

Grandma Would Not Have Put Up with This Shit

The Practical, Constitutional, and Moral Case Against Social Media Regulation “For the Children.”

A. Introduction

Just as patriotism is the last refuge of the scoundrel, “for the children” is the last refuge of what Isabel Paterson called the “humanitarian with a guillotine.”¹ The term refers to those who want to restrict liberty in order to impose their vision of a good society on the people and/or to “protect” people from the consequences of their bad decisions. The need to “protect the children” has been the justification for socialized medicine, the national drinking age limit, gun control, and government regulations of rock music, comic books, movies with excessive violence and/or sex, and video games.

Given this history, it is not surprising that politicians and other “humanitarians with guillotines” are using “for the children” as an excuse to impose new regulations on social media. Legislation restricting children’s access to social media by, for example, forcing social media companies to verify that users are above a certain age has been adopted in several states.² Similar legislation is being considered in the U.S. Congress.³ Supporters of this legislation blame social media use for increases in depression and other mental health problems amongst children and teenagers.

This paper will examine the justifications for legislation restricting children’s access to social media. First, it will examine the flawed data and questionable assumptions underlying the case for legislation restricting children’s access to social media. It will then examine the practical consequences, both for children and adults, of using government force to restrict young people’s access to social media. Finally, the paper will examine the negative impact of government usurpation of parental rights and responsibilities by the “nannies with guillotines.”

B. The Flawed “Science” Behind Calls to Regulate Children’s Use of Social Media

On June 17th, 2024, Surgeon General Dr. Vivek Murthy issued a *Surgeon General’s Advisory on Social Media and Youth Mental Health*.⁴ The advisory called on Congress to require that social media sites contain a Surgeon General’s warning that social media use can endanger children’s emotional and mental health. Dr. Murthy also called on Congress to pass legislation protecting children from social media. Dr. Murthy is just the

¹ [The Humanitarian with the Guillotine | Mises Institute](#)

² See [Social Media and Children 2023 Legislation \(ncsl.org\)](#), [Ron DeSantis Signs Florida Social Media Age-Verification Bill \(reason.com\)](#), [Is There Something More Radical than MAGA? J.D. Vance Is Dreaming It. - POLITICO](#)

³ [What’s Not to Like About Kids Online Safety? Quite a Lot, actually | RealClearMarkets](#)

⁴ [Surgeon General Issues New Advisory About Effects Social Media Use Has on Youth Mental Health | HHS.gov](#)

latest government official to call for government intervention to protect children from social media. Earlier this year, New York Mayor Eric Adams, in his annual State of the City Address, declared that social media was creating a public health emergency amongst the city's youth.⁵ Adam's concerns were echoed by the city's Department of Health and Mental Hygiene, which released guidelines on social media use. The guidelines accused social media companies of creating an "environmental hazard" for young people.⁶

Mayor Adams wants the Federal Government to lead a crusade against social media similar to prior efforts against tobacco and guns. However, the effort to reduce tobacco use was successful because it was backed by undeniable scientific evidence. As we will see, this is not the case with social media. As for the crusade against guns, the attempts to treat gun violence as a "mental health" crisis have so far been unsuccessful. One reason for this is that gun rights are protected by the Second Amendment. Similarly, federal legislation restricting Americans from using social media could run afoul of the First Amendment. It may be news to those favoring restrictions on social media "for the children", but both children and social media companies have First Amendment rights. Another similarity between the effort to restrict young people's access to guns and their access to social media is that neither is backed up by reliable scientific research.

The attacks on social media are an example of what some researchers have called a "tech panic."⁷ Tech panics are when widespread use of a new technology, particularly amongst young people, leads "experts" to produce research demonstrating that the technology is harmful. For example, Baby Boomers and Generation X were incessantly warned that TV would "rot our minds." Millennials and Boomers were told to beware of any classmate with a penchant for playing "violent" video games. These tech panics result in increased calls for legislation cracking down on the ability of children to use the affected technology (and limiting the liberty of both minors and legal adults). In the end, the research justifying the tech panic usually contains serious methodological flaws that make it unreliable.

Researchers Christopher Ferguson and Patrick Markey listed three features of a tech panic:⁸

1. Extreme claims about the negative effects of the new technology are made before there is any research to substantiate these claims.
2. Public calls for research supporting the moral panic.

⁵ [What's Not To Like About Kids Online Safety? Quite a Lot, Actually | RealClearMarkets](#)

⁶ Mayor Adams and his Administration seem to think that social media poses a greater threat to public health than [rat infested subways](#) and people confusing the streets of New York with [public toilets](#)

⁷ [Part 1: Is the Debate Around Social Media Another Tech Panic? \(substack.com\)](#)

⁸ [Part 4: So, is it a tech panic? \(substack.com\)](#)

3. Calls for action to save the children from the latest technological terror.

Research claiming to show that playing violent video games caused children to be more violent led California to pass a law banning the sale of “violent” games to children. That law was struck down by the Supreme Court in the case of *Brown v. Entertainment Media Association* (564 U.S. 786, 2011), in part because the research did not justify creating a “violent video game” exception to the First Amendment. Justice Antonin Scalia, writing for the majority of the Court put it this way:

“These studies have been rejected by every court to consider them, and with good reason: they do not prove that violent video games cause minors to act aggressively (which would at least be a beginning). Instead, nearly all of the research is based on correlation, not evidence of causation, and most of the studies suffer from significant, admitted flaws in methodology’ [Video Software Dealers Assn. 556 F. 3d, at 964]. They show at best some correlation between exposure to violent entertainment and minuscule real-world effects, such as children’s feeling more aggressive or making louder noises in the few minutes after playing a violent game than after playing a non-violent game.”⁹

Aubrey Kirchhoff, former CGO Research Manager and now Law and Economics Program Research Fellow at the International Center for Law & Economics, and Jessica Parkinson, a CGO Student Fellow, compared the scientific studies used to justify the tech panic over violent video games with the studies used to justify restricting minors’ access to social media. They found that the research claiming to show that social media use damages minors’ mental health, like the earlier studies on violent video games, confused correlation with causation.

The social media studies were also unreliable because they relied on self-reported data. According to Kirchhoff and Parkinson, “this reporting method has been shown to be systematically biased and unreliable. These findings raise concerns about the validity of research relying solely upon self-reported data. In other words, in addition to failing to establish a causal relationship, studies relying upon self-reported data may not be reliable evidence of a correlation.”¹⁰ The studies on social media use and young people’s mental health were also flawed in that they did not use a common definition of mental health.

A specific example of someone using flawed data to justify new government restrictions on social media is New York University social psychologist Jonathan Haidt. In his book *The Anxious Generation: How the Great Rewiring of Childhood is Causing an Epidemic of Mental Illness* (Penguin Press, 2024), Haidt argues that children are

⁹ See footnote 7.

¹⁰ [Part 3: Flawed Evidence in the Social Media Debate \(substack.com\)](#)

suffering from the replacement of a “play based childhood” with a “phone-based childhood.”

Haidt blames the use of cell phones for a rise in teen depression and anxiety. However, as Reason Magazine Associate Editor Elizabeth Nolan Brown writes: “Haidt points to data showing rates of depression and anxiety in young people rose at the same time that smartphone and social media adoption skyrocketed among the same age group. But this was also a time period in which awareness of those conditions increased and the stigma around them decreased. And it was a period in which identity politics and a sort of victimhood cache began to permeate places where many young people gravitated online. If phones and social media play a role here, it might not be as a direct trigger—perhaps the veneration of various psychological diagnoses in certain online spaces led more kids to embrace those labels.”¹¹ Haidt blames social media for the rise in youth suicide, even though suicide rates are much higher among older people. Furthermore, suicide rates actually dropped amongst young people in 2022, while rising among men over 34 and women over 24.¹²

Brown points out that for every pathology affecting young people Haidt blames on overuse of social media, there is an equally (or more) plausible explanation. For example, Haidt cites a 2023 survey of college students in which 63% of the respondents said they felt anxious at least half the time.¹³ Haidt blames this on social media, ignoring the fact that this survey came at a time of increased social unrest both at home and abroad. The survey also followed the COVID lockdowns, which cost many college students a year or more of their educations. That alone could have made them anxious about their future. Similarly, the increase in depression in 12- to 7-year-olds could be explained by the fact that the government deprived them of regular contact with their peers for at least a year.

New York University statistics Professor Aaron Brown, also writing in Reason, examines the studies Haidt relies on to make his case that social media is a clear and present danger to America’s children.¹⁴ Professor Brown shows that the numerous studies Haidt used either suffered from methodological flaws, did not prove the dangers of social media, or both. One of the studies Brown highlights claimed teenage girls were at a very high risk from social media use, yet failed to interview any actual teenage girls!

A study of hundreds of Norwegian children, conducted by an international team of researchers using biennial data, found that “more time spent with offline friends was concurrently associated with greater social media use at ages 10, 12, and 14 years old.” Specifically, “participants who liked, commented, and posted more over time displayed

¹¹ [Jonathan Haidt Blames Tech for Teen Troubles \(reason.com\)](https://reason.com/2023/07/11/jonathan-haidt-blames-tech-for-teen-troubles/)

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ [Jonathan Haidt's Anti-Social Media Crusade Marred by Bad Science \(reason.com\)](https://reason.com/2023/07/11/jonathan-haidt-s-anti-social-media-crusade-marred-by-bad-science/)

an increase in the number of days they spent with friends offline.”¹⁵ The study also found that social media use did not severely affect young people’s social skills. However, it found that those who already had “social anxiety” experienced a further (albeit small) decline in social skills because of using social media.¹⁶ This could be because these socially awkward young people turn to social media because they feel alienated from their peers and gravitate to online communities that reinforce their isolation. Of course, young people can also find communities that support them and encourage them to find constructive ways to overcome their problems.

Social media certainly helped children cope with the government-imposed isolation during the COVID pandemic. The Director of Psychology at Colorado University, Jenna Glover, along with Dr. Sandra Fritsch, M.D., and Merlin Ariefdjohan, Ph.D, reviewed recent studies on children and technology for their paper entitled, “#KidsAnxiety and the Digital World.” They observed in an interview with the Anschutz School of Medicine, “... initially, social media was an important source of connection and information-finding for children. Because this was so new, and it was rapidly evolving, it was a great place for people to connect, share information and frustrations, and get support.”¹⁷

Dr. Glover also made the interesting observation that the research found that time spent online is not the crucial determination of whether children’s experiences will be positive or negative. Rather, it is how the children were engaging when online. For example, we know that online use can be helpful for a child’s mental health, and it certainly was during the pandemic. “If you are creating content, like creating YouTube videos, or if you're gaming with a friend, and talking with them while you're doing it- you're doing something active. That's super helpful. If you're passively scrolling TikTok or passively viewing YouTube videos for three or four hours, that's toxic for your mental health.”¹⁸ This suggests that, like any tool, social media’s effects depend on how it is used. This makes a government-imposed “solution” to the social media crisis impractical, unless politicians want to create a system where government continuously monitors young people’s social media use to ensure they are engaging in “healthy” activity online.

The fact is the studies purporting to show that social media presents a danger to children are flawed. Whether children benefit or are harmed by social media depends on how it is used. Unfortunately, facts never stop the humanitarians with guillotines from taking our liberties in the name of “protecting the children.” In the next section, we will discuss how restricting minors’ access to social media affects adult social media users.

¹⁵ [Teen Social Media Use Doesn't Replace In-Person Hangouts, Says New Study \(reason.com\)](https://reason.com/news/15641/teen-social-media-use-doesnt-replace-in-person-hangouts-says-new-study)

¹⁶ *Ibid.*

¹⁷ [How the Pandemic Changed Children's Relationships With Social Media \(cuanschutz.edu\)](https://cuanschutz.edu/news/2020/04/20/how-the-pandemic-changed-childrens-relationships-with-social-media)

¹⁸ [Social Media in the Time of COVID \(cuanschutz.edu\)](https://cuanschutz.edu/news/2020/04/20/social-media-in-the-time-of-covid)

C. Targeting Minors, Restricting Adults

Numerous states have already passed, or are considering passing, legislation requiring social media platforms and websites to verify users' age before allowing them to create an account. Typically, the requirement consists of submitting a state issued ID (typically a driver's license) or to comply with "digital recognition technology" (typically a facial scan). These laws often apply to sites offering "adult" content, although some states, such as Florida,¹⁹ have also passed laws banning minors from creating social media accounts.

Limiting minors' access to "adult" content is not objectionable since children cannot legally access adult content. However, federal courts have ruled that government may not "unduly burden" a constitutionally protected right even if pursuing legitimate goals, such as preventing children from accessing adult sites.²⁰ This is especially the case where there are means available to keep children from accessing these sites without violating adults' constitutional rights. Louisiana passed an age verification law that was enforced by a third-party app called LA Wallet.²¹ LA Wallet contains digital images of Louisiana residents' driver's licenses that can be used by adult sites to verify a user's identity. It adds an additional layer of security and privacy protection by not requiring the sites themselves to collect and store their users' personal information.

An even better idea that is being worked on, by the firm Aylo, is to store identifying information on devices such as a cell phone or a laptop computer. "We believe that the real solution for protecting minors and adults alike is to verify users' ages at the point of access—the users' devices—and to deny or permit access to age-restricted materials and websites based on that verification," said Alex Kekesi, Aylo's Vice President of Brand and Community. A device-based identification system allows parents to set their child's devices to automatically block certain content for sites, and alerts parents when their child tries to download adult content or try to create a social media account without parental permission.²²

If the First Amendment places limits on government's ability to ensure minors aren't viewing adult content, then it should certainly limit governmental ability to burden adults' ability to access Facebook and Twitter. Legislation forcing individuals to verify their identity before they can open a social media account could burden the right to freely engage in political speech, which is the heart of the First Amendment. Many individuals use social media to share news stories and express their political opinions. In the era of cancel culture and doxing, anything that makes personal information vulnerable to hackers wishing to harass those with different political opinions could have a chilling

¹⁹ [Ron DeSantis Signs Florida Social Media Age-Verification Bill \(reason.com\)](https://www.reason.com/blog/2018/03/28/ron-de-santis-signs-florida-social-media-age-verification-bill/)

²⁰ [Adult Entertainment Group Asks SCOTUS To Block Texas Age-Verification Law \(reason.com\)](https://www.reason.com/blog/2018/03/28/adult-entertainment-group-asks-scotus-to-block-texas-age-verification-law/)

²¹ *Ibid.*

²² *Ibid.*

effect on free speech. Those who scoff at the idea that there is any value in anonymous political speech should consider that the Federalist Papers were published anonymously. They should consider the words of Justice Marshall Harlan who, in the case of *NAACP v. Alabama*, 357 U.S. 449 (1958)²³ (in which the court protected the NAACP's right to shield its membership list from the prying eyes of segregationist state governments) said, "Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses 'dissident beliefs.'"

Writing in *The American Conservative*, former Deputy Counsel for the Department of Health and Human Services James R. Lawrence, III identified several threats to conservative and libertarian social media users from the Kids Online Safety Act (KOSA).²⁴ The act imposes a "duty of care" on "covered platforms"—including social media sites, streaming services, and online video games—that know or should have objective knowledge that minors are accessing their platforms to take steps to mitigate a variety of harms, including bullying, harassment, sexual exploitation, and addiction-like behavior.

Lawrence states the bill imposing a duty to prevent online "bullying and harassment" invites "woke" bureaucrats to force social media platforms to censor social conservatives who, for example, oppose allowing biological males who identify as females to compete in women's sports. The woke left could possibly label any opposition to their beliefs as hate speech and bullying. The prohibition on bullying and harassment could even extend to using the wrong pronouns or referring to someone who entered the country illegally as an "illegal alien."

The bill gives enforcement authority to state attorneys general and the Federal Trade Commission (FTC). The FTC was added to the bill after LGBTQ groups complained that conservative state attorneys general could use this authority to shut down sites providing support for LGBTQ youth. While this may be a legitimate concern, it is equally, if not more likely that progressive attorneys general will use the power to silence sites advancing conservative policies and social views.

KOSA's Republican supporters should think twice about supporting legislation that gives FTC Chair Lina Khan more power over the internet. As Lawrence points out, the FTC released a report in 2022 on Combatting Online Harms Through Innovation. The report outlines a variety of steps online platforms can take to protect against "hate crimes, harassment, and election related disinformation." The report also recommends sites use AI to "create and maintain diverse, equitable, inclusive, and accessible cultures" for "groups like Black in AI, Queer in AI, and Latinx in AI." Imagine how Khan, who has previously harassed journalists who cooperated with Twitter to expose how

²³ [NAACP v. Alabama ex rel. Patterson: 357 U.S. 449 \(1958\): Justia US Supreme Court Center](#)

²⁴ [Kids Online Safety Act Is a Smokescreen for Online Censorship - The American Conservative](#)

government officials were promoting censorship,²⁵ will use a mandate to “protect the children” from online harassment and bullying.

Fortunately, as we have already seen, various technology is available to protect children from the dangers of social media. In the next section, we look at more of these technological tools and how they can/should be used not by authoritarian busybodies, but by those best able to know a child’s unique needs when it comes to social media (and much else): parents.

D. Parents, Not Bureaucrats, Should Control Children’s Internet Access

Any legislative “solutions” to the challenges like protecting children from the pitfalls and dangers of social media must adopt a one-size-fits-all approach that cannot meet the diverse needs of millions of American children. Some children may be able to successfully navigate the social media landscape (with parental guidance) at the age of 14, while others may still be unable to handle the challenges of social media until they have reached adulthood.

Laws regulating children’s access to social media usurp parental rights and responsibility to decide whether their minor children should have access to the internet. Some parents may want to introduce their children to the internet at a young age so they can control that access and teach their children how to avoid the pitfalls of social media use. Some say that it is too much to expect parents to be able to control their children’s online activities. However, there are tools available to help parents control children’s access to social media.

Every major social media site, streaming service, gaming console, and WIFI provider offers parents tools to monitor and control their child’s use of the provider’s services.²⁶ Additionally, parents can get their children one of the many smartphones that alert parents to whenever their child is watching something inappropriate on the internet, or when a social media algorithm recommends their child view something not age appropriate. Phones can even be set to require that children receive parental approval before downloading an app.

Making schools “cell phone free zones” is a popular cause for those wishing to impose limits on children’s access to social media.²⁷ It is certainly appropriate for schools to ensure that children are not scrolling through TikTok or YouTube when they should be listening to their teacher. However, parents may not want their children to be banned from having a cell phone in school. The National Parents Union conducted a survey of 12,406 parents with children in public school, ranging from kindergarten to

²⁵ [Lina Khan Disdains 'Big Tech' and the First Amendment | RealClearMarkets](#)

²⁶ [Children Online Safety Tools - Competitive Enterprise Institute \(cei.org\)](#)

²⁷ [States have banned cell phones in schools as more consider it \(usatoday.com\)](#)

high school seniors. They found that 66% of parents surveyed said their child had cell phones, and 79% of those children took their phone with them to school—with parental permission. 79% percent of those parents want their children to have their cell phone so that they can be contacted in an emergency, while 71% said they wanted their children to have their phones so they could contact their children if they need to speak to them. Another 40% said it was necessary so they could “communicate with their kids about their mental health or other needs.”²⁸

55% percent of parents said children should sometimes be allowed to use their cell phones at school. Even most parents who want cell phones to be restricted only want the ban to apply during classroom time, so students can use their phones between classes and at lunchtime. A majority of parents (59%) favor allowing students to keep their phones in their backpacks as long as they silence them during class.

Even though the technology to allow parents to control their children’s social media use exists, some say the government still needs to control children’s access to social media because not all parents will use these tools. This is true, just like some parents will not require their children to eat their vegetables and brush their teeth. The existence of parents who don’t “properly” raise their children does not give the government the right to usurp parental authority.²⁹

Conclusion

While there are instances of children suffering mental and emotional issues that may be related to their excessive use of social media, and while minors can also fall prey to predators, the data does not back up the claim that these incidents are widespread. Banning minors from using social media prevents parents from ensuring their child’s first exposure to social media is under parental supervision. This creates the risk that when children can go online without getting government permission, they will fall prey to bullies and predators.

With so many tools available, parents simply need to take the initiative to ensure their children gain the benefits of internet use, while learning how to avoid the dangers associated with social media use. The only beneficiaries of legislation limiting minors’ access are power-hungry politicians, bureaucrats, and parents too lazy to do the job of parenting. As Frank Zappa said, regarding the moral panic over rock lyrics in the 1980s, “a lot of people who cry out for government intervention or, as Tipper Gore called them,

²⁸ [Parents Don't Want Schools to Confiscate Kids' Phones \(reason.com\)](https://reason.com/news/parents-dont-want-schools-to-confiscate-kids-phones)

²⁹ Sadly, some on the “post-liberal” right have abandoned conservatives traditional defense of parental rights as a good in and off themselves, instead taking the view that conservative are only obligated to uphold parental rights if the parents are raising children in ways that conservative approve off (*see [DeSantis' Latest Bill Exposes the Limits of Parents' Rights - The American Spectator](https://www.the-american-spectator.com/2019/04/11/de-santis-latest-bill-exposes-the-limits-of-parents-rights/) | [USA News and Politics The American Spectator](https://www.usanewsandpolitics.com/2019/04/11/de-santis-latest-bill-exposes-the-limits-of-parents-rights/) | [USA News and Politics](https://www.usanewsandpolitics.com/2019/04/11/de-santis-latest-bill-exposes-the-limits-of-parents-rights/))

'consumer tools,' to help raise and control their children are people who are just too lazy to do it themselves....Grandma never would have put up with this shit."³⁰

³⁰ [Zapping the Do-Gooders \(reason.com\)](http://reason.com)