



## **Testimony for the Colorado Senate Business, Labor, and Technology Committee by Aliya Bhatia, Policy Analyst at the Center for Democracy & Technology's Free Expression Project**

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Madam Chair, Mr Vice Chair, and members of the committee. My name is Aliya Bhatia and I work at the Center for Democracy & Technology, a nonprofit, nonpartisan organization established in 1994 to advance civil rights and civil liberties online<sup>1</sup>.

I thank you for the opportunity to speak to you today about one of several significant concerns we have with SB 158. While protecting children's safety online is a laudable goal, this bill is likely to do the opposite. By requiring social media companies to collect more data on users to verify their ages, this bill puts children and all other internet users' privacy at risk and creates barriers for all internet users' ability to access information online.

Currently, many of the online services covered by this bill may ask for your date of birth when you create an account. But this bill will require social media services to go a step beyond that and "use a commercially reasonable method to verify" age. Available methods may include collecting proof of ID like driver's licenses, machine learning methods like facial scanning or voice pattern analysis, or signal analysis like using search terms or a user's friends to estimate a user's age.<sup>2</sup> Each of these methods raises significant equity, free expression, and privacy concerns.

Age verification methods can impact specific communities differently. Young children often don't have ID or do not have access to their own since in most cases parents or guardians hold onto minors' credentials. Thus, for any company that uses an ID-based age verification method, this requirement will become akin to a parental consent law even for teenagers who have a reasonable need to access information online privately. Colorado has been a leader in ID-inclusivity but even the best systems have gaps.<sup>3</sup> Immigrants, individuals who have transitioned but not changed their IDs, and many others may have outdated or limited access to IDs.

Social media companies that instead rely on machine learning methods to estimate a user's age based on their facial features, voice patterns or other proxy signals for age such as search queries will fare no better. These methods are more likely to be error prone for people with disabilities, people of color, and non-binary people and may incorrectly assign an adult user of color or non-binary adult as a child user, limiting their ability to use online services freely. Even if

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<sup>1</sup> Learn more about the Center for Democracy & Technology at [cdt.org](https://cdt.org).

<sup>2</sup> Scott Brennan and Matt Perault, "[Keeping Kids Safe Online: How Should Policymakers Approach Age Verification?](#)", The Center for Growth & Opportunity at Utah State University, June 2023.

<sup>3</sup> "[Colorado Legal Services sees uptick in number of Coloradans seeking help to obtain IDs](#)", Colorado Legal Services, August 2023.

online services create a backstop by requiring those users who appeal an age decision a machine learning system makes to provide proof of ID, that will further download greater risks to privacy onto an already marginalized group.

Mandating the use of age verification technologies will bake these inequities into law and result in limiting users' access to information online. Those services that require users to provide proof of ID to verify age will limit users' ability to access sensitive information anonymously. 1609(1) of SB24-158 requires social media companies to preserve data and metadata associated with the user's identities and activities online for at least one year and share it with law enforcement upon request.<sup>4</sup> This is likely to chill users' ability to express themselves and access information freely. Individuals looking for resources from Alcoholics Anonymous or information related to LGBTQ+ identity, domestic violence, or reproductive healthcare are unlikely to want to show ID before accessing this content.<sup>5</sup> Having their online identity be traced could potentially put all users in harm's way, particularly children who have unsupportive parents or those facing abuse.

Age verification processes will require all online services to collect, process, and temporarily preserve even more sensitive user data than they already do. Adding to the trove of user data an online service already processes will put users' privacy at risk should the online service face a security breach by malicious actors.<sup>6</sup>

I thank you for the opportunity to speak today in front of the Senate committee and I am happy to answer any questions from the Chair and members.

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<sup>4</sup> Colorado Senate Bill 24-158 "[Social Media Protect Juveniles Disclosure Reports](#)" introduced in the Senate Business, Labor, and Technology Committee.

<sup>5</sup> Shoshana Weissman, "[Age-verification methods, in their current forms, threaten our First Amendment right to anonymity](#)", R Street Institute, June 2023.

<sup>6</sup> Emma Roth, "[Online age verification is coming, and privacy is on the chopping block](#)", The Verge, May 2023.