



"SAFER INTERNET FOR MINORS ACT" HB2294 BY: VAN HUSS

PREPARED BY:



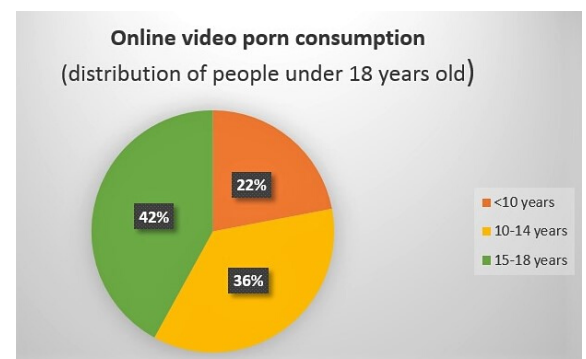
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Concerned Women for America
Ron DeHaas- Covenant Eyes
Merrilee Boyack- Family Watch
Christine Ahrens- Freedom & Restoration for
Everyone Enslaved
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Tanna Antonuca- Big Ocean Women
Kay Duffield- NOVA Human Trafficking Initiative
Paul Hughes- Freedom Forerunners
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Jesse and Sarah Seigand- Parents Who Fight

Children & Internet Pornography

- A North American college campus survey found that 93% of boys and 67% of girls have viewed pornography before the age of 18.(1)
- Another survey found 97% of boys had viewed pornography, and of those, 23% said they tried to stop watching it but could not.(2)
- The average age of first exposure to porn is about 9 to 11 years old.(3)
- 90% of 8 to 16 year old's who have viewed online porn have done so while doing homework.(4)
- Only 12% of parents knew their teens were accessing pornography.(5)
- 1 in 10 visitors of porn sites are under 10 years old. (6) Sites most visited by children under 10 include xvideos, xnxx, and pornhub. Pornhub alone received 33.8 billion visits in 2018.(7)
- 8 out of 10 eighteen year old's think it is too easy for young people to accidentally see pornography online.(8)



<https://fightthenewdrug.org/data-says-one-in-10-visitors-to-porn-sites-are-under-10-years-old/>

The purpose of the bill is to create an effective and constitutional solution to a child's instant access to Internet pornography by requiring Internet service providers to include a minimum standard of online parental controls along with Internet service to residents of Tennessee.

Background

Pornography is an epidemic in society. Since the advent of the mobile smartphone, pornography has become increasingly more accessible and accessed by children, and mobile phones currently serve as the primary viewing device for Internet pornography within the U.S.(9)

Pornographic material can serve as a child's sex education, shape their sexual template, contribute to the hyper-sexualization of teens, and be potentially biologically addictive, among other things.(10) In 2017, the Tennessee legislature passed Senate Joint Resolution 35 recognizing the health harms of pornography and declaring pornography as creating a 'public health crisis'. The "Safer Internet for Minors Act" will be Tennessee's first legislative solution to remedy this crisis since its passage.(11) A total of 13 states have passed similar resolutions since 2016.(12)

About the Parental Controls

The “Safer Internet for Minors Act” requires that Internet providers provide, along with Internet service to residential customers, parental control features such as: website categories that can be turned on and off, the ability to turn on and off certain websites, the creation of ‘pornography’ as a website category, and the website category of pornography turned off by default for customers. The result of the provisions will be an online control panel (or dashboard) that an adult subscriber can use to access these parental control features.

Because of the provisions, parents will have the instant ability to turn on and off particular websites and website categories they deem unsuitable for their children, and can have the confidence that children will be protected from the free and ubiquitous access to pornography that so many have today. Current parental controls offered by Internet providers to residents of Tennessee are largely inconsistent in assisting parents with the complexities of Internet safety.⁽¹³⁾ The provisions of the bill may be considered a ‘minimum standard’ of what should already be provided with Internet service.



Reasonable Provisions for ISP's

ISP's can implement the provisions of the bill quickly and at minimal costs. The most common and expected method of implementing technology of this kind is by Domain Name System or DNS filtering. For example, in implementing the provisions of the 2017 Digital Economy Act, the United Kingdom chose DNS filtering as the only compliance method for Internet providers to use to block pornographic websites unwilling to comply to age-verification standards.

(14) This method is commonly implemented both proprietarily and by third-parties all over the world,(15) and the technology is 'cloud-based' so does not require the assembly of hardware to implement. Therefore, costs can be manageable.(16)



We engaged many DNS filtering companies for the purposes of education on technology and costs for Internet providers to implement. One company, Clean Browsing, used by popular parental control company Covenant Eyes to implement their industry-leading parental control programs(17), provided a shockingly low cost estimate of one cent, per month, per subscriber, to implement the provisions our state law draft for Internet providers. Others provided similar costs to implement the provisions of this bill.(18)

Major Internet providers in the U.K. provide online parental controls, similar to this bill, to customers for no extra cost. (19) In 2015, following the U.K. Prime Minister David Cameron's pervasive stance against pornography, the six major ISP's in the country worked with the government to create a "minimum standard" of filtering to incorporate into their service. As a result, these companies created an online dashboard similar to the provisions of this law. The BBC quoted Sky (one of the six) saying, "We think that default filtering is the best way for the industry to meet the government's commitment to reduce children's exposure to inappropriate content," and that they received "no backlash" from customers and "70% of Sky's users left the default filters in place." (20)

Constitutionality



The provision of this bill are constitutional and do not violate the first amendment to the Constitution, nor discriminates against interstate commerce. First, obscenity, synonymous with hard core pornography, is not constitutionally protected speech in the U.S. (Miller v. California, 413 U.S. 15). (21) Therefore, the dissemination of obscene material is open for legislative mandates such as, for example, U.S. federal obscenity laws (18 U.S. Code Chapter 71).

Inadvertent blocking of constitutional material or 'over-blocking' is also not a concern according to filtering industry experts.(22) Supreme Court case U.S. v. ALA, (2003) that validated the Children's Internet Protection Act, laid first amendment concerns and 'over-blocking' to rest by declaring that 'default filtering' of pornography was constitutional for the "ease with which patrons may have the filtering software disabled."

The provisions of this bill also do not discriminate against the flow of commerce from state to state. Because of the nature of technology today, as mentioned earlier, one state can mandate Internet service providers to include certain parental control features different from another state without burdening the flow of business.(23) The technology is implemented per customer, so can be confined to residents within any given state. Therefore, the bill does not discriminate against interstate commerce, and thereby does not violate the dormant commerce clause.

Supporters

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Citations

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Riemersma, Jennifer; Sytsma, Michael. "A New Generation of Sexual Addiction," *Sexual Addiction and Compulsivity*, Volume 20, Number 4, 1 October 2013, pp. 306-322(17).

Fight the New Drug. "One In 10 Visitors To Hardcore Porn Sites Is Under 10 Years Old, Study Shows," Fight the New Drug. JULY 30, 2018. <https://fightthenewdrug.org/data-says-one-in-10-visitors-to-porn-sites-are-under-10-years-old/>.

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Tracy Parish. "Burnet studies shed light on sexual behaviour of teenagers," Burnet Institute. September 9, 2014. https://www.burnet.edu.au/news/435_burnet_studies_shed_light_on_sexual_behaviour_of_teenagers.

Pornhub, 2018 Year in Review. <https://www.pornhub.com/insights/2018-year-in-review#tech>

State legislative resolution with footnotes. <https://nationaldecencycoalition.org/wp-content/uploads/2019/11/PPHC-Resolution-2020.pdf>

2017 Senate Joint Resolution 35 sponsored by Mae Beavers. Online copy can be found at: <http://www.capitol.tn.gov/Bills/110/Bill/SJR0035.pdf>

All state resolutions can be found listed at: <https://nationaldecencycoalition.org/updates/>.

The Nashville, Tennessee based child-advocacy and digital safety organization- Parents Who Fight (PWF) equip parents, churches, and public schools with modern digital safety education. PWF commonly share the ill equipped and inconsistent parental controls offered to Tennessee residents through ISP's. More information can be found at <http://parentswhofight.com/>.

U.K.'s 2017 Digital Economy Act and implementations thereof may be found here: <https://www.gov.uk/government/publications/digital-economy-bill-part-3-online-pornography>

National Decency Coalition, Internet Providers Can Help Stop the Health Crisis of Pornography. <https://decencyusa.org/internet-service-providers-can-help-stop-the-health-crisis-of-pornography/>

Ibid

Covenant Eyes services, programs, and resources can be found at www.covenanteyes.com/.

Information about costs provided to NDC may be provided on request at media@decencyusa.org.

<https://www.internetmatters.org/> shares U.K. major internet providers information on parental controls.

National Decency Coalition, Internet Providers Can Help Stop the Health Crisis of Pornography. <https://decencyusa.org/internet-service-providers-can-help-stop-the-health-crisis-of-pornography>

Trueman, Patrick. Today's porn: Not a Constitutional Right, Not a Human Right. Dignity. <https://digitalcommons.uri.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1078&context=dignity>.

National Decency Coalition, Internet Providers Can Help Stop the Health Crisis of Pornography. <https://decencyusa.org/internet-service-providers-can-help-stop-the-health-crisis-of-pornography>.

Cost quotes presented to the National Decency Coalition for ISP's to comply with this bill's provisions were applied 'per customer'. The ISP provides lists of customers to third-party DNS filtering companies for provisional implementation.

House Bill 2294

By: Van Huss

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following new part:

47-18-3101.

This part shall be known and may be cited as the "Safer Internet for Minors Act."

47-18-3102.

As used in this part:

- (1) "Device" means equipment that allows a consumer in this state to access the internet and view or download content from the internet;
- (2) "Internet service provider" means a business that provides internet access service to a consumer in this state for a fee;
- (3) "Minor" means any person under eighteen (18) years of age; and
- (4) "Online parental controls" means an internet-accessible program that renders inaccessible certain digital content or websites that a parent or legal guardian finds objectionable.

47-18-3103.

An internet service provider shall:

- (1) Provide to consumers online parental controls that block access to a specific website or website category;
- (2) Include with internet access service on any device, at no additional cost to the consumer, online parental controls in accordance with this part;
- (3) Activate online parental controls by default under any internet access service contract entered into, amended, or renewed on or after July 1, 2021;
- (4) On or before July 1, 2021, or upon entering a new internet access service contract with a consumer in this state on or after July 1, 2021, provide each consumer of internet service with a conspicuous notice, which may be provided by electronic means, about the online parental controls required under this part and how the consumer can access and manage the online parental controls required by this part;

(5) Provide consumers with a method to access online parental controls, which must include, at a minimum, the use of a secure password or personal identification number; and

(6) Not use any information collected from consumers pursuant to this part for any reason other than compliance with this part.

47-18-3104.

(a) Online parental controls, in accordance with this part, must include a category specific to pornographic content and must block access to any pornographic website or digital content.

(b) An internet service provider may include with online parental controls a feature to restrict the amount of time a consumer in this state may access the internet, age-specific websites or digital content categories, or any other feature that allows a parent or legal guardian to control and monitor internet use by a minor.

47-18-3105.

(a) On or before October 1, 2021, the attorney general and reporter shall provide

a written notice to each internet service provider that is not in compliance with this part that details the reasons the internet service provider is out of compliance with this part, and require the internet service provider to comply with this part within ninety (90) days of the date of the notice.

(b) The division of consumer affairs of the office of the attorney general and reporter may provide internet service providers with a list of companies that offer products or services that satisfy the requirements of § 47-18-3104.

(c) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter. For purposes of the Tennessee Consumer Protection Act of 1977, any violation of this part constitutes an unfair or deceptive act or practice affecting the conduct of trade or commerce and is subject to the penalties and remedies provided by that act.

SECTION 2. This act shall take effect January 1, 2021, the public welfare requiring it.



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