

Balancing Priorities in Children's Online Safety Policy: Age Verification, AI, Privacy, & the First Amendment

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Online “Child Safety” Laws

- Step 1 = publishers must sort children from adults using an age authentication “wall”
- Step 2 = publishers must restrict or prohibit children from accessing content or services

See Eric Goldman, *The “Segregate-and-Suppress” Approach to Regulating Child Safety Online*, 28 Stanford Tech. L. Rev. 173 (2025). <https://ssrn.com/abstract=5208739>.

Disclaimer #1: I Oppose Age Authentication Mandates



- Authentication walls break the Internet
 - Also disrupt adult Internet usage
 - Deepen information divides
 - Higher barriers to new entrants
- Authentication creates serious privacy & security risks for children (and adults)
- Children won't be as prepared for their digital futures
 - Children want to be taught and empowered
- Child Safety $\neq$ Child Welfare

For more, see <https://ssrn.com/abstract=5567958>

Disclaimer #2: Constitutional Limits on Age Authentication

Free Speech Coalition, Inc. v. Paxton, 606 U.S. 461 (2025)

Reading #1: online age authentication walls are approved only for content that's obscene as to minors

Reading #2: “adults have no First Amendment right to avoid age verification”

My Definitions

Term	Meaning
Age Authentication	Category label
Age Assurance	👍👎
Age Estimation	Determine age range
Age Verification	Determine age precisely
Age Gate	Self-reporting

Who Authenticates?

- Publisher/service (home-brewed)
- Third-party authentication service
- App store
- Device seller

How to Authenticate?

- Options
 - Visual inspection
 - Document inspection
 - Zero-knowledge proofs
 - Data mining
 - Social vouching
 - [Not credible options: capacity testing, credit cards, self-reporting]
- EFF: “[Authentication] methods don’t each fit somewhere on a spectrum of ‘more safe’ and ‘less safe,’ or ‘more accurate’ and ‘less accurate.’ Rather, they each fall on a spectrum of ‘dangerous in one way’ to ‘dangerous in a different way.’...[E]very solution has serious privacy, accuracy, or security problems”
- Special challenges to authenticate parental status

More Dilemmas

- What level of authentication precision?
 - What consequences for imperfect authentication?
- Which entities must age-authenticate?
 - “Social media” is undefinable
 - Statutory exclusions can compound the constitutional problems
 - Should large/small entities be treated differently?
(see <https://ssrn.com/abstract=3863015>)
- At what userflow stage must authentication be done?
- Authenticator privacy/security measures