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Wisconsin Assembly Bill 963

TESTIMONY IN OPPOSITION

February 5, 2026

Wisconsin Legislature
Assembly Committee on Children and Families

Dear Chair Snyder, Vice-Chair Penterman, and Members of the Assembly Committee on Children and Families:

On behalf of NetChoice, a trade association working to make the internet safe for free enterprise and free expression, I write to express our strong opposition to AB 963, which would impose extensive restrictions on social media platforms serving Wisconsin minors. Among other provisions, the bill mandates age estimation for all Wisconsin account holders, requires verifiable parental consent before minors can create or maintain accounts, and prohibits numerous features the bill characterizes as "addictive."

NetChoice respectfully asks that you oppose the legislation as it:

- Fails to protect a single citizen from harm
- Puts minors's sensitive data at risk
- Violates the 1st Amendment of the US Constitution

We share the sponsor's goal to better protect minors from harmful content online. NetChoice members have taken issues of teen safety seriously and in recent years have rolled out numerous new features, settings, parental tools, and protections to better empower parents and assist in monitoring their children's use of social media. We ask that you oppose HB 963 and instead use this bill as a way to jumpstart a larger conversation about how best to protect minors online and consider alternatives that do not raise constitutional issues.

AB 963 Puts Minors' Sensitive Data at Risk

HB 963 was ostensibly introduced to protect children but instead it puts children's sensitive data at greater privacy and security risks. Under the bill's age estimation requirements, platforms must use "reasonable means and efforts" to estimate whether account holders are minors, with confidence

thresholds of 80% at 25 hours of use and 90% at 50 hours. This creates strong incentives for platforms to collect sensitive identifying information about all Wisconsin users—including minors.

Additionally, the bill's verifiable parental consent requirement will necessitate collection of sensitive personal information from both minors and their parents. Documents which conclusively establish users' ages and parental relationships are likely to be government-issued identification. Large-scale mandatory collection of highly sensitive government identification data—from both children and adults—dramatically increases the risks that this data will be captured, breached, and misused by bad actors.

Requiring identity authentication of all Wisconsin users adds several unconstitutional barriers to sharing and accessing First Amendment-protected online speech.

AB 963 Violates the 1st Amendment of the US Constitution- At Least Twice Over

This bill presents at least two independent First Amendment violations. First, it infringes on the rights of users to receive protected expression without first having their age "estimated" by the platform and, if determined to be a minor, securing parental consent. Second, it infringes on the rights of platforms to disseminate their own "distinctive expressive offering" to users without engaging in invasive age estimation and verification processes.

Age Estimation, Verification, and Parental Consent Requirements Are Unconstitutional

Restrictions on the access to and enjoyment of speech are rarely permitted. Indeed, restrictions are permitted only for certain categories of speech, and the Court has been careful to articulate such categories as obscenity, incitement, true threats, and fighting words. But the government cannot create new categories of unprotected speech to solve some perceived social harm. *Brown*, 564 U.S. at 792. And, as *Packingham* recognized, social media is home to troves of protected, valuable speech. 582 U.S. at 105.

When the government has attempted to restrict access to speech through requirements for speakers to "determine" or "verify" the age of audience members, the Supreme Court routinely struck them down. Such restrictions impermissibly chill speech by dissuading otherwise willing speakers and listeners from participating. The government may not impose barriers as a precondition to speak or receive the speech of others. *See Reno v. ACLU*, 521 U.S. 844, 855-857 (1997); *Ashcroft v. ACLU*, 542 U.S. 656 (2004). Similarly, the Supreme Court also invalidated parental consent requirements to access lawful speech. *Brown*, 564 U.S. 786 (2011).

While AB 963 does not purport to prevent access to social media websites outright, it *does* restrict access to the website's "distinctive expressive offering." *Moody v. NetChoice*, 603 U.S. at 738. That offering is protected expression, and the government may not prevent access to that offering any more than it could dictate how the *New York Times* or *Wall Street Journal* arrange articles in their newspapers.

Restrictions on Dissemination of Lawful Speech are Unconstitutional

Distinct from the First Amendment injury AB 963 inflicts on the viewers, readers, and users of social media websites, the law inflicts a separate injury on *websites* because it prevents them from freely offering their own “distinctive expressive offering.”

The bill would make it unlawful for social media websites to offer content that is “recommended, selected, or prioritized” to users without either determining the user is an adult or obtaining parental consent for minors. This restriction prevents the exercise of editorial discretion. The judgment about what content to display “rest[s] on a set of beliefs about which messages are appropriate” to prioritize and display to users is expressive. And the government does not have the authority to alter those decisions merely because it believes it would make better choices. *Id.* at 738.

The Supreme Court’s decision last term in *NetChoice* emphatically held that the personalized feeds available on social media websites like Facebook and YouTube are protected expression under the First Amendment. Because AB 963 would prevent the exercise of editorial discretion by prohibiting the use of these personalized feeds, it is unconstitutional.

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Again, we respectfully ask you to **oppose AB 963**. As always we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.¹

Sincerely,

Amy Bos
Vice President of Government Affairs
NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

¹ The views of NetChoice expressed here do not necessarily represent the views of NetChoice members.