

March 4, 2026

Chair Mary Cavanagh  
Michigan Senate Finance, Insurance, and Consumer Protection Committee  
Binsfeld Office Building  
201 Townsend Street, Room 1200  
Lansing, MI 28933

Dear Chair Cavanagh and Members of the Committee:

We write in support of SB 758, the Michigan Kids Code Act. The Electronic Privacy Information Center (EPIC) is an independent nonprofit research organization founded 30 years ago to protect privacy, freedom of expression, and democratic values in the information age.<sup>1</sup> In recent years, EPIC has been very involved in defending reasonable kids' online safety laws from the tech industry's First Amendment challenges. And we bring the expertise gained from our involvement in those legal challenges to help state legislators craft strong kids online safety laws that can withstand constitutional challenge.<sup>2</sup>

EPIC supports the Kids Code approach and has published its own model Age-Appropriate Design Code bill informed by our expertise in data protection, design regulation, the First Amendment, and Section 230.

There is an urgent need for Michigan to pass the Kids Code. Kids spend a lot of time online—often more than they would like. This is by design.<sup>3</sup> Companies design their platforms to

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<sup>1</sup> EPIC, *About EPIC*, <https://epic.org/about/>.

<sup>2</sup> EPIC, *Platform Accountability & Governance*, <https://epic.org/issues/platform-accountability-governance/>.

<sup>3</sup> See Arvind Narayanan, *Understanding Social Media Recommendation Algorithms*, The Knight First Amendment Institute at Columbia University 20–22 (2023), [https://s3.amazonaws.com/kfai-documents/documents/4a9279c458/Narayanan---Understanding-Social-Media-Recommendation-Algorithms\\_1-7.pdf](https://s3.amazonaws.com/kfai-documents/documents/4a9279c458/Narayanan---Understanding-Social-Media-Recommendation-Algorithms_1-7.pdf).

extract as much time and data as possible, and in the process they prey on minors' psychological vulnerabilities for profit.<sup>4</sup> These manipulative design strategies lead to compulsive use, depriving minors of control of their online experiences and subjecting them to heightened health, privacy, and data security risks, all so that companies can generate more revenue. The design of these platforms is what is harming kids and teens, and regulating design is the best solution.

Kids also often have bad experiences online. Many of these bad experiences can be traced to their lack of control over key aspects of their online experiences, like who can contact them and what content they see in their feeds. This lack of control undermines their autonomy and increases the risk of secondary harms like cyberbullying, sexual exploitation, bodily injury, and mental health harms.

We do have a few suggestions for further strengthening the Michigan Kids Code.

First, the Michigan Kids Code allows the Attorney General to prohibit data processing and design features that facilitate compulsive use or otherwise manipulate minors, which is a useful mechanism for allowing the law to keep up with changes in technology. But there is no need to wait for a rulemaking to prohibit certain design features that are known today to induce compulsive use, such as autoplay, infinite scroll, and intermittent variable reward schedules. We recommend adding such prohibitions.

Another mechanism that would help the law keep up with changes in technology would be a requirement for large companies to proactively mitigate the risk of compulsive use *before*

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<sup>4</sup> 5Rights Foundation, *Disrupted Childhood: The Cost of Persuasive Design* 19-21 (Apr. 2023), [https://5rightsfoundation.com/wp-content/uploads/2024/08/5rights\\_DisruptedChildhood\\_G.pdf](https://5rightsfoundation.com/wp-content/uploads/2024/08/5rights_DisruptedChildhood_G.pdf).

offering design features to minors. Such a requirement would force companies to integrate privacy and safety into their design process from the beginning and help prevent harm to minors before it happens.

Second, the bill could give kids more control over their online experiences by requiring companies to provide kids additional tools to control the people who can contact them and the content they see in their feeds.

Finally, the Michigan Kids Code should use a constructive knowledge standard in the definition of a covered minor. This means a user would be considered a covered minor if the platform knew or *should* have known that the user is under 18. This will stop businesses from turning a blind eye to information indicating that a consumer is a minor without requiring the business to collect any additional information to estimate the consumer's age.

Parents can't solve this problem on their own, and they shouldn't have to. The design of these platforms is the problem, and regulating design is the solution. The companies building these products must take responsibility for their harmful design choices and be required to integrate privacy and safety into their products.

Thank you for the opportunity to testify in support of this important bill. We have provided a copy of EPIC's Model AADC to the Committee. EPIC is eager to remain a resource for the Michigan Legislature as this bill moves through the legislative process. Please contact Suzanne Bernstein at [bernstein@epic.org](mailto:bernstein@epic.org) with any questions.

Respectfully submitted,

/s/ Caitriona Fitzgerald

Caitriona Fitzgerald  
EPIC Deputy Director

/s/ Megan Iorio

Megan Iorio  
EPIC Senior Counsel

/s/ Suzanne Bernstein

Suzanne Bernstein  
EPIC Counsel