

Kids Privacy and Data Protection

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Joan the Phone



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CYBERSECURITY
AWARENESS MONTH
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Katy Ruckle was appointed as Washington state's Chief Privacy Officer in 2020. In 2023, Katy received the Governor's Outstanding Leadership Award for her privacy leadership in the state. In 2024, Katy earned two national leadership awards: GovTech's Top 25 Doer, Dreamer, and Drivers, and StateScoop's Top 50. Currently, Katy serves as co-chair to the State's AI Community of Practice and published guidance for public procurement of automated decision systems. Katy is also leading work on the Governor's Executive Order on AI and serves as the appointed representative from WaTech on the AGO AI Task Force.

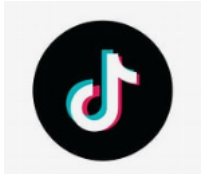
Katy is a licensed attorney and was admitted to the Washington State Bar Association in 2005. She also holds certifications from the International Association of Privacy Professionals (IAPP) in US privacy law (CIPP/US) and privacy program management (CIPM) and is recognized as a Fellow of Information Privacy from the IAPP.

WaTech
Washington Technology Solutions

- **U.S. legislation**
 - COPPA
 - KOSA
 - KOSPA
- **State legislation**
 - CA Age-Appropriate Design Code
 - First amendment challenges
- **Child Identity Theft Protection – Practical tips**

Recent Headlines

CEOs of Meta, X, Discord, TikTok and Snap testify before the Senate Judiciary Committee



TECHNOLOGY
'You have blood on your hands,' senator tells Mark Zuckerberg for failing kids online



41 states sue Meta alleging that Instagram and Facebook is harmful, addictive for kids



TECHNOLOGY

More than a dozen states sue TikTok, alleging it harms kids and is designed to addict them



\$20 million FTC settlement addresses Microsoft Xbox illegal collection of kids' data: A game changer for COPPA compliance

Current law COPPA

- Children's Online Privacy Protection Act.
- Passed in 1998 – made it so website and social media apps can't knowingly have children under the age of 13 on their platforms w/o parents consent.
- Lessons learned – COPPA has not really prevented youth from getting on platforms and being exposed to harmful content.

Previous Proposed Legislation

- COPPA 2.0
 - Children & Teens Online Privacy Protection Act.
 - Bumps age to 17.
 - Bans targeted ads to minors.
- KOSA
 - Kid's Online Safety Act.
 - Creates DUTY of CARE.
 - Makes platforms liable for showing harmful content to kids.

KOSA + COPPA = KOSPA

- Kid's Online Safety and Privacy Act.
- Passed in US Senate with high-level bipartisan support.
- Currently in US House.
- Two main objectives:
 - Better protection of privacy children and teens online.
 - Making tech platforms more responsible for what minor see and do based on online content.
- Child = under age 13.
- Minor = under age 17.

Duty of Care

- Prevention of harm to minors – A high impact online company shall create and implement its design features to reasonably prevent and mitigate [listed] harms to minors.
- High impact online company – Online platform or online video game.
- \$1 billion or more in annual revenue.
- 100 million global monthly active users.

Targeted Design Features

- Infinite scrolling or auto play.
- Rewards for frequency of visits or time spent on platform.
- Notifications.
- Push alerts.
- Badges or other visual award symbol based on elevated levels of engagement.
- Personalized recommendation system.
- In-game purchases.
- Appearance altering filters.

Compulsive Usage Defined

- The term “compulsive usage” means a persistent and repetitive use of a covered platform that substantially limits 1 or more major life activities
- Major Life Activities – (as described in ADA) including eating, sleeping, learning, reading, concentrating, thinking, communicating, and working.

Harms to be Mitigated

- Physical violence and harassment.
- Sexual exploitation and abuse.
- Promotion and marketing of narcotics.
- Promotion of inherently dangerous acts.
- User is a known minor with compulsive usage.
- User is a known minor and is marketed tobacco, gambling, or alcohol.

Default Safeguard Settings

- Default setting will be option on platform that provides MOST protective level of control offered by the platform.
- Safeguards:
 - Limit ability of other users or visitors to communicate with minor.
- Safeguards cont...
 - Limit design features
 - Opt-in to personal recommendation features.
 - Option to limit types or categories of recs (e.g. diet)
 - Limit ability to make in-game purchases.
 - Time limit options.

Dark Pattern Prohibition

- Unlawful for any covered platform to
 - design,
 - **embed**,
 - modify, or
 - manipulatea user interface with the purpose of **obscuring**, subverting, or impairing user autonomy, decision-making, or choice with respect to safeguards or parental tools

Additional Requirements

- Parental controls.
- Notice to minors.
- Reporting Mechanisms
 - Readily accessible and easy to use means for parent or minor to submit reports to platform re harms.
 - Electronic POC re harms to minors.
- Confirmation of receipt.
- Response Times:
 - 10 days for ≤ 10 million active monthly users.
 - 21 days ≥ 10 million active monthly users.
 - More promptly if imminent threat to safety of minor.
- Prohibit ads of items to minors (drugs, gambling, alcohol).

Other Provisions

- Enforcement:
 - FTC
 - State Attorneys General.
 - No private right of action.
- Establishes Kids Online Safety Council.
- Pre-empts state laws.
- Requirement to all users to see unmanipulated content on internet platforms:
 - “Opaque” algorithms vs. “input” algorithms.
 - Opt-out and allow users to easily switch between algorithm types.
- Prohibition on differential pricing based on preferences.

Additional Requirements

- Notice re parental tools and safeguards.
- Transparency – public report by 3rd party audit on reasonably foreseeable risks of harms to minors and mitigation measures to prevent and address risk.

Privacy

- KOSA
- Version in the U.S. House removes most privacy provisions and just relies on privacy protections in existing COPPA laws and other privacy laws like FERPA.

Examples:

- ~~provide the most protective level of control over privacy and safety by default;~~
- most protective level of control over **privacy** ~~and~~ safety.
- establishing default settings that provide enhanced **privacy** protection.

Age Verification Dilemma

- For platforms to ensure compliance with rules for engaging with minors they must collect information about the minor.
- Requirement for age verification study:
 - Benefits of creating a device or operating system level age verification system (AVS).
 - What info should be collected to create AVS.
 - Accuracy and impact to accessibility.
 - Mitigate risks to user privacy; data minimization.
 - Technical feasibility.
 - Impact of AVS on small companies.

CA - Age-Appropriate Design Code

- Before any new online services, products, or features are offered to the public, complete a **Data Protection Impact Assessment** for any online service, product, or feature likely to be accessed by children; and
- Maintain documentation of this assessment as long as the online service, product, or feature is likely to be accessed by children.
- A business must review all Data Protection Impact Assessments every other year.

First Amendment Challenges

- *NetChoice v. Bonta*
- NetChoice won preliminary injunction in lower court based on age-appropriate design code violated businesses first amendment rights
- 9th Circuit (in August 2024) partially upheld and partially vacated parts of lower court ruling
- 9th Circuit affirmed that parts of CAADCA were likely to violate the first amendment by compelling speech

First Amendment Challenges

- *Netchoice v. Bonta*
- 9th Circuit held DPIA requirement imposes a substantial burden on free speech by compelling businesses to engage in subjective assessments of content they host.
- ...“compels speech by requiring covered businesses to opine on potential harm to children” and is thus subject to strict scrutiny under the First Amendment, which the court says it is likely to fail.
- DPIA requirement “deputizes covered businesses into serving as censors for the State.”

Other First Amendment issues

- KOSA also challenged on first amendment grounds
- ACLU and Electronic Frontier Foundations
 - EFF - **believe it is a dangerous and unconstitutional censorship bill that would empower state officials to target services and online content they do not like.**
 - EFF objects to age verifications and content restrictions
 - ACLU “KOSA would violate the First Amendment by enabling the federal government to dictate what information people can access online and encourage social media platforms to censor protected speech.”
 - ACLU objects to regulation of “design features”

Child Identify Theft

How to Freeze and Protect
Your Child's Credit

What is child identity theft?

- Child identity theft occurs when a child's personal information is stolen or compromised through all the ways we were familiar with (including data breaches, phishing scams, or stolen documents).
- Credit bureaus don't knowingly create credit files for minors.
- Uptick in "synthetic" ids which use child SSNs to create fake identifications - e.g. blending real SSN with a different name, address and DOB.

Freeze Minors Credit

- Parents and guardians can request three major credit bureaus to freeze the credit of a child younger than 16
- Experian, Equifax, and Transunion
- Credit bureaus must create a file and freeze it at request

Required copies of documents (make 3 sets)

- Parent/Guardian government issued ID.
- Parent/Guardian birth certificate.
- Child's birth certificate (or other doc showing you have authority to act on child's behalf – foster care cert., power of attorney, or court order).
- Parent/Guardian Social Security Card.
- Child's Social Security Card.
- Utility bill or bank or insurance statement with your name and address on it.
- *May need a list or proof of addresses from past two years.

Experian

Child Identity Theft Protection

Requesting a Minor's Credit Report, Fraud Alert or Security Freeze

Experian does not knowingly maintain credit information on minors in our database. If you are a minor who is 14 years old or older, you may request a copy of your personal credit report, add a fraud alert or place or remove a security freeze by using this web site or by writing to us. We will either process your request or notify you that we do not have credit information about you. Credit reports for minors who are 13 years of age or under cannot be accessed online because the Children's Online Privacy Protection Act restricts the online collection of personal information regarding children. Parents of minors 13 years of age or under who want to know if Experian's database contains credit information about their child may write to us.

Add or remove a security freeze for a minor

Requestor's Information
Parent, legal guardian or minor 14 years old or older:

Full Name

Social Security Number (XXX-XX-XXXX)

Date of Birth (MM/DD/YYYY)

Address

City Alabama Zip Code

Have you lived at this address for more than 2 years?
 Yes No

Phone Number

Mobile Number (optional)

Report Number (optional)

Providing your report number for a recent credit report is optional. If you have received your Experian credit report recently, you may provide this information, which will better enable us to attach your uploaded documents to your request.

Minor's Information
Minor 13 years old or younger:

Full Name

Social Security Number (XXX-XX-XXXX)

Date of Birth (MM/DD/YYYY)

Address

- <https://www.experian.com/help/minor-request.html>

- Print and mail this form to:

Experian
PO Box 9554
Allen, TX 75013

Equifax

- <https://assets.equifax.com/assets/personal/Minor Freeze.pdf>

Print and send (via U.S. mail) along with the requested documents to:

Equifax Information Services LLC

P.O. Box 105788

Atlanta, GA 30348-5788

EQUIFAX® **MINOR SECURITY FREEZE REQUEST FORM**

To place a security freeze on the Equifax credit report of a minor (under the age of 16), please send – via U.S. Mail – this form along with copies of the items below in order to verify your information and address as well as that of the individual requiring the security freeze. Placing, temporarily lifting and permanently removing a security freeze is free.

Please Select a Service (only one)

Place a freeze

Temporarily lift an existing freeze. Starting and Ending

Permanently remove an existing security freeze

Parent/Guardian Information

First Name Last Name Middle Initial Suffix

Current Address City State Zip

Former Address City State Zip

SSN

Proof of Identity
(check box for and include a copy of one of the following)

Driver's License or State Identification Card

Social Security Card

Birth Certificate

The item you select must contain your SSN

Proof of Guardianship
(check box for and include a copy of one of the following)

Minor's Birth Certificate

Court Order

A lawfully executed and valid Power of Attorney

Foster Care Certification

Minor/Child Information

First Name Last Name Middle Initial Suffix

Current Address City State Zip

Former Address City State Zip

SSN

You must also provide copies of the minor's Social Security Card and Birth Certificate.

Print and send (via U.S. mail) along with the requested documents to:

Equifax Information Services LLC
P.O. Box 105788
Atlanta, GA 30348-5788

Transunion

- [Transunion Credit Freeze for Minors Website](#)
- Required documents
- A written request to place a “protected consumer freeze” on the named child’s file
- Please only send copies of documents
- TransUnion
P.O. Box 380
Woodlyn, PA 19094

Thank you!

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Office of Privacy and Data Protection
[OPDP Government Agency Resources](#)
www.watech.wa.gov/privacy
Email: privacy@watech.wa.gov

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Washington Technology Solutions