

## SCREEN Act

In the last 30 years, Congress has enacted numerous bills to prevent children from being able to access online pornography, however each bill (with one exception) has been struck down by the Supreme Court, failing to pass First Amendment scrutiny.

Within each case, the Supreme Court found that Congress did have a “compelling government interest” to shield children from pornographic content, but did not use the least restrictive means to achieve such interest. The Court even suggested that personal “blocking and filtering software” could be a less restrictive alternative.

In the 20 years since the Supreme Court last took up this issue, such technology has proven to be ineffective in protecting children from accessing online pornographic content with nearly 80% of teenagers between the ages of 12-17 exposed to pornography.<sup>1</sup> This is especially alarming because of the unique psychological effects pornography has on minors, including anxiety, addiction, low self-esteem, body-image disorders, an increase in problematic sexual activity at younger ages, and an increased desire among minors to engage in risky sexual behavior.<sup>2</sup> The urgency of this problem is evidenced by seventeen states that have recently recognized pornography as a public health hazard that leads to a broad range of individual harms, societal harms, and public health impacts.<sup>3</sup>

Technology has vastly improved in the last 20 years and Sen. Lee believes that age verification technology is now the least restrictive means for Congress to fully achieve its compelling government interest of shielding children from online pornographic content.

### **Bill Specifics:**

The Shielding Children’s Retinas from Egregious Exposure on the Net (SCREEN) Act requires all commercial pornographic websites to adopt age verification technology to ensure a child cannot access its pornographic content. Specifically, the SCREEN Act:

- Directs the Federal Communications Commission (FCC) to issue a rule to require commercial pornographic websites to adopt age verification technology to ensure that users of the website are not children.
- Within the required rule, the FCC is required to:
  - Set a “more likely than not” verification standard for pornographic websites for the purposes of determining whether the user of a pornographic website is a child or not.
  - Allow pornographic websites to choose their method of age verification provided that it meets the FCC’s verification standards and prohibits a child from accessing the pornographic content on the website.
  - Permit websites to contract with third party age verification providers to carry out the verification requirements, and
  - Establish an audit process to ensure compliance with the rule as well as ensure no identifiable user data is shared with the federal government.
- Grants the FCC the necessary enforcement powers (both civil penalty and injunctive relief) to enforce the verification rule. Requires the FCC to provide proper warning and opportunity to cure violations prior to any enforcement action to be taken with some injunctive enforcement power unable to be used until a website is non-compliant for 30 days.

---

<sup>1</sup> Barna, *Teens and young Adults Use Porn More Than Anyone Else*, January 28, 2016, available at <https://www.barna.com/research/teens-young-adults-use-porn-more-than-anyone-else/>

<sup>2</sup> Bravehearts, *An Overview of Research on the Impact that Viewing Pornography has on Children, Pre-Teens, and Teenagers*, July 2017, available at [https://bravehearts.org.au/wp-content/uploads/2018/01/Research-Report\\_Overview-of-research-into-the-effects-of-viewing-pornography-on-children....pdf](https://bravehearts.org.au/wp-content/uploads/2018/01/Research-Report_Overview-of-research-into-the-effects-of-viewing-pornography-on-children....pdf)

<sup>3</sup> American Journal of Public Health, *Should Public Health Professionals Consider Pornography a Public Health Crisis?*, February 2020, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6951382/>. Notably, Utah was the first state to make the declaration.