

Myth: Age Verification Doesn't Limit Free Speech Online

Updated: June 20, 2025

Policies requiring age verification is a free speech violation. However, they have been utilized globally and domestically to assuage public outcry about minors accessing sexually explicit material online, but most of this legislation is ineffective, insecure, or both. These laws require proof of age via disclosure of personal information, identification document uploads, or facial recognition software before accessing websites with sexual material. However, these laws unilaterally hinder First Amendment rights online for both users and websites and often fail to keep consumers' personal information safe.

Some states have also proposed legislation requiring parental consent and age verification for social media sites to confirm the age of the minor and the relationship to the parent giving consent. These policies would similarly require the sharing of personal ID documents and other sensitive information to prove a caregiver-child relationship.

Courts have repeatedly invalidated laws requiring age verification on First Amendment grounds due to the burden imposed on adults attempting to access protected speech.

Myth 1: Can you protect the First Amendment while implementing age verification?

No. Sexual content is fully protected by the First Amendment and age verification would inhibit all consumers, regardless of age, from accessing such material. Material at risk from age verification restrictions include pornography or erotic content, information about sex education and sexual health, and spaces where LGBTQ+ individuals, sex workers, and other sexuality-based communities connect or share information.

Age verification laws intend to protect minors but inevitably affect all internet users and prohibit access to information for adults. While these policies will pose obstacles to or deter some adults from accessing certain websites, age verification will also completely block adults who do not have the necessary identification to pass the requirements. Those

least likely to have necessary identification include people without financial means to purchase replacements of lost IDs, those without citizenship, and adults with disabilities who do not have driver's licenses, causing skewed ability to access sexual content based on various privileges.

A similar hierarchy of access occurs when sites use facial recognition software instead of identification uploads. This technology has been found to have biased accuracy depending on the users' gender, race, and age, and it could incorrectly restrict adult users from accessing constitutionally protected content.

Even for adults who are able to provide accurate age verification, the elimination of anonymity impedes First Amendment rights. The right to remain nameless and maintain anonymity is a firmly established First Amendment right, but age verification would require all users to forgo this right. Once the personal information is provided, it becomes a treasure trove for hackers and scammers seeking to prey on users forced to disclose their identity.

Finally, age verification laws for pornography sites also risk setting a precedent to implement similar laws for social media platforms, as many states have already begun to propose and some have adopted. This effort runs the risk of blocking access to LGBTQ+ affirming spaces and reproductive and sexual health information, which have been shown to elevate safety for people without access to these communities or information offline.

Myth 2: Is age verification the most effective way to ensure safety online?

No, age verification software often fails to keep minors away from explicit content, fails to keep minors or adults' personal information safe, and overlooks alternative methods that are more effective. Content restrictions on individual devices or networks allow for tailored and effective parental control without exposing the general public to censorship and potential data breaches.

Age verification software often fails to effectively stop minors from accessing pornographic content online because age verification is relatively easy to bypass. Many consumers simply utilize a Virtual Private Network (VPN) and select a different state or county where age verification isn't required to view the material. In fact, searches for VPNs notably spiked in

states after age verification or bans on pornographic websites were announced. Most recently, Pornhub, RedTube, and YouPorn cut off access in France after the country passed new age verification laws and VPN demand increased 334% throughout the country, with one company reporting a 1,000% increase in new sign-ins within the first 30 minutes following the ban. Age verification can also be bypassed by utilizing an older friend's identification to obtain approval from a third-party verifier.

AV also fails to keep all users' data secure. There is currently no technology that ensures total privacy and security of data because no software company is currently able to guarantee safety from data breaches or hackers, even if they strive for rigorous security measures. Even if the AV provider kept the information secure, the information must pass through countless online intermediaries before reaching the provider, with the attendant threat of data breach at each point. Even companies that immediately delete data could be hacked in between a user's ID being uploaded and the vendor company removing the private information from their data.

The judicial system has likewise found age verification's insecurity to be a problem — several courts have determined that age verification requirements deter users from entering these websites because they do not trust their information and identity will be safe. Other countries have also found age verification tools unrealistic. Australia's eSafety Commissioner, for example, recommended increased media literacy and education instead of relying on age verification after finding age verification to pose risks to security and privacy. The UK attempted to implement similar age verification policies but found it to be ineffective at guaranteeing citizens' privacy given the inability to eliminate data breaches. France also said it was unable to identify a third-party service that accurately verifies age while respecting the privacy and security of users.

Alternatively, filters or parental controls implemented at the user end would allow selective restrictions for minors without a universal restriction that could prohibit adults from accessing content and speech protected by the First Amendment.

For example, Android and iPhones allow parents to implement controls on content, screen time, and privacy for their children's devices. Broadband companies also provide the option for parental controls to be used on any device connected to the home Wi-Fi network, ensuring any computers or tablets being used at home are also secure for minors. ASACP.org allows free use of its "RTA" (restricted to adults) tag to label adult sites that can be recognized by end-user filters to prevent access by minors.

Interestingly, this seems to be aligned with parents' preferences. Globally, nearly 90% of parents also believe it is primarily their responsibility to regulate their children's digital behavior. More so, the vast majority of parents set limits on their children's digital habits and discuss safe online behaviors with them. However, only about half of American parents use parental control apps, while others utilize less automated oversight, such as checking their children's digital history, providing digital education, and/or enforcing supervised screen time. Most parents surveyed believe this approach is working, as only 1% of these surveyed report their child is not using their device as expected.

Overall, the research suggests that clear communication between parents and children about digital safety combined with device- or network-side controls would significantly increase the safety of minors online without affecting the nation's First Amendment rights.

See Also:

- [How to Use the Parental Controls on a Smartphone](#)
- [How to keep your child safe on their smartphone – the definitive guide](#)

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