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**Digital Media Law**  
**Outline of Recent Developments**

This outline covers developments from October 1, 2021 to September 11, 2023 (approximately). With respect to legislation, only enacted laws and live bills are included. Bills that have passed into law are marked in **boldface**; enacted laws that have been challenged in court are marked in **red type**.

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## I. Liability for Content Moderation

### A. The *NetChoice* cases

1. *NetChoice, LLC v. Paxton* (a/k/a *NetChoice, LLC v. Colmenero* during Texas AG Ken Paxton’s suspension from office following impeachment)
  - a. **Texas HB 20 (2021)**, <https://legiscan.com/TX/text/HB20/id/2424328>
  - b. District Court Order Granting Preliminary Injunction, *NetChoice, LLC v. Paxton*, 573 F. Supp. 3d 1092 (W.D. Tex. 2021), [https://scholar.google.com/scholar\\_case?case=13582841509576407955](https://scholar.google.com/scholar_case?case=13582841509576407955)
  - c. Fifth Circuit Order Staying Preliminary Injunction Pending Appeal, *NetChoice, L.L.C. v. Paxton*, No. 21-51178 (5<sup>th</sup> Cir. May 11, 2022), <https://storage.courtlistener.com/recap/gov.uscourts.ca5.205616/gov.uscourts.ca5.205616.239.1.pdf>
  - d. Supreme Court Order on Application to Vacate Stay, *NetChoice, LLC v. Paxton*, No. 21A720, 596 U.S. \_\_\_ (May 31, 2022), [https://www.supremecourt.gov/opinions/21pdf/21a720\\_6536.pdf](https://www.supremecourt.gov/opinions/21pdf/21a720_6536.pdf)
  - e. Fifth Circuit Opinion, *NetChoice, L.L.C. v. Paxton*, 49 F.4<sup>th</sup> 439 (5<sup>th</sup> Cir. 2022), [https://scholar.google.com/scholar\\_case?case=6074950947575598452](https://scholar.google.com/scholar_case?case=6074950947575598452)
  - f. Fifth Circuit Order Staying Issuance of Mandate Pending Petition for Writ of Certiorari, *NetChoice, L.L.C. v. Paxton*, No. 21-51178 (5<sup>th</sup> Cir. Oct. 12, 2022), <https://storage.courtlistener.com/recap/gov.uscourts.ca5.205616/gov.uscourts.ca5.205616.261.1.pdf>

- g. Supreme Court Briefing on Petition for Certiorari, *NetChoice LLC v. Paxton*, No. 22-555, <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-555.html>
2. *NetChoice, LLC v. Moody*
- a. **Florida SB 7072 (2021)**, <https://www.flsenate.gov/Session/Bill/2021/7072/>
  - b. District Court Order Granting Preliminary Injunction, *NetChoice, LLC v. Moody*, 546 F. Supp. 3d 1082 (N.D. Fla. 2021), [https://scholar.google.com/scholar\\_case?case=12192450769665942187&q=netchoice+v+moody&hl=en&as\\_sdt=6,31](https://scholar.google.com/scholar_case?case=12192450769665942187&q=netchoice+v+moody&hl=en&as_sdt=6,31)
  - c. Eleventh Circuit Opinion, *NetChoice, LLC v. Attorney General*, 34 F.4<sup>th</sup> 1196 (11<sup>th</sup> Cir. 2022), [https://scholar.google.com/scholar\\_case?case=9979979251585010846&q=netchoice&hl=en&as\\_sdt=6,31](https://scholar.google.com/scholar_case?case=9979979251585010846&q=netchoice&hl=en&as_sdt=6,31)
  - d. Supreme Court Briefing on Petition for Certiorari, *Moody v. NetChoice, LLC*, No. 22-277, <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-277.html>
    - i. Petition by Florida AG relating to constitutionality of content moderation provisions struck down by district court and Eleventh Circuit
  - e. Supreme Court Briefing on Petition for Certiorari, *NetChoice, LLC v. Moody*, No. 22-393, <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22-393.html>
    - i. Petition by NetChoice relating to constitutionality of mandatory transparency provisions upheld by district court and Eleventh Circuit

## B. Other Decisions

- 1. See Section VII.A.2, below, for Section 230 cases on point
- 2. Restrictions on users or content
  - a. *Brock v. Zuckerberg*, No. 21-1796 (2<sup>nd</sup> Cir. Apr. 27, 2022) (affirming dismissal of First Amendment claims against Facebook for removal of posts on basis that Facebook is not a state actor), <https://casetext.com/case/brock-v-zuckerberg-3>

- b. *Domen v. Vimeo, Inc.*, No. 20-616 (2<sup>nd</sup> Cir. Sept. 24, 2021), cert. den. 142 S.Ct. 1371 (Mar. 21, 2022) (affirming dismissal of religious and sexual orientation discrimination claims),  
[https://scholar.google.com/scholar\\_case?case=13136142826481146751](https://scholar.google.com/scholar_case?case=13136142826481146751)
- c. *Twitter, Inc. v. Paxton*, No. 21-15869 (9<sup>th</sup> Cir. Dec. 14, 2022) (holding that Twitter’s lawsuit to block a CID served by the Texas AG in retaliation for the platform’s decision to block Donald Trump was not ripe because Paxton had not attempted to enforce the CID; amended opinion removed language questioning Twitter’s First Amendment rights to control speech on its platform),  
<https://webservices.courthousenews.com/sites/Data/AppellateOpinionUploads/2022-14-12--14-18-53-21-15869.pdf>
- d. *Rutenberg v. Twitter, Inc.*, No. 21-16074 (9<sup>th</sup> Cir. May 18, 2022) (affirming dismissal of First Amendment claim against Twitter from would-be recipient of Donald Trump’s tweets, because Twitter did not act as state actor in deplatforming Trump),  
<https://cdn.ca9.uscourts.gov/datastore/memoranda/2022/05/18/21-16074.pdf>
- e. *Perez v. LinkedIn Corp.*, No. 21-15234 (9<sup>th</sup> Cir. Nov. 18, 2021) (affirming dismissal of First Amendment claim on basis that privately operated websites are not state actors),  
<https://cdn.ca9.uscourts.gov/datastore/memoranda/2021/11/18/21-15234.pdf>
- f. *Illoominate Media, Inc. v. CAIR Florida, Inc.*, No. 22-10718 (11<sup>th</sup> Cir. Sept. 30, 2022) (affirming award of attorneys’ fees to defendant incurred in defending claims that it was responsible for Twitter’s decision to ban the plaintiffs’ accounts),  
<https://media.ca11.uscourts.gov/opinions/unpub/files/202210718.pdf>
- g. *DJ Lincoln Enterprises, Inc. v. Google LLC*, No. 21-12894 (11<sup>th</sup> Cir. Jan. 24, 2022) (affirming dismissal of racketeering and fraud claims against Google arising out of allegations that plaintiff’s website was blacklisted based upon conservative viewpoint),  
[https://scholar.google.com/scholar\\_case?case=17865065377528229372](https://scholar.google.com/scholar_case?case=17865065377528229372)
  - i. *See also DJ Lincoln Enterprises, Inc. v. Google, LLC*, No. 2:20-cv-14159 (S.D. Fla. Aug. 30, 2022) (adopting magistrate judge’s report & recommendation and awarding defendant attorneys’ fees with respect to plaintiff’s RICO claim),  
<https://storage.courtlistener.com/recap/gov.uscourts.flsd.571518/gov.uscourts.flsd.571518.78.0.pdf>; *DJ Lincoln Enterprises, Inc. v. Google*,

*LLC*, No. 2:20-cv-14159 (S.D. Fla. July 28, 2022) (report & recommendation on attorneys' fees),  
[https://storage.courtlistener.com/recap/gov.uscourts.flsd.571518/gov.uscourts.flsd.571518.75.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.flsd.571518/gov.uscourts.flsd.571518.75.0_1.pdf)

- h. *McWaters v. Houston*, No. 2:21-cv-57 (M.D. Ala. Feb. 8, 2022) (dismissing Fourteenth Amendment discrimination claim against Facebook because it is not a state actor),  
[https://scholar.google.com/scholar\\_case?case=5588557146778270497](https://scholar.google.com/scholar_case?case=5588557146778270497)
- i. *Mercola.com, LLC v. Google LLC*, No. 3:22-cv-5567 (N.D. Cal. Sept. 4, 2023) (dismissing claims over termination of YouTube channel on basis that claims were precluded by the terms of YouTube's Terms of Service and Community Guidelines),  
<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3805&context=historical>
- j. *Chauhan v. Google LLC*, No. 4:23-cv-702 (N.D. Cal. Aug. 4, 2023) (dismissing assorted state law claims and claim based on non-existent statute over termination of Google account),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.408495/gov.uscourts.cand.408495.37.0.pdf>
- k. *Johnson v. Meta Platforms, Inc.*, No. 5:22-cv-5691 (N.D. Cal. Aug. 4, 2023) (dismissing breach of contract, tortious interference, trademark, and unfair trade practices claims over disabling of Instagram account),  
[https://storage.courtlistener.com/recap/gov.uscourts.cand.401318/gov.uscourts.cand.401318.58.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.401318/gov.uscourts.cand.401318.58.0_1.pdf)
- l. *Dangaard v. Instagram, LLC*, No. 3:22-cv-1101 (N.D. Cal. July 31, 2023) (dismissing claim against certain parties over alleged conspiracy to suppress content from users of OnlyFans competitors for lack of personal jurisdiction),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.392111/gov.uscourts.cand.392111.178.0.pdf>
  - i. Related decisions under Section 230, Section VII.A.2.i, below
- m. *Divino Group LLC v. Google LLC*, No. 5:19-cv-4749 (N.D. Cal. July 5, 2023) (dismissing complaint alleging sex/gender discrimination),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.346328/gov.uscourts.cand.346328.137.0.pdf>
  - i. Related decisions under Section 230, Section VII.A.2.g, below

- n. *Craft v. Musk*, No. 23-cv-1644 (N.D. Cal. Apr. 12, 2023) (order to show cause why claim over blocking of Twitter account should not be dismissed), [https://scholar.google.com/scholar\\_case?case=1103272854620541179](https://scholar.google.com/scholar_case?case=1103272854620541179)
- o. *Minds, Inc. v. Bonta*, No. 2:23-cv-2705 (C.D. Cal. Aug. 18, 2023) (dismissing challenge to California AB 587 on grounds that plaintiffs' fear that their content will be censored is hypothetical), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3804&context=historical>
- p. *Bledsoe v. Zuckerberg*, No. 2:22-cv-394 (E.D. Cal. Apr. 27, 2022), findings and recommendations adopted (June 28, 2022), cert. before judgment to Ninth Cir. den., 598 U.S. \_\_\_\_ (Apr. 17, 2023) (recommendation to dismiss case over deletion of Facebook posts for failure to state a claim), [https://scholar.google.com/scholar\\_case?case=9297426803441331685](https://scholar.google.com/scholar_case?case=9297426803441331685)
- q. *Gundogdu v. LinkedIn Corp.*, No. 0:23-cv-60804 (S.D. Fla. Aug. 7, 2023) (dismissing religious discrimination claim over closing of LinkedIn account), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3799&context=historical>
- r. *Don't Tread on Us, LLC v. Twitter, Inc.*, No. 1:23-cv-20943 (S.D. Fla. May 19, 2023) (transferring case over suspension of Twitter accounts to N.D. Cal.), <https://storage.courtlistener.com/recap/gov.uscourts.flsd.637821/gov.uscourts.flsd.637821.20.0.pdf>
- s. *Bethune v. Facebook Inc.*, No. 0:21-cv-2118 (D. Minn. Oct. 15, 2021) (dismissing First Amendment lawsuit against Facebook over shutdown of social media page for lack of state action), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3554&context=historical>
- t. *Hall v. Twitter, Inc.*, No. 1:20-cv-536 (D.N.H. May 9, 2023) (dismissing claim over alleged viewpoint and racial discrimination), <https://storage.courtlistener.com/recap/gov.uscourts.nhd.54018/gov.uscourts.nhd.54018.139.0.pdf>
- u. *UnbeatableSale.com v. Meta Platforms, Inc.*, No. 22-cv-6369 (D.N.J. July 26, 2023) (transferring case over content removal to N.D. Cal.), [https://scholar.google.com/scholar\\_case?case=841045954054099758](https://scholar.google.com/scholar_case?case=841045954054099758)
- v. *Volokh v. James*, No. 1:22-cv-10195 (S.D.N.Y. Feb. 14, 2023) (granting preliminary injunction against N.Y. Gen. Bus. Law § 394-ccc on basis that

law “both compels social media networks to speak about the contours of hate speech and chills the constitutionally protected speech of social media users, without articulating a compelling governmental interest or ensuring that the law is narrowly tailored to that goal”),

<https://storage.courtlistener.com/recap/gov.uscourts.nysd.590358/gov.uscourts.nysd.590358.29.0.pdf>

- w. *Sescey v. YouTube*, No. 2:21-sv-3311 (E.D. Pa. Nov. 11, 2021) (dismissing First Amendment claim against privately-run social media company in absence of any allegations of state action),  
[https://www.govinfo.gov/content/pkg/USCOURTS-paed-2\\_21-cv-03311/pdf/USCOURTS-paed-2\\_21-cv-03311-0.pdf](https://www.govinfo.gov/content/pkg/USCOURTS-paed-2_21-cv-03311/pdf/USCOURTS-paed-2_21-cv-03311-0.pdf)
- x. *Davis v. Meta Platforms, Inc.*, No. 4:22-cv-1001 (E.D. Tex. July 20, 2023) (transferring case over alleged suppression of content to N.D. Cal.),  
[https://scholar.google.com/scholar\\_case?case=14939634574444080089](https://scholar.google.com/scholar_case?case=14939634574444080089)
- y. *Prather v. Meta Platforms, Inc.*, No. 352-332141-22 (Tex. Dist. Ct. Feb. 25, 2022) (temporary restraining order against censorship of plaintiff’s Facebook account except as permitted by Texas’ social media censorship law),  
<https://s3.documentcloud.org/documents/21275641/prather-v-facebook-tro.pdf>
  - i. Note that the above order entered after the federal district court entered its injunction against enforcement of the Texas law in *NetChoice v. Paxton*, see Section I.A.1.

### 3. Allowance of content

- a. *Webber v. Armslist LLC*, Nos. 21-3198 and 21-3207 (7<sup>th</sup> Cir. June 12, 2023) (affirming dismissal of negligence and other state law claims against online firearms marketplace), <https://media.ca7.uscourts.gov/cgi-bin/OpinionsWeb/processWebInputExternal.pl?Submit=Display&Path=Y2023/D06-12/C:21-3198:J:Brennan:aut:T:fnOp:N:3059422:S:0>
  - i. See related decision under Section VII.A.9.j, below.
- b. *U.S. v. Lacey*, No. 2:18-cr-422 (D. Ariz. June 1, 2023) (denying motion to dismiss superseding indictment relating to trafficking and prostitution via Backpage.com),  
<https://storage.courtlistener.com/recap/gov.uscourts.azd.1089159/gov.uscourts.azd.1089159.1587.0.pdf>
- c. *Doe v. Meta Platforms, Inc.*, No. 4:22-cv-51 (N.D. Cal. Dec. 14, 2022) (dismissing claim seeking to hold Meta responsible for the alleged use of



Facebook by the Myanmar military to spread hateful content and justify violence against the country's Rohingya ethnic minority), <https://storage.courtlistener.com/recap/gov.uscourts.cand.390160/gov.uscourts.cand.390160.55.0.pdf>

- i. The reasoning for this decision is not stated in the court's order, instead referencing reasons set forth on the record. The transcript of the court hearing on the motion to dismiss is available at <https://storage.courtlistener.com/recap/gov.uscourts.cand.390160/gov.uscourts.cand.390160.61.0.pdf>.
- d. *Taylor v. Apple, Inc.*, 3:20-cv-3906 (N.D. Cal. Jan. 4, 2022) (dismissing claim against Apple for failure to block offering apps featuring "loot boxes" from its App Store, because existing statutory law does not plainly prohibit loot boxes), <https://storage.courtlistener.com/recap/gov.uscourts.cand.360889/gov.uscourts.cand.360889.75.0.pdf>
  - e. *Singman v. IMDb.com, Inc.*, 72 Cal. App. 5<sup>th</sup> 1150 (Dec. 20, 2021), rev. den. 2022 Cal. LEXIS 2041 (Apr. 13, 2022), cert den. 598 U.S. \_\_\_ (Oct. 11, 2022) (affirming judgment on claim against IMDb.com over failure to remove information from IMDb listing), [https://scholar.google.com/scholar\\_case?case=1493336601544989733](https://scholar.google.com/scholar_case?case=1493336601544989733)
    - i. The lower court's decision was affirmed due to deficiencies in the appellant's pleadings on appeal; the reasoning for the lower court's decision is not available online.

### C. Federal Legislation

1. S.1876 (Platform Accountability and Transparency Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1876?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=9>
  - a. Introduced 6/8/23
  - b. Supports research about the impact of digital communication platforms on society by requiring internet companies to provide privacy-protected, secure pathways for independent research on data that they hold
2. S.1525 (COLLUDE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1525/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=16&overview=closed>
  - a. Introduced 5/10/23

- b. Eliminates Section 230 protection for removal of “legitimate political speech, including a discernible viewpoint” in response to government pressure
- 3. S.921 (DISCOURSE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/921/text?s=5&r=1236&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 3/22/23
  - b. Amends section 230 to deny protection for algorithmic content recommendation and content moderation that involves viewpoint discrimination
- 4. S.483 (Internet PACT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/483?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=5&r=1051>
  - a. Introduced 2/16/23
  - b. Requires providers of interactive computer services to: (1) publish their policy explaining the types of content that is permissible on the service and provide a system for users to submit complaints about content that may violate the policy or involve illegal content; (2) establish a process for removing certain content that violates their policies and notifying the information content provider about the removal, including a mechanism to appeal the removal; (3) publish a report every six months that details the instances in which the company took action with respect to content, including removing content, deprioritizing content, and suspending content provider accounts.
  - c. The bill removes certain liability protections for providers if the provider has actual knowledge of illegal content on its service and does not remove the content within specified time frames.
  - d. The bill provides for enforcement of these requirements by the Federal Trade Commission.
- 5. H.R.2635 (The Big-Tech Accountability Act), <https://www.congress.gov/bill/118th-congress/house-bill/2635?q=%7B%22search%22%3A%5B%22%5C%22section%22%2C%22230%5C%22%22%5D%7D&s=2&r=3>
  - a. Introduced 4/17/23
  - b. Repeals Section 230 for any “provider of a social media service that is a company”; prohibits “de-platforming” of U.S. citizens based on social,

political, or religious status regardless of policy violations related to hate speech, sexual harassment, violence, or discrimination

#### D. State Legislation

1. California SB 60,

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S60&ciq=ncsl&client\\_md=8c029a9c17ee0cd6eba6948f601a154f&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S60&ciq=ncsl&client_md=8c029a9c17ee0cd6eba6948f601a154f&mode=current_text)

- a. Introduced 12/21/22
- b. Provides, inter alia, that existing law authorizes a person who is the target of a violent post to seek an order requiring the social media platform to remove the violent post and any related violent post the court determines shall be removed in the interests of justice

2. California AB 836,

[https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A836&ciq=ncsl&client\\_md=81135c71a44328b0f4f1efd8f9e11a6a&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A836&ciq=ncsl&client_md=81135c71a44328b0f4f1efd8f9e11a6a&mode=current_text)

- a. Introduced 2/14/23
- b. Declares that, notwithstanding any law, a social media platform shall be considered a traditional First Amendment forum as set forth in *PruneYard Shopping Center v. Robins*; a social media platform located in the state to develop a policy or mechanism to address content or communications that constitute unprotected speech.

3. **California AB 587**,

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB587](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB587)

- a. Approved by governor, 9/13/22
- b. Requires, inter alia, social media platforms with annual gross revenues over \$100 million to report semiannually to state AG on their policies on hate speech, racism, disinformation, misinformation, harassment, and foreign political interference, as well as detailed data on enforcement of these policies
- c. Constitutionality challenged in *Minds, Inc. v. Bonta*, No. 2:23-cv-2705 (C.D. Cal.)
  - i. Complaint (4/11/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cacd.881063/gov.uscourts.cacd.881063.1.0.pdf>

- (a) Complaint brought by organizations and individuals using social media who feared censorship of their content
    - ii. Order granting motion to dismiss (8/18/23),  
<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3804&context=historical>
      - (a) Case dismissed on grounds that plaintiffs' fear that their content would be censored was hypothetical
  - d. Constitutionality challenged in *X Corp. v. Bonta*, No. 2:23-cv-1939 (E.D. Cal)
    - i. Complaint (9/8/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.caed.433978/gov.uscourts.caed.433978.1.0.pdf>
      - (a) Challenges AB 587 from the perspective of a service provider directly affected by the law; contrast with *Minds, Inc. v. Bonta*, above
4. Illinois HB 2970,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H2970&ciq=nsl&client\\_md=a10a7d06ea7fd66a0f82ba173c91a3a9&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H2970&ciq=nsl&client_md=a10a7d06ea7fd66a0f82ba173c91a3a9&mode=current_text)
- a. Introduced 2/16/23
  - b. Creates the offense of unlawful publication of criminal activity, i.e., knowingly making a video record or live video of a crime while the crime is being committed and transmitting or uploading the video record or live video of the crime to a social media site; provides that violators shall be sentenced to the same penalty as the penalty for the crime being transmitted
5. **New York Gen. Bus. Law § 394-ccc**,  
<https://www.nysenate.gov/legislation/laws/GBS/394-CCC>
- a. Requires social media networks to have a mechanism to report hateful conduct and a policy regarding how the network will respond to and address such reports
  - b. Constitutionality challenged in *Volokh v. James*, No. 1:22-cv-10195 (S.D.N.Y.)
    - i. Complaint (12/1/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.nysd.590358/gov.uscourts.nysd.590358.1.0.pdf>

- ii. Order granting preliminary injunction (2/14/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.nysd.590358/gov.uscourts.nysd.590358.29.0.pdf>
  - (a) Holds that law “both compels social media networks to speak about the contours of hate speech and chills the constitutionally protected speech of social media users, without articulating a compelling governmental interest or ensuring that the law is narrowly tailored to that goal”
- c. *See also* New York SB 895,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S895&ciq=ncsl&client\\_md=f0678f6ddb34976c656485ce1f09c6c1&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S895&ciq=ncsl&client_md=f0678f6ddb34976c656485ce1f09c6c1&mode=current_text)
  - i. Introduced 1/9/23; amended 5/30/23
  - ii. Parallel House Bill: New York AB 6789,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A6789&ciq=ncsl&client\\_md=374caa265026558fadda0b820f56407&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A6789&ciq=ncsl&client_md=374caa265026558fadda0b820f56407&mode=current_text)
  - iii. Appears to be a legislative attempt to work around *Volokh v. James*
- 6. New York SB 1583,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S1583&ciq=ncsl&client\\_md=7aed6801dd18f11a7122deb48f5be7ca&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S1583&ciq=ncsl&client_md=7aed6801dd18f11a7122deb48f5be7ca&mode=current_text)
  - a. Introduced 1/12/23
  - b. Establishes task force to study the practices and policies of social media companies, including but not limited to forms of censorship employed by social media companies

## II. Algorithmic Content Recommendation

### A. *Twitter, Inc. v. Taamneh*

- 1. Supreme Court
  - a. *Twitter, Inc. v. Taamneh*, No. 21-1496, 598 U.S. \_\_\_\_ (2023),  
[https://www.supremecourt.gov/opinions/22pdf/21-1496\\_d18f.pdf](https://www.supremecourt.gov/opinions/22pdf/21-1496_d18f.pdf)
- 2. Decisions below
  - a. *Gonzalez v. Google LLC*, 2 F.4<sup>th</sup> 871 (9<sup>th</sup> Cir. 2021),  
[https://scholar.google.com/scholar\\_case?case=13569769879169943936](https://scholar.google.com/scholar_case?case=13569769879169943936)

- i. Consolidated appeal covering three cases, including *Taamneh*
- b. *Taamneh v. Twitter, Inc.*, 343 F.Supp.3d 904 (N.D. Cal. 2018), [https://scholar.google.com/scholar\\_case?case=2230812939094077592](https://scholar.google.com/scholar_case?case=2230812939094077592)

### 3. Commentary

- a. Justice Thomas, authoring the opinion for a unanimous Court, held that Twitter, Facebook, and Google could not be held liable under 18 U.S.C. § 2333, a federal anti-terrorism statute, for damages caused by terrorist acts on the basis of the platforms' algorithmic recommendation of terrorism-related content that was not directly connected to the attacks in question. Interpreting the federal statute in a manner consistent with common law conspiracy and aiding & abetting liability, the Court stated that merely offering a platform to the general public and promoting content using neutral and automatic systems was not sufficient to create liability for supporting criminal actors using the service. This was true even if the platform was generally aware that terrorist groups used its service.
- b. The Court's decision is notable for the multiple instances in which Justice Thomas characterized social media platforms in a manner that echoed characterizations of common carriers and places of public accommodation. It is possible that Thomas will call back to this language should the Court take up the questions of whether social media content moderation can be regulated by the government (see Section I.A, above) and whether Section 230 should be interpreted to require platforms to act neutrally in order to earn the protection of the statute (see Section VII.A.2, below). *Compare Malwarebytes, Inc. v. Enigma Software Group USA, LLC*, 592 U.S. \_\_\_, 141 S.Ct. 13, 14-15 (2020) (statement of Thomas, J., respecting denial of certiorari) (considering § 230 as arising out of common law distinction between publishers and distributors); *Biden v. Knight First Amendment Institute at Columbia University*, 593 U.S. \_\_\_, 141 S.Ct. 1220, 1221-27 (2021) (Thomas, J., concurring) (speaking approvingly of the theory that social media platforms could be treated as common carriers or places of public accommodation that may be barred by law from discriminating against their customers); *NetChoice, LLC v. Paxton*, No. 21A720, 596 U.S. \_\_\_, slip op. at 3-4 (May 31, 2022) (dissent of Alito, Thomas, and Gorsuch, JJ., from grant of application to vacate stay) (noting public accommodation and common carrier arguments in support of Texas law prohibiting content moderation by online platforms).

## B. *Gonzalez v. Google LLC*

### 1. Supreme Court

- a. *Gonzalez v. Google LLC*, No. 21-1333, 598 U.S. \_\_ (2023),  
[https://www.supremecourt.gov/opinions/22pdf/21-1333\\_6j7a.pdf](https://www.supremecourt.gov/opinions/22pdf/21-1333_6j7a.pdf)

### 2. Decisions Below

- a. *Gonzalez v. Google LLC*, 2 F.4<sup>th</sup> 871 (9<sup>th</sup> Cir. 2021),  
[https://scholar.google.com/scholar\\_case?case=13569769879169943936](https://scholar.google.com/scholar_case?case=13569769879169943936)
- b. *Gonzalez v. Google, Inc.*, 335 F. Supp. 3d 1156 (N.D. Cal. 2018),  
[https://scholar.google.com/scholar\\_case?case=3470930188602020056](https://scholar.google.com/scholar_case?case=3470930188602020056)

### 3. Commentary

- a. In a per curiam decision, the Court held that this case, in which the petition for a writ of certiorari was granted on the question of whether Section 230 protects a platform’s algorithmic recommendation of content, was in fact disposed of by the Court’s decision on the same day in *Taamneh*. Because the plaintiffs in *Gonzalez* conceded that “the allegations underlying their secondary-liability claims are materially identical to those at issue in *Twitter [v. Taamneh]*,” the Court held that it was not necessary to resolve the § 230 question where the plaintiffs’ complaint stated “little, if any, plausible claim for relief” on the underlying theory of the case.
- b. This case was remarkable for the large number of amicus briefs filed (docket, <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/21-1333.html>) and the caution expressed by members of the Court (especially Justice Kavanaugh) about disrupting a liability regime on which the entire online economy is based (transcript, [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2022/21-1333\\_f2ag.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2022/21-1333_f2ag.pdf)). However, the Court reached no conclusion on the interpretation of § 230, leaving those questions open for another day.

## C. Other Decisions

1. See Section VII.A.1, below, for Section 230 cases on point
2. *Newman v. Google*, No. 3:20-cv-4011 (N.D. Cal. Aug. 17, 2023) (dismissing claims that YouTube’s content-moderation algorithm discriminated on the basis of race),  
[https://storage.courtlistener.com/recap/gov.uscourts.cand.361045/gov.uscourts.cand.361045.158.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.361045/gov.uscourts.cand.361045.158.0_1.pdf)

3. *State of Ohio ex rel. Yost v. Google LLC*, No. 21-cv-H-06-0274 (Ohio Ct. Comm. Pl. May 24, 2022) (denying motion to dismiss complaint challenging Google’s alleged self-preferencing, finding that Ohio had stated claim that Google is subject to common-law duty as common carrier, but not as public utility), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3672&context=historical>

#### D. Federal Legislation

1. S.2325 (Algorithmic Justice and Online Platform Transparency Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2325/text?s=8&r=424&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 7/13/23
  - b. Parallel House Bill: H.B.4624, <https://www.congress.gov/bill/118th-congress/house-bill/4624/text?s=8&r=423&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - c. Prohibits the discriminatory use of personal information by online platforms in any algorithmic process; requires transparency in the use of algorithmic processes and content moderation
2. S.921 (DISCOURSE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/921/text?s=5&r=1236&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 3/22/23
  - b. Amends section 230 to deny protection for algorithmic content recommendation and content moderation that involves viewpoint discrimination
3. S.688 (DATA Act), <https://www.congress.gov/bill/118th-congress/senate-bill/688/text?s=4&r=29&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 3/7/23
  - b. Imposes notice and consent requirements on internet platforms that use algorithms to manipulate the availability of content on the platform

#### E. State Legislation

- a. Kansas SB 222, <http://custom.statenet.com/public/resources.cgi?id=ID:bill:KS2023000S222&>



[ciq=ncsl&client\\_md=808c9f2c4f7c5dcb91a7ca14abd5428e&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S4848&ciq=ncsl&client_md=808c9f2c4f7c5dcb91a7ca14abd5428e&mode=current_text)

- i. Introduced 2/9/23
  - ii. States that any provider of an online platform shall be treated as the publisher or speaker of information published by a user of such online platform if such provider: (1) knew or should have known such provider used an algorithm to make personalized recommendations to a user of such online platform; and (2) such posts materially contributed to a physical or severe emotional injury to such user.
  - iii. Problematically purports to override the provisions of § 230(c)(1)
- b. New York SB 4848,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S4848&ciq=ncsl&client\\_md=cd36a45aa5a189d7fc2ab99448baed6c&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S4848&ciq=ncsl&client_md=cd36a45aa5a189d7fc2ab99448baed6c&mode=current_text)
- i. Introduced 2/15/23
  - ii. Parallel House Bill: New York AB 1108,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1108&ciq=ncsl&client\\_md=84e8dc446f23eec9a1ee4211359f6a5a&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1108&ciq=ncsl&client_md=84e8dc446f23eec9a1ee4211359f6a5a&mode=current_text)
  - iii. Prohibits presentation or conveyance to a targeted user of content that is developed by a platform and that causes (i) extreme emotional harm; (ii) physical injury; (iii) financial injury; or (iv) any other severe, cognizable injury
- c. New York SB 577,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S577&ciq=ncsl&client\\_md=bd369fa8559f11ba12eec3f1040095c5&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S577&ciq=ncsl&client_md=bd369fa8559f11ba12eec3f1040095c5&mode=current_text)
- i. Introduced 1/5/23
  - ii. Parallel House Bill: New York AB 1942,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1942&ciq=ncsl&client\\_md=c39e84cbdadb16bc7b5f869d0dbf21eb&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1942&ciq=ncsl&client_md=c39e84cbdadb16bc7b5f869d0dbf21eb&mode=current_text)
  - iii. Prohibiting promotion of content that incites violence, advocates for self-harm, or includes a false medical statement or theory, including via algorithms or other automated systems

- d. North Carolina HB 644,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H644&ciq=ncl&client\\_md=0e181fd762118032ce355dd116f62eac&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H644&ciq=ncl&client_md=0e181fd762118032ce355dd116f62eac&mode=current_text)
  - i. Introduced 4/17/23
  - ii. Prohibits algorithmic targeting of social media content without consent to use of personal data in that manner

### III. Jawboning

#### A. *Missouri v. Biden*

- 1. *Missouri v. Biden*, No. 3:22-cv-1213-TAD-KDM (E.D. La.)
  - a. Docket, <https://www.courtlistener.com/docket/63290154/missouri-v-biden/>
  - b. Complaint (5/5/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.1.0.pdf>
    - i. First Amended Complaint (8/2/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.45.0.pdf>
    - ii. Second Amended Complaint (10/6/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.84.0.pdf>
      - (a) Memorandum in Support of Motion to Dismiss (11/22/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.128.1.pdf>
      - (b) Opposition to Motion to Dismiss (1/6/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.165.0.pdf>
      - (c) Reply in Support of Motion to Dismiss (2/8/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.199.0.pdf>
      - (d) Order Granting Motion in Part and Denying in Part (3/20/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.225.0.pdf>

- (e) Memorandum Ruling (3/20/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.224.0.pdf>
  - iii. Third Amended Complaint (5/5/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.268.0.pdf>
- c. Plaintiffs' Memorandum in Support of Motion for Preliminary Injunction (6/15/22),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.15.0.pdf>
  - i. Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction (5/3/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.266.0.pdf>
  - ii. Plaintiffs' Reply Memorandum in Support of Preliminary Injunction (5/22/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.276.0.pdf>
  - iii. Judgment/Preliminary Injunction (7/4/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.294.0\\_6.pdf](https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.294.0_6.pdf)
  - iv. Memorandum Ruling on Preliminary Injunction (7/4/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.293.0\\_6.pdf](https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.293.0_6.pdf)
  - v. Defendants' Motion to Stay Preliminary Injunction Pending Appeal (7/6/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.297.0.pdf>
  - vi. Plaintiffs' Opposition to Motion to Stay Preliminary Injunction (7/9/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.299.0.pdf>
  - vii. Memorandum Ruling on Motion to Stay Preliminary Injunction (7/10/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.301.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.301.0_2.pdf)

viii. Judgment on Motion to Stay Preliminary Injunction (7/10/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.302.0\\_5.pdf](https://storage.courtlistener.com/recap/gov.uscourts.lawd.189520/gov.uscourts.lawd.189520.302.0_5.pdf)

2. *Missouri v. Biden*, No. 23-30445 (5<sup>th</sup> Cir.)

- a. Emergency Motion for Stay Pending Appeal (7/10/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.11.0\\_3.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.11.0_3.pdf)
  - i. Order Expediting Appeal and Granting Stay (7/14/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.34.2.pdf>
  - ii. Opposition to Emergency Motion (7/17/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.43.1\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.43.1_1.pdf)
  - iii. Reply in Support of Motion for Stay (7/24/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.58.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.58.0_2.pdf)
- b. Appellants' Brief (7/25/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.60.1.pdf>
- c. Appellees' Brief (8/4/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.126.1.pdf>
- d. Appellants' Reply Brief (8/8/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.192.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.192.0_2.pdf)
- e. Audio recording of oral argument (8/10/23),  
[https://www.ca5.uscourts.gov/OralArgRecordings/23/23-30445\\_8-10-2023.mp3](https://www.ca5.uscourts.gov/OralArgRecordings/23/23-30445_8-10-2023.mp3)
- f. Opinion per curiam (9/8/23),  
<https://www.ca5.uscourts.gov/opinions/pub/23/23-30445-CV0.pdf>
  - i. The Court of Appeals affirmed in part and reversed in part, limiting the parties to which the preliminary injunction applies to the White House, the Surgeon General, the CDC, and the FBI, and vacating the injunction except as to prohibition number six, which it modified to read:  
“Defendants, and their employees and agents, shall take no actions,

formal or informal, directly or indirectly, to coerce or significantly encourage social-media companies to remove, delete, suppress, or reduce, including through altering their algorithms, posted social-media content containing protected free speech. That includes, but is not limited to, compelling the platforms to act, such as by intimating that some form of punishment will follow a failure to comply with any request, or supervising, directing, or otherwise meaningfully controlling the social-media companies' decision-making processes.”

- ii. The Court of Appeals extended the administrative stay for ten days to allow time for an application to the Supreme Court.

## B. Other Decisions

1. See Section VII.A.2, below, for Section 230 cases on point
2. *Apter v. Dep't of Health & Human Services*, No. 22-40802 (5<sup>th</sup> Cir. Sept. 1, 2023) (reversing district court ruling that qualified immunity protected FDA against claim that its messages on social media regarding ivermectin were unauthorized agency activity and unlawfully interfered with plaintiff doctors' medical practices), <https://www.ca5.uscourts.gov/opinions/pub/22/22-40802-CV0.pdf>
3. *Kennedy v. Warren*, No. 22-35457 (9<sup>th</sup> Cir. May 4, 2023) (affirming denial of preliminary injunction against Sen. Elizabeth Warren in case alleging jawboning of Amazon.com to suppress book), <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/05/04/22-35457.pdf>
  - a. *See also Kennedy v. Warren*, No. 2:21-cv-1508 (W.D. Wash. May 9, 2022) (denying preliminary injunction), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3664&context=historical>
  - b. Case voluntarily dismissed following Ninth Circuit decision (Aug. 9, 2023), <https://storage.courtlistener.com/recap/gov.uscourts.wawd.305105/gov.uscourts.wawd.305105.64.0.pdf>
4. *O'Handley v. Weber*, No. 22-15071 (9<sup>th</sup> Cir. Mar. 10, 2023) (affirming dismissal of jawboning claims because Twitter did not become state actor due to interactions with government officials and government official did not violate constitution by flagging plaintiff's post for review), <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/03/10/22-15071.pdf>
  - a. *See also* Petition for Writ of Certiorari, *O'Handley v. Weber*, No. 22-1199 (June 8, 2023), [https://www.supremecourt.gov/DocketPDF/22/22-1199/268697/20230608152219655\\_OHandley%20v.%20Weber%20Cert%20](https://www.supremecourt.gov/DocketPDF/22/22-1199/268697/20230608152219655_OHandley%20v.%20Weber%20Cert%20)

- [Petn%20Final.pdf](#); *O'Handley v. Padilla*, 579 F. Supp. 3d 1163 (N.D. Cal. Jan. 10, 2022) (district court decision affirmed in the case above), [https://scholar.google.com/scholar\\_case?case=7040526499556613418](https://scholar.google.com/scholar_case?case=7040526499556613418)
5. *Huber v. Biden*, No. 22-15443 (9<sup>th</sup> Cir. Dec. 20, 2022) (affirming dismissal of claims that Twitter was forced to suspend the plaintiff's account by the Biden administration; accusations of conspiracy were speculative and did not exclude the possibility that Twitter decided to suspend plaintiff on its own), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2022/12/20/22-15443.pdf>
    - a. *See also Huber v. Biden*, No. 21-cv-6580 (N.D. Cal. Mar. 18, 2022) (dismissing First Amended complaint), [https://scholar.google.com/scholar\\_case?case=3627350574737326666](https://scholar.google.com/scholar_case?case=3627350574737326666)
  6. *Doe v. Google LLC*, No. 21-16934 (9<sup>th</sup> Cir. Nov. 18, 2022) (rejecting arguments that YouTube became a state actor either through government compulsion or entanglement), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2022/11/18/21-16934.pdf>
    - a. *See also Doe v. Google LLC*, No. 5:20-cv-7502 (N.D. Cal. Oct. 19, 2021) (district court decision affirmed by above opinion), <https://storage.courtlistener.com/recap/gov.uscourts.cand.367836/gov.uscourts.cand.367836.47.0.pdf>
  7. *Atkinson v. Meta Platforms, Inc.*, No. 20-17489 (9<sup>th</sup> Cir. Nov. 22, 2021) (affirming dismissal of First Amendment claim, holding that plaintiff failed to plead government coercion or joint action), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2021/11/22/20-17489.pdf>
  8. *Assoc. of American Physicians & Surgeons, Inc. v. Schiff*, No. 21-5080 (D.C. Cir. Jan. 25, 2022) (affirming dismissal of jawboning complaint against Rep. Adam Schiff for lack of Article III standing), [https://www.cadc.uscourts.gov/internet/opinions.nsf/315D41CB1E653973852587D5005875F6/\\$file/21-5080-1932125.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/315D41CB1E653973852587D5005875F6/$file/21-5080-1932125.pdf)
  9. *Hall v. Meta, Inc.*, No. 3:22-cv-3063 (W.D. Ark. Dec. 14, 2023), report and rec. adopted (Jan. 4, 2023) (recommending dismissal of First Amendment claim over Facebook ban because Facebook not a state actor despite allegations of cooperation with, or influence by, government entities), [https://scholar.google.com/scholar\\_case?case=9515751360450357463](https://scholar.google.com/scholar_case?case=9515751360450357463)
  10. *Kennedy v. Google LLC*, No. 3:23-cv-3880 (N.D. Cal. Aug. 23, 2023) (on First Amendment jawboning claim, denying temporary restraining order requiring Google to reinstate plaintiff's YouTube videos because social media companies

are not state actors),

<https://storage.courtlistener.com/recap/gov.uscourts.cand.416322/gov.uscourts.cand.416322.32.0.pdf>

11. *Hart v. Facebook Inc.*, No. 3:22-cv-737 (N.D. Cal. May 9, 2023) (denying leave to amend jawboning complaint on basis of “Twitter Files” and other materials indicating government communications to social media platforms),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.391509/gov.uscourts.cand.391509.127.0.pdf>
  - a. *See also Hart v. Facebook Inc.*, No. 3:22-cv-737 (N.D. Cal. May 5, 2022) (dismissing jawboning complaint for failure to establish that social media platforms became state actors under either joint action or coercion theory),  
<https://ljc-assets.s3.amazonaws.com/2021/09/2022-05-05-Hart-v-Facebook-Order-Dismissing-non-FOIA-claims.pdf>
12. *Daniels v. Alphabet Inc.*, No. 5:20-cv-4687 (N.D. Cal. Mar. 8, 2023) (holding that plaintiff’s jawboning claim over removal of videos, allegedly in response to complaints by members of Congress, was frivolous and awarding attorneys’ fees to defendant),  
<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3764&context=historical>
13. *Rogalinski v. Meta Platforms, Inc.*, No. 22-cv-2482 (N.D. Cal. Aug. 9, 2022) (dismissing First Amendment claims against Meta over deletion of Facebook posts about COVID-19 on basis that alleged government communications with Meta did not transform the latter into state actor),  
[https://scholar.google.com/scholar\\_case?case=5107260205533554396](https://scholar.google.com/scholar_case?case=5107260205533554396)
14. *Trump v. YouTube LLC*, No. 4:21-cv-8009 (N.D. Cal. Aug. 3, 2022) (staying Donald Trump’s jawboning lawsuit against YouTube pending resolution of appeal of dismissal of parallel litigation against Twitter),  
<https://www.courthousenews.com/wp-content/uploads/2022/08/Trump-youtube-judge-stay-order-.pdf>
  - a. *See also Trump v. YouTube LLC*, No. 4:21-cv-8009 (N.D. Cal. Jan. 12, 2022) (denying motion to consolidate Trump’s jawboning cases against YouTube, Twitter, and Meta Platforms, which he filed separately in S.D. Fla. prior to the transfer of all three cases to N.D. Cal.),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.386486/gov.uscourts.cand.386486.139.0.pdf>; *Trump v. YouTube, LLC*, No. 1:21-cv-22445 (S.D. Fla. Oct. 6, 2021) (transferring Donald Trump’s jawboning lawsuit against YouTube to N.D. Cal.),

<https://storage.courtlistener.com/recap/gov.uscourts.flsd.595813/gov.uscourts.flsd.595813.70.0.pdf>

15. *Trump v. Twitter Inc.*, No. 3:21-cv-08378 (N.D. Cal. May 6, 2022) (dismissing Donald Trump’s jawboning complaint against Twitter for failure to establish that site became state actor due to alleged government pressure),  
<https://www.courthousenews.com/wp-content/uploads/2022/05/trump-twitter-dismissal.pdf>
  - a. *See also Trump v. Twitter, Inc.*, No. 1:21-cv-22441 (S.D. Fla. Oct. 26, 2021) (transferring Donald Trump’s jawboning lawsuit against Twitter to N.D. Cal.), [https://www.scribd.com/document/535380633/Trump-vs-Twitter#from\\_embed](https://www.scribd.com/document/535380633/Trump-vs-Twitter#from_embed)
16. *Berenson v. Twitter, Inc.*, No. 3:21-cv-9818 (N.D. Cal. Apr. 29, 2022) (First Amendment claim over suspension of Twitter account dismissed; “the combination of (1) the shift in Twitter’s enforcement position, and (2) general cajoling from various federal officials regarding misinformation on social media platforms do not plausibly assert Twitter conspired or was otherwise a willful participant in government action”),  
[https://storage.courtlistener.com/recap/gov.uscourts.cand.389677/gov.uscourts.cand.389677.39.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.389677/gov.uscourts.cand.389677.39.0_1.pdf)
17. *Informed Consent Action Network v. YouTube LLC*, 582 F. Supp. 3d 712 (N.D. Cal. Jan. 31, 2022) (dismissing First Amendment jawboning claim against YouTube and Facebook; plaintiff’s allegations that sites independently chose to follow government guidance contradicted suggestion that they were coerced by government officials to block content and accounts),  
[https://scholar.google.com/scholar\\_case?case=7749642031383007818](https://scholar.google.com/scholar_case?case=7749642031383007818)
18. *Trump v. Facebook, Inc.*, No. 1:21-cv-2240 (S.D. Fla. Nov. 19, 2021) (transferring Donald Trump’s jawboning lawsuit against Facebook to N.D. Cal.),  
<https://www.courthousenews.com/wp-content/uploads/2021/11/trump-facebook-transfer-order.pdf>
19. *New Jersey Chinese Community Center v. McAleer*, No. 3:21-cv-8320 (D.N.J. May 17, 2022) (dismissing claim that online press release service violated First Amendment by retracting plaintiff’s press release in alleged response to a government directive, because plaintiff failed to plead either government compulsion or joint action),  
<https://storage.courtlistener.com/recap/gov.uscourts.njd.468456/gov.uscourts.njd.468456.25.0.pdf>



20. *Changizi v. Dep't of Health and Human Servs.*, No. 2:22-cv-1776 (S.D. Ohio May 5, 2022) (dismissing jawboning lawsuit against HHS over suppression of Twitter activity for failure to plead unconstitutional government pressure prior to Twitter's crackdown on COVID-19 misinformation or to account for other potential causes of Twitter's decisions), <https://cases.justia.com/federal/district-courts/ohio/ohsdce/2:2022cv01776/267163/37/0.pdf?ts=1651852808>

### C. Federal Legislation

1. S.2425 (Free Speech Protection Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2425/text?s=5&r=1083&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 7/20/23
  - b. Parallel House Bill: H.R.4791, <https://www.congress.gov/bill/118th-congress/house-bill/4791?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=5&r=1091>
  - c. Prohibits Federal employees and contractors from directing online platforms to censor any speech that is protected by the First Amendment to the Constitution of the United States
2. S.2314 (PRESERVE Online Speech Act of 2023), <https://www.congress.gov/bill/118th-congress/senate-bill/2314/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=15&overview=closed>
  - a. Introduced 7/13/23
  - b. Requires providers of interactive computer services to publicly disclose information relating to requests or recommendations made by government entities to moderate content
3. S.1672 (Disclose Government Censorship Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1672/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=19&overview=closed>
  - a. Introduced 5/18/23
  - b. Requires officers and employees of the legislative and executive branches to make certain disclosures related to communications with information content providers and interactive computer services regarding restricting speech

4. S.1525 (COLLUDE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1525/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=16&overview=closed>
  - a. Introduced 5/10/23
  - b. Eliminates Section 230 protection for removal of “legitimate political speech, including a discernible viewpoint” in response to government pressure
5. H.R.1162 (Accountability for Government Censorship Act), <https://www.congress.gov/bill/118th-congress/house-bill/1162/text/ih?q=%7B%22search%22%3A%22230%22%7D&s=7&r=23&overview=closed>
  - a. Introduced 2/24/23
  - b. Requires the Office of Management and Budget to report to Congress on actions taken by Executive branch employees to censor lawful speech
6. H.R.140 (Protecting Speech from Government Interference Act), <https://www.congress.gov/bill/118th-congress/house-bill/140?s=7&r=34&q=%7B%22search%22%3A%22230%22%7D>
  - a. Passed House, 3/9/23
  - b. Prohibits Federal employees from advocating for censorship of viewpoints in their official capacity

#### D. State Legislation

1. **Florida SB 262**, [http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000S262&ciq=ncsl&client\\_md=2d970dfe6ac5fc958460ad8f7fddc87f&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000S262&ciq=ncsl&client_md=2d970dfe6ac5fc958460ad8f7fddc87f&mode=current_text)
  - a. Approved by governor 6/6/23, effective 7/1/24
  - b. Prohibits officers or salaried employees of governmental entities from using their positions or state resources to make certain requests of social media platforms; prohibits governmental entities from initiating or maintaining agreements or working relationships with social media platforms under certain circumstances

#### IV. Social Media Addiction/Product Safety

A. *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, No. 4:22-md-3047-YGR (N.D. Cal.)

1. Docket, <https://www.courtlistener.com/docket/65407433/in-re-social-media-adolescent-addictionpersonal-injury-products-liability/>
2. Plaintiffs' Master Complaint (2/14/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.138.0.pdf>
  - a. Master Short-Form Complaint and Demand for Jury Trial (3/6/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.173.1.pdf>
  - b. Stipulated Implementation Order Governing Adoption of Master Complaint (Personal Injury) and Short-Form Complaints for Filed Cases (3/8/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.177.0.pdf>
3. Defendants' Joint Motion to Dismiss (4/17/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.237.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.237.0_1.pdf)
  - a. Defendant Snap Inc.'s Supplemental Brief in Support of Defendants' Joint Motion (4/17/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.238.0.pdf>
  - b. Plaintiffs' Opposition to Defendants' Motion to Dismiss (6/1/23),  
[https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.302.0\\_3.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.302.0_3.pdf)
  - c. Defendants' Supplemental Joint Motion to Dismiss (6/27/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.320.0.pdf>
  - d. Defendants' Reply in Support of Joint Motion to Dismiss (6/30/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.323.0.pdf>
  - e. Defendant Snap Inc.'s Supplemental Brief in Support of Defendants' Reply (6/30/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.324.0.pdf>

- f. Plaintiffs' Opposition to Defendants' Supplemental Motion to Dismiss (7/25/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.337.0.pdf>
- g. Plaintiffs' Statement of Recent Decision (8/4/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.345.0.pdf>
- h. Defendants' Reply in Support of Supplemental Joint Motion to Dismiss (8/15/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.401490/gov.uscourts.cand.401490.353.0.pdf>

## B. Articles

- 1. Elizabeth Nolan Brown, *Nearly 200 School Districts Are Suing Social Media Platforms*, Reason (July 24, 2023), <https://reason.com/2023/07/24/nearly-200-school-districts-are-suing-social-media-platforms/>
- 2. Sara Randazzo and Ryan Tracy, *Schools Sue Social-Media Platforms Over Alleged Harms to Students*, Wall Street Journal (July 23, 2023),  
<https://www.wsj.com/articles/schools-sue-social-media-platforms-over-alleged-harms-to-students-ebca91a5?s=31>
- 3. Sharyn Alfonsi, *More than 2,000 families suing social media companies over kids' mental health*, CBS News (June 4, 2023), <https://www.cbsnews.com/news/social-media-lawsuit-meta-tiktok-facebook-instagram-60-minutes-transcript-2023-06-04/>
- 4. Mike Masnick, *A Deeper Look At The Surgeon General's Report On Kids & Social Media: It's Not What You Heard*, Techdirt (May 30, 2023),  
<https://www.techdirt.com/2023/05/30/a-deeper-look-at-the-surgeon-generals-report-on-kids-social-media-its-not-what-you-heard/>
- 5. Lauren Camera, *Surgeon General's Warning on Social Media and Kids Bolsters School Leaders' Lawsuits*, U.S. News & World Report (May 25, 2023),  
<https://www.usnews.com/news/education-news/articles/2023-05-25/surgeon-generals-warning-on-social-media-and-kids-bolsters-school-leaders-lawsuits>

## C. Other Decisions

- 1. See Sections VII.A.5 and VII.A.9, below, for Section 230 cases on point
- 2. *Jackson v. Airbnb, Inc.*, No. 2:22-cv-3084 (C.D. Cal. Nov. 4, 2022) (negligence and product liability claims against Airbnb arising out of shooting at Airbnb rental property dismissed, and arbitration compelled),

<https://storage.courtlistener.com/recap/gov.uscourts.cacd.851476/gov.uscourts.cacd.851476.34.0.pdf>

3. *Maynard v. Snapchat, Inc.*, No. A20A1218 (Ga. Ct. App. Jan. 25, 2023) (reversing trial court and holding that plaintiffs adequately pleaded that the negligent design of Snapchat’s speed filter was the proximate cause of their injuries), <https://cases.justia.com/georgia/court-of-appeals/2023-a20a1218.pdf?ts=1674673836>

#### D. Legislation

1. See Sections VI.A, VI.B.4, VI.B.8, and VI.B.12, below, for legislation on point.

### V. Data Privacy Bills & Laws

#### A. Federal Data Privacy Bills

##### 1. General Data Privacy

- a. S.2708 (DETOUR Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2708/text?s=6&r=67&q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D>
  - i. Introduced 7/27/23
  - ii. Prohibits the use of exploitative and deceptive practices by large online operators and promotes transparency and consumer choice in the use of behavioral research by such providers
- b. S.2597 (Digital Consumer Protection Commission Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2597?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=2>
  - i. Introduced 7/27/23
  - ii. Amends the Clayton Act to establish a new Federal commission to regulate digital platforms, including with respect to competition, transparency, privacy, and national security
- c. S.2225 (TLDR Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2225?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=6&r=288>
  - i. Introduced 7/11/23

- ii. Parallel House Bill: H.R.4568, <https://www.congress.gov/bill/118th-congress/house-bill/4568/text?s=6&r=285&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
    - iii. Requires terms of services and privacy disclosures to be presented in specific forms
- d. S.2121 (DELETE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2121?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=4&r=92>
  - i. Introduced 6/22/23
  - ii. Parallel House Bill: H.R.4311, <https://www.congress.gov/bill/118th-congress/house-bill/4311/text?s=4&r=91&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - iii. Establishes a centralized system to allow individuals to request the simultaneous deletion of their personal information across all data brokers
- e. S.884 (Improving Digital Identity Act), <https://www.congress.gov/bill/118th-congress/senate-bill/884?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=36>
  - i. Reported to Senate 7/11/23
  - ii. Establishes a temporary task force to recommend secure methods and coordinate efforts for digital identity verification (a process for verifying the identity of an individual who accesses a service online or electronically)
- f. S.744 (Data Care Act), <https://www.congress.gov/bill/118th-congress/senate-bill/744?s=4&r=7&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - i. Introduced 3/9/23
  - ii. Imposes duties on online service providers to (1) reasonably secure individual-identifying data from unauthorized access, (2) refrain from using such data in a way that will result in reasonably foreseeable harm to the end user, and (3) not disclose such data to another party unless that party is also bound by the duties established in this bill

- g. H.R.4755 (Privacy Enhancing Technology Research Act), <https://www.congress.gov/bill/118th-congress/house-bill/4755/text?s=3&r=3&q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D>
  - i. Introduced 7/19/23
  - ii. Supports research on privacy enhancing technologies and promote responsible data use, and for other purposes
- h. H.R.2701 (Online Privacy Act), <https://www.congress.gov/bill/118th-congress/house-bill/2701/text?s=7&r=101&q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D>
  - i. Introduced 4/19/23
  - ii. Creates individual rights relating to privacy of personal information and security requirements for covered entities relating to personal information; establishes the Digital Privacy Agency to enforce such rights and requirements

## 2. Legislation on Specific Types of Data

- a. S.1656 (My Body, My Data Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1656/text?s=3&r=14&q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D>
  - i. Introduced 5/17/23
  - ii. Parallel House Bill: H.R.3420, <https://www.congress.gov/bill/118th-congress/house-bill/3420?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=13>
  - iii. Requires minimization of personal reproductive or sexual health information, and granting rights of access, correction, and deletion
- b. S.631 (UPHOLD Privacy Act), <https://www.congress.gov/bill/118th-congress/senate-bill/631/text?s=3&r=42&q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D>
  - i. Introduced 3/2/23

- ii. Creates access and deletion rights related to health and online location data, limits use of health data in commercial advertising, prohibits purchase or sale of location data from data brokers, and requires disclosures in privacy policy regarding gathering, storage, and use of data
  - c. S.412 (SHIELD Act), <https://www.congress.gov/bill/118th-congress/senate-bill/412/text/rs?q=%7B%22search%22%3A%22230%22%7D&s=7&r=6&overview=closed>
    - i. Reported to Senate 5/17/23
    - ii. Parallel House Bill: H.R.3686, <https://www.congress.gov/bill/118th-congress/house-bill/3686/text/ih?q=%7B%22search%22%3A%22230%22%7D&s=7&r=17&overview=closed>
    - iii. Prohibits knowing distribution of private intimate visual depictions with reckless disregard for the individual's lack of consent to the distribution; eliminates Section 230 protection when a provider of the communications service intentionally solicits, or knowingly and predominantly distributes, such content
- 3. Limitations on Government Access to Data
  - a. S.2576 (Fourth Amendment Is Not For Sale Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2576/text?s=3&r=749&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
    - i. Introduced 7/27/23
    - ii. Parallel House Bill: H.R.4639, <https://www.congress.gov/bill/118th-congress/house-bill/4639?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=4&r=754>
    - iii. Prevents law enforcement and intelligence agencies from obtaining subscriber or customer records in exchange for anything of value, to address communications and records in the possession of intermediary internet service providers



- b. S.2292 (Purchased Data Inventory Act), <https://www.congress.gov/bill/118th-congress/senate-bill/2292/text?s=4&r=30&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
    - i. Introduced 7/13/23
    - ii. Improves the transparency of purchases by the Federal Government of data or information that can be used to identify an individual
4. Restrictions on Device Manufacturers
- a. S.90 (Informing Consumers about Smart Devices Act), <https://www.congress.gov/bill/118th-congress/senate-bill/90?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=63>
    - i. Introduced 1/25/23
    - ii. Parallel House Bill: H.R.538, <https://www.congress.gov/bill/118th-congress/house-bill/538?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=59>
    - iii. Requires manufacturers of internet-connected devices (e.g., smart appliances) that are equipped with a camera or microphone to disclose to consumers prior to purchase that a camera or microphone is part of the device
  - b. H.R.4623 (Cyber Shield Act), <https://www.congress.gov/bill/118th-congress/house-bill/4623/text?s=5&r=119&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
    - i. Introduced 7/13/23
    - ii. Establishes a voluntary program to identify and promote internet-connected products that meet industry-leading cybersecurity and data security standards, guidelines, best practices, methodologies, procedures, and processes

## B. State Comprehensive Data Privacy Laws

1. **California Consumer Privacy Act**,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5)
  - a. Effective date 1/1/20
  - b. Amended by California Privacy Rights Act,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=3.&part=4.&lawCode=CIV&title=1.81.5)
    - i. Effective date 1/1/23
  - c. California Consumer Privacy Act Regulations, 11 CCR § 7000 et seq.,  
[https://cpha.ca.gov/regulations/pdf/20230329\\_final\\_regs\\_text.pdf](https://cpha.ca.gov/regulations/pdf/20230329_final_regs_text.pdf)
    - i. Enforcement date delayed from 7/1/23 to 3/29/24 by court order, *see California Chamber of Commerce v. California Privacy Protection Agency*, No. 34-2023-80004106-CU-WM-GDS (Cal. Super. June 30, 2023) (granting in part petitioner’s petition for writ of mandate and complaint for injunctive relief), <https://aboutblaw.com/83m>
2. **Colorado Privacy Act**,  
[https://leg.colorado.gov/sites/default/files/2021a\\_190\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2021a_190_signed.pdf)
  - a. Effective date 7/1/23
3. **Connecticut Personal Data Privacy and Online Monitoring Act**,  
<https://www.cga.ct.gov/2022/ACT/PA/PDF/2022PA-00015-R00SB-00006-PA.PDF>
  - a. Effective date 7/1/23
4. **Florida Digital Bill of Rights**, <https://www.dwt.com/-/media/files/blogs/privacy-and-security-blog/2023/06/florida-legislature-cs-for-cs-for-sb-262.pdf?la=en&rev=f5ec9ff2200d46b6a3d02c5e48f3c424&hash=AC168443DC250C6B0B6ACA7A07797307>
  - a. Effective date 7/1/24
5. **Indiana Consumer Data Protection Act**,  
<https://legiscan.com/IN/text/SB0005/id/2779850>
  - a. Effective date 1/1/26
6. **Iowa Consumer Data Protection Act**,  
<https://www.legis.iowa.gov/legislation/BillBook?ga=90&ba=SF262>

- a. Effective date 1/1/25
7. **Montana Consumer Data Privacy Act**,  
<https://leg.mt.gov/bills/2023/billpdf/SB0384.pdf>
  - a. Effective date 10/1/24
8. **Oregon Consumer Privacy Act**,  
<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB619/Enrolled>
  - a. Effective date 1/7/24
9. **Tennessee Information Protection Act**,  
<https://legiscan.com/TN/text/HB1181/id/2672877>
  - a. Effective date 7/1/25
10. **Texas Data Privacy and Security Act**,  
<https://capitol.texas.gov/tlodocs/88R/billtext/html/HB00004F.htm>
  - a. Effective date 7/1/24
11. **Utah Consumer Privacy Act**, <https://le.utah.gov/~2022/bills/static/SB0227.html>
  - a. Effective date 12/31/23
12. **Virginia Consumer Data Protection Act**,  
<https://law.lis.virginia.gov/vacodefull/title59.1/chapter53/>
  - a. Effective date 1/1/23

## **VI. Online Child Protection Bills & Laws**

### **A. Federal Child Protection Bills**

1. S.1671 (Digital Platform Commission Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1671?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=9&r=565>
  - a. Introduced 5/18/23
  - b. Establishes a commission to regulate digital platforms and provides the commission with rulemaking, investigative, and related authorities to regulate access to, competition among, and consumer protections for digital platforms, including setting standards for age verification and age-appropriate design

2. S.1418 (Children and Teens’ Online Privacy Protection Act, a/k/a COPPA 2.0),  
<https://www.congress.gov/bill/118th-congress/senate-bill/1418?q=%7B%22search%22%3A%5B%22Children+and+Teens+Online+Privacy+Protection+Act%22%5D%7D&s=2&r=1>
  - a. Marked up on 7/27/23
    - i. Sen. Markey substitute amendment,  
<https://www.commerce.senate.gov/services/files/6295B7BB-61CA-47A7-91A7-5C6FFF20F137>
  - b. Extends COPPA to teens 13 through 16 and increases website obligations to learn when they are dealing with minors
3. S.1409 (Kids Online Safety Act, or “KOSA”),  
<https://www.congress.gov/bill/118th-congress/senate-bill/1409?s=1&r=1&q=%7B%22search%22%3A%5B%22kids+online+safety+act%22%5D%7D>
  - a. Marked up on 7/27/23
    - i. Sen. Blackburn substitute amendment,  
<https://www.commerce.senate.gov/services/files/639B8F0E-20D8-484A-8F58-3D226F864A41>
  - b. Applications or services connected to internet and used by minors must: (1) “take reasonable measures in...design and operation of any product, service, or features...used by minors to prevent and mitigate” various negative externalities, including “anxiety, depression, eating disorders, substance use disorders, and suicidal behaviors”; (2) provide safeguards including settings restricting access to minors’ personal data; (3) provide tools for parental/guardian supervision of minors’ platform use; (4) disclose information regarding content recommendation and advertising; (5) provide a reporting mechanism for certain harms; and (6) refrain from facilitating advertising of age-restricted products or services to minors
  - c. Enforcement delegated to FTC and state governments
  - d. Requires promulgation of guidance for market/product research focused on minors
  - e. Requires evaluation of options for user age verification

4. S.1291 (Protecting Kids on Social Media Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1291/text?s=2&r=2&q=%7B%22search%22%3A%5B%22Children+and+Teens+Online+Privacy+Protection+Act%22%5D%7D>
  - a. Introduced 4/26/23
  - b. Requires that that social media platforms verify the age of their users, prohibit the use of algorithmic recommendation systems on individuals under age 18, require parental or guardian consent for social media users under age 18, and prohibit users who are under age 13 from accessing social media platforms.
5. S.1207 (EARN IT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1207?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=24>
  - a. Reported to Senate 5/15/23
  - b. Establishes the National Commission on Online Child Sexual Exploitation Prevention to develop best practices for interactive computer service providers to prevent, reduce, and respond to the online sexual exploitation of children; limits the liability protections of interactive computer service providers with respect to claims alleging violations of child sexual exploitation laws; and enhances the reporting requirements for service providers who report apparent instances of crimes involving the sexual exploitation of children to the National Center for Missing and Exploited Children
6. S.1199 (STOP CSAM Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1199?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=25>
  - a. Reported to Senate 5/15/23
  - b. Expands CSAM reporting requirements for online service providers; enables civil cause of action against online platforms for intentional, knowing, reckless, or negligent promotion or facilitation of online child sexual exploitation; excludes such claims from Section 230

7. S.1170 (Project Safe Childhood Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1170/text?s=6&r=62&q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D>
  - a. Reported to Senate 5/15/23
  - b. Parallel House Bill: H.R.2661, <https://www.congress.gov/bill/118th-congress/house-bill/2661/text?s=6&r=71&q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D>
  - c. Implements, inter alia, the establishment, development, and implementation of a nationally coordinated ‘Safer Internet Day’ every year developed in collaboration with the Department of Education, national and local internet safety organizations, parent organizations, social media companies
8. S.823 (END CSAM Act), <https://www.congress.gov/bill/118th-congress/senate-bill/823/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=12&overview=closed>
  - a. Introduced 3/15/23
  - b. Creates civil liability for hosting or distributing CSAM, and eliminates Section 230 protection from such liability
9. S.564 (Parental Data Rights Act), <https://www.congress.gov/bill/118th-congress/senate-bill/564?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=11>
  - a. Introduced 2/28/23
  - b. Establishes parental notification requirements for social media companies that allow minors to create accounts; authorizes a civil action against a social media company that fails to provide, upon request, access to the minor's usage data or the ability to delete a minor's account and associated data
10. S.474 (REPORT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/474?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=23>
  - a. Introduced 2/16/23
  - b. Makes changes to the requirements for electronic communication service providers and remote computing service providers to submit reports to the

National Center for Missing and Exploited Children when they become aware of violations involving the online sexual exploitation of children, and increases fines for knowing and willful failure to do so.

11. S.395 (Clean Slate for Kids Online Act), <https://www.congress.gov/bill/118th-congress/senate-bill/395?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=47>
  - a. Introduced 2/13/23
  - b. Allows individuals over age 13 (or their guardians, if applicable) to request the deletion of information collected from or about them while they were under age 13 by a website or online service that is directed to children
12. S.394 (Digital Citizenship and Media Literacy Act), <https://www.congress.gov/bill/118th-congress/senate-bill/394?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=3>
  - a. Introduced 2/13/23
  - b. Directs the National Telecommunications and Information Administration to award grants to state and local educational agencies, public libraries, and qualified nonprofit organizations to develop and promote media literacy and digital citizenship education for elementary and secondary school students, including the ability to safely, responsibly, and ethically use communication technologies
13. H.R.3164 (Protecting Young Minds Online Act), <https://www.congress.gov/bill/118th-congress/house-bill/3164/text?s=6&r=19&q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D>
  - a. Introduced 5/9/23
  - b. Directs the Center for Mental Health Services to develop and disseminate a strategy to address the effects of new technologies on children's mental health
14. H.R.2801 (Kids PRIVACY Act), <https://www.congress.gov/bill/118th-congress/house-bill/2801/text?s=3&r=24&q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D>
  - a. Introduced 4/24/23

- b. Expands requirements for processing of children’s data under COPPA to children under 18 plus other obligations; requires FTC to promulgate regulations requiring platforms likely to be accessed by children or teenagers to make the best interests of children and teenagers a primary design consideration, based upon a risk-based approach to determining the age of a site’s users
15. H.R.821 (Social Media Child Protection Act), <https://www.congress.gov/bill/118th-congress/house-bill/821?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=1>
- a. Introduced 2/2/23
  - b. Limits access to social media platforms by children and requires all individuals to verify their age before accessing such platforms; platforms must also establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of the personal information of users and prospective users; enforcement by the Federal Trade Commission, state attorneys general, and private right of action.
16. H.R.573 (CASE-IT Act), <https://www.congress.gov/bill/118th-congress/house-bill/573/text>
- a. Introduced 1/26/23
  - b. Lifts Section 230 protection for one year if user or provider facilitates (1) illegal online content, (2) certain exploitive contact between adults and minors, or (3) content that is indecent, obscene, or otherwise harmful to minors; no Section 230 protection for “dominant” interactive computer services that fail to make content moderation decisions consistent with the First Amendment.
17. H.R.413 (Transparency Over Toys Spying Act), <https://www.congress.gov/bill/118th-congress/house-bill/413?q=%7B%22search%22%3A%5B%22Privacy%22%5D%7D&s=3&r=70>
- a. Introduced 1/20/2023
  - b. Requires the Federal Trade Commission to issue rules requiring internet-connected toys to include a label indicating that the toy has the ability to connect to the internet and collect and transmit personal information of the user; requires disclosures in any user agreement or privacy policy associated with the toy



## B. State Child Protection Legislation

### 1. Sexual or Harmful Content

- Unless noted otherwise below, these bills follow a similar pattern, requiring websites that host “substantial” (33.33%) “material harmful to minors” to use age verification by using government ID or “public or private transactional data” to confirm a user is at least 18 years old, with enforcement by a private right of action
  - a. Arizona SB 1503,  
<https://www.azleg.gov/legtext/56leg/1R/bills/SB1503H.pdf>
    - i. Failed House vote 4/10/23
  - b. **Arkansas SB 66**,  
<https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F2023R%2FPublic%2FACT612.pdf>
    - i. Approved 4/11/23, effective date 7/31/23
  - c. California AB 1501,  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240AB1501](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1501)
    - i. Committee hearing cancelled 4/3/23
  - d. Iowa HB 489,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IA2023000H489&ciq=ncsl&client\\_md=28d6d5f84a212b846abf249006e5696c&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IA2023000H489&ciq=ncsl&client_md=28d6d5f84a212b846abf249006e5696c&mode=current_text)
    - i. Introduced 2/28/23
  - e. **Louisiana HB 142**,  
<https://legis.la.gov/legis/ViewDocument.aspx?d=1289498>
    - i. Signed by governor 6/15/22, effective date 1/1/23
    - ii. Constitutionality challenged in *Free Speech Coalition v. Le Blanc*, No. 2:23-cv-02123 (E.D. La.)
      - (a) Complaint (6/20/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.laed.261513/gov.uscourts.laed.261513.1.0.pdf>

- f. **Louisiana HB 77**,  
<https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1332277>
  - i. Signed by governor 6/8/23, effective date 8/1/23
  - ii. Empowers state attorney general to fine adult websites that fail to perform age verification on thirty days' notice
- g. **Mississippi SB 2346**,  
<http://billstatus.ls.state.ms.us/documents/2023/html/SB/2300-2399/SB2346SG.htm>
  - i. Signed by governor 3/30/23, effective date 7/1/23
- h. **Montana SB 544**, <https://s3.amazonaws.com/fn-document-service/file-by-sha384/b618d2b4851fe7516875fd9380bea85a9ab91f2a21a130b49fed787a6163b1139310b43582b30c2ff68d058625ee48e4>
  - i. Signed by governor, effective date 1/1/24
- i. New Jersey SB 714,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S714&ciq=ncsl&client\\_md=571e7b90c7aa5b1ed8780c81e54639c6&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S714&ciq=ncsl&client_md=571e7b90c7aa5b1ed8780c81e54639c6&mode=current_text)
  - i. Introduced 1/11/22
  - ii. Creates liability for social networking websites that transmit sexually offensive communications to minors unless specific mechanisms are implemented
- j. New York SB 2319,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S2319&ciq=ncsl&client\\_md=5336ffdd93d596924a98e83d57340bc0&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S2319&ciq=ncsl&client_md=5336ffdd93d596924a98e83d57340bc0&mode=current_text)
  - i. Introduced 1/19/23
  - ii. Parallel House Bill: New York AB 927,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A927&ciq=ncsl&client\\_md=541af9f4e136c002db91e5855253bde&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A927&ciq=ncsl&client_md=541af9f4e136c002db91e5855253bde&mode=current_text)
    - iii. Prohibits interactive computer service providers from knowingly or negligently promoting content that it developed and that is dangerous or otherwise injurious to minors

- k. Oklahoma SB 988,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:OK2023000S988&ciq=nsl&client\\_md=15c883cccff32040d53e738e0ba98cbf&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:OK2023000S988&ciq=nsl&client_md=15c883cccff32040d53e738e0ba98cbf&mode=current_text)
- i. Introduced 2/6/23
  - ii. Creates liability under the Oklahoma Consumer Protection Act when, in the course of a person's business, a person targets knowingly, or with reason to know, minors with content or messages containing obscene material or sexual conduct
- l. South Carolina HB 3426,  
<https://www.scstatehouse.gov/billsearch.php?billnumbers=3426&session=125&summary=B>
- i. Introduced 1/10/23
  - ii. Private right of action against websites that do not prevent minors from accessing pornographic material
  - iii. Compare South Carolina HB 3424,  
<https://www.scstatehouse.gov/billsearch.php?billnumbers=3424&session=125&summary=B>
- m. **Texas HB 1181**,  
<https://capitol.texas.gov/tlodocs/88R/billtext/html/HB01181F.htm>
- i. Signed by governor 6/12/23, effective date 9/1/23
  - ii. Enforcement preliminarily enjoined in *Free Speech Coalition, Inc. v. Colmenero*, No. 1:23-cv-917 (W.D. Tex. Aug. 31, 2023) (finding that law was not least restrictive means to protect children from adult content; separately holding that compelled publication of “public health warning” about pornography is unconstitutional),  
<https://storage.courtlistener.com/recap/gov.uscourts.txwd.1172751222/gov.uscourts.txwd.1172751222.36.0.pdf>
- n. **Utah SB 287**, <https://le.utah.gov/~2023/bills/static/SB0287.html>
- i. Signed by governor 3/13/23, effective date 5/3/23
  - ii. Constitutionality challenged in *Free Speech Coalition v. Anderson*, No. 2:23-cv-287 (D. Utah)

- (a) Complaint (5/3/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.utd.139489/gov.uscourts.utd.139489.2.0.pdf>
    - (b) Order granting motion to dismiss (8/1/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.utd.139489/gov.uscourts.utd.139489.37.0.pdf>
      - (i) Case dismissed on grounds that government defendants not proper party to law that creates a private cause of action
  - o. **Virginia SB 1515**, <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+SB1515>
    - i. Approved by governor, effective date 7/1/23
2. Age Verification
- a. **Arkansas SB 396**,  
<https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F2023R%2FPublic%2FACT689.pdf>
    - i. Signed by governor 4/11/23, effective date 9/1/23
    - ii. Requires that social media companies verify the age of all account holders residing in Arkansas
    - iii. Enforcement preliminarily enjoined in *NetChoice, LLC v. Griffin*, No. 5:23-cv-5105 (W.D. Ark. Aug. 31, 2023) (finding that statute is vague and burdens the First Amendment rights of both adult and minor platform users),  
<https://storage.courtlistener.com/recap/gov.uscourts.arwd.68680/gov.uscourts.arwd.68680.44.0.pdf>
  - b. Iowa HB 526,  
<https://www.legis.iowa.gov/legislation/BillBook?ba=HF526&ga=90>
    - i. Introduced 3/1/23
    - ii. Imposes penalties on social media sites for allowing Iowa individuals younger than 18 to maintain an account

- c. New York SB 6418,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S6418&ciq=ncsl&client\\_md=8f32afa71d5452be33c5c3851add0e6c&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S6418&ciq=ncsl&client_md=8f32afa71d5452be33c5c3851add0e6c&mode=current_text)
  - i. Introduced 4/19/23
  - ii. Requires social media companies to verify the age of users and to confirm parental consent

### 3. Parental Oversight

- a. California SB 845,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S845&ciq=ncsl&client\\_md=20037f99db6d6775f352d6bbce9c70b7&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S845&ciq=ncsl&client_md=20037f99db6d6775f352d6bbce9c70b7&mode=current_text)
  - i. Introduced 2/17/23
  - ii. Requires social media companies to provide APIs so that third parties can provide parents with tools to manage a child’s social media activity
- b. **Louisiana HB 61**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:LA2023000H61&ciq=ncsl&client\\_md=36c65c96fd573ec140708a265f786785&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:LA2023000H61&ciq=ncsl&client_md=36c65c96fd573ec140708a265f786785&mode=current_text)
  - i. Signed by governor 6/28/23, effective date 8/1/24
  - ii. Prohibits interactive computer services from entering into contracts with minors without consent of legal representative
- c. New York SB 2324,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S2324&ciq=ncsl&client\\_md=a07aa8f14741fd3cfb5ede2f962878dd&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S2324&ciq=ncsl&client_md=a07aa8f14741fd3cfb5ede2f962878dd&mode=current_text)
  - i. Introduced 1/19/23
  - ii. Parallel House Bill: New York AB 936,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A936&ciq=ncsl&client\\_md=d5bf64647786e98e6d784e8cee44bdbc&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A936&ciq=ncsl&client_md=d5bf64647786e98e6d784e8cee44bdbc&mode=current_text) x
  - iii. Requires disclosure to parent of information related to minor’s use of online service

d. North Carolina HB 773,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H773&ciq=nsl&client\\_md=6f18fa84fceed63f8a1a91bfc5625aa&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H773&ciq=nsl&client_md=6f18fa84fceed63f8a1a91bfc5625aa&mode=current_text)

- i. Introduced 4/18/23
- ii. Requires social media companies to provide APIs so that third parties can provide parents with tools to manage a child's social media activity

#### 4. Addiction/Content Targeting/Algorithms

a. California SB 764,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S764&ciq=nsl&client\\_md=ba620041564f71336fb47bb34dccaeb0&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S764&ciq=nsl&client_md=ba620041564f71336fb47bb34dccaeb0&mode=current_text)

- i. Introduced 2/17/23
- ii. Prohibits a social media platform from adopting or implementing a policy or practice related to the targeting of content to minors that prioritizes user engagement of minor users with the platform over the safety, health and well-being of the minor users

b. California SB 680,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240SB680](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB680)

- i. Passed by Senate 5/22/23
- ii. Prohibits a social media platform from using a design, algorithm, or feature that the platform knows, or by the exercise of reasonable care should have known, causes child users to inflict harm on themselves or others, develop an eating disorder, or experience addiction to the social media platform

iii. Similar to California SB 287,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S287&ciq=nsl&client\\_md=e3be46478889834db41668b1185c78b1&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000S287&ciq=nsl&client_md=e3be46478889834db41668b1185c78b1&mode=current_text) (introduced Feb. 2, 2023)

c. Minnesota SB 2101,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000S2101&ciq=nsl&client\\_md=5c1e0dde675a55ed84423fdd5069dc15&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000S2101&ciq=nsl&client_md=5c1e0dde675a55ed84423fdd5069dc15&mode=current_text)

- i. Introduced 2/24/23
  - ii. Parallel House Bill: Minnesota HB 1503,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H1503&ciq=ncsl&client\\_md=eeb68860abef091dd62ef9c4947f8ca2&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H1503&ciq=ncsl&client_md=eeb68860abef091dd62ef9c4947f8ca2&mode=current_text)
  - iii. Prohibits certain social media algorithms that target children; prohibits using a social media algorithm to target user-generated content at an account holder who is under the age of 18
- d. New Jersey SB 3608,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S3608&ciq=ncsl&client\\_md=e4a3f3ead5a02a4bc21e2622ae821873&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S3608&ciq=ncsl&client_md=e4a3f3ead5a02a4bc21e2622ae821873&mode=current_text)
- i. Introduced 2/16/23
  - ii. Parallel House Bill: New Jersey AB 5069,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A5069&ciq=ncsl&client\\_md=c127eb800bb324822af58cbfd1caac9&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A5069&ciq=ncsl&client_md=c127eb800bb324822af58cbfd1caac9&mode=current_text)
  - iii. Prohibits social media platform from using any feature that it knows or should know will cause child users to become addicted to platform
- e. North Carolina HB 644,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H644&ciq=ncsl&client\\_md=0e181fd762118032ce355dd116f62eac&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NC2023000H644&ciq=ncsl&client_md=0e181fd762118032ce355dd116f62eac&mode=current_text)
- i. Introduced 4/17/23
  - ii. Prohibits algorithmic targeting of social media content at minors
- f. South Carolina SB 404,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:SC2023000S404&ciq=ncsl&client\\_md=1dd0a75223e85a4e5f77b19ccb7ad6e1&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:SC2023000S404&ciq=ncsl&client_md=1dd0a75223e85a4e5f77b19ccb7ad6e1&mode=current_text)
- i. Introduced 1/18/23
  - ii. Prohibits algorithmic content placement for minors, or for older users without age verification

## 5. CSAM

- a. California AB 1394,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1394&ciq=ncsl&client\\_md=1ec3ec6b189aad3209a31f864c39838c&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1394&ciq=ncsl&client_md=1ec3ec6b189aad3209a31f864c39838c&mode=current_text)
  - i. Introduced 2/17/23
  - ii. Provides that the California Consumer Privacy Act grants a consumer the right to request that a business delete personal information; requires a social media platform to permanently block the instance of reported child sexual abuse material

## 6. Research

- a. California AB 1282,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1282&ciq=ncsl&client\\_md=89c7f589adbe6dc63a2a14bb4ea53329&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1282&ciq=ncsl&client_md=89c7f589adbe6dc63a2a14bb4ea53329&mode=current_text)
  - i. Introduced 2/16/23
  - ii. Requires the Mental Health Services Oversight and Accountability Commission to explore negative mental health risks associated with social media and artificial intelligence, and to report a statewide strategy to understand, communicate and mitigate mental health risks associated with the use of social media by children and youth
- b. Massachusetts HB 1986,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H1986&ciq=ncsl&client\\_md=a57003fff916ae6aed400b6934bf2783&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H1986&ciq=ncsl&client_md=a57003fff916ae6aed400b6934bf2783&mode=current_text)
  - i. Introduced 2/16/23
  - ii. Creates special commission to promote safe social media use, identify best practices for social media platforms to safeguard children's mental health, and develop guidelines for safe social media use.
- c. Pennsylvania HR 25,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:PA2023000HR25&ciq=ncsl&client\\_md=2e773db87991a7c9d0b5214c79fa936f&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:PA2023000HR25&ciq=ncsl&client_md=2e773db87991a7c9d0b5214c79fa936f&mode=current_text)
  - i. Introduced 3/8/23



- ii. Establishes a task force to study social media platforms and websites on which suicide is encouraged

7. Schools & Education

a. California AB 787,

[https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A787&ciq=ncsl&client\\_md=3c7b068e4551edb3220a5998f586b91f&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A787&ciq=ncsl&client_md=3c7b068e4551edb3220a5998f586b91f&mode=current_text)

- i. Introduced 2/3/23
- ii. Requires superintendent of public instruction to survey teacher librarians, principals and technology directors to understand how they are currently integrating digital citizenship and media literacy education into their curriculum, and to develop best practices for such instruction

b. **Florida HB 379**,

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000H379&ciq=ncsl&client\\_md=ba5d7d363a35d3ba05201c8d5181788a&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000H379&ciq=ncsl&client_md=ba5d7d363a35d3ba05201c8d5181788a&mode=current_text)

- i. Approved by Governor 5/9/23, effective date 7/1/23
- ii. Requires each district school board to adopt an internet safety policy for student access to the internet provided by the school district; provides requirements; requires each school district to prohibit and prevent student access to social media through internet access provided by the school district; provides an exception; prohibits the use of certain platforms on district-owned devices and through internet access provided by the school district.

c. Georgia HB 338,

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:GA2023000H338&ciq=ncsl&client\\_md=68ee5f9146bb30ef695fad2e69d8aa80&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:GA2023000H338&ciq=ncsl&client_md=68ee5f9146bb30ef695fad2e69d8aa80&mode=current_text)

- i. Passed by House 3/1/23, tabled by Senate 3/27/23
- ii. Provide for the inclusion of methods for the promotion of the safe and appropriate use of technology and responsible digital citizenship in the comprehensive character education program; revises requirements for internet safety polices in public schools

- d. Hawaii SB 914,  
[https://www.capitol.hawaii.gov/session/measure\\_indiv.aspx?billtype=SB&billnumber=914&year=2023](https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=914&year=2023)
  - i. Introduced 1/20/23
  - ii. Parallel House Bill: Hawaii HB 79,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:HI2023000H79&ciq=ncsl&client\\_md=b261916df97c3ec6102541d45efca424&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:HI2023000H79&ciq=ncsl&client_md=b261916df97c3ec6102541d45efca424&mode=current_text)
  - iii. Authorizes schools to incorporate media literacy into standards-based curriculum as appropriate, including content that prevents the negative impacts of misinformation, disinformation, digital discrimination and online hate speech
- e. Illinois HB 1522,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H1522&ciq=ncsl&client\\_md=f52cd5ed921a1652be6c64c55ec2aa87&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H1522&ciq=ncsl&client_md=f52cd5ed921a1652be6c64c55ec2aa87&mode=current_text)
  - i. Introduced 1/31/23
  - ii. State Board of Education must submit a report of recommended revisions to the internet safety education curriculum provisions to ensure the internet safety education curriculum aligns with current best practices and reflects current technology and customary uses of the internet
- f. Massachusetts HB 560,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H560&ciq=ncsl&client\\_md=2481911aa0e1512dbcdf783290c3bd6f&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H560&ciq=ncsl&client_md=2481911aa0e1512dbcdf783290c3bd6f&mode=current_text)
  - i. Introduced 2/16/23
  - ii. Requires integration of media literacy skills into school curricula, encompassing analysis of information quality and the foundational skills of digital citizenship and internet safety including the norms of appropriate, responsible, ethical, healthy behavior, and cyberbullying prevention

- g. Michigan HB 4414,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MI2023000H4414&ciq=ncsl&client\\_md=f4cb51477304071277e4c1799c1086e6&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MI2023000H4414&ciq=ncsl&client_md=f4cb51477304071277e4c1799c1086e6&mode=current_text)
- i. Introduced 4/13/23
  - ii. Requires creation of materials, resources, model curricula, and lesson plans concerning digital literacy and cybersafety
- h. Minnesota SB 163,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000S163&ciq=ncsl&client\\_md=9e427be8098cd5ecde0ca6a3ee5ce666&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000S163&ciq=ncsl&client_md=9e427be8098cd5ecde0ca6a3ee5ce666&mode=current_text)
- i. Introduced 1/10/23
  - ii. Parallel House Bill: Minnesota HB 192,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H192&ciq=ncsl&client\\_md=bac92d2acdbd39d0e139d3bd164e1c1c&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H192&ciq=ncsl&client_md=bac92d2acdbd39d0e139d3bd164e1c1c&mode=current_text)
  - iii. Grants funds for promotion of digital well-being of Minnesota students
- i. **New Jersey SB 715**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S715&ciq=ncsl&client\\_md=328efdbd299ac525f08d78ca7ebc1d0f&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S715&ciq=ncsl&client_md=328efdbd299ac525f08d78ca7ebc1d0f&mode=current_text)
- i. Approved 7/24/23
  - ii. Parallel House Bill: New Jersey AB 1992,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A1992&ciq=ncsl&client\\_md=c7f44759f46290048475b06222ab7150&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A1992&ciq=ncsl&client_md=c7f44759f46290048475b06222ab7150&mode=current_text)
  - iii. Establishes commission to study social media usage in and out of public schools and to determine the effects that use has on the health and academic performance of students
- j. New Jersey AB 3271,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A3271&ciq=ncsl&client\\_md=188c01d41fa999f3264e071baad52a10&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A3271&ciq=ncsl&client_md=188c01d41fa999f3264e071baad52a10&mode=current_text)
- i. Introduced 3/7/22

- ii. Requires provision of instruction on safe user practices for certain websites and mobile applications as part of New Jersey Student Learning Standards for Comprehensive Health and Physical Education
- k. New York SB 1433,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S1433&ciq=ncsl&client\\_md=0bc40286c5d5392913808d5f2eb961c0&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S1433&ciq=ncsl&client_md=0bc40286c5d5392913808d5f2eb961c0&mode=current_text)
  - i. Introduced 1/11/23
  - ii. Provides data analytic resources and funding to every school district to facilitate the monitoring of social media activities to provide early detection information of possible threats to a student's health and the safety of the school
- l. New York AB 1695,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1695&ciq=ncsl&client\\_md=5489810a651f3fb15e4410a1349ff8db&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A1695&ciq=ncsl&client_md=5489810a651f3fb15e4410a1349ff8db&mode=current_text)
  - i. Introduced 1/17/23
  - ii. Provides for school curriculum to include training in media literacy, including instruction of internet safety, civility and digital citizenship with a focus on the principles of safe, responsible use of the internet and electronic communications
- m. New York AB 94,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A94&ciq=ncsl&client\\_md=f4c6e1c4be5ca4e5c6c7b1b030f1f8be&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A94&ciq=ncsl&client_md=f4c6e1c4be5ca4e5c6c7b1b030f1f8be&mode=current_text)
  - i. Introduced 1/4/23
  - ii. Creates committee to study teaching of media literacy, including foundational skills of digital citizenship and internet safety including the norms of appropriate, responsible, healthy behavior, and cyberbullying prevention
- n. Oklahoma HB 2420,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:OK2023000H2420&ciq=ncsl&client\\_md=2f36978ad7354cc0afa72874c4222654&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:OK2023000H2420&ciq=ncsl&client_md=2f36978ad7354cc0afa72874c4222654&mode=current_text)
  - i. Introduced 2/6/23

- ii. Directs State Department of Education to develop best practices and recommendations for instruction in digital citizenship, internet safety, and media literacy
  - o. Washington SB 5626, [https://custom.statenet.com/public/resources.cgi?id=ID:bill:WA2023000S5626&ciq=ncsl&client\\_md=5943c20403f3580b0391a64f3d88037b&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:WA2023000S5626&ciq=ncsl&client_md=5943c20403f3580b0391a64f3d88037b&mode=current_text)
    - i. Passed Senate Mar 3, 2023
    - ii. Provides support for supporting media literacy and digital citizenship in school curricula
- 8. Age-Appropriate Design Code Acts
  - California led the field with this form of legislation, and other state bills listed below have followed its general outline.
    - a. **California AB 2273** (“The California Age-Appropriate Design Code Act”), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2273](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2273)
      - i. Approved by governor 9/15/22, effective date 7/1/24
      - ii. Requires any business that provides an online service, product, or feature likely to be accessed by children to comply with specified requirements, including that a business must: configure all default privacy settings offered by the online service, product, or feature to the settings that offer a high level of privacy; before any new online services, products, or features are offered to the public, complete a Data Protection Impact Assessment for any online service, product, or feature likely to be accessed by children; and maintain documentation of this assessment as long as the online service, product, or feature is likely to be accessed by children
      - iii. Other states have followed this model closely
      - iv. Constitutionality challenged in *NetChoice, LLC v. Bonta*, No. 5:22-cv-8861 (N.D. Cal.)
        - (a) Complaint (12/14/22), <https://storage.courtlistener.com/recap/gov.uscourts.cand.406140/gov.uscourts.cand.406140.1.0.pdf>

- b. Illinois HB 3880,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H3880&ciq=ncsl&client\\_md=d960414035d245911ae2de07b6344782&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000H3880&ciq=ncsl&client_md=d960414035d245911ae2de07b6344782&mode=current_text)
  - i. Introduced 2/17/23
- c. Minnesota SB 2810,  
[https://www.revisor.mn.gov/bills/text.php?number=SF2810&version=latest&session=ls93&session\\_year=2023&session\\_number=0](https://www.revisor.mn.gov/bills/text.php?number=SF2810&version=latest&session=ls93&session_year=2023&session_number=0)
  - i. Introduced 3/13/23
  - ii. Parallel House Bill: Minnesota HB 2257,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H2257&ciq=ncsl&client\\_md=ebf87c1677389cad945a399f4fed59e9&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:MN2023000H2257&ciq=ncsl&client_md=ebf87c1677389cad945a399f4fed59e9&mode=current_text)
- d. New Jersey SB 3493,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S3493&ciq=ncsl&client\\_md=13f7658e69874d8079a8397e4253da33&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000S3493&ciq=ncsl&client_md=13f7658e69874d8079a8397e4253da33&mode=current_text)
  - i. Introduced 1/19/23
  - ii. Parallel House Bill: New Jersey AB 4919,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A4919&ciq=ncsl&client\\_md=6925e42c5c75e637449d1b3b57746840&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A4919&ciq=ncsl&client_md=6925e42c5c75e637449d1b3b57746840&mode=current_text)
- e. New York SB 3281,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S3281&ciq=ncsl&client\\_md=3d8fea8a0eae0ce4d078b55919005f93&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000S3281&ciq=ncsl&client_md=3d8fea8a0eae0ce4d078b55919005f93&mode=current_text)
  - i. Introduced 1/30/23
  - ii. Parallel House Bill: New York AB 4967,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A4967&ciq=ncsl&client\\_md=ecf62bca09f8bfbbdfc46e33f6f4cbc6&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NY2023000A4967&ciq=ncsl&client_md=ecf62bca09f8bfbbdfc46e33f6f4cbc6&mode=current_text)

## 9. Data Privacy

### a. **Florida SB 262,**

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000S262&ciq=ncsl&client\\_md=2d970dfe6ac5fc958460ad8f7fddc87f&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2023000S262&ciq=ncsl&client_md=2d970dfe6ac5fc958460ad8f7fddc87f&mode=current_text)

- i. Approved by governor 6/6/23, effective 7/1/24
- ii. Prohibits certain collection and processing of children's data by an online platform that provides online services, products, games or features likely to be predominantly accessed by children

### b. Iowa HB 712,

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IA2023000H712&ciq=ncsl&client\\_md=087e1dd02f974588e169e7e63f123b41&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IA2023000H712&ciq=ncsl&client_md=087e1dd02f974588e169e7e63f123b41&mode=current_text)

- i. Introduced 4/10/23
- ii. Restricts collection of children's data by online services and applications

### c. New Jersey AB 5474,

[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A5474&ciq=ncsl&client\\_md=fbb7674b731289493eb86486557b4a95&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000A5474&ciq=ncsl&client_md=fbb7674b731289493eb86486557b4a95&mode=current_text)

- i. Introduced 5/18/23
- ii. Requires online sites to delete certain videos featuring minors, upon request by the minor upon reaching the age of majority

## 10. Calls for Federal Legislation

### a. **Illinois SR 249,**

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000SR249&ciq=ncsl&client\\_md=0613ec8bf51157160624ba4712274b65&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:IL2023000SR249&ciq=ncsl&client_md=0613ec8bf51157160624ba4712274b65&mode=current_text)

- i. Adopted 5/19/23
- ii. Urges the federal government to uphold its duty to create regulations that promote the well-being of minors and protect them from negative and harmful social media algorithms

- b. New Jersey AR 191,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000AR191&ciq=ncsl&client\\_md=b30205bda46e4e530caaec186f65efbb&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000AR191&ciq=ncsl&client_md=b30205bda46e4e530caaec186f65efbb&mode=current_text)
  - i. Introduced 6/5/23
  - ii. Urges President and Congress to pass the Kids Online Safety Act
- c. **New Jersey AR 167**,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000AR167&ciq=ncsl&client\\_md=35b9673968542356daa38055f6b4f841&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:NJ2022000AR167&ciq=ncsl&client_md=35b9673968542356daa38055f6b4f841&mode=current_text)
  - i. Adopted 3/30/23
  - ii. Urges President and Congress to enact legislation that requires parental consent for children under 16 years of age to use social media and other websites

#### 11. Device Manufacturers

- a. Kansas SB 222,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:KS2023000S222&ciq=ncsl&client\\_md=808c9f2c4f7c5dcb91a7ca14abd5428e&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:KS2023000S222&ciq=ncsl&client_md=808c9f2c4f7c5dcb91a7ca14abd5428e&mode=current_text)
  - i. Introduced 2/9/23
  - ii. Requires wireless communication device vendors to provide parental notification of application downloads by a minor
- b. Minnesota SB 846,  
[https://www.revisor.mn.gov/bills/text.php?number=SF846&version=latest&session=ls93&session\\_year=2023&session\\_number=0](https://www.revisor.mn.gov/bills/text.php?number=SF846&version=latest&session=ls93&session_year=2023&session_number=0)
  - i. Introduced 1/27/23
  - ii. Manufacturers of internet-capable devices required to include and enable filters to block material harmful to minors; civil and criminal penalties
- c. New Jersey SB 650, <https://s3.amazonaws.com/fn-document-service/file-by-sha384/fb22cc1a1057171812bd691ed24c3ab89631bb71084bb8824d71b5963e506f352a34c51e59c966f0f0244fd1471876fe>
  - i. Introduced 2/28/22



- ii. Parallel House Bill: New Jersey AB 2952,  
<https://www.njleg.state.nj.us/bill-search/2022/A2952>
- iii. Sale of internet-capable devices illegal without automatic blocking software for content that is obscene, illegal, promotes "prostitution", or facilitates human trafficking; software may only be disabled by written request with ID verification of age over 18, plus fee; private right of action
- d. South Carolina SB 591,  
<https://www.scstatehouse.gov/billsearch.php?billnumbers=591&session=125&summary=B>
  - i. Introduced 3/1/23
  - ii. Manufacturers of internet-capable devices required to include and enable filters to block material harmful to minors; civil and criminal penalties with private right of action

## 12. Omnibus

- a. Massachusetts HB 80,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H80&ciq=ncsl&client\\_md=73faeb43b9fb19fd1ce2ab9f16d2d620&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:MA2023000H80&ciq=ncsl&client_md=73faeb43b9fb19fd1ce2ab9f16d2d620&mode=current_text)
  - i. Introduced 2/16/23
  - ii. Prohibits advertising of certain goods and services to minors and provides for certain rights to access and control collected data
- b. **Louisiana SB 162**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:LA2023000S162&ciq=ncsl&client\\_md=a7f2e96d93e17f15792c14a6eeb7a530&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:LA2023000S162&ciq=ncsl&client_md=a7f2e96d93e17f15792c14a6eeb7a530&mode=current_text)
  - i. Signed by governor 6/28/23, effective date 7/1/24
  - ii. Requires social media companies to verify the age of users and not to allow minors to hold accounts without parental/guardian consent; such companies must also allow account supervision by the parent/guardian

- c. **Pennsylvania SB 22**,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:PA2023000S22&ciq=ncsl&client\\_md=00a7de99434de7c4dfb046d09065a797&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:PA2023000S22&ciq=ncsl&client_md=00a7de99434de7c4dfb046d09065a797&mode=current_text)
  - i. Introduced 6/14/23
  - ii. Creates civil cause of action against a social media company that intentionally, knowingly, recklessly or negligently causes or encourages a minor to access content which subjects the minor to a risk of emotional or physical harm, which adversely affects the mental health or dignity of the minor or that creates a reasonable likelihood of bodily injury or death to the minor; requires social media company to obtain consent of minor's parent/guardian to open a social media account; prohibits mining or sale of minor's data or use of minor's data for algorithmic recommendation
- d. **Texas HB 18**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:TX2023000H18&ciq=ncsl&client\\_md=dfd9c850b30f20e2bf5cf512b983eba6&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:TX2023000H18&ciq=ncsl&client_md=dfd9c850b30f20e2bf5cf512b983eba6&mode=current_text)
  - i. Signed by governor 6/13/23, effective date 9/1/24
  - ii. Creates duties on the part of digital service providers to register the ages of users, to limit collection of data from minors, to prevent harm to minors, to create parental tools for supervise use of the service, to avoid targeting minors with age-inappropriate advertisements, to conform the use of algorithmic content recommendation to the duty to prevent harm to minors, to verify the ages of users if it knowingly publishes or distributes material more than one-third of which is harmful material or obscene, and to confirm the identity of any person claiming to act on behalf of a minor as their parent or guardian.
  - iii. Compare Texas HB 1181 regarding age verification on sites providing adult material
- e. **Utah SB 152**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2023000S152&ciq=ncsl&client\\_md=034f4b0a2f28695c32a328a07ccbebbc&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2023000S152&ciq=ncsl&client_md=034f4b0a2f28695c32a328a07ccbebbc&mode=current_text)
  - i. Signed by governor 3/23/23, effective date 3/1/24

- ii. Prohibits social media companies from allowing minors to be account holders without parental consent and requires social media companies to verify ages of all users; requires that social media companies prevent certain communications with minor users across the service, provide parental access to minor accounts, to block minor access to accounts between 10:30 p.m. and 6:30 a.m. without parental permission, and to allow parents to set other temporal limitations on minor use of social media
  
- f. **Utah HB 311**,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2023000H311&ciq=ncsl&client\\_md=5ab02f0bc244c4167f05bce1635a3252&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:UT2023000H311&ciq=ncsl&client_md=5ab02f0bc244c4167f05bce1635a3252&mode=current_text)
  - i. Signed by governor 3/23/23, effective date 5/3/23
  - ii. Prohibits social media company from using a feature that the social media company knows or should know causes a Utah minor account holder to have an addiction to the social media platform; creates cause of action for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform; shifts burden to social media company to prove harm not caused by holding an account if minor user is under the age of 16
  
- g. Wisconsin SB 385,  
[http://custom.statenet.com/public/resources.cgi?id=ID:bill:WI2023000S385&ciq=ncsl&client\\_md=8198ddfaba98ca93ec552a131e5e3a66&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:WI2023000S385&ciq=ncsl&client_md=8198ddfaba98ca93ec552a131e5e3a66&mode=current_text)
  - i. Introduced 8/9/23
  - ii. Parallel House Bill: Wisconsin AB 373,  
[https://custom.statenet.com/public/resources.cgi?id=ID:bill:WI2023000A373&ciq=ncsl&client\\_md=b3271e7f6c4bf130c4b86e7ce3be31cb&mode=current\\_text](https://custom.statenet.com/public/resources.cgi?id=ID:bill:WI2023000A373&ciq=ncsl&client_md=b3271e7f6c4bf130c4b86e7ce3be31cb&mode=current_text)
  - iii. Requires social media companies to treat all new accounts as being “youth accounts” opened by minors absent age verification or parental request; requires social media company to: prevent direct messaging between the account holder and other account holders or users with whom the youth account holder is not connected; refrain from showing information about the youth account to any person not connected to the youth account holder; prevent advertising from being shown to the

youth account holder; refrain from collecting or using personal information from the youth account; refrain from the use of targeted or suggested groups or content on the youth account; ensure that the youth account cannot be used between the hours of 10 p.m. and 7 a.m.; and provide full parental access to the account

## VII. Section 230

### A. Decisions

#### 1. Supreme Court

- a. *Gonzalez v. Google LLC*, No. 21-1333, 598 U.S. \_\_\_ (2023) (declining to reach question of whether § 230 protects algorithmic recommendation of content), [https://www.supremecourt.gov/opinions/22pdf/21-1333\\_6j7a.pdf](https://www.supremecourt.gov/opinions/22pdf/21-1333_6j7a.pdf)

#### 2. Restrictions on Users or Content

- a. *King v. Facebook, Inc.*, No. 22-15602 (9<sup>th</sup> Cir. Aug. 18, 2023) (affirming dismissal of good faith/fair dealing claim over disabling of Facebook account on basis of § 230 and holding that § 230 does not create a private right of action), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2023/08/18/22-15602.pdf>
  - i. *See also King v. Facebook Inc.*, 599 F. Supp. 3d 901 (N.D. Cal. Apr. 20, 2022) (dismissing contract and good faith/fair dealing claims over failure to explain disabling of account), [https://scholar.google.com/scholar\\_case?case=13525094976216922762](https://scholar.google.com/scholar_case?case=13525094976216922762); *King v. Facebook, Inc.*, No. 3:21-cv-4573 (N.D. Cal. Nov. 12, 2021) (§ 230 does not create affirmative cause of action over account disabling, and bars claim over contract/implied covenant claim to the extent that claim is based on disabling; however, contract/implied covenant claim based on Facebook’s failure to explain disabling of account allowed to be repleaded), <https://storage.courtlistener.com/recap/gov.uscourts.cand.380308/gov.uscourts.cand.380308.56.0.pdf>
- b. *Atkinson v. Meta Platforms, Inc.*, No. 20-17489 (9<sup>th</sup> Cir. Nov. 22, 2021) (affirming dismissal of purported claim under § 230 about content blocking because statute does not create a private right of action; implied warranty and unfair competition claims barred by § 230), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2021/11/22/20-17489.pdf>
- c. *Lewis v. Google LLC*, No. 20-16073 (9<sup>th</sup> Cir. Apr. 15, 2021), cert. den. No. 21-419 (Nov. 1, 2021) (affirming dismissal of plaintiff’s constitutional

challenge to § 230 for lack of standing),

[https://scholar.google.com/scholar\\_case?case=97467114631501009](https://scholar.google.com/scholar_case?case=97467114631501009)

- d. *Hall v. Meta, Inc.*, No. 3:22-cv-3063 (W.D. Ark. Dec. 14, 2023), report and rec. adopted (Jan. 4, 2023) (recommending dismissal of claim based on Facebook ban; plaintiff lacked standing to challenge constitutionality of § 230 as incentive to Facebook to ban his account),  
[https://scholar.google.com/scholar\\_case?case=9515751360450357463](https://scholar.google.com/scholar_case?case=9515751360450357463)
- e. *Newton v. Meta Platforms Inc.*, No. 3:23-cv-116 (N.D. Cal. Sept. 6, 2023) (dismissing contract and IIED claims over blocking of advertising for film on Facebook on basis of § 230; fraud claim dismissed for failure to plead with specificity),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.407082/gov.uscourts.cand.407082.32.0.pdf>
- f. *Zhang v. Twitter Inc.*, No. 3:23-cv-980 (N.D. Cal. Aug. 23, 2023) (§ 230 requires dismissal of claim for suspension of Twitter account),  
<https://storage.courtlistener.com/recap/gov.uscourts.cand.409217/gov.uscourts.cand.409217.55.0.pdf>
- g. *Rogozinski v. Reddit, Inc.*, No. 23-cv-686 (N.D. Cal. July 11, 2023) (§ 230 precludes various state-law claims arising out of suspension of Reddit moderator and failure to reinstate account),  
<https://business.cch.com/ipld/RogozinskiReddit20230711.pdf>
- h. *Divino Group LLC v. Google LLC*, No. 19-CV-4749 (N.D. Cal. Jan. 17, 2023) (denying motion for reconsideration, based on decision in *Henderson v. Source for Public Data*, of § 230 dismissal of claims over removal, restriction, and demonetization of videos; *Henderson* not binding or persuasive in Ninth Circuit),  
[https://scholar.google.com/scholar\\_case?case=15585122642681728285](https://scholar.google.com/scholar_case?case=15585122642681728285)
  - i. *See also Divino Group LLC v. Google LLC*, No. 19-CV-4749 (N.D. Cal. Sept. 30, 2022) (granting motion to dismiss largely on basis of § 230, with leave to amend good faith/fair dealing claim; rejecting constitutional challenge to § 230),  
[https://scholar.google.com/scholar\\_case?case=16709333885965724297](https://scholar.google.com/scholar_case?case=16709333885965724297)
- i. *Al-Ahmed v. Twitter, Inc.*, No. 3:21-cv-8017 (N.D. Cal. Jan. 3, 2023) (dismissing amended complaint; § 230 protects Twitter against claim arising out of suspension of plaintiff's account),  
<https://www.courthousenews.com/wp-content/uploads/2023/01/Ahmed-twitter-dismiss.pdf>

- i. *See also Al-Ahmed v. Twitter, Inc.*, No. 3:21-cv-8017 (N.D. Cal. May 20, 2022) (dismissing original complaint under § 230), <https://www.courthousenews.com/wp-content/uploads/2022/05/saudi-dissident-ruling.pdf>
- j. *Dangaard v. Instagram, LLC*, No. 3:22-cv-1101 (N.D. Cal. Nov. 30, 2022) (§ 230 does not insulate Facebook against claims that it accepted bribes to suppress content posted by users of services competing with OnlyFans), [https://storage.courtlistener.com/recap/gov.uscourts.cand.392111/gov.uscourts.cand.392111.101.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.392111/gov.uscourts.cand.392111.101.0_2.pdf)
  - i. *See also Dangaard v. Instagram, LLC*, No. 3:22-cv-1101 (N.D. Cal. Sept. 13, 2022) (requiring plaintiffs to replead complaint as condition of denying motions to dismiss), [https://storage.courtlistener.com/recap/gov.uscourts.cand.392111/gov.uscourts.cand.392111.71.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.392111/gov.uscourts.cand.392111.71.0_1.pdf)
- k. *Yuksel v. Twitter, Inc.*, No. 3:22-cv-5415 (N.D. Cal. Nov. 7, 2022) (§ 230 bars claim against Twitter for suspension of plaintiff's account), <https://storage.courtlistener.com/recap/gov.uscourts.cand.400821/gov.uscourts.cand.400821.42.0.pdf>
- l. *Shared.com v. Meta Platforms, Inc.*, No. 3:22-cv-2366 (N.D. Cal. Sept. 21, 2022) (decisions to suspend access to Facebook accounts protected by § 230, but claims arising out of Facebook's own alleged promises to advertising partners allowed to continue), <https://storage.courtlistener.com/recap/gov.uscourts.cand.394464/gov.uscourts.cand.394464.31.0.pdf>
- m. *Rangel v. Dorsey*, No. 3:21-cv-8062 (N.D. Cal. July 19, 2022) (§ 230 blocks claims over suspension of Twitter account), <https://storage.courtlistener.com/recap/gov.uscourts.cand.386613/gov.uscourts.cand.386613.96.0.pdf>
- n. *Trump v. Twitter Inc.*, No. 3:21-cv-08378 (N.D. Cal. May 6, 2022) (dismissing Donald Trump's First Amendment challenge to § 230 for lack of allegations to support claim that Trump would not have been deplatformed but for protection of § 230), <https://www.courthousenews.com/wp-content/uploads/2022/05/trump-twitter-dismissal.pdf>
- o. *Berenson v. Twitter, Inc.*, No. 3:21-cv-9818 (N.D. Cal. Apr. 29, 2022) (in case over permanent suspension of Twitter account, § 230 does not block contract and promissory estoppel claims, as to which plaintiff stated claims; all other claims barred by § 230),

[https://storage.courtlistener.com/recap/gov.uscourts.cand.389677/gov.uscourts.cand.389677.39.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.cand.389677/gov.uscourts.cand.389677.39.0_1.pdf)

- i. Note that the court appears to suggest that § 230 can bar a First Amendment claim, which is problematic because a federal statute cannot override a constitutional right; however, the court also held that the plaintiff had failed to plead such a claim on its merits, see section III.B above.
- p. *Republican National Committee v. Google, Inc.*, No. 2:22-cv-1904 (E.D. Cal. Aug. 24, 2023) (dismissing claims that Google violated California law by filtering Republican fundraising email as spam, finding that the RNC failed to allege a lack of good faith on Google’s part sufficient to avoid protection of § 230(c)(2)), <https://www.courthousenews.com/wp-content/uploads/2023/08/RNC-Google-order.pdf>
- q. *Martillo v. Twitter Inc.*, No. 1:21-cv-11119 (D. Mass. Oct. 15, 2021), cert. before judgment den. 596 U.S. \_\_\_ (Mar. 28, 2022), summarily aff’d No. 21-1921 (1<sup>st</sup> Cir. Oct. 4, 2022), cert. den. 598 U.S. \_\_\_ (Feb. 21, 2023) (claims over suspension and disabling of accounts blocked by § 230), <https://storage.courtlistener.com/recap/gov.uscourts.mad.236205/gov.uscourts.mad.236205.4.0.pdf>
- r. *Deutsch v. Microsoft Corp.*, No. 22-cv-2904 (D.N.J. Apr. 17, 2023) (§ 230(c)(2)(A) protected Microsoft’s termination of a user’s OneDrive account based on suspicion that he uploaded CSAM, even if that suspicion was incorrect, because there was no indication that the company acted in bad faith), [https://scholar.google.com/scholar\\_case?case=2942116796295335205](https://scholar.google.com/scholar_case?case=2942116796295335205)
- s. *Elansari v. Meta, Inc.*, No. 2:21-cv-5325 (E.D. Pa. Sept. 30, 2022) (dismissing religious discrimination claim filed by plaintiff who wished to receive information from news organizations allegedly banned by Facebook both under § 230 and on the merits), <https://storage.courtlistener.com/recap/gov.uscourts.paed.591627/gov.uscourts.paed.591627.31.0.pdf>
- t. *Quinteros v. Innogames GmbH*, No. 19-cv-1402 (W.D. Wash. Mar. 28, 2022) (§ 230 blocks claims over restriction of plaintiff’s access to MMORPG in order to prevent her publication of objectionable content), [https://scholar.google.com/scholar\\_case?case=8325892386561592349](https://scholar.google.com/scholar_case?case=8325892386561592349)
- u. *McDow v. Reinbold*, No. 3AN-21-05615CI (Alaska Super. Ct. Dec. 9, 2022) (§ 230 does not protect government official acting under color of state law against First Amendment claim for blocking constituent),

<https://public.courts.alaska.gov/web/media/MRCF/3AN-21-05615CI/order5.pdf>

- v. *Prager Univ. v. Google LLC*, 85 Cal. App. 5<sup>th</sup> 1022 (Dec. 5, 2022) (§ 230 protected defendant against claims over demonetization of videos; rejecting constitutional challenge to § 230),  
[https://scholar.google.com/scholar\\_case?case=17264310685496432328](https://scholar.google.com/scholar_case?case=17264310685496432328)
- w. *Word of God Fellowship, Inc. v. Vimeo, Inc.*, 205 A.D.3d 23 (N.Y. App. Div. 1<sup>st</sup> Mar. 22, 2022), leave to appeal den., 38 N.Y.3d 912 (Jul. 21, 2022), cert. den. 143 S.Ct. 746 (Jan. 23, 2023) (§ 230 precluded lawsuit over removal of ant-vax videos),  
[https://scholar.google.com/scholar\\_case?case=12592157780452601205](https://scholar.google.com/scholar_case?case=12592157780452601205)

### 3. Third-Party Content

- a. *Kutchinski v. Freeland Cmty. Sch. Dist.*, No. 22-1748 (6<sup>th</sup> Cir. June 2, 2023) (denying § 230 protection to creator of fake Instagram account against liability for content created by other users granted access to account),  
<https://www.opn.ca6.uscourts.gov/opinions.pdf/23a0117p-06.pdf>
- b. *Rigsby v. GoDaddy Inc.*, No. 21-16182 (9<sup>th</sup> Cir. Feb. 3, 2023) (§ 230 protects domain name registrar against claims based on content posted by domain name holder), <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/02/03/21-16182.pdf>
- c. *McCall v. Zotos*, No. 22-11725 (11<sup>th</sup> Cir. June 12, 2023) (§ 230 protects Amazon.com against liability for product review),  
<https://media.ca11.uscourts.gov/opinions/unpub/files/202211725.pdf>
- d. *Hicks v. Bradford*, No. 2:21-cv-7330 (N.D. Cal. Aug. 17, 2023) (§ 230 protects Meta Platforms against claims over alleged failure to remove false posts naming plaintiff as suspect in shooting of sheriff's deputies),  
<https://storage.courtlistener.com/recap/gov.uscourts.cacd.831321/gov.uscourts.cacd.831321.116.0.pdf>
- e. *Calise v. Meta Platforms, Inc.*, No. 21-cv-6186 (N.D. Cal. Apr. 27, 2022) (§ 230 blocks claim based on allegedly deceptive third-party advertising),  
[https://scholar.google.com/scholar\\_case?case=15641313952993495620](https://scholar.google.com/scholar_case?case=15641313952993495620)
- f. *Bride v. Snap Inc.*, No. 2:21-cv-6680 (C.D. Cal. Jan. 10, 2023) (allowing anonymous posting is not design feature allowing a plaintiff to evade § 230 with a product liability claim),  
<https://storage.courtlistener.com/recap/gov.uscourts.cacd.829114/gov.uscourts.cacd.829114.142.0.pdf>



- g. *Wiand v. ATC Brokers Ltd.*, No. 8:21-cv-01317 (M.D. Fla. Sept. 27, 2022) (§ 230 dismissal of claim against software service provider whose service was allegedly used in Ponzi scheme),  
<https://storage.courtlistener.com/recap/gov.uscourts.flmd.390596/gov.uscourts.flmd.390596.67.0.pdf>
- h. *Winter v. Facebook, Inc.*, No. 4:21-cv-1046 (E.D. Mo. Nov. 22, 2021) (§ 230 blocks claims against platforms for harassing behavior by other users),  
<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3572&context=historical>
- i. *FTC v. Roomster Corp.*, No. 22-cv-7389 (S.D.N.Y. Feb. 1, 2023) (§ 230 does not immunize housing website for its false advertising that listings are verified and authentic or its acts in recruiting third parties to create fake reviews of the site),  
[https://scholar.google.com/scholar\\_case?case=5368194308716050473](https://scholar.google.com/scholar_case?case=5368194308716050473)
- j. *Saveene Corp. v. Remo*, No. 21-cv-399 (S.D.N.Y. Oct. 14, 2021) (§ 230 blocks fiduciary breach claim against securities exchange for dissemination of information submitted by third party),  
[https://scholar.google.com/scholar\\_case?case=17044505681784913540](https://scholar.google.com/scholar_case?case=17044505681784913540)
- k. *Daniloff v. Google, LLC*, No. 3:22-cv-1271 (D. Or. Jan. 30, 2023) (dismissing claim over negative review of business),  
<https://cases.justia.com/federal/district-courts/oregon/ordce/3:2022cv01271/168726/11/0.pdf?ts=1675173452>
- l. *Ex parte HuffingtonPost.com, Inc.*, No. 1200871 (Ala. Aug. 12, 2022) (§ 230 precludes claims based on third-party contributions to HuffPost’s “Voices” section, notwithstanding editorial review and minor edits to the submission in question),  
<https://acis.alabama.gov/displaydocs.cfm?no=1127026&event=6EI0QOQ96>
- m. *Lady Freethinker v. Google LLC*, No. 21CV390154 (Cal. Super. Ct. Dec. 16, 2022) (dismissing amended complaint; § 230 bars claims over alleged failure to remove animal abuse videos)
  - i. *See also Lady Freethinker v. Google LLC*, No. 21CV390154 (Cal. Super. Ct. Aug. 9, 2022) (dismissing original complaint on basis of § 230)
  - ii. To access these decisions, visit the Superior Court of California, County of Santa Clara, public portal at <https://traffic.scsccourt.org/>, search for

Case No. 21CV390154, click on the “Events” tab, and click on the PDF icons for the court’s 12/16/22 and 8/9/22 docket entries.

- n. *Cohen v. Copart, Inc.*, No. 19STCV32207 (Cal. Super. Ct. Aug. 25, 2022) (§ 230 protects vehicle auction site against liability for misrepresentations by third-party sellers), <https://advance.lexis.com/r/documentprovider/-ssyk/attachment/data?attachmentid=V1,215,1000200392,66JP-M1P1-FGCG-S06B-00000-00-1000200392-66BF-HX81-DXPM-S1HW-00000-00,1&attachmenttype=PDF&attachmentname=OriginalSourceImage&origin=&sequencenumber=&ishotdoc=false&docTitle=Cohen%20v.%20Copart%2C%20Inc.&pdmfid=1000516>
- o. *Desilet v. East Hartford Police Officers Association*, No. HHD-CV-21-6146962-S (Conn. Super. Dec. 27, 2022) (dismissing claim over anonymous posts on police union message board), <https://civilinquiry.jud.ct.gov/DocumentInquiry/DocumentInquiry.aspx?DocumentNo=24194556>
- p. *White v. Discovery Communications, LLC*, Nos. 1D21-3629, 1D22-1321 (Fla. 1st Dist. Ct. App. May 10, 2023) (§ 230 protects Bing search results), <https://supremecourt.flcourts.gov/content/download/868433/opinion/download/%3FdocumentVersionID=fec84c6e-728f-4eb0-a129-070dd39380e4>
- q. *Amuze v. Better Business Bureau*, No. 651529/2022 (N.Y. Sup. Ct. Mar. 3, 2023) (§ 230 protects BBB against liability for consumer reviews and complaints), [https://scholar.google.com/scholar\\_case?case=10427001442581100608](https://scholar.google.com/scholar_case?case=10427001442581100608)

#### 4. Reposting of Third-Party Information

- a. *Monsarrat v. Newman*, No. 21-1146 (1<sup>st</sup> Cir. Mar. 10, 2022) (§ 230 protects reposting of forum discussion threads into a new online platform), <http://media.ca1.uscourts.gov/pdf/opinions/21-1146P-01A.pdf>
- b. *Henderson v. Source for Public Data, L.P.*, 53 F.4<sup>th</sup> 110 (4<sup>th</sup> Cir. Nov. 3, 2022) (reinstating Fair Credit Reporting Act claims against an online data broker and holding that, on the pleadings, § 230 did not immunize the broker from claims over its reformatting, handling and republication of public criminal records information), [https://scholar.google.com/scholar\\_case?case=13871032266385342341](https://scholar.google.com/scholar_case?case=13871032266385342341)
  - i. This case is perhaps the most problematic Section 230 decision reported in this article, inasmuch as it attempts to reframe § 230 law going all the way back to the Fourth Circuit’s decision in *Zeran v. America On-Line*,

*Inc.*, 129 F.3d 327 (4<sup>th</sup> Cir. 1997). For further analysis, see Jeff Hermes, *Fourth Circuit Pokes New Holes in Section 230 and Re-opens Old Questions*, MLRC MediaLawLetter (Nov.-Dec. 2022), <https://medialaw.org/fourth-circuit-pokes-new-holes-in-section-230-and-re-opens-old-questions/>.

- c. *Crowley v. Faison*, No. 2:21-cv-778 (E.D. Cal. Mar. 3, 2022) (§ 230 does not protect republication of private emails where there is no evidence that author intended messages to be shared online and defendant asserted truth of third-party statements), [https://scholar.google.com/scholar\\_case?case=8656211209452073261](https://scholar.google.com/scholar_case?case=8656211209452073261)
- d. *US Dominion, Inc. v. Byrne*, 600 F. Supp. 3d 24 (D.D.C. Apr. 20, 2022) (while § 230 might protect sharing of links on Twitter, user’s vouching for accuracy of linked information is not protected), [https://scholar.google.com/scholar\\_case?case=5258937432570898608](https://scholar.google.com/scholar_case?case=5258937432570898608)
- e. *Dennis v. MyLife.com*, No. 20-cv-954 (D.N.J. Dec. 21, 2021) (§ 230 blocks liability for distribution of electronic background reports containing information about individuals gathered from third parties), <https://casetext.com/case/dennis-v-mylifecom-1>
- f. *Monge v. Univ. of Pa.*, No. 2:22-cv-2942 (E.D. Pa. Mar. 10, 2023) (§ 230 protects defendant’s forwarding of emails to listserv alongside defendant’s opinion), <https://storage.courtlistener.com/recap/gov.uscourts.paed.599125/gov.uscourts.paed.599125.114.0.pdf>
- g. *FTC v. Match Group, Inc.*, No. 3:19-cv-2281 (N.D. Tex. Mar. 24, 2022) (on basis of § 230, granting motion to dismiss claims arising from misrepresentations by users of online dating service incorporated into automatically generated advertisements and exposure of nonsubscribers to potential third-party fraud), [https://scholar.google.com/scholar\\_case?case=18209795871161517329](https://scholar.google.com/scholar_case?case=18209795871161517329)
- h. *A.H. v. Labana*, Nos. A165836 and A165841 (Cal. App. Ct. 1<sup>st</sup> Dec. 15, 2022) (§ 230 protected a Facebook user listed as protest “co-host” who shared a third party’s allegedly defamatory description of the protest), <https://www.courts.ca.gov/opinions/nonpub/A165836.PDF>
- i. *Banaian v. Bascom*, No. 2020-496 (N.H. May 11, 2022) (retweeting protected by § 230), <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2022-05/2022031banaian.pdf>

- j. *Zuckerbrot v. Lande*, 75 Misc.3d 269 (N.Y. Sup. Ct. Mar. 17, 2022) (§ 230 did not protect Instagram poster against claims arising out of her reposting of messages with commentary as part of ongoing discussion about plaintiff), [https://scholar.google.com/scholar\\_case?case=12391096212315439974](https://scholar.google.com/scholar_case?case=12391096212315439974)
- k. *Holmok v. Burke*, No. 110900, 2022-Ohio-2135 (Ohio Ct. App. June 23, 2022) (§ 230 protects retweeting of another’s tweet with addition of tag), <https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2135.pdf>

## 5. Product Liability

- a. *L.W. v. Snap Inc.*, No. 3:22-cv-619 (S.D. Cal. June 5, 2023) (§ 230 blocks product liability claim asserting that Snapchat allowed sextortion of minor users), <https://storage.courtlistener.com/recap/gov.uscourts.casd.732420/gov.uscourts.casd.732420.83.0.pdf>

## 6. Rights-of-Publicity

- a. *Hepp v. Facebook, Inc.*, 14 F.4<sup>th</sup> 204 (3<sup>rd</sup> Cir. Sept. 23, 2021), pet. for rehearing den. Nos. 20-2725 and 20-2885 (Nov. 17, 2021) (Pennsylvania right-of-publicity claims fall within § 230’s intellectual property exception), [https://scholar.google.com/scholar\\_case?case=10952277566812022726](https://scholar.google.com/scholar_case?case=10952277566812022726)
- b. *Albert v. Tinder, Inc.*, No. 0:22-cv-60496 (S.D. Fla. Aug. 5, 2022) (Florida right-of-publicity claims fall within intellectual property exception to § 230), <https://storage.courtlistener.com/recap/gov.uscourts.flsd.609101/gov.uscourts.flsd.609101.43.0.pdf>
- c. *Ratermann v. Pierre Fabre USA, Inc.*, No. 1:22-cv-325 (S.D.N.Y. Jan. 17, 2023) (§ 230 applies to claims under New York’s right of publicity statutes because gravamen of such claims sounds in right to privacy), <https://business.cch.com/ipld/RatermanPierreFabreUSA20230117.pdf>
- d. *Wilson v. Ancestry.com, LLC*, No. 2:22-cv-861 (S.D. Ohio Jan. 31, 2023) (in right of publicity case, § 230 does not protect website’s creation of advertisements using third-party material), [https://scholar.google.com/scholar\\_case?case=10629475632957359039](https://scholar.google.com/scholar_case?case=10629475632957359039)

## 7. Discrimination

- a. *Vargas v. Facebook, Inc.*, No. 21-16499 (9<sup>th</sup> Cir. June 23, 2023) (§ 230 does not bar liability based on plaintiff’s allegations that Facebook facilitated

discriminatory access to housing advertisements),

<https://cdn.ca9.uscourts.gov/datastore/memoranda/2023/06/23/21-16499.pdf>

## 8. FOSTA/Sex Trafficking

- a. *G.G. v. Salesforce.com, Inc.*, No. 22-2621 (7<sup>th</sup> Cir. Aug. 3, 2023) (reversing district court and holding that software service provider was not protected by § 230 against allegations that it supported sex trafficking via Backpage.com because theory of liability did not treat provider as “publisher or speaker” of third-party content), <https://s3.documentcloud.org/documents/23897839/gg-v-salesforce-7th-circuit.pdf>
  - i. *See also* Petition for Rehearing (Aug. 17, 2023), <https://storage.courtlistener.com/recap/gov.uscourts.ca7.47267/gov.uscourts.ca7.47267.49.0.pdf>; *G.G. v. Salesforce.com, Inc.*, No. 1:20-cv-2335 (N.D. Ill. May 16, 2022) (FOSTA exception to § 230 requires allegation that defendant violated 18 U.S.C. § 1591 to survive motion to dismiss), [https://www.govinfo.gov/content/pkg/USCOURTS-ilnd-1\\_20-cv-02335/pdf/USCOURTS-ilnd-1\\_20-cv-02335-0.pdf](https://www.govinfo.gov/content/pkg/USCOURTS-ilnd-1_20-cv-02335/pdf/USCOURTS-ilnd-1_20-cv-02335-0.pdf)
- b. *J.B. v. Craigslist, Inc.*, No. 22-15290 (9<sup>th</sup> Cir. May 3, 2023) (FOSTA exception to § 230 requires proof of “actual knowledge” on part of platform), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2023/05/03/22-15290.pdf>
- c. *Doe v. Twitter, Inc.*, Nos. 22-15103, 22-15104 (9<sup>th</sup> Cir. May 3, 2023) (FOSTA exception to § 230 requires plaintiff to plead violation of 18 U.S.C. § 1591), <https://cdn.ca9.uscourts.gov/datastore/memoranda/2023/05/03/22-15103.pdf>
- d. *Does v. Reddit, Inc.*, 51 F.4<sup>th</sup> 1137 (9<sup>th</sup> Cir. Oct. 24, 2022), cert. den. 598 U.S. \_\_\_\_ (May 30, 2023) (FOSTA exception to § 230 contingent on proving that website, not just user, violated 18 U.S.C. § 1591), [https://scholar.google.com/scholar\\_case?case=16772530246030669560](https://scholar.google.com/scholar_case?case=16772530246030669560)
- e. *Woodhull Freedom Foundation v. United States*, No. 22-5105 (D.C. Cir. July 7, 2023) (FOSTA does not violate First Amendment when interpreted narrowly to create liability for “aiding and abetting a group engaged in sex trafficking or acting with the intent to aid and abet the prostitution of another person”; § 230 exception requires “actual knowledge” scienter and only deprives “speech integral to criminal conduct”), [https://www.cadc.uscourts.gov/internet/opinions.nsf/EB820C51595100D6852589E50054A365/\\$file/22-5105-2006738.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/EB820C51595100D6852589E50054A365/$file/22-5105-2006738.pdf)

- i. *See also Woodhull Freedom Foundation v. United States*, No 18-cv-1552 (D.D.C. Mar. 29, 2022) (granting defense motion for summary judgment and denying plaintiffs’ motion for summary judgment on First Amendment overbreadth claim, holding that FOSTA should be narrowly interpreted),  
[https://scholar.google.com/scholar\\_case?case=10682722296037293728](https://scholar.google.com/scholar_case?case=10682722296037293728)
- f. *Doe v. MG Freesites, Ltd.*, No. 7:21-cv-220 (N.D. Ala. Feb. 9, 2022) (on motion to dismiss, § 230 does not apply to civil claims against PornHub arising out of alleged child pornography, because complaint adequately alleges that defendant participated in creation of material at issue; noting but not resolving question of scienter requirement under FOSTA exception),  
[https://storage.courtlistener.com/recap/gov.uscourts.alnd.176344/gov.uscourts.alnd.176344.42.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.alnd.176344/gov.uscourts.alnd.176344.42.0_1.pdf)
- g. *M.H. v. Omegle.com, LLC*, No. 8:21-cv-814 (M.D. Fla. Jan. 10, 2022) (§ 230 protected chatroom app against liability for sextortion via website; generalized knowledge of sex trafficking activity insufficient to invoke FOSTA exception), [http://evan.law/library/cases/2022-01-10\\_mh\\_v\\_omegle.pdf](http://evan.law/library/cases/2022-01-10_mh_v_omegle.pdf)
- h. *L.H. v. Marriott International, Inc.*, No. 1:21-cv-22894 (S.D. Fla. May 23, 2022) (FOSTA exception to § 230 requires allegation that defendant violated 18 U.S.C. § 1591 to survive motion to dismiss),  
<https://storage.courtlistener.com/recap/gov.uscourts.flnd.597806/gov.uscourts.flnd.597806.114.0.pdf>
- i. *Day v. TikTok, Inc.*, No. 21-cv-50129 (N.D. Ill. Feb. 28, 2022) (FOSTA exception to § 230 requires plaintiff to state a claim under 18 U.S.C. § 1595 based on a violation of § 1591 to survive motion to dismiss),  
[https://scholar.google.com/scholar\\_case?case=17162095793712219996](https://scholar.google.com/scholar_case?case=17162095793712219996)
- j. *A.M. v. Omegle.com, LLC*, No. 3:21-cv-1674 (D. Or. Feb. 2, 2023) (plaintiffs sufficiently pleaded that platform knowingly facilitated sexual encounters between minors and adults, falling within FOSTA exception; however, § 230 blocked claim for negligent matching of minors and adults),  
[https://scholar.google.com/scholar\\_case?case=15509094677017882661](https://scholar.google.com/scholar_case?case=15509094677017882661)
- k. *M.L. v. Craigslist, Inc.*, No. 19-cv-6153 (W.D. Wash. Apr. 25, 2022) (§ 230 blocks negligence, strict liability, and profiteering claims against Craigslist over sex trafficking advertisements),  
[https://scholar.google.com/scholar\\_case?case=4571338445710432207](https://scholar.google.com/scholar_case?case=4571338445710432207)

1. *In re Facebook, Inc.*, 625 S.W.3d 80 (Tex. June 25, 2021), cert. den. sub nom. *Doe v. Facebook, Inc.*, No. 21-459, 595 U.S. \_\_\_ (Mar. 7, 2022) (granting writ of mandamus directing lower courts to dismiss negligence, negligent undertaking, gross negligence, and products liability claims against Facebook in sex trafficking case on basis of § 230; denying writ as to Texas statutory sex trafficking claim based on FOSTA exception), [https://scholar.google.com/scholar\\_case?case=13983030723107106213](https://scholar.google.com/scholar_case?case=13983030723107106213)
  - i. *See also Doe v. Facebook, Inc.*, No. 21-459, 595 U.S. \_\_\_ (Mar. 7, 2022) (statement of Thomas, J., respecting denial of certiorari) (calling on Supreme Court to evaluate extent of § 230’s protection in an appropriate case), [https://www.supremecourt.gov/opinions/21pdf/21-459\\_6k47.pdf](https://www.supremecourt.gov/opinions/21pdf/21-459_6k47.pdf); *Facebook, Inc. v. Doe*, 650 S.W.3d 748 (Tex. Ct. App. 14<sup>th</sup> Apr. 12, 2022) (holding that Texas has personal jurisdiction over Facebook with respect to remaining sex trafficking claim)

## 9. Other Off-Platform Injuries

- a. *Diep v. Apple, Inc.*, No. 21-cv-10063 (N.D. Cal. Sept. 2, 2022) (§ 230 protects Apple against claims arising out of cryptocurrency theft via third-party app sold through App Store), [https://scholar.google.com/scholar\\_case?case=16985609971505479188](https://scholar.google.com/scholar_case?case=16985609971505479188)
- b. *In re Apple Inc. App Store Simulated Casino-Style Games Litigation*, Nos. 5:21-md-2985, 5:21-md-3001, and 5:21-cv-2777 (N.D. Cal. Sept. 2, 2022) (§ 230 does not protect App Store for its role in selling virtual chips for online gambling, but does block claims for amplification and promotion of third-party apps and exercise of editorial functions), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3714&context=historical>
- c. *Ginsberg v. Google Inc.*, No. 5:21-cv-570 (N.D. Cal. Feb. 18, 2022) (§ 230 immunizes Google against claims arising out of inclusion of Telegram app in the Google Play store), <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3626&context=historical>
- d. *Coffee v. Google, LLC*, No. 5:20-cv-3901 (N.D. Cal. Jan. 10, 2022) (§ 230 immunizes Google against claims arising out of inclusion of apps featuring “loot boxes” in the Google Play Store; claims also failed on the underlying merits), <https://storage.courtlistener.com/recap/gov.uscourts.cand.360878/gov.uscourts.cand.360878.82.0.pdf>

- e. *Jackson v. Airbnb, Inc.*, No. 2:22-cv-3084 (C.D. Cal. Nov. 4, 2022) (§ 230 protects Snap against liability for shooting with gun acquired through Snapchat),  
<https://storage.courtlistener.com/recap/gov.uscourts.cacd.851476/gov.uscourts.cacd.851476.33.0.pdf>
- f. *Roland v. Letgo, Inc.*, No. 1:22-cv-899 (D. Colo. Dec. 5, 2022) (dismissing claim against online marketplace for murder of buyers by seller of stolen car),  
<https://ia802508.us.archive.org/3/items/gov.uscourts.cod.214556/gov.uscourts.cod.214556.44.0.pdf>
- g. *Anderson v. TikTok, Inc.*, No. 2:22-cv-1849 (E.D. Pa. Oct. 25, 2022) (§ 230 protects TikTok against liability for death of minor attempting “blackout challenge”),  
<https://storage.courtlistener.com/recap/gov.uscourts.paed.596673/gov.uscourts.paed.596673.39.0.pdf>
- h. *M.P. v. Meta Platforms, Inc.*, No. 2:22-cv-3830 (D.S.C. July 24, 2023) (§ 230 protects Meta Platforms against claims that its design and architecture led to radicalization of church shooter),  
<https://storage.courtlistener.com/recap/gov.uscourts.scd.275631/gov.uscourts.scd.275631.39.0.pdf>
- i. *McCarthy v. Amazon.com, Inc.*, No. 2:23-cv-263 (W.D. Wash. June 27, 2023) (§ 230 blocks claim against Amazon.com based on third-party sale of “suicide kits” on platform),  
<https://storage.courtlistener.com/recap/gov.uscourts.wawd.319456/gov.uscourts.wawd.319456.60.0.pdf>
- j. *Webber v. Armslist LLC*, 572 F. Supp. 3d 603 (E.D. Wis. Nov. 9, 2021) (§ 230 does not protect online firearm marketplace for its “own conduct in creating the high-risk gun market and its dangerous features” allegedly leading to shooting, and rejecting precedent from Supreme Court of Wisconsin; dismissing claims on their underlying merits),  
<https://casetext.com/case/webber-v-armslist-llc>
  - i. The Seventh Circuit upheld the dismissal without reaching the § 230 question; see Section I.B.3.a, above.
- k. *Bauer v. Armslist LLC*, 572 F. Supp. 3d 641 (E.D. Wis. Nov. 19, 2021) (§ 230 does not protect online firearm marketplace, but dismissing claims on their underlying merits; follows district court decision in *Webber v. Armslist LLC*, above), <https://casetext.com/case/bauer-v-armslist-llc>



- l. *Jaime-Crisostomo v. Hernandez*, No. CV 2022-6462, 2022 Ariz. Super. LEXIS 644 (Ariz. Super. Ct. Dec. 22, 2022) (§ 230 protects Snap against claims that its posting features encouraged shooter at mall to document outrageous acts), <https://advance.lexis.com/r/documentprovider/-ssyk/attachment/data?attachmentid=V1,215,1000200394,684J-9F31-FCCX-61JC-00000-00-1000200394-6840-2M71-JKHB-634D-00000-00,1&attachmenttype=PDF&attachmentname=OriginalSourceImage&origin= &sequencenumber= &ishotdoc=false&docTitle=Jaime-Crisostomo%20v.%20Hernandez&pdmfid=1000516>
- m. *Lee v. Amazon.com, Inc.*, 76 Cal. App. 5<sup>th</sup> 200 (Mar. 11, 2022) (§ 230 did not immunize claims that it failed to provide additional warnings required by California law in connection with certain products sold by third-party sellers), [https://scholar.google.com/scholar\\_case?case=9987876544243366955](https://scholar.google.com/scholar_case?case=9987876544243366955)
- n. *Chang v. TripAdvisor, LLC*, No. 2021-347 (Mass. Super. Nov. 19, 2021) (denying § 230 motion to dismiss claim against travel website over injury from shuttle service, because it was plausible that website in part created representations regarding shuttle service’s safety measures and plaintiff not required to plead around § 230 affirmative defense; dismissing claims on the merits), <https://advance.lexis.com/r/documentprovider/-ssyk/attachment/data?attachmentid=V1,215,1000200223,64GF-G031-DXWW-24M6-00000-00-1000200223-64GD-66P1-JT42-S4K5-00000-00,1&attachmenttype=PDF&attachmentname=OriginalSourceImage&origin= &sequencenumber= &ishotdoc=false&docTitle=Chang%20v.%20Tripadvisor&pdmfid=1000516>
- o. *Smith v. Airbnb, Inc.*, 316 Or. App. 378 (Dec. 15, 2021), rev. den. 369 Or. 675 (Apr. 21, 2022) (affirming summary judgment in favor of Airbnb on basis of § 230 in case over injuries sustained at rental property), <https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll5/id/32107/rec/2>

#### 10. Miscellaneous

- a. *Boshears v. PeopleConnect, Inc.*, No. 22-35262 (9<sup>th</sup> Cir. Aug. 3, 2023) (holding that appeals court lacked jurisdiction to consider portion of district court order rejecting § 230 defense, because that holding was not part of the reasoning for denial within same order of motion to compel arbitration; interlocutory appeal was only available on the arbitration issue), <https://cdn.ca9.uscourts.gov/datastore/opinions/2023/08/03/22-35262.pdf>

- i. See also *Boshears v. PeopleConnect, Inc.*, No. 2:21-cv-1222 (W.D. Wash. Mar. 25, 2022) (denying § 230 motion to dismiss right of publicity claim over online service’s alleged use of personal profiles to create advertisements),  
[https://storage.courtlistener.com/recap/gov.uscourts.wawd.303213/gov.uscourts.wawd.303213.46.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.wawd.303213/gov.uscourts.wawd.303213.46.0_1.pdf)
- b. *Fyk v. Facebook, Inc.*, No. 21-16997 (9<sup>th</sup> Cir. Oct. 19, 2022), cert den. 598 U.S. \_\_\_ (Apr. 17, 2023) (affirming, on basis of inexcusable delay, denial of plaintiff’s Rule 60(b) motion asserting applicability new § 230 case law),  
[https://scholar.google.com/scholar\\_case?case=606112472054163727](https://scholar.google.com/scholar_case?case=606112472054163727)
- c. *Selker v. Xcentric Ventures, LLC*, No. 3:22-cv-393 (S.D. Cal. Mar. 1, 2023) (§ 230 does not provide for complete preemption of state claims and thus is not a basis for removal to federal court),  
[https://www.govinfo.gov/content/pkg/USCOURTS-casd-3\\_22-cv-00393/pdf/USCOURTS-casd-3\\_22-cv-00393-0.pdf](https://www.govinfo.gov/content/pkg/USCOURTS-casd-3_22-cv-00393/pdf/USCOURTS-casd-3_22-cv-00393-0.pdf)
- d. *Fyk v. United States*, No. 1:22-cv-1144 (D.D.C. June 9, 2023) (plaintiff lacks standing to sue United States in order to challenge constitutionality of § 230),  
<https://storage.courtlistener.com/recap/gov.uscourts.dcd.242650/gov.uscourts.dcd.242650.16.0.pdf>
- e. *State of Ohio ex rel. Yost v. Google LLC*, No. 21-cv-H-06-0274 (Ohio Ct. Comm. Pl. May 24, 2022) (holding that fact that Google Search is protected by § 230 does not transform it into public utility),  
<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=3672&context=historical>

## B. Federal Legislation

1. S.2264 (Fentanyl Trafficking Prevention Act),  
<https://www.congress.gov/bill/118th-congress/senate-bill/2264/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=7&overview=closed>
  - a. Introduced 7/12/23
  - b. Eliminates Section 230 protection for large platforms for certain drug-related crimes
2. S.1993 (A bill to waive immunity under section 230 of the Communications Act of 1934 for claims and charges related to generative artificial intelligence),  
<https://www.congress.gov/bill/118th-congress/senate->

[bill/1993/text?s=4&r=844&q=%7B%22search%22%3A%5B%22data%22%5D%7D](https://www.congress.gov/bill/118th-congress/senate-bill/1525/text/is?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=7&r=16&overview=closed)

- a. Introduced 6/14/23
  - b. Waives immunity under section 230 of the Communications Act of 1934 for claims and charges related to generative artificial intelligence
3. S.1525 (COLLUDE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1525/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=16&overview=closed>
- a. Introduced 5/10/23
  - b. Eliminates Section 230 protection for removal of “legitimate political speech, including a discernible viewpoint” in response to government pressure
4. S.1207 (EARN IT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1207?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=24>
- a. Reported to Senate 5/15/23
  - b. Establishes the National Commission on Online Child Sexual Exploitation Prevention to develop best practices for interactive computer service providers to prevent, reduce, and respond to the online sexual exploitation of children; limits the liability protections of interactive computer service providers with respect to claims alleging violations of child sexual exploitation laws; and enhances the reporting requirements for service providers who report apparent instances of crimes involving the sexual exploitation of children to the National Center for Missing and Exploited Children
5. S.1199 (STOP CSAM Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1199?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=25>
- a. Reported to Senate 5/15/23
  - b. Expands CSAM reporting requirements for online service providers; enables civil cause of action against online platforms for intentional, knowing, reckless, or negligent promotion or facilitation of online child sexual exploitation; excludes such claims from Section 230

6. S.941 (Removing Section 230 Immunity for Official Accounts of Censoring Foreign Adversaries Act), <https://www.congress.gov/bill/118th-congress/senate-bill/941?q=%7B%22search%22%3A%5B%22%5C%22section%22%2C%22230%5C%22%22%5D%7D&s=2&r=4>
  - a. Introduced 3/22/23
  - b. Removes Section 230 protection from social media platforms which host accounts of censoring foreign adversaries
7. S.921 (DISCOURSE Act), <https://www.congress.gov/bill/118th-congress/senate-bill/921/text?s=5&r=1236&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 3/22/23
  - b. Amends section 230 to deny protection for algorithmic content recommendation and content moderation that involves viewpoint discrimination
8. S.823 (END CSAM Act), <https://www.congress.gov/bill/118th-congress/senate-bill/823/text/is?q=%7B%22search%22%3A%22230%22%7D&s=7&r=12&overview=closed>
  - a. Introduced 3/15/23
  - b. Creates civil liability for hosting or distributing CSAM, and eliminates Section 230 protection from such liability
9. S.483 (Internet PACT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/483?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=5&r=1051>
  - a. Introduced 2/16/23
  - b. Requires providers of interactive computer services to: (1) publish their policy explaining the types of content that is permissible on the service and provide a system for users to submit complaints about content that may violate the policy or involve illegal content; (2) establish a process for removing certain content that violates their policies and notifying the information content provider about the removal, including a mechanism to appeal the removal; (3) publish a report every six months that details the instances in which the company took action with respect to content, including removing content, deprioritizing content, and suspending content provider accounts.

- c. The bill removes Section 230 protection for providers if the provider has actual knowledge of illegal content on its service and does not remove the content within specified time frames.
  - d. The bill provides for enforcement of these requirements by the Federal Trade Commission.
10. S.412 (SHIELD Act), <https://www.congress.gov/bill/118th-congress/senate-bill/412/text/rs?q=%7B%22search%22%3A%22230%22%7D&s=7&r=6&overview=closed>
- a. Reported to Senate 5/17/23
  - b. Parallel House Bill: H.R.3686, <https://www.congress.gov/bill/118th-congress/house-bill/3686/text/ih?q=%7B%22search%22%3A%22230%22%7D&s=7&r=17&overview=closed>
  - c. Prohibits knowing distribution of private intimate visual depictions with reckless disregard for the individual’s lack of consent to the distribution; eliminates Section 230 protection when a provider of the communications service intentionally solicits, or knowingly and predominantly distributes, such content
11. S.147 (See Something, Say Something Online Act), <https://www.congress.gov/bill/118th-congress/senate-bill/147?q=%7B%22search%22%3A%5B%22children+social+media%22%5D%7D&s=6&r=18>
- a. Introduced 1/30/23
  - b. Requires providers of interactive computer services to report to Department of Justice any user-generated content that commits, facilitates, incites, promotes, or otherwise assists the commission of a major crime, and eliminates Section 230 protection for such content for failure to report
12. H.R.4910 (Deplatform Drug Dealers Act), <https://www.congress.gov/bill/118th-congress/house-bill/4910?q=%7B%22search%22%3A%5B%22%5C%22section%22%2C%22230%5C%22%22%5D%7D&s=2&r=1>
- a. Introduced 7/26/23
  - b. Eliminating Section 230 protection relating to certain laws involving controlled substances and drugs

13. H.R.4887 (Online Consumer Protection Act),  
<https://www.congress.gov/bill/118th-congress/house-bill/4887/text/ih?q=%7B%22search%22%3A%22230%22%7D&s=7&r=31&overview=closed>
  - a. Introduced 7/25/23
  - b. Declares that violations of online terms is an unfair and deceptive act or practice subject to FTC enforcement, and eliminating Section 230 protection for such violations
14. H.R.2635 (The Big-Tech Accountability Act),  
<https://www.congress.gov/bill/118th-congress/house-bill/2635?q=%7B%22search%22%3A%5B%22%5C%22section%22%2C%22230%5C%22%22%5D%7D&s=2&r=3>
  - a. Introduced 4/17/23
  - b. Repeals Section 230 for any “provider of a social media service that is a company”; prohibits “de-platforming” of U.S. citizens based on social, political, or religious status regardless of policy violations related to hate speech, sexual harassment, violence, or discrimination
15. H.R.1231 (SAFE TECH Act), <https://www.congress.gov/bill/118th-congress/house-bill/1231?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=7&r=1714&s=7&r=1716>
  - a. Introduced 2/28/23
  - b. Limits Section 230 to claims arising from third-party speech rather than third-party information, and denies protection if a user or provider (1) accepts payment to make the speech available, or (2) creates or funds (in whole or in part) the speech.
  - c. Requires a defendant in a lawsuit to raise the liability protection as an affirmative defense, and places the burden of proving that the defense applies on the defendant
  - d. Excludes from Section 230 requests for injunctive relief arising from a provider's failure to remove, restrict access to, or prevent dissemination of material likely to cause irreparable harm; however, the bill protects a provider from liability for actions taken to comply with such injunctions

- e. Specifies that Section 230 shall not apply to civil rights law; antitrust law; stalking, harassment, or intimidation laws; international human rights law; and civil actions for wrongful death.
16. H.R.573 (CASE-IT Act), <https://www.congress.gov/bill/118th-congress/house-bill/573/text>
- a. Introduced 1/26/23
  - b. Lifts Section 230 protection for one year if user or provider facilitates (1) illegal online content, (2) certain exploitive contact between adults and minors, or (3) content that is indecent, obscene, or otherwise harmful to minors; no Section 230 protection for “dominant” interactive computer services that fail to make content moderation decisions consistent with the First Amendment.

### VIII. Foreign-Owned Online Services

- A. *Alario v. Knudsen*, No. 9:23-cv-56-DWM and *TikTok Inc. v. Knudsen*, No. 9:23-cv-61-DWM (D. Mont.)
- 1. **Montana SB 419**, <https://leg.mt.gov/bills/2023/billhtml/SB0419.htm>
  - 2. *Alario* Docket, <https://www.courtlistener.com/docket/67404304/alario-v-knudsen/>
  - 3. *TikTok* Docket, [https://ecf.mtd.uscourts.gov/cgi-bin/DktRpt.pl?175679589244924-L\\_1\\_0-1](https://ecf.mtd.uscourts.gov/cgi-bin/DktRpt.pl?175679589244924-L_1_0-1)
  - 4. *Alario* Complaint (5/17/23), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.1.0.pdf>
  - 5. *TikTok* Complaint (5/22/23), [https://storage.courtlistener.com/recap/gov.uscourts.mtd.73544/gov.uscourts.mtd.73544.1.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.mtd.73544/gov.uscourts.mtd.73544.1.0_2.pdf)
  - 6. Order Consolidating Cases (6/28/23), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73544/gov.uscourts.mtd.73544.12.0.pdf>
  - 7. *Alario* Memorandum of Law in Support of Motion for Preliminary Injunction (7/5/23), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.18.0.pdf>

- a. Brief in Support of Consolidated Plaintiffs’ Motion for Preliminary Injunction (7/5/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.12.0.pdf>
- b. Amicus Briefs
  - i. Reporters Committee for Freedom of the Press/Media Law Resource Center (8/4/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.37.0.pdf>
  - ii. NetChoice/Chamber of Progress (8/7/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.41.0.pdf>
  - iii. Computer & Communications Industry Association (8/10/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.48.0.pdf>
  - iv. American Civil Liberties Union/American Civil Liberties Union of Montana/Electronic Frontier Foundation (8/11/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73544/gov.uscourts.mtd.73544.52.0.pdf>
- c. Opposition to Motion for Preliminary Injunction (8/18/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73544/gov.uscourts.mtd.73544.53.0.pdf>
- 8. Answer to Complaint (7/31/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.29.0.pdf>

## B. Federal Legislation

- 1. S.1732 (Know Your App Act), <https://www.congress.gov/bill/118th-congress/senate-bill/1732/text?s=8&r=441&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 5/18/23
  - b. Requires application stores to publicly list the country of origin of the applications that they distribute, and to provide consumers the ability to protect themselves



2. S.872 (SAFETY on Social Media Act), <https://www.congress.gov/bill/118th-congress/senate-bill/872/text?s=4&r=832&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 3/16/23
  - b. Identifies social media entities under the influence of certain foreign entities and takes measures to protect the United States
3. S.686 (RESTRICT Act), <https://www.congress.gov/bill/118th-congress/senate-bill/686?q=%7B%22search%22%3A%5B%22RESTRICT%22%2C%22Act%22%5D%7D&s=2&r=22>
  - a. Introduced 3/7/23
  - b. Requires federal actions to identify and mitigate foreign threats to information and communications technology (“ICT”) products and services including social media applications and establishes civil and criminal penalties for violations; Department of Commerce must identify, deter, disrupt, prevent, prohibit, investigate, and mitigate transactions involving ICT products and services (1) in which any foreign adversary has any interest, and (2) that pose an undue or unacceptable risk to U.S. national security or the safety of U.S. persons
4. S.85 (No TikTok on United States Devices Act), <https://www.congress.gov/bill/118th-congress/senate-bill/85?s=5&r=155&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 1/25/23
  - b. Parallel House Bill: H.R.503, <https://www.congress.gov/bill/118th-congress/house-bill/503?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=5&r=156>
  - c. Requires (1) the President to impose property-blocking sanctions on ByteDance or any successor entity or subsidiary if it is involved in matters relating to (a) TikTok or any successor service; or (b) information, video, or data associated with such a service, and (2) the Office of the Director of National Intelligence must report to Congress on any national security threats posed by TikTok, including the ability of China's government to access or use the data of U.S. users of TikTok

5. H.R.1153 (DATA Act), <https://www.congress.gov/bill/118th-congress/house-bill/1153?q=%7B%22search%22%3A%5B%22data%22%5D%7D&s=4&r=8>
  - a. Reported to House, 5/16/23
  - b. Requires federal actions to protect the sensitive personal data of U.S. persons, with a particular focus on prohibiting the transfer of such data to foreign persons influenced by China; requires President to impose a sanction on any foreign person that knowingly operates, directs, or deals in a connected software application that is subject to the jurisdiction of China and is reasonably believed to have been or may be used to facilitate or contribute to China's military, intelligence, censorship, surveillance, cyber, or information campaigns
  
6. H.R.784 (Internet Application I.D. Act), <https://www.congress.gov/bill/118th-congress/house-bill/784/text?s=7&r=1688&q=%7B%22search%22%3A%5B%22data%22%5D%7D>
  - a. Introduced 2/2/23
  - b. Requires websites and sellers or distributors of mobile applications that are owned by the Chinese Communist Party or by a non-state-owned entity located in China to conspicuously disclose that ownership to users

MLRC Media Law Conference  
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**Digital Media Law**  
**Outline of (Very) Recent Developments**

This outline covers additional developments from September 2023 not covered in the main outline. Section numbers below correspond to the main outline; an outline number in the form “x-2” indicates that the entry follows outline number “x” at the same level in the main outline. Formatting cues are otherwise the same as in the main outline. Certain entries from the main outline have been repeated in order to provide context for updates.

\* \* \*

**I. Liability for Content Moderation**

B. Other Decisions

3. Allowance of content

- f. *Meta Platforms, Inc. v. D.C.*, No. 22-CV-239 (D.C. Sept. 14, 2023) (in AG consumer-protection case over alleged misrepresentations in Meta’s COVID-19 misinformation policies, rejecting argument that compelling Meta to produce documents regarding enforcement of its policies violated Stored Communications Act and First Amendment), <https://www.dccourts.gov/sites/default/files/2023-09/Meta%20Platforms%20v%20DC%2022-CV-239F.pdf>

\* \* \*

**III. Jawboning**

A. *Missouri v. Biden*

2. *Missouri v. Biden*, No. 23-30445 (5th Cir.)

- g. Plaintiffs-Appellees’ Petition for Rehearing (9/22/23) (asking Fifth Circuit to reinstate injunction against CISA Defendants and the State Department Defendants, and that portion of the injunction that prevented federal officials from

- collaborating with the Election Integrity Partnership and Virality Project),  
<https://reason.com/wp-content/uploads/2023/09/MissourivBidenPFR.pdf>
- h. Order Granting Petition for Panel Rehearing (9/25/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.252.2.pdf>
  - i. Order Withdrawing 9/25/23 Order, Recalling Mandate of 9/11/23, and Staying 7/4/23 District Court Preliminary Injunction Pending Resolution of Petition for Panel Rehearing (9/26/23),  
<https://storage.courtlistener.com/recap/gov.uscourts.ca5.214640/gov.uscourts.ca5.214640.256.2.pdf>
3. *Murthy v. Missouri*, No. 23A243 (S. Ct.),  
<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23a243.html>
- a. Application for Stay of Injunction (9/14/23),  
[http://www.supremecourt.gov/DocketPDF/23/23A243/279530/20230914115558015\\_23A-Marthy%20v.%20Missouri.pdf](http://www.supremecourt.gov/DocketPDF/23/23A243/279530/20230914115558015_23A-Marthy%20v.%20Missouri.pdf)
  - b. Administrative Stay of Injunction (9/14/23) (until 11:59 p.m. EDT on Friday, September 22, 2023),  
<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23a243.html>
  - c. Response to Application for Stay of Injunction (9/20/23),  
[https://www.supremecourt.gov/DocketPDF/23/23A243/280017/20230920145521680\\_2023-09-20%20-%20Murthy%20v.%20Missouri%20-%20Opposition%20to%20Stay%20Application%20-%20FINAL.pdf](https://www.supremecourt.gov/DocketPDF/23/23A243/280017/20230920145521680_2023-09-20%20-%20Murthy%20v.%20Missouri%20-%20Opposition%20to%20Stay%20Application%20-%20FINAL.pdf)
  - d. Reply in Support of Application (9/21/23),  
[http://www.supremecourt.gov/DocketPDF/23/23A243/280164/20230921152943288\\_CERTIFICATE%2023A243%20MURTHY%20V.%20MISSOURI%20reply.pdf](http://www.supremecourt.gov/DocketPDF/23/23A243/280164/20230921152943288_CERTIFICATE%2023A243%20MURTHY%20V.%20MISSOURI%20reply.pdf)
  - e. Order Extending Stay (9/22/23) (until 11:59 p.m. EDT on Wednesday, September 27, 2023),  
<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23a243.html>

## B. Other Decisions

20. *Changizi v. Dep't of Health and Human Servs.*, No. 2:22-cv-1776 (S.D. Ohio May 5, 2022) (dismissing jawboning lawsuit against HHS over suppression of Twitter activity for failure to plead unconstitutional government pressure prior to Twitter's crackdown on COVID-19 misinformation or to account for other potential causes of Twitter's decisions), <https://cases.justia.com/federal/district-courts/ohio/ohsdce/2:2022cv01776/267163/37/0.pdf?ts=1651852808>
- a. Affirmed, No. 22-3573 (6<sup>th</sup> Cir. Sept. 14, 2023) (holding that Twitter's actions were not traceable to the federal government), <https://www.opn.ca6.uscourts.gov/opinions.pdf/23a0214p-06.pdf>

\* \* \*

## V. Data Privacy Bills & Laws

### A. Federal Data Privacy Bills

#### 1. General Data Privacy

- i. H.R. \_\_\_\_ (Banning Surveillance Advertising Act), <https://eshoo.house.gov/sites/evo-subsites/eshoo.house.gov/files/evo-media-document/9.18.23-bsa-signed.pdf>
  - i. Introduced 9/18/23
  - ii. Prohibits targeted advertising based on any of a wide range of personal data, but allows targeting based on content with which a user is interacting or on the user's general location

### B. State Comprehensive Data Privacy Laws

#### 1. California Consumer Privacy Act

- b-2. Amended by **SB 362**, [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202320240SB362](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB362)
  - i. Effective dates: January 1, 2024, July 1, 2024, January 1, 2026, or August 1, 2026, per specific provisions
  - ii. Requires, inter alia, data brokers to comply with data deletion requests submitted by consumers to central deletion mechanism to be established by state; compare federal S.2121 (DELETE Act), at V.A.1.d above.

3-2. **Delaware Personal Data Privacy Act,**  
<https://legiscan.com/DE/text/HB154/id/2832228>

- a. Effective date 1/1/25

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## VI. Online Child Protection Bills & Laws

### B. State Child Protection Legislation

#### 1. Sexual or Harmful Content

m. **Texas HB 1181,**

<https://capitol.texas.gov/tlodocs/88R/billtext/html/HB01181F.htm>

- ii. Enforcement preliminarily enjoined in *Free Speech Coalition, Inc. v. Colmenero*, No. 1:23-cv-917 (W.D. Tex. Aug. 31, 2023) (finding that law was not least restrictive means to protect children from adult content; separately holding that compelled publication of “public health warning” about pornography is unconstitutional),

<https://storage.courtlistener.com/recap/gov.uscourts.txwd.1172751222/gov.uscourts.txwd.1172751222.36.0.pdf>

- iii. District court preliminary injunction stayed by Fifth Circuit pending expedited appeal in No. 23-50627 (5<sup>th</sup> Cir. Sept. 19, 2023),

<https://storage.courtlistener.com/recap/gov.uscourts.ca5.215556/gov.uscourts.ca5.215556.66.1.pdf>

- (a) Appellees’ Cross-Opening Brief (9/25/23),

<https://storage.courtlistener.com/recap/gov.uscourts.ca5.215556/gov.uscourts.ca5.215556.74.0.pdf>

- (b) Appellant’s Brief (9/25/23),

[https://storage.courtlistener.com/recap/gov.uscourts.ca5.215556/gov.uscourts.ca5.215556.76.0\\_2.pdf](https://storage.courtlistener.com/recap/gov.uscourts.ca5.215556/gov.uscourts.ca5.215556.76.0_2.pdf)

#### 5. CSAM

- a. California AB 1394,

[http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1394&ciq=ncsl&client\\_md=1ec3ec6b189aad3209a31f864c39838c&mode=current\\_text](http://custom.statenet.com/public/resources.cgi?id=ID:bill:CA2023000A1394&ciq=ncsl&client_md=1ec3ec6b189aad3209a31f864c39838c&mode=current_text)

- i-2. Enrolled and presented to Governor, 9/21/23

8. Age-Appropriate Design Code Acts

- a. **California AB 2273** (“The California Age-Appropriate Design Code Act”), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB2273](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2273)
- iv. Constitutionality challenged in *NetChoice, LLC v. Bonta*, No. 5:22-cv-8861 (N.D. Cal.)
  - (b) Enforcement preliminarily enjoined (9/18/23) (finding, inter alia, that age restrictions did not directly serve state’s interest and that statute’s failure to define material harmful to minors rendered law inadequately tailored), <https://storage.courtlistener.com/recap/gov.uscourts.cand.406140/gov.uscourts.cand.406140.74.0.pdf>

\* \* \*

**VIII. Foreign-Owned Online Services**

- A. *Alario v. Knudsen*, No. 9:23-cv-56-DWM and *TikTok Inc. v. Knudsen*, No. 9:23-cv-61-DWM (D. Mont.)
7. Alario Memorandum of Law in Support of Motion for Preliminary Injunction (7/5/23), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.18.0.pdf>
- d. Amicus Briefs in Support of Opposition to Motion
  1. Virginia and 17 Other States (9/18/23), <https://storage.courtlistener.com/recap/gov.uscourts.mtd.73494/gov.uscourts.mtd.73494.70.0.pdf>