



March 25, 2024

Members of the Committee on Business, Labor, and Technology  
Colorado State Capitol  
200 E Colfax Ave  
Denver, CO 80203

**S.B. 158: Concerns Regarding the Impact on LGBTQ+ Users and Youth Online**

Dear Members of the Committee,

LGBT Tech is one of the nation's premier organizations working to bridge the technology gap for LGBTQ+ individuals through partnerships with non-profit groups, policy makers, scholars, industry, and innovators. Alongside policy work, LGBT Tech's programmatic branch distributes technology, grants, and education to LGBTQ+ community centers across the United States, including centers in Denver, Colorado Springs, Four Corners, Boulder, and Longmont. As advocates for the LGBTQ+ community and members of the community ourselves, we appreciate the opportunity to share thoughts on Colorado Senate Bill 158. We acknowledge and respect the bill's intention to safeguard minors and improve the experiences they have online. However, we must emphasize that the potential harms posed by certain provisions in the bill are too egregious to overlook; and write to express our serious concerns on the impact that, as it stands, S.B. 158 would have on vulnerable and marginalized Coloradans.

We estimate that there are more than 111,000 LGBTQ+ teenagers between the ages of 13 and 17 in the state of Colorado, roughly the same population as the city of Pueblo. For these youth, and millions of others around the United States, online spaces are where they connect, learn, and grow. Three-fourths of LGBTQ+ youth are [more honest](#) about themselves online, and when faced with unaccepting local



communities and a lack of physical resources, that access has [proven](#) life-saving. Below we outline several areas of S.B. 158 that, as currently written, we feel do not strike the right balance between protecting the privacy, safety, and mental health of youth online and allowing youth to explore their identities, seek resources, and find community.

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### **Age Verification Provisions**

Senate Bill 158 mandates that social media platforms implement commercially reasonable age verification processes, a provision that risks the access and privacy of all users involved. Age verification like this will serve as a barrier to access for many, and a direct line to isolation for those who rely on platforms the most. The most frequently suggested method of verification is government-issued IDs, a conflict when we [know](#) that millions of Americans – primarily young and marginalized– lack this form of documentation. A mere 25% of 16-year-olds even [have](#) a driver’s license, and 43% of transgender Americans [lack](#) identity documents that correctly reflect their names or gender. Even where measures attempt to account for those without government-issued IDs, research [shows](#) that no existing methods of age verification are able to reliably confirm age in a way that both covers the entire population and protects their data privacy in the process.

For LGBTQ+ users in particular, these concerns are exacerbated by the historical challenges faced by the community in maintaining their privacy. By requiring users to tie personally identifiable information to their accounts, users are left not only at risk of inadvertently disclosing LGBTQ+ status, but of that information being accessed in a data breach or cyberattack, which can only be expected to worsen if platforms are required to gather personal information attractive to malicious actors. These risks also extend past the community, as to effectively identify one age group, platforms must collect and verify the



information of all users. Whether 16 or 65, LGBTQ+ or not– every Coloradan online will be required to entrust their sensitive information to platforms and their third-party services.

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### **Parental Control Measures**

While the bill's efforts to put parents in the driver's seat of their children's online experiences are commendable in their intent, they are also distinctly dangerous for LGBTQ+ youth. Research [shows](#) an increased risk of verbal, emotional, and physical abuse for LGBTQ+ youth at home after coming out, and only 38% of LGBTQ+ teenagers [report](#) that their homes are affirming spaces. In comparison, 68% of LGBTQ+ teenagers [say](#) online spaces are affirming. For transgender and non-binary youth, online spaces are [twice](#) as likely to be affirming as their homes. Where LGBTQ+ young people lack access to in-person services, community, resources, and visibility, social media can represent a safe exploration of self, and studies [show](#) that that LGBTQ+ youth who have used online communities for support have a lower risk of attempting suicide than those without access. By allowing parents to control and track the content and behavior of minors, S.B. 158 risks disclosing status to family members and guardians who, in far too many cases, may not be supportive of their child's identity.

The parental control measures outlined in S.B. 158 also raise concerns around verifying the parental relationship or guardianship. Vague language in the bill leaves it open to misuse by bad actors seeking to control the behavior of others by designating themselves parents when they are not. Additionally, for the many LGBTQ+ youth in non-standard living situations including unhoused youth with no parental relationships– numbers [show](#) that an astonishing 40% of unhoused teenagers in this United States are part of the LGBTQ+ community – S.B. 158 leaves unclear who would be responsible for monitoring the online experiences they rely so heavily on for support and resources.

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## **Defining “Sexual” Content**

While preventing the dissemination of harmful and explicit content online is a legitimate objective, the vague language of S.B. 158 defining what “sexual” content encompasses presents a direct threat to LGBTQ+ content and the young users looking for it. Discriminatory policies that impact LGBTQ+ presentation, education, and rights have, historically, been driven by the perception of LGBTQ+ identity and expression as inherently sexual. Ambiguous definitions or overly broad categorizations of content allow those same biases to take root in digital spaces. Unintentional censorship online has been [shown](#) to disproportionately target LGBTQ+ content as sexual. Couple this with moderation technologies that are still vulnerable to biases and error, and even the most innocuous LGBTQ+ content, like an explanation of gender affirming surgery or a photo of two men kissing, faces the risk of suppression or removal for potentially falling under a vague definition of “sexual.”

The very real impact of these unintentional harms can be seen in wake of the Stop Enabling Sex Traffickers Act (SESTA) and the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA), collectively known as SESTA / FOSTA. Enacted in 2018, these laws aimed to combat online sex trafficking but ultimately [caused](#) significant collateral damage to marginalized communities like the LGBTQ+ community. Platforms fearful of legal repercussions began over-censoring content and resources related to sexuality and sexual health, and LGBTQ+ educators, activists, and organizations found themselves flagged, restricted, and removed by overreaching automated systems and algorithms. Much like SESTA / FOSTA, S.B. 158 runs the risk that well-meaning and protective intent will be dwarfed by the resulting harms for vital LGBTQ+ content and services online.

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As you consider the crucial issues around protecting youth online, we implore you to remember that for LGBTQ+ youth, preserving access is a matter of safety and community. We urge the Committee to



conduct a thorough review and revision of S.B. 158 to address these concerns. Any provisions or language that restrict access must be carefully assessed to determine the risks for vulnerable populations—and as written, the risks of S.B. 158 are far too great.

We appreciate your time and thank you for considering the needs of the LGBTQ+ community and other marginalized users as part of a commitment to creating a safe and inclusive digital environment for all Coloradans.

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos Gutierrez". The signature is fluid and cursive.

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A handwritten signature in black ink, appearing to read "Shae Gardner". The signature is fluid and cursive.

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