

The Foreseeable Child

Age verification bypass, the fraud that never was, and the architecture of deflected responsibility

Age verification is now the law of three continents, and children defeat it continuously, not with sophisticated tools but with a borrowed face, a purchased account, a birthdate field that believes whatever it is told. When a child gets through a mandated gate and is harmed, the architecture is designed never to answer one question: who is responsible? This paper maps the deflection that answers "no one," and dismantles it joint by joint on each deflecting party's own legal materials.

Both walked through in minutes. Both were exactly the events the gate existed to prevent.

THE CHILD, GOING IN

Age 11, in her sister's makeup. The facial estimator, within its own published error band, waves her through.

THE ADULT, COMING THE OTHER WAY

A \$5 resale account, pre-verified into a child's bracket, into the child-only spaces the gate was built to seal.

When harm lands on the far side, the strange property appears: **the more parties who could answer, the more confidently each points at the next.**

"Where a certified system is bypassed by a highly sophisticated bad actor, the platform is generally protected." The sentence turns an eleven-year-old into the bad actor.

MOVEMENT 1

The child cannot be culpable, on contract, fraud, and protective-statute grounds.

MOVEMENT 2

The bypass cannot supersede, because it is the very hazard the duty targets.

MOVEMENT 3

The compliance shield dissolves in all three jurisdictions, each for a different reason.

The Mandate Wave and the Architecture of Deflection

Three continents of gates, a bypass record measured in days, and four interlocking scripts

Three continents wrote gates. All four regimes rule self-declaration out.

UNITED STATES ~half the states; H.B. 1181 upheld in <i>Paxton</i>; App Store Act live June 2026; COPPA beneath.	UNITED KINGDOM "Highly effective age assurance"; four Ofcom criteria; fines to 10% of global revenue.	EUROPEAN UNION Article 28 DSA; July 2025 guidelines, accurate, reliable, robust; self-declaration excluded.	AUSTRALIA An outright statutory ban on social media accounts for under-16s, in force since 2025.
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Sources Tex. Civ. Prac. & Rem. Code ch. 129B; Free Speech Coal. v. Paxton, 606 U.S. 461 (2025); Online Safety Act 2023, c. 50 (UK); Digital Services Act art. 28; Online Safety Amendment (Social Media Minimum Age) Act 2024 (Cth); Gilly, sec. II.

\$5

bought a pre-verified minor-status account on eBay within days of Roblox's facial-verification mandate, an adult's ticket into child-only chat.

The record shows the gate's own threat model walking through the gate.

Not exotic, documented within days (so operators have actual knowledge for the gate's whole life), and the population coming through is the population it was built for. Eight of eight top platforms still relied on **self-declaration**, the one method every regulator ruled out.

Every exit depends on one word doing the work: fraud.

THE PLATFORM Compliance "We deployed the method the mandate named."	THE VENDOR Fraud "Our system was defeated by the user's deception."	THE STATE Silence Immune, and its unreachability makes "we complied" terminal.	THE CHILD The residual The only actor left at the scene, recast as the wrongdoer.
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The whole structure needs the child's crossing to be a cognizable wrong. **Parts II–III remove the word.**

The Child at the Gate

No instrument, no permitted reliance, and a century of protective-statute doctrine

You cannot build a regime on the worthlessness of a child's word, then prosecute the child's word as fraud.

CONTRACT · NOTHING FORMED

An attestation inside an instrument that never formed is not a warranty, not a term the child breached. A platform charged with knowing its audience cannot read a child's tap as assent.

FRAUD · RELIANCE FORBIDDEN

Fraud needs justifiable reliance. Every age statute exists **because** the law refuses to credit a child's word about her age. The operator was forbidden to rely.

Recovery "shall not be defeated by the very negligence, lack of care and caution that the statute was designed to prevent and make impossible."

It survives the child's own lie. Tamiami held a gun dealer responsible for a 16-year-old who claimed to be over 18, liable even in good faith. No estoppel arises from the child's answer.

It imposes affirmative vigilance. The regulated party "may not rest on the representation" but must "exercise proper vigilance to discover the fact." A candy-factory rule from 1909 states the duty more honestly than the modern statutes.

The Bypass Is the Hazard, and the Hazard Cannot Supersede

A conservation law for responsibility, in Restatement §449

The child getting through is not the chain breaking. The child getting through is the chain.

An event cannot be both the reason a precaution is required and the excuse for its failure. The landlord does not escape the arsonist's fire, because fire is the hazard the trash rule addresses.

RESTATEMENT §449

If the likelihood of the third person's act is the hazard that makes the actor negligent, that act, "whether innocent, negligent, intentionally tortious, or criminal," does not cut off liability.

And the regulators wrote the hazard down: mitigate circumvention "easily accessible to children."

His crime is real. It still does not launder the platform's antecedent negligence.

He is the other named hazard. A system whose selling point is walling adults out of child rooms cannot treat an adult's entry as a bolt from outside the risk.

The operator watched it advertised. The \$5 resale market was public within days; continuing to run the gate as a compliance showpiece is the least sympathetic position negligence law knows.

The Compliance Shield, Read Against Its Own Text

Absent in all three jurisdictions, for three different reasons, and where responsibility lands

The floor was built with a trapdoor, and the legislatures labeled it.

Statutory compliance is a floor, never a ceiling: "if the defendants knew or should have known of some risk that reasonable measures not required by the regulation would prevent, they were negligent." The bypass record is a knowledge record.

THE LABELED TRAPDOOR

Texas prices a minor-gets-through event at **+\$250,000**; Arizona hands it to the parent as a private action. Pricing the bypass separately concedes the gate was never the end of the duty. And §230 does not reach a claim about the platform's own access-control machinery.

Sources Restatement (Second) of Torts §288C; Miller v. Warren, 390 S.E.2d 207 (W. Va. 1990); Ramirez v. Plough, 6 Cal. 4th 539 (1993); Tex. Civ. Prac. & Rem. Code §129B.006(b); Ariz. Rev. Stat. §18-701; Lemmon v. Snap, 995 F.3d 1085 (9th Cir. 2021); Gilly, sec. VI.A.

The standard makes the bypass record and the compliance claim mutually exclusive.

"Highly effective" is a deployment-performance property, not a label a method carries. **Robustness** is defined by resistance to circumvention "easily accessible to children", makeup, a borrowed account, a \$5 purchase fail it by definition.

Ofcom forecloses the shield by name, twice: a listed method "is not a guarantee" of compliance, and certification "is not an automatic means." **The bypass is evidence the designation was never earned.**

The most comprehensive regimes did not buy the safe harbor. The thinnest keeps the strongest liability.

US · thinnest regime

Strongest residual liability: floor not ceiling, priced bypass, private rights, §230 no bar.

UK / EU · fullest regimes

Effectiveness defined by circumvention-resistance, so every bypass is evidence against the operator.

THE SAFE HARBOR

Lives in one place only: the age-assurance industry's marketing, cited to each other as if it were law.

The one genuine method defense in positive law is the narrow, good-faith-conditioned Texas App Store provision, **deliberately omitted from its Utah twin.**

Responsibility settles where the knowledge sat all along.

THE PLATFORM

Negligence, and negligence per se, for running a gate it knew was defeated. Every defense stripped by Parts II–IV.

THE VENDOR

Negligent misrepresentation and product-design defect. Indemnity clauses only decide who funds the judgment.

THE STATE

Immune, but reachable as design critique: naming methods over outcomes manufactured the whole compliance narrative.

Sources Restatement (Second) of Torts §§286, 288C; Lemmon v. Snap, 995 F.3d 1085 (9th Cir. 2021); Anderson v. TikTok, 116 F.4th 180 (3d Cir. 2024); Gilly, sec. VII.

<i>"But she lied."</i>	A made-up face is not a statement. Where she did misstate, it sits in an unformed instrument and a forbidden reliance, and the gun-shop cases denied this defense a century ago, on stronger facts.
<i>"Perfect verification is impossible."</i>	Beside the point. The claim is about declining feasible, named mitigations for documented failure modes, not about the bypass occurring. Impossibility never excused failing the reasonable measures short of it.
<i>"Compliance must mean something."</i>	It does, competent evidence of due care that defeats many claims. What it has never meant is absolution in the face of specific knowledge of an operating failure mode.
<i>"This proves the project is futile."</i>	Not the argument. Correctly read, the responsibility structure holds the builders to their walls, and refuses to tell the child inside the wall that the crossing was her fraud.

Sources Tamiami Gun Shop v. Klein, 116 So. 2d 421 (Fla. 1959); Miller v. Warren, 390 S.E.2d 207 (W. Va. 1990); Ramirez v. Plough, 6 Cal. 4th 539 (1993); Gilly, sec. VIII.

The deflection survives only by keeping the doctrines apart. Assembled, they close every exit: the child cannot be charged, the bypass cannot supersede, the compliance shield does not exist in the texts. What remains standing are the parties who built the gate, certified it, and kept it running past the day its failure went on sale for five dollars, the parties who knew.

Responsibility is not deflected by the architecture. It is only delayed by it, and the delay ends the first time a court is asked all three questions in the same complaint.

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