



February 26, 2024

The Honorable Ron Desantis  
Executive Office of the Governor  
The Capitol  
400 S. Monroe Street,  
Tallahassee, FL 32399

RE: HB 1

Dear Governor DeSantis:

On behalf of Chamber of Progress – a tech industry association supporting public policies to build a more inclusive country in which all people benefit from technological leaps – I write today to **urge you to veto HB 1**, which would compromise online privacy, infringe First Amendment rights, and is doomed to a protracted and unwinnable legal battle.

### **HB 1 would undermine the privacy and online experiences for all users**

As amended, HB 1 would effectively mandate covered companies to verify the identity and age of ALL users - not only a tremendous encroachment of individual privacy but also a requirement that courts have maintained is unconstitutional.<sup>1</sup> The use of an independent third party does not lessen the privacy concerns with age verification - it only shifts it. In fact, estimating the age of a user will require *more* data, acting contrary to data minimization efforts. Additionally, malevolent actors will see any verification company as a ripe target for ransomware attacks, creating an unnecessary cybersecurity risk.

Moreover, many adult users reasonably would prefer not to share their identifying information with online services - creating an unpleasant dilemma for adult users: turn over sensitive personal data to access protected speech online, or forego enjoyment of that online service entirely.

### **HB 1 infringes on fundamental liberties under the First Amendment**

HB 1 bans all minors under sixteen from social media. This is an incredibly broad prohibition that will chill constitutionally protected speech and cut off Florida's youth from connection with their family and peers, platforms to express themselves and their

---

<sup>1</sup> See e.g. *Reno v. ACLU*, 521 U.S. 844 (1997); *Ashcroft v. ACLU*, 542 U.S. 656 (2004).

creativity, the opportunity to share their achievements and celebrate those of others, and access to critical resources and support. An open internet—free from government surveillance and censorship—is critical to modern freedom of expression. While the state has a legitimate interest in limiting the potential harms of social media, it cannot act in a manner that so broadly infringes on Floridians’ First Amendment freedoms.

### **HB 1 is destined to lose in court**

The recent rulings from courts in Arkansas,<sup>2</sup> California,<sup>3</sup> and Ohio<sup>4</sup> underscore the principle that regulatory measures impacting the core editorial and curatorial functions of social media companies, even when intended to safeguard young users, are subject to rigorous constitutional scrutiny under the First Amendment.

HB 1 stands in direct contradiction to established legal precedent. The First Amendment stringently restricts governmental interference with both the editorial discretion of private entities and the rights of individuals, regardless of age, to access lawful expression. HB 1, through its content-based and speaker-based restrictions, unequivocally infringes upon these fundamental freedoms. Moreover, similar legislative efforts aimed at restricting minors’ access to protected speech have been met with significant judicial skepticism.<sup>5</sup> Courts have consistently demanded a compelling justification for such measures, alongside concrete evidence of their necessity and effectiveness in mitigating harm. The failure to meet this high bar of constitutional scrutiny renders these attempts legally untenable.

---

<sup>2</sup> *NetChoice, LLC v. Griffin*, No. 5:23-cv-05105 (W.D. Ark. filed June 29, 2023). “If the State’s purpose is to restrict access to constitutionally protected speech based on the State’s belief that such speech is harmful to minors, then arguably Act 689 would be subject to strict scrutiny.”

<sup>3</sup> *NetChoice, LLC v. Bonta*, No. 5:2022cv08861 (N.D. Cal. 2023). “[T]he Act’s restrictions on the functionality of the services limit the availability and use of information by certain speakers and for certain purposes and thus regulate[s] protected speech.”

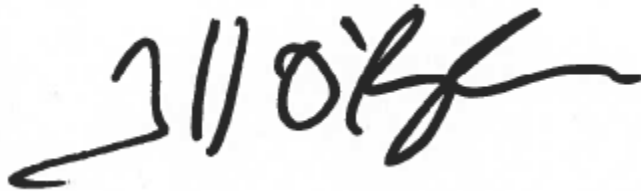
<sup>4</sup> *NetChoice, LLC v. Yost*, 2024 WL 104336 (S.D. Ohio Jan. 9, 2024). “As the [Supreme] Court explained, ‘[s]uch laws do not enforce parental authority over children’s speech and religion; they impose governmental authority, subject only to a parental veto.’ The Act appears to be exactly that sort of law. And like other content-based regulations, these sorts of laws are subject to strict scrutiny.”

<sup>5</sup> The *Griffin* Court noted “[E]ven though the State’s goal of internet safety for minors is admirable, ‘the governmental interest in protecting children does not justify an unnecessarily broad suppression of speech addressed to adults.’” Similarly, the *Bonta* and *Yost* Courts found that the California Age Appropriate Design Code is not based on any direct evidence demonstrating a causal link between social media use and harm to younger users.

As such, HB 1 not only contravenes core constitutional values but also is likely to be adjudicated as unconstitutional on the grounds of the First Amendment, among other legal and policy considerations.

For these reasons, we urge you to **veto HB 1**.

Sincerely,

A handwritten signature in black ink, appearing to read "T O'Boyle", with a stylized flourish at the end.

Todd O'Boyle  
Senior Director, Technology Policy  
Chamber of Progress