Government-issued identification. (ii) Any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the information is at least eighteen years of age or older.  <b>An Act ... relative to liability for publishers and distributors of material harmful to minors ...</b> <b>La. Rev. Stat. § 51:2121(D):</b> (8) "Reasonable age verification methods" means verifying that a person seeking to access the material is eighteen years of age or older by using any of the following methods: (a) Providing a digitized identification card as defined in R.S. 51:3211. (b) Requiring the person attempting to access the material to comply with a commercial age verification system that verifies in any of the following ways: (i) Government-issued identification. (ii) Any commercially reasonable method that relies on public or private transactional data to verify that the age of the person attempting to access the information is at least eighteen years of age or older.		  

<sup>d</sup> Free Speech Coalition v. LeBlanc, 697 F. Supp. 3d 534 (E.D. La. 2023).

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
LA	<b><i>Secure Online Child Interaction and Age Limitation Act</i></b> <b>La. Rev. Stat. § 51:1752 [effective July 1, 2025]:</b> (A) A social media company shall make commercially reasonable efforts to verify the age of Louisiana account holders with a level of certainty appropriate to the risks that arise from the information management practices of the social media company or apply the accommodations afforded to minors pursuant to this Chapter to all account holders. *** (D) The division may adopt rules in accordance with the Administrative Procedure Act that provide examples of all of the following: (1) Acceptable processes or means by which a social media company may meet the age verification requirements of this Chapter, including adjusting for new technologies. (2) Acceptable forms or methods of identification for individuals to verify that they are over the age of sixteen, which may not be limited to a valid identification card issued by a government entity. (3) Acceptable processes or means to confirm that a parent or guardian has provided consent for the minor to open or use an account pursuant to this Section.		
MD	<b><i>Maryland Age-Appropriate Design Code Act a.k.a. Maryland Kids Code</i></b> <b>Md. Code, Com. Law § 14-4606 [effective Oct 1, 2024]:</b> (a) A covered entity that provides an online product that is accessed or reasonably likely to be accessed by children may not: *** (8) Process any personal data for the purpose of estimating the age of a child that is actively and knowingly engaged with an online product that is not reasonably necessary to provide the online product ...		
MS	<b><i>An Act to regulate pornographic media exposure to children ...</i></b> <b>Miss. Code § 11-77-3(h):</b> "Reasonable age verification methods" include verifying that the person seeking to access the material is eighteen (18) years of age or older by using any of the following methods: (i) Provide a digitized identification card; (ii) Require the person attempting to access the material to comply with a commercial age verification system that verifies in one or more of the following ways: 1. Government-issued identification; or 2. Any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the information is at least eighteen (18) years of age or older.		  

\* The Maryland Kids Code specifically PROHIBITS any processing of children’s data for purposes of age estimation.

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
MS ⚠ <sup>e</sup>	<b><i>Walker Montgomery Protecting Children Online Act</i></b> 2024 Miss. Laws ch. 456, HB 1126, § 4 [effective July 1, 2024]: (1) A digital service provider may not enter into an agreement with a person to create an account with a digital service unless the person has registered the person's age with the digital service provider. A digital service provider shall make commercially reasonable efforts to verify the age of the person creating an account with a level of certainty appropriate to the risks that arise from the information management practices of the digital service provider.		
MT	<b><i>An Act revising internet laws related to material harmful to minors ...</i></b> Mont. Code § 30-14-159(7)(h): "Reasonable age verification methods" include verifying that the person seeking to access the material is 18 years of age or older by using any of the following methods: (i) providing a digitized identification card; or (ii) requiring the person attempting to access the material to comply with a commercial age verification system that verifies in one or more of the following ways: (A) government-issued identification; or (B) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the information is at least 18 years of age or older.		  
NE	<b><i>Online Age Verification Liability Act</i></b> Neb. Rev. Stat. § 87-1002(9): Reasonable age verification method means a process to verify that the person attempting to access the material is at least eighteen years of age or older through the use of (i) a digitized identification card, including a digital copy of a driver's license, (ii) a government-issued identification, (iii) a financial document or other document that is a reliable proxy for age, or (iv) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material ....		   

<sup>e</sup> *NetChoice, LLC v. Fitch*, 2024 BL 224153, 2024 US Dist Lexis 115368 (S.D. Miss., July 1, 2024).

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
NY	<p><b>New York Child Data Protection Act</b></p> <p><b>N.Y. Gen. Bus. Law § 899-EE</b></p> <p>1. "Covered user" shall mean a user of a website, online service, online application, mobile application, or connected device, or portion thereof, in the state of New York who is:</p> <p>(a) actually known by the operator of such website, online service, online application, mobile application, or connected device to be a minor; or</p> <p>(b) using a website, online service, online application, mobile application, or connected device primarily directed to minors.</p> <p><b>N.Y. Gen. Bus. Law § 899-II(1) [effective June 20, 2025]:</b></p> <p>For the purposes of this article, an operator shall treat a user as a covered user if the user's device communicates or signals that the user is or shall be treated as a minor, including through a browser plug-in or privacy setting, device setting, or other mechanism that complies with regulations promulgated by the attorney general.</p>		

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
NY	<p><b>Stop Addictive Feeds Exploitation (SAFE) for Kids Act</b></p> <p>N.Y. Gen. Bus. Law § 1501 [effective on the 180th day after the office of the attorney general promulgates rules and regulations necessary to effectuate the provisions of this act]:</p> <p>(1) It shall be unlawful for a covered operator to provide an addictive feed to a covered user unless:</p> <p>(a) the covered operator has used commercially reasonable and technically feasible methods to determine that the covered user is not a covered minor; or</p> <p>(b) the covered operator has obtained verifiable parental consent to provide an addictive feed to a covered minor.</p> <p>(2)</p> <p>(a) The attorney general shall promulgate regulations<sup>f</sup> identifying commercially reasonable and technically feasible methods for covered operators to determine if a covered user is a covered minor required pursuant to subdivision one of this section, and any exceptions thereto.</p> <p>(b) In promulgating such regulations, the attorney general shall consider the size, financial resources, and technical capabilities of the addictive social media platform, the costs and effectiveness of available age determination techniques for users of the addictive social media platform, the audience of the addictive social media platform, prevalent practices of the industry of the covered operator, and the impact of the age determination techniques on the covered users' safety, utility, and experience.</p> <p>(c) Such regulations shall also identify the appropriate levels of accuracy that would be commercially reasonable and technically feasible for covered operators to achieve in determining whether a covered user is a covered minor. Such regulations shall set forth multiple commercially reasonable and technically feasible methods for a covered operator to determine if a covered user is a covered minor, including at least one method that either does not rely solely on government issued identification or that allows a covered user to maintain anonymity as to the covered operator of the addictive social media platform.</p> <p>(d) Where a covered operator has used commercially reasonable and technically feasible age determination methods in compliance with such regulations and has not determined that a covered user is a covered minor, the covered operator shall operate under the presumption that the covered user is not a covered minor for the purposes of this article, unless it obtains actual knowledge that the covered user is a covered minor.</p>		

<sup>f</sup> On August 1, 2024, the Office of the New York State Attorney General released an Advance Notice of Proposed Rulemaking for the SAFE for Kids Act, which seeks comments on, among other things, commercially reasonable and technically feasible age determination methods. Comments are due September 30, 2024. Additional information is available at <https://ag.ny.gov/resources/individuals/consumer-issues/technology/protecting-children-online>.

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
NC	<b><i>Pornography Age Verification Enforcement (PAVE) Act</i></b> <b>N.C. Gen. Stat. § 66-501(a):</b> Any commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the internet from a website that contains a substantial portion of such material shall, through use of (i) a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification, or (ii) another commercially reasonable method of age and identity verification, verify the age of the individuals attempting to access the material.		 
OK	<b><i>An Act ... prohibiting commercial entities from distributing certain material ...</i></b> <b>15 Okla. Stat § 791(12) [effective Nov. 1, 2024]</b> "Reasonable age verification methods" means verifying that the person seeking access to the available material is eighteen (18) years of age or older by using the following methods: (a) use of a digitized identification card as defined in this section, (b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for purpose of age and identity verification, or (c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material. <b>15 Okla. Stat § 791(4) [effective Nov. 1, 2024]</b> "Digitized identification card" means a data file available on any mobile device, which has connectivity to the Internet, through a state-approved application that allows the mobile device to download the data file from a state agency or any authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current state of the licensed or identification card.		    

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	Unspecified		
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
SC	<p><b>Child Online Safety Act</b></p> <p><b>S.C. Code § 37-1-310(12) [enforceable beginning Jan. 1, 2025]:</b></p> <p>"Reasonable age verification methods" means verifying that the person seeking to access the material is eighteen years old or older by using any of the following methods:</p> <ul style="list-style-type: none"> <li>(a) use of a digitized identification card as defined in this subsection;</li> <li>(b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or</li> <li>(c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.</li> </ul> <p><b>S.C. Code § 37-1-310(4) [enforceable beginning Jan. 1, 2025]:</b></p> <p>"Digitized identification card" means a data file available on any mobile device which has connectivity to the Internet through a state-approved application that allows the mobile device to download the data file from a state agency or an authorized agent of a state agency that contains all of the data elements visible on the face and back of a license or identification card and displays the current status of the license or identification card.</p>		    

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
TN	<p><b>Protect Tennessee Minors Act</b>  <b>2024 Tenn. Acts, ch. 1021, s 1</b></p> <p>(b) As used in this section:</p> <p>***</p> <p>(2) "Age-verified session" refers to the lesser of the session during which the active user's age was verified using a reasonable age-verification method or sixty (60) minutes from the time the active user's age was verified using a reasonable age-verification method;</p> <p>(3) "Anonymized age-verification data" refers to data sufficient to prove a reasonable age-verification method was used to verify the age of the active user as eighteen (18) or more years of age and dissociated with any personally identifying information. At a minimum, anonymized age-verification data must include architectural diagrams illustrating the technological assets and logical processes by which the reasonable age-verification method is accomplished and data demonstrating a volume of reasonable age-verification method executions consistent with the overall volume of visits to the website;</p> <p>***</p> <p>(11) "Reasonable age-verification method" includes the following means of establishing the age of the person attempting to view content harmful to minors, implemented in a manner not easily bypassed or circumvented:</p> <p>(A) The matching of a photograph of the active user taken between the attempt to view content harmful to minors and the viewing of content harmful to minors, using the device by which the attempt to view content harmful to minors is being made, to the photograph on a valid form of identification issued by a state of the United States of America; or</p> <p>(B) A commercially reasonable method relying on public or private transactional data to verify that the age of the person attempting to access the information is at least eighteen (18) years of age or older;</p>		  

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
TX ⚠ <sup>g</sup>	<b>An Act relating to the publication or distribution of sexual material harmful to minors ...</b> <b>Tex. Civ. Prac. &amp; Rem. Code § 129b.003</b> (a) In this section, "digital identification" means information stored on a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual. (b) A commercial entity that knowingly and intentionally publishes or distributes material on an Internet website or a third party that performs age verification under this chapter shall require an individual to: (1) provide digital identification; or (2) comply with a commercial age verification system that verifies age using: (A) government-issued identification; or (B) a commercially reasonable method that relies on public or private transactional data to verify the age of an individual.		  
TX ⚠ <sup>h</sup>	<b>Securing Children Online through Parental Empowerment (SCOPE) Act</b> <b>Tex. Bus. &amp; Com. Code § 509.057 [Effective Sept. 1, 2024]</b> (a) A digital service provider as defined by Section 509.001 that knowingly publishes or distributes material, more than one-third of which is harmful material or obscene as defined by Section 43.21, Penal Code, must use a commercially reasonable age verification method to verify that any person seeking to access content on or through the provider's digital service is 18 years of age or older. (b) If a person seeking to access content on or through the digital service of a provider for which age verification is required under this section is not 18 years of age or older, the digital service provider may not enter into an agreement with the person for access to the digital service.		

<sup>g</sup> *Free Speech Coalition v. Paxton*, 95 F.4th 263 (5th Cir. 2024), cert. granted July 2, 2024 (U.S. Supreme Court Docket No. 23-1122, available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-1122.html>).

<sup>h</sup> *Computer & Communications Industry Ass'n. v. Paxton*, No. 24-cv-00849 (W.D. Tex., Aug. 30, 2024).

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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
UT  <sup>i</sup>	<b>Online Pornography Viewing Age Requirements</b> <b>Utah Code § 78B-3-1001</b> (9) "Reasonable age verification methods" means verifying that the person seeking to access the material is 18 years old or older by using any of the following methods: (a) use of a digitized information card as defined in this section; (b) verification through an independent, third-party age verification service that compares the personal information entered by the individual who is seeking access to the material that is available from a commercially available database, or aggregate of databases, that is regularly used by government agencies and businesses for the purpose of age and identity verification; or (c) any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the material.		    

<sup>i</sup> *Free Speech Coalition v. Anderson*, 685 F. Supp. 3d 1299 (D. Utah 2023), appeal filed (Docket No. 23-04104, 10th Cir. Aug 11, 2023).

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
Any commercially reasonable method	Enabled by device- or browser-based signals	Conducted by independent third party	
Recognized by international standards	Commercially available database	Third party not owned by foreign company	
NIST standards	Transactional data	Accuracy requirement	
Digitized ID	Financial documents	Approved by AG	
Government-issued ID	Photograph of active user	Unspecified	
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
UT <sup>j</sup>	<b>Utah Minor Protection in Social Media Act</b> <b>Utah Code § 13-71-101(2) [effective Oct. 1, 2024]</b> "Age assurance system" means measures reasonably calculated to enable a social media company to identify whether a current or prospective Utah account holder is a minor with an accuracy rate of at least 95%.  <b>Utah Code § 13-71-302 [effective Oct. 1, 2024]</b> (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules: (a) to establish processes and means by which a social media company may: (i) assure whether an account holder is a minor in accordance with Section 13-71-201; and (ii) obtain verifiable parental consent in accordance with Section 13-71-203; and (b) to establish criteria a social media company may use to determine whether the social media company's age assurance system is 95% accurate. (2) A social media company is not subject to an enforcement action for a violation of Section 13-71-201 if the social media company implements and maintains an age assurance system that complies with rules made by the division as described in Subsection (1)(a)(i). (3) A social media company is considered to have obtained verifiable parental consent if the social media company obtains parental consent through a mechanism that complies with the rules made by the division as described in Subsection (1)(a)(ii).		

<sup>j</sup> *NetChoice v. Reyes*, 2024 BL 249636 (D. Utah 2024) *Memorandum Decision and Order granting Motion to Dismiss for Failure to State a Claim.*

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS																		
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CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE															
UT	<p><b>Utah Minor Protection in Social Media Act Rule</b>  <b>UTAH STATE BULLETIN, August 15, 2024, Vol. 2024, No. 16</b>  <b>R152-71-4. Processes and Means of Age Assurance -- Safe Harbor.</b></p> <p>(1) A social media company's age assurance system qualifies for the safe harbor described by Subsection 13-71-302(2) if:</p> <p>(a) the processes and means used by the age assurance system produce outcomes that satisfy the criteria in the following table:</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th colspan="5">TABLE Accuracy of Age Assurance Outcomes</th> </tr> <tr> <th>Liveness false acceptance rate maximum</th> <th>False positive rate maximum</th> <th>False negative rate maximum</th> <th>Accuracy within upper and lower limit</th> <th>Outcome error parity maximum disparity</th> </tr> </thead> <tbody> <tr> <td>1%</td> <td>3%</td> <td>10%</td> <td>95%</td> <td>1%</td> </tr> </tbody> </table> <p>(b) the age assurance system's results are verified annually by an independent third-party auditor; and</p> <p>(c) the social media company provides reasonable means by which a current or prospective Utah account holder may challenge an incorrect age assurance result.</p> <p>(2)(a) A social media company may use a third party's age assurance system, provided that the third party complies with the requirements of Title 13, Chapter 71, Utah Minor Protection in Social Media Act and this rule.</p> <p>(b) A social media company that uses a third party's age assurance system may not use the same third party to verify the age assurance system's results, as described by Subsection R152-71-4(1)(b).</p> <p><b>R152-71-6. Age Assurance Accuracy.</b></p> <p>(1)(a) A social media company's age assurance system is 95% accurate, in accordance with Subsection 13-71-302(1)(b), if it correctly determines that a Utah account holder is a minor in 95% of age assurance attempts.</p> <p>(b) To determine whether its age assurance system is 95% accurate, a social media company shall:</p> <p>(i) randomly sample age assurance attempts made with respect to 1,400 or more unique current Utah account holders, half of whom the age assurance system identified as a minor, and half of whom the age assurance system identified as not a minor; and</p> <p>(ii) for each Utah account holder selected in the sample, review whether the age assurance system's determination was correct.</p> <p>(2) A social media company may use a third party's age assurance system, provided that the third party complies with the requirements of Title 13, Chapter 71, Utah Minor Protection in Social Media Act and this rule.</p>		TABLE Accuracy of Age Assurance Outcomes					Liveness false acceptance rate maximum	False positive rate maximum	False negative rate maximum	Accuracy within upper and lower limit	Outcome error parity maximum disparity	1%	3%	10%	95%	1%	
TABLE Accuracy of Age Assurance Outcomes																		
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AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
	Any commercially reasonable method		Enabled by device- or browser-based signals
	Conducted by independent third party		Recognized by international standards
	Third party not owned by foreign company		NIST standards
	Accuracy requirement		Digitized ID
	Approved by AG		Government-issued ID
	Unspecified		Photograph of active user
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
			<p><b>R152-71-7. Age Assurance and Verifiable Parental Consent Data -- Permitted Use, Retention, Protection, and Disposal.</b></p> <p>(1) A social media company may not collect more than the least amount of data reasonably necessary to comply with Sections 13-71-201 and 13-71-204.</p> <p>(2) Data collected by a social media company to comply with Sections 13-71-201 and 13-71-204 shall be:</p> <ul style="list-style-type: none"> <li>(a) maintained in accordance with the security practices described by Subsection 13-61-302(2), and not transferred to a third party as defined by Subsection 13-61-101(36);</li> <li>(b) segregated from all data the social media company maintains in its normal course of business;</li> <li>(c) deleted by permanently and completely erasing the collected data as quickly as possible, but no more than 45 days after the social media company or its agent: <ul style="list-style-type: none"> <li>(i) completes the age assurance process;</li> <li>(ii) uses the data to verify parental consent;</li> <li>(iii) determines a current or prospective Utah account holder failed to meet the verification requirements within the required time period; or</li> <li>(iv) determines parental consent was denied; and</li> </ul> </li> <li>(d) used only to comply with Sections 13-71-201 and 13-71-204, and for no other purpose.</li> </ul> <p>(3) A social media company may extend the 45-day deadline identified in Subsection R152-71-7(2)(c) by up to an additional 45 days:</p> <ul style="list-style-type: none"> <li>(a) one time per age assurance attempt;</li> <li>(b) if the extension is reasonably necessary in accordance with Subsection 13-61-203(2)(b); and</li> <li>(c) the social media complies with Subsection 13-61-203(2)(c).</li> </ul> <p>(4) A social media company or its agent shall create a record related to each Utah account holder for which an age assurance attempt is made describing:</p> <ul style="list-style-type: none"> <li>(a) the date it completed the age assurance process and verified parental consent for the account if the account holder is a minor;</li> <li>(b) the type of data collected to assure the Utah account holder's age and to verify parental consent; and</li> <li>(c) the date it deleted data collected to comply with Sections 13-71-201 and 13-71-204, and this rule.</li> </ul> <p>(5) A person who seeks to verify their account may, in accordance with Section 13-61-202, request that their data be deleted before the verification process is completed.</p> <p>(6) A social media company shall comply with a consumer's request to delete in accordance with Section 13-61-203.</p> <p>(7) Data collected by a social media company to comply with Sections 13-71-201 and 13-71-204 may not be stored, maintained, transferred, or processed outside the United States of America.</p>

AGE VERIFICATION REQUIREMENTS IN U.S. STATE LAWS			
⚠ = Law subject to legal challenge			
 Any commercially reasonable method	 Enabled by device- or browser-based signals	 3P Conducted by independent third party	
 Recognized by international standards	 Commercially available database	 Third party not owned by foreign company	
 NIST standards	 Transactional data	 % Accuracy requirement	
 Digitized ID	 Financial documents	 Approved by AG	
 Government-issued ID	 Photograph of active user	 U Unspecified	
CONTEXT	HARMFUL TO MINORS	SOCIAL MEDIA	LIKELY ACCESS OR ACTUAL KNOWLEDGE
VA	<p><i>An Act relating to civil liability for publishing or distributing material harmful to minors ...</i></p> <p><b>Va. Code § 8.01-40.5 (B)</b></p> <p>Any commercial entity that knowingly or intentionally publishes or distributes material harmful to minors on the Internet from a website that contains a substantial portion of such material shall, through the use of (i) a commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification or (ii) another commercially reasonable method of age and identity verification, verify that any person attempting to access such material harmful to minors is 18 years of age or older.</p>		 

**APPENDIX B:**

**‘HARMFUL TO MINORS’ IN U.S. STATE AGE VERIFICATION LAWS**

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<b>'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS</b> ⚠ = Law subject to legal challenge		
<b>1</b>	Appeals to prurient interest	<b>6</b>
<b>2</b>	Patently offensive	<b>7</b>
<b>3</b>	Lacks literary, artistic, political or scientific value	<b>8</b>
<b>4</b>	Depicts specified body parts	<b>9</b>
<b>5</b>	Depicts sexual conduct generally	<b>10</b>
<b>6</b>	Depicts specific types of sexual activity	
<b>7</b>	Includes simulated or animated content	
<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
AL	<p><i>An Act ... to provide age-verification requirements for the distribution of sexual material</i></p> <p><b>2024 Ala. Laws No. 97, Section 2 [effective Oct. 1, 2024]:</b></p> <p>(5) HARMFUL TO MINORS. The term as defined under Section 13A-12-200.1, Code of Alabama 1975.</p> <p><b>Ala. Code §13A-12-200.1(11):</b></p> <p>HARMFUL TO MINORS. The term means:</p> <ol style="list-style-type: none"> <li>a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the <b>prurient interest</b> of minors; and</li> <li>b. The material depicts or describes sexual conduct, breast nudity or genital nudity, in a way which is <b>patently offensive to prevailing standards</b> in the adult community with respect to what is suitable for minors; <b>and</b></li> <li>c. A reasonable person would find that the material, taken as a whole, <b>lacks serious literary, artistic, political or scientific value</b> for minors.</li> </ol>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">1</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">2</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">3</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">4</div> </div>
AR	<p><i>Protection of Minors from Distribution of Harmful Material Act</i></p> <p><b>Ark. Code Ann. § 4-88-1303(5):</b></p> <p>"Material harmful to minors" means:</p> <ol style="list-style-type: none"> <li>(A) Any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, <b>prurient interest</b>;</li> <li>(B) Any of the following material that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> displays or depictions of any of the following, in a manner <b>patently offensive</b> with respect to minors:                         <ol style="list-style-type: none"> <li>(i) Nipple of the female breast, pubic hair, anus, vulva, or genitals;</li> <li>(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, the anus, or genitals; or</li> <li>(iii) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions of a sexual act and any other sexual act; <b>and</b></li> </ol> </li> <li>(C) The material taken as a whole <b>lacks serious literary, artistic, political, and scientific value</b> for minors ...</li> </ol>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">1</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">2</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">3</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">4</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">6</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">7</div> <div style="border: 1px solid black; background-color: yellow; padding: 2px; width: 20px; text-align: center;">8</div> </div>

<b>'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS</b> ⚠️ = Law subject to legal challenge		
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<b>6</b>	Depicts specific types of sexual activity	
<b>7</b>	Includes simulated or animated content	
<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
FL	<p><b>An Act relating to online protections for minors ...</b></p> <p><b>Fla. Stat. §501.1737(1)(e) [effective Jan. 1, 2025]:</b></p> <p>"Material harmful to minors" means any material that:</p> <ol style="list-style-type: none"> <li>1. The average person applying contemporary community standards would find, taken as a whole, appeals to the <b>prurient interest</b>;</li> <li>2. Depicts or describes, in a <b>patently offensive</b> way, <b>sexual conduct</b> as specifically defined in s. 847.001(19); <b>and</b></li> <li>3. When taken as a whole, <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</li> </ol> <p><b>Fla. Stat. §847.001(19):</b></p> <p>"Sexual conduct" means <b>actual or simulated</b> sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; <b>actual or simulated</b> lewd exhibition of the genitals; actual physical contact with a person's <b>clothed or unclothed</b> genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes <b>sexual battery</b> or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">8</div> </div>
GA	<p><b>Protecting Georgia's Children on Social Media Act of 2024</b></p> <p><b>Ga. Code §39-5-5(a)(4) [effective July 1, 2025]:</b></p> <p>"Material harmful to minors" means:</p> <ol style="list-style-type: none"> <li>(A) Any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, <b>prurient interest</b>;</li> <li>(B) Any of the following materials that exploit, are devoted to, or principally consist of descriptions of <b>actual, simulated, or animated</b> displays or depictions of any of the following, in a manner <b>patently offensive</b> with respect to minors:                         <ol style="list-style-type: none"> <li>(i) Nipple of the female breast, pubic hair, anus, vulva, or genitals;</li> <li>(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, the anus, or genitals; or</li> <li>(iii) Any sexual act, including, but not limited to, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, and exhibitions of sexual acts; <b>or</b></li> </ol> </li> <li>(C) The material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors..</li> </ol>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">8</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">9</div> </div>

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ID	<p><i>An Act relating to liability for publishers and distributors of material harmful to minors ...</i></p> <p><b>Idaho Code § 6-3802(3):</b></p> <p>"Harmful to minors" means:</p> <p>(a) Material that the average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the <b>prurient interest</b>;</p> <p>(b) Material that is devoted to or principally consists of descriptions of <b>actual, simulated, or animated</b> displays or depictions of any of the following, in a manner <b>patently offensive</b> with respect to minors:</p> <p>(i) Pubic hair, anus, vulva, genitals, or nipple of the female breast;</p> <p>(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or</p> <p>(iii) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act; <b>and</b></p> <p>(c) Material that, taken as a whole, <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">8</div> </div>
IN ⚠️ <sup>a</sup>	<p><i>Age Verification for Adult Oriented Websites</i></p> <p><b>Ind. Code § 24-4-23-3</b></p> <p>"Material harmful to minors" means matter or a performance described in IC 35-49-2-2.</p> <p><b>Ind. Code § 35-49-2-2</b></p> <p>A matter or performance is harmful to minors for purposes of this article if:</p> <p>(1) it describes or represents, in any form, <b>nudity, sexual conduct</b>, sexual excitement, or <b>sado-masochistic abuse</b>;</p> <p>(2) considered as a whole, it appeals to the <b>prurient interest</b> in sex of minors;</p> <p>(3) it is <b>patently offensive</b> to prevailing standards in the adult community as a whole with respect to what is suitable matter for or performance before minors; <b>and</b></p> <p>(4) considered as a whole, it <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">5</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center;">8</div> </div>

<sup>a</sup> *Free Speech Coalition, Inc. v. Rokita*, 2024 BL 222011 (S.D. Ind. June 28, 2024). Plaintiffs' facial overbreadth challenge to the age verification requirements is likely to succeed on the merits.

<b>'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS</b> ▲ = Law subject to legal challenge		
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<b>2</b>	Patently offensive	<b>7</b>
<b>3</b>	Lacks literary, artistic, political or scientific value	<b>8</b>
<b>4</b>	Depicts specified body parts	<b>9</b>
<b>5</b>	Depicts sexual conduct generally	<b>10</b>
<b>6</b>	Depicts specific types of sexual activity	
<b>7</b>	Includes simulated or animated content	
<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
KS	<p><b>An Act ... relating to internet content that is harmful to minors ...</b></p> <p><b>2024 Kans. Sess. Laws, ch. 28, § 1(h)(3) [effective July 1, 2024]:</b></p> <p>"Harmful to minors" means the same as defined in K.S.A. 21-6402, and amendments thereto.</p> <p><b>Kan. Stat. Ann. 21-6402(d)(2):</b></p> <p>As used in this section ... "harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of <b>nudity, sexual conduct</b>, sexual excitement or <b>sadomasochistic abuse</b> when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:</p> <p>(A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a <b>prurient interest</b> in sex to minors;</p> <p>(B) the average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is <b>patently offensive</b> to prevailing standards in the adult community with respect to what is suitable for minors; <b>and</b></p> <p>(C) a reasonable person would find that the material or performance <b>lacks serious literary, scientific, educational, artistic or political value</b> for minors;</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>1</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>2</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>3</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>4</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>5</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>8</b></div> </div>
KY	<p><b>An Act relating to the protection of children</b></p> <p><b>2024 Ky. Acts ch. 106, § 13 [effective July 15, 2024]:</b></p> <p>(8) "Matter harmful to minors" means:</p> <p>(a) Any matter that the average person, applying contemporary community standards, and taking the matter as a whole with respect to minors, would find is designed to appeal to, or pander to, the <b>prurient interest</b>;</p> <p>(b) Any matter that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> display or depiction of any of the following, in a manner <b>patently offensive</b> with respect to minors:</p> <ol style="list-style-type: none"> <li>1. Pubic area, anus, vulva, genitals, or nipple of the female breast;</li> <li>2. Touching, caressing, or fondling of buttocks, anuses, pubic areas, genitals, or nipples of the female breast; or</li> <li>3. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act; <b>and</b></li> </ol> <p>(c) The matter taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors;</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>1</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>2</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>3</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>4</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>6</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>7</b></div> <div style="border: 1px solid black; padding: 2px; background-color: #f0f0f0; text-align: center;"><b>8</b></div> </div>

'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS ⚠ = Law subject to legal challenge		
<b>1</b>	Appeals to prurient interest	<b>6</b>
<b>2</b>	Patently offensive	<b>7</b>
<b>3</b>	Lacks literary, artistic, political or scientific value	<b>8</b>
<b>4</b>	Depicts specified body parts	<b>9</b>
<b>5</b>	Depicts sexual conduct generally	<b>10</b>
<b>6</b>	Depicts specific types of sexual activity	
<b>7</b>	Includes simulated or animated content	
<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
LA ⚠ <sup>b</sup>	<p><i>An Act ... relative to material harmful to minors ...</i></p> <p><b>La. Rev. Stat. § 9:2800.29(D)(4):</b></p> <p>"Material harmful to minors" is defined as <b>all of the following</b>:</p> <ul style="list-style-type: none"> <li>(a) Any material that the average person, applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the <b>prurient interest</b>.</li> <li>(b) Any of the following material that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> display or depiction of any of the following, in a manner <b>patently offensive</b> with respect to minors:               <ul style="list-style-type: none"> <li>(i) Pubic hair, anus, vulva, genitals, or nipple of the female breast.</li> <li>(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.</li> <li>(iii) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act.</li> </ul> </li> <li>(c) The material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</li> </ul> <p><i>An Act ... relative to liability for publishers and distributors of material harmful to minors ...</i></p> <p><b>La. Rev. Stat. § 51:2121(D)(4):</b></p> <p>"Material harmful to minors" means <b>all of the following</b>:</p> <ul style="list-style-type: none"> <li>(a) Any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the <b>prurient interest</b>.</li> <li>(b) Any of the following material that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> display or depiction of any of the following, in a manner <b>patently offensive</b> with respect to minors:               <ul style="list-style-type: none"> <li>(i) Pubic hair, anus, vulva, genitals, or nipple of the female breast.</li> <li>(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.</li> <li>(iii) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act.</li> </ul> </li> <li>(c) The material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</li> </ul>	<b>1</b> <b>2</b> <b>3</b> <b>4</b> <b>6</b> <b>7</b> <b>8</b>

<sup>b</sup> *Free Speech Coalition v. LeBlanc*, 697 F. Supp. 3d 534 (E.D. La. 2023).

<b>'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS</b> ▲ = Law subject to legal challenge		
<b>1</b>	Appeals to prurient interest	<b>6</b>
<b>2</b>	Patently offensive	<b>7</b>
<b>3</b>	Lacks literary, artistic, political or scientific value	<b>8</b>
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<b>7</b>	Includes simulated or animated content	
<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
MS	<p><i>An Act to regulate pornographic media exposure to children ...</i></p> <p><b>Miss. Code § 11-77-3(d):</b></p> <p>"Material harmful to minors" is defined as <b>all of the following</b>:</p> <p>(i) Any material that the average person, applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the <b>prurient interest</b>.</p> <p>(ii) Any of the following material that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> display or depiction of any of the following, in a manner <b>patently offensive</b> with respect to minors:</p> <ol style="list-style-type: none"> <li>1. Pubic hair, anus, vulva, genitals, or nipple of the female breast.</li> <li>2. Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.</li> <li>3. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act.</li> </ol> <p>(iii) The material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">8</div> </div>
MT	<p><i>An Act revising internet laws related to material harmful to minors ...</i></p> <p><b>Mont. Code § 30-14-159(7)(d):</b></p> <p>"Material harmful to minors" is defined as <b>all of the following</b>:</p> <p>(i) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;</p> <p>(ii) any of the following material that exploits, is devoted to, or principally consists of descriptions of actual, simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:</p> <ol style="list-style-type: none"> <li>(A) pubic hair, anus, vulva, genitals, or nipple of the female breast;</li> <li>(B) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or</li> <li>(C) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act; and</li> </ol> <p>(iii) the material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.</p>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">8</div> </div>
NE	<p><i>Online Age Verification Liability Act</i></p> <p><b>Neb. Rev. Stat. § 87-1002(5):</b></p> <p>Material harmful to minors means any material to which <b>all of the following</b> apply:</p> <ol style="list-style-type: none"> <li>(a) The average person, applying contemporary community standards, would find, taking the material as a whole and with respect to its consumption by minors, that such material is designed to appeal to or pander to the <b>prurient interest</b>;</li> <li>(b) The material is <b>patently offensive</b> to prevailing standards in the adult community as a whole with respect to its consumption by minors; and</li> <li>(c) The material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors;</li> </ol>	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #ffc107; color: black; text-align: center; width: 20px; height: 20px; margin: 0 auto;">3</div> </div>

'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS ⚠ = Law subject to legal challenge		
1	Appeals to prurient interest	6
2	Patently offensive	7
3	Lacks literary, artistic, political or scientific value	8
4	Depicts specified body parts	9
5	Depicts sexual conduct generally	10
6	Depicts specific types of sexual activity	
7	Includes simulated or animated content	
8	Includes sado-masochistic abuse/flagellation	
9	Does not require elements 1, 2, and 3 / uses "or"	
10	Includes non-sexual content	
NC	<p><b><i>Pornography Age Verification Enforcement (PAVE) Act</i></b></p> <p>N.C. Gen. Stat. § 66-500(b)(3): Harmful to minors. - As defined in G.S. 14-190.13.</p> <p>N.C. Gen. Stat. § 14-190.13 [Effective Dec. 1, 2024]</p> <p>(1) Harmful to Minors. - That quality of any material or performance that depicts <b>sexually explicit nudity or sexual activity</b> and that, taken as a whole, has the following characteristics:</p> <ul style="list-style-type: none"> <li>a. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a <b>prurient interest</b> of minors in sex; <b>and</b></li> <li>b. The average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is <b>patently offensive</b> to prevailing standards in the adult community concerning what is suitable for minors; <b>and</b></li> <li>c. The material or performance <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</li> </ul>	<div style="display: flex; flex-direction: column; gap: 10px;"> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">5</div> </div>

'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS ▲ = Law subject to legal challenge		
1	Appeals to prurient interest	6
2	Patently offensive	7
3	Lacks literary, artistic, political or scientific value	8
4	Depicts specified body parts	9
5	Depicts sexual conduct generally	10
6	Depicts specific types of sexual activity	
7	Includes simulated or animated content	
8	Includes sado-masochistic abuse/flagellation	
9	Does not require elements 1, 2, and 3 / uses "or"	
10	Includes non-sexual content	
OK	<p><b>An Act ... prohibiting commercial entities from distributing certain material ...</b></p> <p><b>15 Okla. Stat § 791(6) [effective Nov. 1, 2024]</b></p> <p>"Harmful to minors" means the same as terms defined in Sections 1040.75 through 1040.77 of Title 21 of the Oklahoma Statutes;</p> <p><b>21 Okla. Stat § 1040.75 [effective Nov. 1, 2024]</b></p> <p>As used in Sections 1040.75 through 1040.77 of this title ...</p> <p>2. "Harmful to minors" means:</p> <p style="margin-left: 20px;">a. that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:</p> <p style="margin-left: 40px;">(1) the average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a <b>prurient interest</b> in sex to minors, and</p> <p style="margin-left: 40px;">(2) the average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance depicts or describes <b>nudity, sexual conduct, sexual excitement or sadomasochistic abuse</b> in a manner that is <b>patently offensive</b> to prevailing standards in the adult community with respect to what is suitable for minors, <b>and</b></p> <p style="margin-left: 40px;">(3) the material or performance <b>lacks serious literary, scientific, medical, artistic, or political value</b> for minors, <b>or</b></p> <p style="margin-left: 20px;">b. <b>any description, exhibition, presentation or representation, in whatever form, of inappropriate violence;</b></p> <p>3. "<b>Inappropriate violence</b>" means any description or representation, in an interactive video game or computer software, of violence which, taken as a whole, has the following characteristics:</p> <p style="margin-left: 20px;">a. the average person eighteen (18) years of age or older applying contemporary community standards would find that the interactive video game or computer software is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors, and</p> <p style="margin-left: 20px;">b. the interactive video game or computer software lacks serious literary, scientific, medical, artistic, or political value for minors based on, but not limited to, the following criteria:</p> <p style="margin-left: 40px;">(1) is glamorized or gratuitous,</p> <p style="margin-left: 40px;">(2) is graphic violence used to shock or stimulate,</p> <p style="margin-left: 40px;">(3) is graphic violence that is not contextually relevant to the material,</p> <p style="margin-left: 40px;">(4) is so pervasive that it serves as the thread holding the plot of the material together,</p> <p style="margin-left: 40px;">(5) trivializes the serious nature of realistic violence,</p> <p style="margin-left: 40px;">(6) does not demonstrate the consequences or effects of realistic violence,</p> <p style="margin-left: 40px;">(7) uses brutal weapons designed to inflict the maximum amount of pain and damage,</p> <p style="margin-left: 40px;">(8) endorses or glorifies torture or excessive weaponry, or</p> <p style="margin-left: 40px;">(9) depicts lead characters who resort to violence freely;</p> <p>4. "Nudity" means the:</p>	<div style="display: flex; flex-direction: column; gap: 10px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">7</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">8</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white;">10</div> </div>

<b>'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS</b> ▲ = Law subject to legal challenge		
1 Appeals to prurient interest	2 Patently offensive	3 Lacks literary, artistic, political or scientific value
4 Depicts specified body parts	5 Depicts sexual conduct generally	6 Depicts specific types of sexual activity
7 Includes simulated or animated content	8 Includes sado-masochistic abuse/flagellation	9 Does not require elements 1, 2, and 3 / uses "or"
10 Includes non-sexual content		
	a. showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, b. showing of the female breast with less than a full opaque covering of any portion of the female breast below the top of the nipple, or c. depiction of covered male genitals in a discernibly turgid state;	
	5. "Sexual conduct" means sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast, or fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions;	
	6. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal;	
	7. " <b>Sadomasochistic abuse</b> " means flagellation or torture by or upon a person clothed or naked or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed or naked;	
	8. "Material" means anything tangible that is capable of being used or adapted to arouse prurient interest, whether through the medium of reading, observation, sound, or in any other manner including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audio disk, computer tape, video game, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent;	
	9. "Performance" means any motion picture, film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration ...	

'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS ⚠ = Law subject to legal challenge		
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9	Does not require elements 1, 2, and 3 / uses "or"	
10	Includes non-sexual content	
SC	<p><b>Child Online Safety Act</b></p> <p>S.C. Code § 37-1-310(7) [enforceable beginning Jan. 1, 2025]:</p> <p>"Material harmful to minors" is defined as those terms are used in Section 16-15-375.</p> <p>S.C. Code § 16-15-375</p> <p>(1) "Harmful to minors" means that quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:</p> <p>(a) the average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a <b>prurient interest</b> of minors in sex; <b>and</b></p> <p>(b) the average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is <b>patently offensive</b> to prevailing standards in the adult community concerning what is suitable for minors; <b>and</b></p> <p>(c) to a reasonable person, the material or performance taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</p> <p>(2) "Material" means pictures, drawings, video recordings, films, <b>digital electronic files</b>, or other visual depictions or representations but not material consisting entirely of written words.</p> <p>***</p> <p>(5) "Sexual activity" includes any of the following <b>acts or simulations thereof</b>:</p> <p>(a) masturbation, whether done alone or with another human or animal;</p> <p>(b) vaginal, anal, or oral intercourse, whether done with another human or an animal;</p> <p>(c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;</p> <p>(d) an act or condition that depicts bestiality, <b>sado-masochistic abuse</b>, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;</p> <p>(e) excretory functions;</p> <p>(f) the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.</p> <p>(6) "Sexually explicit nudity" means the showing of:</p> <p>(a) uncovered, or less than opaquely covered human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast; or</p> <p>(b) covered human male genitals in a discernibly turgid state.</p>	<div style="display: flex; flex-direction: column; gap: 10px;"> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; text-align: center;">8</div> </div>

'HARMFUL TO MINORS' IN U.S. STATE AGE VERIFICATION LAWS ▲ = Law subject to legal challenge		
1	Appeals to prurient interest	6
2	Patently offensive	7
3	Lacks literary, artistic, political or scientific value	8
4	Depicts specified body parts	9
5	Depicts sexual conduct generally	10
6	Depicts specific types of sexual activity	
7	Includes simulated or animated content	
8	Includes sado-masochistic abuse/flagellation	
9	Does not require elements 1, 2, and 3 / uses "or"	
10	Includes non-sexual content	
TN	<b>Protect Tennessee Minors Act</b> 2024 Tenn. Acts, ch. 1021, s 1 (5) "Content harmful to minors" means: (A) (i) Text, audio, imagery, or video the average person, applying contemporary community standards and taking the material as a whole and with respect to minors of any age, would find sexually explicit and harmful or inappropriate for minors or designed to appeal to or pander to the <b>prurient interest</b> ; or (ii) Text, audio, imagery, or video that exploits, is devoted to, or principally consists of an <b>actual, simulated, or animated display</b> or depiction of any of the following: a Pubic hair, vulva, vagina, penis, testicles, anus, or nipple of a human body; b Pubic hair, vulva, vagina, penis, testicles, anus, or nipple of a fictitious character's body, or the parts of a fictitious character's body analogous or functionally equivalent to the aforementioned parts of the human body; c Touching, caressing, fondling, or other sexual stimulation of human nipples, breasts, buttocks, anuses, or genitals, or the analogous or functionally equivalent parts of a fictitious character's body; or d Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b> , excretory functions, exhibitions, or any other sexual act; and (B) When taken as a whole, <b>lacks serious literary, artistic, political, or scientific value</b> for minors;	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #ffc107; color: black; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">8</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #ffc107; color: black; text-align: center;">9</div> </div>
TX ▲ <sup>c</sup>	<b>An Act relating to the publication or distribution of sexual material harmful to minors ...</b> Tex. Civ. Prac. & Rem. Code § 129b.001(6): "Sexual material harmful to minors" includes any material that: (A) the average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to or pander to the <b>prurient interest</b> ; (B) in a manner <b>patently offensive</b> with respect to minors, exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> displays or depictions of: (i) a person's pubic hair, anus, or genitals or the nipple of the female breast; (ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or (iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b> , excretory functions, exhibitions, or any other sexual act; and (C) taken as a whole, <b>lacks serious literary, artistic, political, or scientific value</b> for minors.	<div style="display: flex; flex-direction: column; gap: 5px;"> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">1</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #ffc107; color: black; text-align: center;">2</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #ffc107; color: black; text-align: center;">3</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">4</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">6</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">7</div> <div style="border: 1px solid black; padding: 2px; width: 20px; height: 20px; margin: 0 auto; background-color: #007bff; color: white; text-align: center;">8</div> </div>

<sup>c</sup> *Free Speech Coalition v. Paxton*, 95 F.4th 263 (5th Cir. 2024), cert. granted July 2, 2024 (U.S. Supreme Court Docket No. 23-1122, available at <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-1122.html>).

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TX ⚠️ <sup>d</sup>	<b>Securing Children Online through Parental Empowerment (SCOPE) Act</b> <b>Tex. Bus. &amp; Com. Code § 509.053(a) [Effective Sept. 1, 2024]</b> In relation to a known minor's use of a digital service, a digital service provider shall develop and implement a strategy to prevent the known minor's exposure to <b>harmful material</b> and other content that promotes, glorifies, or facilitates: <ul style="list-style-type: none"> <li>(1) suicide, self-harm, or eating disorders;</li> <li>(2) substance abuse;</li> <li>(3) stalking, bullying, or harassment; or</li> <li>(4) grooming, trafficking, child pornography, or other sexual exploitation or abuse.</li> </ul>	10
UT ⚠️ <sup>e</sup>	<b>Online Pornography Viewing Age Requirements</b> <b>Utah Code § 78B-3-1001(5):</b> "Material harmful to minors" is defined as <b>all of the following</b> : <ul style="list-style-type: none"> <li>(a) any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the <b>prurient interest</b>;</li> <li>(b) material that exploits, is devoted to, or principally consists of descriptions of <b>actual, simulated, or animated</b> display or depiction of any of the following, in a manner <b>patently offensive</b> with respect to minors:               <ul style="list-style-type: none"> <li>(i) pubic hair, anus, vulva, genitals, or nipple of the female breast;</li> <li>(ii) touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals; or</li> <li>(iii) sexual intercourse, masturbation, sodomy, bestiality, oral copulation, <b>flagellation</b>, excretory functions, exhibitions, or any other sexual act; and</li> </ul> </li> <li>(c) the material taken as a whole <b>lacks serious literary, artistic, political, or scientific value</b> for minors.</li> </ul>	1 2 3 4 6 7 8

<sup>d</sup> *Computer & Communications Industry Ass'n. v. Paxton*, No. 24-cv-00849 (W.D. Tex., Aug. 30, 2024).

<sup>e</sup> *Free Speech Coalition v. Anderson*, 685 F. Supp. 3d 1299 (D. Utah 2023), appeal filed (Docket No. 23-04104, 10th Cir. Aug 11, 2023).

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<b>8</b>	Includes sado-masochistic abuse/flagellation	
<b>9</b>	Does not require elements 1, 2, and 3 / uses "or"	
<b>10</b>	Includes non-sexual content	
VA	<p><b>An Act relating to civil liability for publishing or distributing material harmful to minors ...</b></p> <p><b>Va. Code § 8.01-40.5 (A)</b></p> <p>"Material harmful to minors" means any description or representation of <b>nudity, sexual conduct, sexual excitement, or sadomasochistic abuse</b> when it</p> <p>(i) appeals to the <b>prurient, shameful, or morbid interest</b> of minors;</p> <p>(ii) is <b>patently offensive</b> to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; <b>and</b></p> <p>(iii) is, when taken as a whole, <b>lacking in serious literary, artistic, political, or scientific value</b> for minors.</p> <p>"Sexual conduct" means the same as that term is defined in § 18.2-390.</p> <p><b>Va. Code § 18.2-390</b></p> <p>(2) "Nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.</p> <p>(3) "Sexual conduct" means actual or explicitly simulated acts of masturbation, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such be female, breast.</p> <p>(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.</p> <p>(5) "Sadomasochistic abuse" means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.</p>	<div style="display: flex; flex-direction: column; gap: 10px;"> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">1</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">2</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">3</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">4</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">6</div> <div style="border: 1px solid black; padding: 2px; background-color: #007bff; color: white; text-align: center; width: 20px; height: 20px; margin: 0 auto;">8</div> </div>