



February 19, 2026

Minnesota House Commerce Finance and Policy Committee
Minnesota State Capitol
75 Rev Dr Martin Luther King Jr Boulevard
Saint Paul, MN 55155

Re: Vote yes on H.F.1434

Co-Chairs O'Driscoll and Koegel and Members of the Committee,

Minnesota Family Council represents tens of thousands of families across the state, and on their behalf, we urge you to support H.F.1434.

In the past, if a young person wanted to purchase a pornography magazine or movie, a cashier would check identification to ensure that only adults would be able to access these products. This age-gating protection did not carry over into the digital world, where most porn is consumed today. Now the content is hosted and spread online.

In the age of digital porn, unintentional exposure to this content is a common occurrence. A demographically representative 2022 survey of over 1,300 teens aged 13-17 in the U.S. reported by *Common Sense Media* found that 58% of teens report having accidentally seen porn.¹ For those who report having seen digital porn accidentally, the source of exposure varied. Twenty-five percent report that they accidentally clicked on a link without initially realizing it was pornography, and 18% report accidentally seeing this on social media.

According to the report, the average age of first exposure is 12 years old, and 73% of teens 17 years old or younger report consuming porn. Although academic research on teenage exposure to pornography is limited, likely due to ethical concerns, negative impacts from teenage exposure to pornography have been measured. Youth are exposed to sexual violence through the content resulting in increased sexual aggression risk in youth, along with increased depression and anxiety, particularly among adolescent girls.^{2,3}

This product was initially not designed for youth or kids, but the industry has not self-regulated to ensure that minors are not customers. The industry should have taken steps to block minors from accessing its websites. Without statutory protection for youth, the industry is not held accountable in our state for consumer protection. Today, the Minnesota state legislature can take that positive first step to protect youth and kids.

H.F.1434 would require dedicated digital pornography websites to obtain age verification before granting access to the site. If passed, the language of the bill would require compliance from dedicated sites. Unfortunately, the bill would not protect kids from all digital porn as the content exists on various platforms. This legislation is not a silver bullet solution. Yes, there should be legal protection for kids from all digital porn.

¹Robb, M., & Mann, S. (2023, January 10). *2022 teens and pornography*. Common Sense Media. <https://www.commonsensemedia.org/sites/default/files/research/report/2022-teens-and-pornography-final-web.pdf>

²Paul J., W., Bryant, P., & Debby, H. (2021, February 24). *Preliminary insights from a U.S. probability sample on adolescents' pornography exposure, media psychology, and sexual aggression*. *Journal of Health Communication*. <https://pubmed.ncbi.nlm.nih.gov/33625313/>

³Taylor, K., & Aleksandar, Š. (2018, August 10). *Is pornography use a risk for adolescent well-being? an examination of temporal relationships in two independent panel samples*. *PloS One*. <https://pubmed.ncbi.nlm.nih.gov/30096173/>



However, considering that the state does not protect kids from dedicated sites in 2026, this is a step in the right direction that the legislature can take in a bipartisan manner. A survey released February 9, 2026, from *Common Sense Media* found that 84% of nearly 1,100 U.S. adults surveyed believe that porn websites should require age verification.⁴ The companion bill S.F.2105 has split authorship across party lines, and this bill could also have that same bipartisan support.

In recent years, half the states in the country have passed laws which require porn companies to age-gate users, including Virginia, North Carolina, and Kentucky. The California Assembly passed a bill unanimously which included language to require age verification of digital porn sites.⁵ Members of the E.U. and the U.K. also requires age verification for this content.

Porn companies can comply in a variety of industry standard ways. Compliance can involve redirecting the potential user to a third-party age verification provider to check age before signaling to the porn company whether the potential user is over 18 years old or under 18. According to the language of the bill, the entity performing age verification must delete any data collected within 24 hours after completing the process, and with the author amendment, it cannot transfer or disclose any identifying information except as to comply with the process of age verification. The entity cannot sell the data collected to a third party. An independent annual audit demonstrating proof of compliance must be conducted and prepared for the Attorney General's office upon request.

Accessing digital pornography is one of the cases in which we want to protect youth and children from ever accessing the content, so we see age verification as a viable solution for this situation. We want to thank Rep. Bakeberg for his leadership in this area and encourage members to support this effort. We should not abandon the responsibility of protecting youth and kids from this content because it exists in the digital space. Protections from this content for minors have existed in the physical world, and this bill is a first step to protect Minnesota kids from this digital content.

Regards,

Rebecca Delahunt
Minnesota Family Council
Director of Public Policy

⁴Mann, S., Robb, M. B., & Fox Johnson, A. (2026, February 9). *Age Assurance Attitudes Among Adults*. Common Sense Media. https://www.common sense media.org/sites/default/files/research/report/2026-age-assurance-brief_final-for-web.pdf

⁵https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=202320240AB3080



**Written Testimony in Support of Requiring Age Verification for Harmful Internet Content
(H.F. 1434 - Bakeberg)**

House Commerce Finance and Policy

February 19, 2026

Co-Chair O'Driscoll, Co-Chair Koegel, and Members of the Committee:

We write to express our support for H.F. 1434, which would enact age verification requirements for internet content that is harmful to minors.

Children are spending an increasing amount of time online. Ninety-five percent of teens ages 13 to 17 have access to a smartphone, 45 percent say they are online “almost constantly,” and another 44 percent say they are on the internet several times a day.¹ This time spent online is leading to mental, emotional, and behavioral problems among youth.² It is also exposing children to addictive content that they could never access in the real world.

Would we allow a 12-year-old child to visit a strip club, gamble at a casino, or drink at a bar? Of course not. Currently, these guardrails we put up for our children do not translate to the online world.

Big Tech is not in the business of keeping kids safe. When a child logs onto his computer or device, he has a virtual world at his fingertips, including obscene material that should not be viewed by anyone, much less youth. People can access this content from the privacy of their rooms, without anyone finding out. Research shows that the anonymity and availability of pornographic content leads to higher rates of consumption and addiction. In turn, this can lead to psychopathological changes and blur the line between the real world and fantasy seen on devices.³ Adolescents experiencing this dopamine hit are more susceptible to falling into addiction, and the effects of viewing this content can be more severe than in adults.⁴

While online content is often protected by the courts, that should not act as a shield when it comes to keeping children safe online. At a recent conference on artificial intelligence (AI) at the Vatican, Pope Leo stressed: “Governments and international organizations have a responsibility to design and implement policies that protect the dignity of minors in this era of AI.”⁵ Like with AI, it is incumbent upon lawmakers to enact safeguards so that children do not have unfettered access to content that will be detrimental to them long term. Requiring that websites where a large portion of its material is harmful to minors verify that the user is over the age of 18 before allowing him to enter is a reasonable step. Please vote yes.

Thank you for your consideration.

Respectfully,

Maggee Hangge
Assistant Director for Family Policy
mhangge@mncatholic.org

¹ https://www.pewinternet.org/wp-content/uploads/sites/9/2018/05/PI_2018.05.31_TeensTech_FINAL.pdf

² <https://www.cdc.gov/media/releases/2023/p0213-yrbs.html>, and <https://childmind.org/article/is-social-media-use-causing-depression/>

³ <https://pmc.ncbi.nlm.nih.gov/articles/PMC10399954/>

⁴ <https://culturereframed.org/adolescents-porn-and-mental-health-understanding-the-dangerous-effects-of-porn-on-developing-minds/>

⁵ <https://www.vaticannews.va/en/pope/news/2025-11/pope-leo-xiv-conference-dignity-of-children-adolescents-age-ai1.html>

Members of the House Commerce Committee,

The American Civil Liberties Union of Minnesota is an organization devoted to preserving the rights and liberties enshrined in our constitution and law.

We are writing in opposition to HF 1434.

The ACLU does not support age verification laws such as those proposed in this bill. It is vitally important for our state and society to protect children. However, broad sweeping laws that invade the privacy of adults are not the answer.

The bill requires that websites use mass databases to find people's identity and prove that they are older than 18 years of age to access content the government has arbitrarily deemed obscene.

While we approve of the use of civil penalties and the data privacy provision, it's still unclear how all of this will work in real life. How does an individual know that a company or website is not keeping their identity and personal information?

As unpopular or obscene as it may seem to others, the ACLU has always held that adults in America have a First Amendment right to read or watch explicit materials. And they should be able to meaningfully exercise this right without the need to hand over personal identifying information.

We encourage legislators to think about this issue from different angles and create a safer internet by promoting the use of voluntary content filters. In this way they can give control to the people and not the government.

We strongly urge the committee to vote against HF 1434

Munira Mohamed

Policy Associate, ACLU-MN



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February 19, 2026

Members of Commerce Finance and Policy
State Office Building
100 Rev. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Re: Legal Considerations for HF 1434

Dear Members,

True North Legal is a non-profit legal organization that advocates for life, family, and religious freedom on behalf of all Minnesotans. In addition to our verbal testimony on H.F. 1434, we have included our amicus brief filed in *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 145 S. Ct. 2291 (2025).

Sincerely,

Renee K. Carlson
General Counsel, True North Legal

No. 23-1122

IN THE
Supreme Court of the United States

FREE SPEECH COALITION, INC. *et al.*,

Petitioners,

v.

KEN PAXTON, ATTORNEY GENERAL OF TEXAS,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

**BRIEF OF *AMICI CURIAE* MINNESOTA FAMILY
COUNCIL; KANSAS FAMILY VOICE; TEXAS
VALUES; AND THIRTY STATE FAMILY POLICY
ORGANIZATIONS IN SUPPORT OF RESPONDENT**

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IDENTITY AND INTEREST OF *AMICI CURIAE*¹

Minnesota Family Council (MFC), Kansas Family Voice (KFV), Texas Values, and thirty other family policy organizations (Alabama Policy Institute, Alaska Family Council, Arkansas Family Council, California Family Council, Center for Arizona Policy, Christian Civic League of Maine, Delaware Family Policy Council, Family Policy Alliance, Florida Family Voice, Frontline Policy Council, Hawaii Family Forum, Indiana Family Forum, Louisiana Family Forum, Maryland Family Institute, Massachusetts Family Institute, Michigan Family Forum, Montana Family Foundation, Nebraska Family Alliance, New Jersey Family Policy Center, North Dakota Family Alliance, Oklahoma Council of Public Affairs, Palmetto Family Council, Pennsylvania Family Institute, Rhode Island Family Institute, South Dakota Family Voice Action, The Family Foundation [Kentucky], The Family Foundation [Virginia], The FAMiLY Leader, Wisconsin Family Council, Wyoming Family Alliance) are nonprofit state policy organizations that engage in citizen education, research, and public policy to encourage, strengthen, and protect American families so that they can thrive in Minnesota, Kansas, Texas, and their respective states. Each of these organizations has played a key role in amplifying policies that protect children from the harms of pornography throughout their childhood development. Amici contend that a healthy society demands adequate safeguards such as laws similar to H.B. 1181 for the most

¹ No counsel for any party to this case authored this brief in whole or in part. No party to this case and no counsel for any party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the *amici*, their members, and their counsel made such a monetary contribution.

innocent amongst us—namely children who do not have the same neurological development and maturity as adults and therefore should not be responsible for the same decision making capacity as adults regarding access to pornography.

SUMMARY OF ARGUMENT

As the internet has grown, so has access to material that is harmful to children, most notably online pornography. Quantity and accessibility to pornography continues to increase at the same time the violent nature of the material is also increasing. Because of the great harm it does to children, it is rightly regulated by the states.

There is a growing consensus that Americans cannot continue to simply allow children unfettered access to pornography which studies show is harming them. Our children's future is at stake from the threat of harmful online material that jeopardizes their mental, emotional, and relational well-being. Polls indicate overwhelming support for these types of laws by everyday Americans, most of whom assume these types of laws already exist. Parents recognize that they are not equipped to keep up with the increasing threats of the online pornography industry on their own.

Legislation like H.B. 1181 has received bipartisan support and has become law in nineteen states.² These

² ALA. CODE §§ 8-19G-3 to -6; ARK. CODE ANN. §§ 4-88-1301 to -1305; FLA., STAT. § 501.1737; GA. CODE ANN. § 39-5-5; IDAHO CODE § 6-3803; IND. CODE §§ 24-4-23-1 to -17; 2024 Kan. Sess. Laws 451-53; KY. REV. STAT. ANN. §§ 436.001-436.009; LA. STAT.

laws are a natural extension of the legislator's duty to safeguard the public's wellbeing comparable to its duty to regulate dangerous drugs and tobacco. Similar to the harms of these substances, legislators across the country have heard testimony that pornography has disastrous effects on children. In response to this testimony, legislators took action to focus on those who were profiting from children's access to pornography and implemented common sense legislation age gating the content most harmful to children.

Further, when it comes to making conclusions about the impact of pornography on a state's citizens, in most cases, courts should defer to legislators performing their rightful role in our governmental system to legislate. The people's legislatures perform a fact-finding function and hear most directly what is being experienced by everyday Americans. As representatives of the public, state legislators have both the responsibility and duty to protect children. Their foundational role in the policymaking process should be respected as the state interest in protecting children from the harms of online pornography.

ANN. § 51:2121; MISS. CODE ANN. §§ 11-77-1 to 7; MONT. CODE ANN. § 30-14-159; NEB. REV. STAT. §§ 87-1001 to -1005; N.C. GEN. STAT. ANN. §§ 66-500 to -501; OKLA. STAT. tit. 15, §§ 791-791.4; S.C. CODE ANN. § 37-1-310; TENN. CODE ANN. § 39-17-912; TEX. CIV. PRAC. & REM. § 129B.001-006; UTAH CODE ANN. § 78B-3-1001-003; VA. CODE ANN. § 8.01-40.5.

ARGUMENT

I. Online Pornography Is More Accessible Now Than In 2004, And Children Are Stumbling On To It By Accident.

The last time this Court seriously considered the legality of legislation intended to protect children from online pornography was twenty years ago. *See Ashcroft v. ACLU*, 542 U.S. 656 (2004). Much has changed about technology, the internet, and the pornography readily available to every American, including elementary school children. While Americans may disagree about the solution, they agree that internet pornography is an ever-increasing problem for our children and that the resources currently available to protect children from its prevalence and harmful effects are woefully insufficient. As the availability of pornography has increased through smart phones and other devices, graphic content is also more available and often targets children. *See* Niki Fritz et al., *A Descriptive Analysis of the Types, Targets, and Relative Frequency of Aggression in Mainstream Pornography*, 49 ARCHIVES OF SEXUAL BEHAV. 3041, 3041-53 (2020).

This Court said in 1997 that children were not stumbling on pornography online. *Reno v. ACLU*, 521 U.S. 844, 854 (1997). However, that is simply not the case anymore—in 2024 the internet can now be carried around in one’s pocket. Reports have made clear that three-quarters of children have viewed pornography by the age of 17 and that the average age of first exposure is just 12-years-old. *New Report Reveals Truths About How Teens Engage with Pornography*, Common Sense Media, (Jan. 10, 2023), <https://www.commonsensemedia.org/press-releases/new-report-reveals-truths-about-how->

teens-engage-with-pornography. Unfortunately, more than half of these exposures occurred because a child stumbled onto pornography by accident. *Id.* Children need not even be searching for this content to find it as it is often presented to them as a pop-up, even when looking at unrelated, age-appropriate content. What is worse, almost half of pornography available on mainstream pornographic websites is violent in nature. Fritz at 3041–53. Children’s developing brains are sponges, soaking up information around them. They are naturally curious about who they are becoming and normal societal behavior. Being exposed to pornography at this young age can be overwhelming and is consequential for their mental and emotional development into adulthood and future relationships.

II. Exposure To Pornography Is Harmful To All Children And Uniquely Harmful To Young Girls, Physically, Mentally, And Emotionally, Impacting Their Relational Expectations Throughout Adulthood.

Much like tobacco or other controlled products, pornography’s impacts are even more harmful to young minds due to its addictive nature, and access to it should be properly age gated. The material that is available online today far exceeds what was available in magazines or movies in prior generations. *See* Fritz at 3041–53. As such, its effects on children are especially poignant, as this content is exceedingly harmful to their ability to form healthy romantic relationships as adults and their ability to function well in society as they mature into adulthood.

Exposure to pornography changes children’s relational expectations and interactions in the future. Recent studies have found that children who view pornography are more likely to be associated with rape, violent crime, and sexual

assault in future relationships. Surobhi Chatterjee & Sujita Kumar Kar, *Teen Pornography: An Emerging Mental Health Challenge*, 15 *J. OF PSYCHOSEXUAL HEALTH* 30, 30–34 (2023). Much of what is available in online pornography expresses violence. Children internalize this violence, while learning to normalize and expect it, thus setting an unhealthy relational baseline as they enter into relationships with others.

Exposure to pornography can normalize sexual violence in which women are victimized. Fritz at 3041–53. For women, the younger they are when they are first exposed to pornography can greatly increase the likelihood that they will be sexually victimized. Sarah J. Harsey et al., *Women’s Age of First Exposure to Internet Pornography Predicts Sexual Victimization*, 6 *DIGNITY: A J. OF ANALYSIS OF EXPLOITATION AND VIOLENCE* 1, 9–10 (2021).

Women who were unintentionally exposed to Internet pornography at a young age (i.e., before the age of 14, the average age of unintentional Internet pornography exposure in the current sample) reported more sex abuse in childhood, sex abuse in adulthood, and other forms of sexual aggression victimization compared to women who reported unintentionally viewing Internet pornography at ages 14 or older.

Id. Not only is viewing pornography at a young age connected to sexual violence later in life but it particularly leads young women to be victimized. This is an alarming trend for young girls. Pornography exposure is a way of conditioning a girl’s brain, conditioning her to be used as an object and to attempt riskier sexual behavior, making it easier for her to fall victim to sexual predators.

Further, use of pornography as a child can lead to negative sexual experiences as an adult even if only one person was exposed to pornography as a child. “[Studies] found that male partners had more arousal issues and female partners had more negative self-perception among couples where only the male partner used pornography.” Megan K. Maas et al., *A Dyadic Approach to Pornography Use and Relationship Satisfaction Among Heterosexual Couples: The Role of Pornography Acceptance and Anxious Attachment*, 55 THE J. OF SEX RSCH. 772, 775 (2018). This exposure to pornography not only harms the individual who viewed the pornography, it also harms the non-viewing party in the relationship as well.

This early exposure to pornography may also lead to other forms of sexual difficulties and physical sexual dysfunctions with future partners. Brian Park et al., *Is Internet Pornography Causing Sexual Dysfunctions? A Review with Clinical Reports*, 8 BEHAV. SCIS. 17, 19 (2018). One study looked at the drastic increase in men’s sexual difficulties and dysfunction between 2002 and 2013. The study found that the rates of issues like erectile dysfunction more than doubled in young men who viewed pornography. According to this study these problems increased for study participants who frequently used pornography. Other recent studies have supported this connection, pointing out that the rates of erectile dysfunction in young men have become alarmingly high as internet pornography has become more available. While exposure to pornography is not the only factor contributing to male sexual difficulties, the correlation between sexual difficulties and exposure to pornography is becoming increasingly clear. Tim Jacobs et al., *Associations Between Online Pornography Consumption and Sexual Dysfunction in Young Men*, 21 JMIR PUBLIC HEALTH SURVEILL. 7 (2021).

Even before reaching adulthood, viewing pornography at a young age is consequential. For example, this early exposure is often a factor linked to child-on-child sexual abuse. Social science scholars have found at least a causal relationship between viewing pornography and problematic sexual behaviors (PSB) in youth, noting:

[P]ornography feeds into such situations and exacerbates the vulnerability of children in a number of ways that may be cyclical or self-perpetuating: Pornography is used to groom children for sex; Sexual abuse of children is filmed for the instruction of other children in particular sex acts, or to blackmail the child into silence and for sale to other adult abusers (thus increasing the demand for CEM [Child Exploitation Material] . . .); Children who have been abused are more likely to abuse other children; and merely watching pornography is a risk factor for subsequent coercion of other children into unwanted sex acts.

Elisabeth Taylor, *Pornography as a Public Health Issue: Promoting Violence and Exploitation of Children, Youth, and Adults*, 3 *Dignity: A J. of Analysis of Exploitation and Violence* 1, 39 (2018). As online access to pornography is not limited by geography, reports from groups that serve sexually abused children are telling. In 2016 one such group, the Australian Childhood Foundation, reported that when dealing with young people who have engaged in PSB “pornography is a factor in 100 percent of the cases we see, whereas it used to just account for a small portion of cases 10 years ago.” Taylor at 39. This exposure to pornography at a young age harms children differently than adults because their brains are still maturing, they

are more likely to conflate sexual fantasy with sexual realities, inhibiting the child's ability to form healthy sexual relationships as adults later in life.

When it comes to body image specifically, studies show a correlation between children's exposure to pornography, and self-perception, particularly in young girls. In a recent study, 35% of the minors surveyed said that they worried about their body because of expectations from porn, recognizing the reality that these expectations largely fall on young girls. BBFC, *Young People, Pornography & Age-verification* 52 (2020), <https://www.revealingreality.co.uk/wp-content/uploads/2020/01/BBFC-Young-people-and-pornography-Final-report-2401.pdf>. Another recent study found that "objectifying pornography content may increase adolescents' self-objectification, including constant body surveillance and over valuing [sic] one's appearance" often leading to further body image concerns. Anne J. Maheux et al., *Associations between Adolescents' Pornography Consumption and Self-objectification, Body Comparison, and Body Shame*, 37 *BODY IMAGE* 89, 90 (2021).

Some psychologists have recently sought to justify exposing children to pornography as a helpful tool for children. They claim that pornography can be a useful tool for teaching children about sexual intimacy and sexual behavior.³ However, Amici are unaware of any studies finding that providing children with unfettered access to pornography increases their well-being.

³ Stephanie Pappas, *Teaching Porn Literacy*, *Monitor on Psych.*, Mar. 2021, at 52 (acknowledging that children's exposure to pornography is of concern, some psychologists advocate for "Porn Literacy" in sex education as a means to combat children's exposure to pornography in the digital age).

Pornography is having ripple effects for young people throughout our nation. This Court has said, “[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens.” *Prince v. Massachusetts*, 321 U.S. 158, 168 (1944). This Court has “sustained legislation aimed at protecting the physical and emotional well-being of youth even when the laws have operated in the sensitive area of constitutionally protected rights.” *New York v. Ferber*, 458 U.S. 747, 757 (1982). The very least we can do to protect children from what sixteen states deem to be a public health crisis⁴ is place an age gate around online material, allowing adults access, while limiting access to young, developing minds.

III. Legislators Across The Country Have Heard Compelling Testimony On The Harms Of Pornography To Children And The Benefits Of Age Verification Technology, Leading Nineteen States To Act With Bipartisan Support.

Legislators across the country have worked together to pass bipartisan laws to age gate corporate pornographic websites. These laws are focused on websites whose business model is designed to profit from pornographic materials. Legislators are often already familiar with online age verification since most states already have a system of verification for the purchase of tobacco and alcohol.

⁴ Alabama, Arkansas, Arizona, Florida, Idaho, Kansas, Kentucky, Louisiana, Missouri, Montana, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, Virginia.

Across the country, legislators heard graphic and disturbing information in testimonies supporting bills similar to Texas' H.B. 1181. These personal experiences were hard to hear but certainly informative. Even more, these personal testimonies served as a catalyst to the passage of nineteen age verification laws nationally.⁵ All of these bills received bipartisan support, and in several chambers received unanimous support.⁶ Governors from both parties even signed these bills.⁷

In Texas, legislators heard testimony about a six-year-old child residing in Texas who viewed pornography and resultantly committed horrific acts against another six year old classmate. *Relating to the Publication or Distribution of Sexual Material Harmful to Minors on an Internet Website; Providing a Civil Penalty: Hearing on H.B. 1181 Before the S. Comm. on State Aff., 2023 Leg., 88 Sess. (Tex. 2023)* (statement of Sen. Charles Perry, Member, S. Comm. on State Affs.). In this same hearing,

⁵ ALA. CODE §§ 8-19G-3 to -6; ARK. CODE ANN. §§ 4-88-1301 to -1305; FLA., STAT. § 501.1737; GA. CODE ANN. § 39-5-5; IDAHO CODE § 6-3803; IND. CODE §§ 24-4-23-1 to -17; 2024 Kan. Sess. Laws 451-53; KY. REV. STAT. ANN. §§ 436.001-436.009; LA. STAT. ANN. § 51:2121; MISS. CODE ANN. §§ 11-77-1 to 7; MONT. CODE ANN. § 30-14-159; NEB. REV. STAT. §§ 87-1001 to -1005; N.C. GEN. STAT. ANN. §§ 66-500 to -501; OKLA. STAT. tit. 15, §§ 791-791.4; S.C. CODE ANN. § 37-1-310; TENN. CODE ANN. § 39-17-912; TEX. CIV. PRAC. & REM. § 129B.001-006; UTAH CODE ANN. § 78B-3-1001-003; VA. CODE ANN. § 8.01-40.5.

⁶ *E.g.*, Kan. Senate S.B. 396, Feb. 15, 2024 (40-0), Tenn. House & Senate S.B. 1729 (96-0, 31-0), S.C. Senate H3424 (43-0).

⁷ *E.g.*, Louisiana (Democrat), Texas (Republican), North Carolina (Democrat), Kentucky (Democrat), Tennessee (Republican).

a Texas mother shared her own heartbreaking story about her ten year old daughter who became addicted to pornography. The addiction was so gripping that by the time her daughter was fifteen her biggest dream was to become an adult film star. *Id.* (statement of Deborah Berry, private citizen). She testified that despite her best efforts as a mom, she was unable to protect her child against the porn industry. These technology giants were doing nothing to protect her child. Rather, wide access to pornography pushed her daughter into self-isolating behaviors, limiting her ability to dream about any career or other possibilities for her future.

Similarly in Idaho, one father shared about his own addiction and his concern for his ability to protect his children. *Relating to Liability for Publishers and Distributors of Material Harmful to Minors on the Internet, Hearing on H. 498 Before the H. Comm. on State Affs., 2024 Leg. (Idaho 2024)* (statement of Steve Fullmer, private citizen). He believed that the Idaho bill gave parents a tool to stand up to an industry that he himself fell victim to when he was younger. He called this a belt and suspenders approach to protecting children.

At a hearing in Indiana, counselors who work with children and adults with pornography addictions explained how age verification laws help those who are seeking to overcome their addiction succeed. *AN ACT to amend the Indiana Code concerning trade regulation: Hearing on S.B. 17 Before the H. Judiciary Comm., 123rd Sess. (Ind. 2024)* (statement of Alexander Mingus, Exec. Dir. of the Ind. Cath. Conf.) After hearing from these counselors, legislators quickly realized the benefit of age verification laws, and were spurred on to do everything they could to

help individuals desiring to be free of their addiction to pornography.

Representative Laurie Schlegel in Louisiana spoke as a licensed sex therapist detailing the harms to children online. *Relating to Provides for liability for publishers and distributors of material harmful to minors, Hearing on H.B. 142 Before the H. Civil Law and Proc. Comm., 2022 Reg. Leg. (2022 La.)*(testimony of Rep. Laurie Schlegel). She said what children are seeing online, “is not your father’s playboy.” She told stories of parents calling her center desperate for help after their children innocently found pornography online and then became addicted. She pointed out that pornographers will use innocent sounding website names like www.whitehouse.com in order increase accidental exposures. She also described how easily children can access this pornography because of the smart phone.

In Kansas, legislators heard from a variety of individuals and professionals about the importance of age verification and its efficacy. Several Kansans shared personal stories of how they became addicted to online pornography at young ages and how that addiction radically altered their lives. *See Requiring the Use of Age-verification Technology to Permit Access to Internet Websites Containing Material that is Harmful to Minors: Hearing on S.B. 394 Before the S. Judiciary Comm., 2024 Leg. (Kan. 2024)*; Kellie Warren, Senator, S. Chamber Procs., Floor Speech (Feb. 15, 2024). Well into adulthood, these individuals were still struggling with the addiction that gripped them in their preteen years. This early exposure made it more difficult to form romantic relationships. It even got in the way of forming friendships.

States as diverse as Alabama, Virginia, Minnesota, and California have introduced age gating legislation. Legislators from both sides of the aisle have recognized pornography’s harmful impact on children.⁸ Legislators are seeing the dangers of pornography played out in their communities and they understand that something must be done to stem the tide. They understand that legislation like H.B. 1181 was meant to focus on the area of greatest concern—children—who cannot fully understand the consequences of what they are viewing. Further, age verification legislation was designed to require those who profit off this pornographic material to enforce basic safeguards so that children are protected, while continuing to allow adults the choice to view this material.

IV. Legislatures Should Be Allowed To Perform Their Role In Our Government System To Decide Between Competing Opinions On Health Impacts And Outcomes When It Comes To Pornography.

This Court has recognized that children have limited decision making capacity and sometimes legislatures need to step in to protect them. “The State commonly protects its youth from adverse governmental action and from their own immaturity by requiring parental consent to or involvement in important decisions by minors.” *Bellotti v. Baird*, 443 U.S. 622, 637 (1979). Under the law, our society has recognized that children’s capacity is limited both neurologically and in maturity. Because of these limitations, legislatures are well within their authority to place boundaries on children that in some circumstances would not be permissible if applied to adults.

⁸ A.B. 3080, 2024 Leg. (Cal. 2024); H.F. 5409, 2024 Leg., 93rd Sess. (Minn. 2024).

However, not everyone always agrees on the best way to protect children. When conflicts arise between experts regarding the societal harms and the best way to protect children, courts should defer to legislatures in most cases. Legislatures have a fact-finding function, much the same way courts do, that is open to, and accountable to, their constituents. In a properly functioning government, the court system should defer to the legislative body when at all possible, to decide these conflicts in opinion and leave it to the body politic to determine when the legislative body has crossed the line. This Court has continued to uphold a long line of precedent on a variety of proscribed behavior that the legislative branch is allowed to regulate, dating back well over a century, supporting this conclusion. *See e.g., Jacobson v. Massachusetts*, 197 U.S. 11, 35 (1905) (deferring to the legislatures understanding of the effects of vaccines on children); *Marshall v. United States*, 414 U.S. 417, 427, (1974) (“When Congress undertakes to act in areas fraught with medical and scientific uncertainties, legislative options must be especially broad and courts should be cautious not to rewrite legislation, even assuming, *arguendo*, that judges with more direct exposure to the problem might make wiser choices.” (emphasis added)); *Jones v. United States*, 463 U.S. 354, 364, n. 13 (1983) (stating that when there is uncertainty from the scientific or medical community, courts should show “deference to reasonable legislative judgements”); *Gonzales v. Carhart*, 550 U.S. 124, 163 (2007) (regarding the federal legislatures decision to outlaw partial birth abortion).

For example, in *Jacobson v. Massachusetts*, this Court laid out a well-reasoned argument for why legislatures deserve deference for vaccination regulations. It states,

The possibility that the belief may be wrong, and that science may yet show it to be wrong, is not conclusive; for the legislature has the right to pass laws which, according to the common belief of the people, are adapted to prevent the spread of contagious diseases. In a free country, where the government is by the people, through their chosen representatives, practical legislation admits of no other standard of action; for what the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does in fact or not. Any other basis would conflict with the spirit of the Constitution, and would sanction measures opposed to a republican form of government.

Jacobson, 197 U.S. at 35. Again, in this century, this Court said, “The Court has given state and federal legislatures wide discretion to pass legislation in areas where there is medical and scientific uncertainty.” *Gonzales*, 550 U.S. at 163. Traditionally courts give deference to the state’s choice in these situations. *Id.*

When it comes to the harms of pornography and the efficacy of age verification in combating its reach into children’s lives, there appears to be a growing consensus that supports age gating laws. Though this is a growing consensus, not everyone agrees. This disagreement can and should be worked out in deliberative bodies like legislatures, and not necessarily by courts, particularly when children do not have a right to view pornographic material. Even members of this Court have recognized that, “These are not . . . the nine greatest experts on the

internet.” Transcript of Oral Argument at 46, *Gonzalez v. Google LLC*, 598 U.S. 617 (2023) (No. 21-1333).

Whatever analysis the Court applies—rational basis, strict scrutiny, or some other analysis—H.B. 1181 survives any test. First, there is certainly a rational basis for upholding this law as held by the court below. *Free Speech Coal., Inc. v. Paxton*, 95 F.4th 263, 267 (5th Cir. 2024). There is a legitimate purpose for legislators to pass laws to age gate materials that are harmful to minors online, while the harms show there is also a compelling interest in doing so. These laws are tailored to the heart of the problem—large percentages of children who are being exposed, even if accidentally, to pornography by commercial entities. There is overwhelming support for this conclusion across legislative bodies, political parties, and amongst every day Americans.

Not only has the technology changed, but we have a better understanding of the harms of pornography and the best way to combat it now than we did two decades ago when this Court last considered laws to combat children’s access to pornography. At the very least, what we currently understand about the great increase of pornography, the drastic rise in the vile nature of that material, the easy access children have, and the effectiveness of age gating technology that has been presented to legislative bodies across the country, is enough to allow legislators to sort out what is best for the people who elected them to ensure the health, safety, and welfare of the citizens of their respective states.

CONCLUSION

The judgment of the Fifth Circuit court should be affirmed.

Respectfully submitted,

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