



HB349 Children's Default to Safety Bill

This legislation recognizes the serious harm that can result to children from online pornography exposure while empowering parents to determine what material is appropriate for their children.

What is the Children's Default to Safety Bill? Manufacturers already have filtering capabilities available on smart phones and tablets, but they are overly complicated and cumbersome for parents to navigate. This bill requires manufacturers to have the filtering technology turned ON when activated, instead of OFF as it is now. By activating filters on the device itself, instead of the network, the filter protects a child online wherever the device is used. With a provided passcode at activation, adults can change the default settings.

Why is this law needed? This law simplifies what is now an overwhelming process for families, some of whom are unaware that filtering options even exist on their devices or do not have the technical know-how to activate them. It also recognizes that not all children are privileged with parents who are involved in their digital well-being. With this simplification, we can prevent early exposure to potentially life-altering sexually explicit content for Montana children.

How does pornography harm children? • A meta-analysis of 37 studies found that exposure to violent or rape pornography increased a child's odds of experiencing sexual exploitation by nearly three times.¹

- Research shows that children are more susceptible than adults to addictions and to developmental effects on the brain.¹
- Internet pornography use is linked to increases in problematic sexual activity at younger ages, and a greater likelihood of engaging in risky sexual behavior such as hookups, multiple sex partners, anal sex, group sex, and using substances during sex as young adolescents.¹

Won't kids find other ways to access pornography? This is a widespread problem that can't be solved with a snap of the fingers, but activating the existing device filters is a simple and significant step in the right direction. It is our responsibility to implement measures that provide protection to children. With more than half of children in the U.S. now owning smartphones by age 11 and the time kids spend on digital devices averaging 4 to 7 hours per day,¹ this decision becomes a no-brainer.¹

Who will be affected by this policy? Besides all the children in Montana who will be provided with a basic level of protection from stumbling upon harmful content, this policy only affects manufacturers. It will not affect retailers or people who have already activated their devices. The policy will be implemented on new devices manufactured after Jan 1, 2024.

How are manufacturers likely to implement this policy? Manufacturers will simply update their operating system so that defaults on the existing filters will be turned ON. The iPhone 14, for instance, houses these filters under Settings > Screen Time > Content & Privacy Restrictions > Content Restrictions, where there are various areas of filtering capabilities.



How will manufacturers know where exactly to set the defaults? As stated in the bill text, manufacturers will set the defaults in accordance with current Montana law, which defines obscenity and states it is illegal to publicly display or disseminate obscene material to minors. Implementation of this bill could look like, for instance, the “clean” default setting under Books instead of “explicit,” and “limit adult websites” under Web Content instead of “unrestricted.”

Is there a precedent for this type of policy? Yes. In 2021, Google set a precedent for “defaulting to safety” when they announced that all Chromebooks going to students K-12 across the nation would have the filters defaulted ON. Utah enacted this model legislation in 2021. It will go into effect when five more states take action to protect young people from pornography on smart devices. There are at least 7 states actively working on this legislation in the 2023 session.¹

Does the model law meet constitutional free speech requirements? The U.S. Supreme Court has repeatedly recognized that the state may restrict children’s exposure to pornographic material. The court also has found that the state has a compelling interest in protecting children from this material. Furthermore, the court has recognized that parents are entitled to laws that support their ability to safeguard their children from harm. In *Ashcroft v. ACLU* (2004), the Supreme Court found that filters on devices at the receiving end met the requirements of the First Amendment. (A full legal memorandum is available upon request.)

How is the law enforced? Parents, guardians, and state attorneys general will be able to bring civil actions against manufacturers of devices that do not comply.

“I’ve been struggling so long, and it’s taxing on my mind and body. I’m tired and have little motivation, which often leads to me skipping homework assignments and social gatherings just because of porn. I’m honestly scared, scared for my future, my relationships, and my well-being.”

- Male, 18 years old

“We have seen children who have been exposed to pornography, which contributes to significant disturbances in their perceptions of “normal” sexual thoughts, feelings, and behaviors. Many exhibit symptoms of trauma, similar to sexual abuse. Some go on to exhibit inappropriate sexualized behaviors that cause distress for them, their families, and others in their lives. They have grown up to have distorted beliefs about their bodies and sexuality, leading to depression, anxiety, and unhealthy and often abusive relationships.”

- Yellowstone Counseling Center

We can protect children while not eroding adults’ right to free speech.

THE MOST DANGEROUS PLAYGROUND IS NOW...IN OUR KIDS’ POCKETS

Hardcore Pornography on Digital Devices is Damaging America’s Children



READILY AVAILABLE A large majority of both girls and boys report having watched pornography online during adolescence.² A simple search of various slang sexual terms quickly yields myriad results that include hardcore videos and pictures. No proof of age is required to view them.



FREQUENTLY VIOLENT In 2021, one in eight video titles presented to first-time viewers of three mainstream pornography websites described sexual violence involving incest, physical aggression and sexual assault, non-consent, and teens.³



POORLY CONTROLLED Technology corporations have placed the burden on parents, schools, and even children to protect themselves from pornography, and government agencies have been slow to recognize and address childhood pornography exposure and exploitation of children online.

¹ For citations and additional information:

<https://endsexualexploitation.org/wp-content/uploads/Device-Filter-Factoid-Cited.pdf>

https://endsexualexploitation.org/wp-content/uploads/NCOSE_Most-Dangerous-Playground_Web-Version_w-Citations_FINAL_3-31-22..pdf