

The Kids Online Safety Act (KOSA)

The Kids Online Safety Act (H.R. 7891), commonly referred to as KOSA, was introduced as a companion to S. 1409. Although the two bills have slight differences, their substance is the same. Both bills impose a “duty of care” on apps and websites to prevent their “design features” from causing harm to minors – including anxiety, depression, substance use, and eating disorders. Mitigating such harms is worthwhile, but KOSA doesn’t do the job. Both versions are unconstitutional censorship bills that would give the FTC, and potentially state Attorneys General, the power to restrict protected online speech they find objectionable.

Duty of Care

KOSA’s “duty of care” provision will stifle online speech. In an effort to comply with this vague and overbroad provision, platforms will over-censor protected speech. If they don’t, they could be held legally liable for content public officials believe causes anxiety, depression, “compulsive use” or other alleged harms to minors. For example, as has been the case with banned books, some elected officials claim information about LGBTQ+ life is harmful to children. Other officials might target information about dangerous sports, or even target news and political commentary on social media, if they believe it causes anxiety or depression.

Platforms will respond to KOSA’s vague new liability standard by censoring users’ lawful speech on topics that KOSA deems harmful. KOSA is ambiguous enough that different administrations could censor content all along the political spectrum, from guns to vaccines to transgender issues to abortions.

Age Verification

KOSA will also result in online services imposing age-verification systems to prevent minors from having the same access to content as adults. These systems require everyone—adults and minors—to verify their age. All age verification systems burden the rights of adults to read, get information, and speak and browse online anonymously.

Collecting ID online is fundamentally different—and more dangerous—than in-person ID checks in the physical world. Online ID checks are not just a momentary display—they require adults to upload data-rich, government-issued identifying documents to either the website or a third-party verifier, and create a potentially lasting record of their visit to the establishment.

Better Options Exist

EFF urges legislators to seek alternatives to KOSA. Consumer focused, comprehensive federal privacy law would protect young people without infringing on the First Amendment rights of everyone who uses on the internet. Stronger competition laws would open the field and force platforms to innovate, offering more user choice for parents and teens.

Want more information? Please contact Director of Federal Affairs India McKinney at india@eff.org.



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