



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 14, 2025

The Honorable David Wheeler, Chair
Senate Judiciary Committee
500 East Capitol Avenue
Pierre, SD 57501

RE: SB 180 to require age verification before an individual may access an application from an online application store.

Dear Chair Wheeler:

The Senate Judiciary Committee will be considering SB 180 on February 18, 2025 and I wanted to take the opportunity to explain why TechNet opposes this legislation. While TechNet supports efforts to ensure the safety and well-being of children online, we believe the requirements outlined in SB 180 would impose negative impacts on app developers and hinder their ability to provide age-appropriate and secure online experiences for children.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

We appreciate the intent of this bill and share the commitment to providing a safe and secure online experience for children. TechNet members strongly believe that children deserve a heightened level of security and privacy online, and the industry is actively working to incorporate protective design features into apps, websites, and platforms.

Age Verification

SB 180 requires app store providers to verify the age category of users before granting access to app downloads, purchases, or usage. Stringent age verification measures necessitate the collection, processing, and storage of sensitive personal information, such as birth dates and government-issued identification. This conflicts

with data privacy principles like privacy-by-design and data minimization, increases the risk of fraud, and undermines online anonymity.

Further, the bill mandates that every app developer must implement complex age verification mechanisms, driving up development expenses and complicating the user onboarding process. These added costs and technical challenges could be especially prohibitive for smaller developers, potentially forcing them to exit the South Dakota market.

Parental Consent and Controls

Parental consent entails verifying parental relationships and parental rights, which will likely also lead to privacy-invasive processes. For example, even with a birth certificate, there are custody agreements and other issues that could prevent a caregiver listed on that certificate from exercising parental rights to provide consent. Additionally, the bill is silent on the specific methodologies that would be sufficient to obtain and verify parental consent as well as parental relationships and rights.

Constitutionality

We believe that there are potential constitutional issues with the bill that are like those identified by courts with other age verification and parental consent bills. A number of other states that have passed legislation with similar requirements have had those laws challenged and enjoined due to constitutional concerns. Ohio's *Social Media Parental Notification Act* and Arkansas' SB 396 are recent examples where courts have enjoined the laws from going into effect due to constitutional deficiencies.

Enforcement

SB 180 allows for a private right of action to be taken by parents, which creates significant legal and financial risks, particularly for smaller developers who may be less equipped to handle litigation.

The cumulative impact of these requirements threatens to stifle innovation within the app development ecosystem. Small businesses and startups may encounter escalating operational costs, diminished market opportunities, and increased legal vulnerabilities. Consequently, this could restrict access to high-quality, secure, and age-appropriate apps for children in South Dakota.

Inefficiencies

Finally, the proposed bill is inherently ineffective in that many of these same websites can be accessed by desktop web browsers or through the sideloading of

apps. Targeting app-stores is only one part of the ecosystem and the goal of helping kids keep safe online will not be achieved through this legislation.

For these reasons, TechNet respectfully opposes SB 180. We welcome the opportunity to continue the conversation on how to better ensure minors have safe and positive online experiences while balancing the need for online safety with the realities of app development.

Please let me know if you have any questions. I appreciate your consideration.

Sincerely,

Rose Feliciano
Executive Director
Washington + Northwest