

# Senate Judiciary Hearing on Kid's Privacy – Sunny with a Chance of Section 230 Reform

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As we've described [here](#), the Senate made major strides last year on legislation to protect children's privacy and safety online. Indeed, two bipartisan bills sailed through a Commerce Committee [markup](#), though they didn't ultimately make it to the floor for a Senate vote. This year, kids' privacy is once again getting attention, beginning with a February 14 [Senate Judiciary Committee hearing](#) on the issue. Members used the hearing to tout last year's bills and mention some new ones, too. They also touched on other top-of-mind issues involving the tech industry, such as Section 230 reform and encryption.

Of note, Senators Blumenthal and Blackburn discussed the [Kids Online Safety Act](#) (KOSA) (their bill from last year, just re-introduced), which would impose a "duty of care" on tech companies and shield young people from harmful content. Senator Hawley, in turn, talked up his Making Age-Verification Technology Uniform, Robust, and Effective Act ([MATURE Act](#)), which would enforce a minimum age requirement of 16 for users of social media platforms. (As noted below, panelists were quite skeptical that this would work.)

The event highlighted, once again, the bipartisan interest in tackling the harms that minors face online. Here's more detail on what happened:

## **First up, opening remarks from Chairman Durbin (D-Ill.), Ranking Member Graham (R-S.C.), and Senators Blumenthal (D-Conn.) and Blackburn (R-Tenn.)**

**Chairman Durbin** kicked off the hearing by explaining that the internet and social media have become a threat to young people. He noted that while the Internet offers tremendous benefits, cyberbullies can hurt kids online via platforms like Facebook and Snapchat. Durbin stated that "we don't have to take" the lucrative business that the platforms (who were not in attendance) have created to keep kids' eyes glued to the screens. He said that the addictive nature of the platforms has created a mental health crisis – causing anxiety, stress, and body image issues, for example – which can lead to tragic results.

**Sen. Graham** announced that he and **Sen. Warren** (D-Mass.) are working on a [bipartisan bill](#) to create a Digital Regulatory Commission with the power to shut down websites that don't engage in "best business practices" to protect children from sexual exploitation online. He also expressed concern about the lack of regulatory oversight for the abuses of social media.

**Sen. Blumenthal** promoted KOSA, and also committed to major reform of Section 230. **Sen. Blackburn** echoed these sentiments, describing social media as the Wild West: the kids are the product, there are very few rules, and data is taken and sold to advertisers. Blackburn added that

she wants social media to be safer by default, not something that becomes safer after a consumer takes additional steps. She also said that she supports transparent audits of company practices.

### **Next, the Statements from Witnesses**

**Kristin Bride** is a Survivor Parent and Social Media Reform Advocate whose son took his own life after being cyberbullied via anonymous messaging apps on Snapchat. She explained how she was ignored when she reached out to the apps for help in learning the bullies' identities. Then, when she filed a [class action](#) against Snap, it was dismissed due to Section 230 immunity. While Snap did remove the anonymous messaging apps after she filed the class action, she has seen new apps pop up that charge children to reveal the identities of those sending harmful messages.

**Emma Lembke**, a sophomore in college and the founder of the Log Off movement, expressed frustration with being a passive victim of big tech, saying that social media led her to disordered eating. She also stressed the importance of including young people in efforts to effect change.

**Michelle DeLaune** is President and CEO of the National Center for Missing & Exploited Children. One of her chief concerns is companies' use of end-to-end encryption. Encryption allows people to send messages that platforms cannot read or flag for harmful content. She described this as "turning off the lights" on content that exploits children.

**John Pizzuro** is the CEO of Raven and a former Commander of the Internet Crimes Against Children Department of the New Jersey State Police. He explained that police are overburdened with cybercrime reports, forcing them to become far more reactive and less proactive in protecting children online.

**Dr. Mitch Prinstein**, Chief Science Officer at the American Psychological Association, testified that many social media apps are directed to children. He said that the average teen picks up their phone over 100 times per day and spends over eight hours per day on social media, developing a clinical dependency. According to Prinstein, social media stunts kids' ability to develop healthy relationships; increases loneliness, stress, anxiety, and exposure to hateful content; and causes lack of sleep. He supports more federal funding for research on the effects of social media, and believes that manipulating children and using their data should be illegal.

Finally, **Josh Golin**, Executive Director of Fairplay, said he supports policies to make the internet safe, non-exploitative, and free of Big Tech. He said that digital platforms are designed to maximize engagement because companies make more money the longer kids spend online. They use manipulative design and relentless pressure to entice kids to use the platforms as often as possible, thereby profiting from targeted ads. Golin supports limits on data collection; banning surveillance advertising based on teen's vulnerabilities; holding platforms liable for design choices that affect young people; and requiring transparency for algorithms.

### **Questions from the Committee**

Committee members asked an assortment of questions, some related to kids' privacy and others related to tech issues more broadly.

**Sen. Durbin** highlighted Section 230 immunity, which last year's [EARN IT Act](#) would amend. **Sen. Whitehouse** (D-R.I.) also said he supported Section 230 reform and that he wants to see class actions like Ms. Bride's be allowed to continue, rather than dismissed on immunity grounds. **Sen. Hirono** (D-HI) cautioned against a wholesale repeal of Section 230 and stressed that any reform should be done carefully. **Sen. Graham** reiterated his support for a Digital Regulatory Commission,

while also noting that repeal or reform of Section 230 would be a step in the right direction.

Others, such as **Sens. Lee** (R-Utah) and **Coons** (D-Del.), asked questions about the complaints received by the National Center for Missing and Exploited Children, and said they support better research on the design choices of social media. **Sen. Coons** added that he supports new mandates for platforms, including a duty of care; limits on data collection from kids; and disclosures regarding how they manage content. (As to the latter, see Coon's bill from last year [here](#)).

**Sen. Blumenthal** echoed the call for further research on social media, including as to the role that it plays in, on the one hand, harming members of the LGBTQ+ community, and, on the other, providing this community with access to important information and connections. Meanwhile, **Sens. Blackburn** and **Grassley** (R-Iowa) mentioned the link between social media and drug-overdose deaths, and **Sen. Ossoff** (D-Ga.) mentioned his [legislation](#), with **Grassley**, to address child exploitation.

Rounding out the discussion, **Sen. Cornyn** (R. Tex.) described the online landscape as “designed” to “hoover up” children's data and stated that he supports legislation to “attack the business model.” **Sen. Klobuchar** (D. Minn.) said she supports imposing a duty of care on companies, as well as requirements to stop companies from pushing harmful content in response to innocent queries (for example, serving content related to disordered eating in response to a search for “healthy food”). **Sen. Welch** said he wants to focus on companies that target more clicks to obtain more ad revenue.

Finally, **Sens. Kennedy** (R-La.) and **Hawley** both pushed for legislation that would ban children under 16 from using social media. The witnesses generally agreed that this is unrealistic.

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That's our snapshot of the hearing. The question now is whether Congress will move forward on kids' privacy legislation and succeed in 2023 where it fell short in 2022. Some related questions are:

- Where is the House on this issue? Will it resume its push for general privacy legislation (see last year's bipartisan [ADPPA](#)) or follow the Senate's lead and focus more narrowly on kids?
- What about the Senate Commerce Committee, which typically leads on privacy issues and could take up other bills, such as Senator Markey's [COPPA 2.0](#), which Markey has said he will re-introduce this year?
- What will happen at the FTC, which has sidestepped its review of COPPA (at least for now) but whose [“commercial surveillance” rulemaking](#) could affect the kids' and teens' privacy?
- With the Supreme Court seemingly reluctant to alter the scope of Section 230, will Congress tackle this issue in a serious way?

Stay tuned as we continue to track these and other developments related to kids' privacy.