

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 207 Social Media Protection for Minors

SPONSOR(S): Rayner

TIED BILLS: IDEN./SIM. BILLS: SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N	Phelps	Anstead
2) Commerce Committee	19 Y, 0 N	Phelps	Hamon

SUMMARY ANALYSIS

Social media platforms are a computer-based technology that facilitate the sharing of ideas, thoughts, and information through virtual communities to allow electronic communication of content. Social media use by children can have positive and negative influences, and providing them with information and external controls can help prevent harmful effects.

The bill defines “social media platform” as a digital platform operating in the state mainly accessed by children under the age of 18 that offers forms of electronic communication through which users are permitted to create online communities to share information, ideas, personal messages, and other content.

Beginning January 1, 2025, the bill requires social media platforms to:

- Disclose policies, using clear language suited to children, related to:
 - Content moderation;
 - Addictive design or deceptive pattern features, including autoplay or infinite scroll;
 - Manipulated photographs or digital images;
 - Consideration of best interests of minors when designing, developing, and providing services;
 - Protections against harmful behaviors, such as bullying and threats of violence; and
 - Collection or sale of personal information of children, including biometrics and geolocation data.
- Provide clear access to the following:
 - Resources for law enforcement, suicide prevention, and domestic violence prevention services;
 - Protective measures such as screen time limitations and other parental settings; and
 - Reporting mechanisms related to harmful behaviors, such as bullying and threats of violence.
- Require children to read and accept a disclaimer on the potential harms of using social media at log in.

The bill requires the above operating requirements to be on the social media platform’s Internet homepage, platform user login page, or in a clearly labeled, conspicuous, and readily accessible link contained on such page.

The bill allows social media platforms to post a statement on their website confirming that it has complied with the operating requirements. If a social media platform does not have such a statement on their website, then all K-12 schools operating in the state that accept state funding may not use or have an account on such platform.

The bill prohibits a public K-12 school from requiring students to participate in social media platforms related to school-sponsored educational activities. Schools may still require student use of portal, email, and message board accounts used for official business with the school, and allow classroom information, materials, or resources to be viewed in a classroom on one screen controlled by instructional or administrative personnel of the school.

The bill will have no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Social Media Platforms

Generally, a social media platform is a computer-based technology that facilitates the sharing of ideas, thoughts, and information through virtual networks and communities. Social media is Internet-based and gives users quick electronic communication of content, such as personal information, videos, and photos. Users engage with social media via a computer, tablet, or smartphone via web-based software or applications.¹

Effects of Social Media on Children

Social media has become an important aspect of a minor's digital interactions, as they use it for entertainment and communication purposes.² Adolescents are constantly in touch with their peers via social media accounts. However, social media has the potential to have both positive and negative effects on their health.³ Some potential safety risks of social media use include:⁴

- Exposure to harmful or inappropriate content.
- Exposure to dangerous people.
- Cyberbullying.
- Oversharing personal information.
- Exposure to excessive advertisements.
- Privacy concerns, including the collection of data about minors.
- Identity theft or being hacked.
- Interference with sleep, exercise, homework, or family activities.

In May 2023, U.S. Surgeon General Dr. Vivek Murthy released an Advisory to call attention to the effects of social media on youth mental health. The Advisory noted that at crucial periods of adolescent brain development, social media use is predictive of decreases in life satisfaction, as well as additional concerns around body image, sleep issues, and much more.⁵ He has also concluded that 13 years old is "too early" for children to use social media, despite most social media companies allowing 13-year-olds to use their platforms. In early adolescence, kids are still "developing their identity, their sense of self."⁶

Other experts agree. For example, psychologist David Greenfield said the platforms lure users with powerful tactics. One is "intermittent reinforcement," which creates the idea that a user could get a reward at any time, but when the reward comes is unpredictable. Adults are susceptible, but young people are particularly at risk, because the brain regions that are involved in resisting temptation and reward are not nearly as developed in children and teenagers as in adults.⁷

¹ Maya Dollarhide, *Social Media: Definition, Effects, and List of Top Apps*, Investopedia.com (Aug. 31, 2023), <https://www.investopedia.com/terms/s/social-media.asp> (last visited Feb. 20, 2024).

² Andrea Irmer & Florian Schmiedek, *Associations between youth's daily social media use and well-being are mediated by upward comparisons*, Communications Psychology (Aug. 22, 2023), <https://www.nature.com/articles/s44271-023-00013-0#citeas> (last visited Feb. 20, 2024).

³ Dollarhide, *supra* note 1.

⁴ Loyola Medicine, *Social Media Safety for Kids and Teens*, <https://www.loyolamedicine.org/about-us/blog/social-media-safety-kids-teens> (last visited Feb. 20, 2024).

⁵ "Social Media and Youth Mental Health," The U.S. Surgeon General's Advisory, May 2023, available at <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf?ref=broadband-breakfast.ghost.io>.

⁶ Lauraine Langreo, *Surgeon General: Kids Under 14 Should Not Use Social Media*, EducationWeek (Feb. 20, 2023), <https://www.edweek.org/leadership/surgeon-general-kids-under-14-should-not-use-social-media/2023/02> (last visited Jan. 31, 2024).

⁷ Matt Richtel, *Is Social Media Addictive? Here's What the Science Says*, New York Times (Oct. 25, 2023), <https://www.nytimes.com/2023/10/25/health/social-media-addiction.html> (last visited Feb. 20, 2024).

Numerous studies and reports have demonstrated the dangers of social media use by children and teens. For example:

- One study conducted by social media and psychology scholars found a link between social media use and poor mental health, especially among girls. The study demonstrated that girls experience a consistent and substantial association between mental health and social media, and such associations were stronger than links between mental health and binge drinking, sexual assault, obesity, and hard drug use.⁸
 - Dr. Jean Twenge, a generational trends scholar, saw the beginning of a mental health crisis starting in 2012 when reviewing mental health metrics that showed rates of depression, anxiety and loneliness were rising, which she points out coincides with the fast rise in use of smartphones in 2012 and all the social media that comes along with them.⁹
- Another study found that social media use causes children to be more sensitive to anticipating social risks. While children generally become more attuned to social interactions as they enter adolescence, those who are frequent, early social media users become particularly sensitive to anticipating social risks and rewards from their peers.¹⁰
 - The researchers found that “habitual” social media users, or those who checked their social feeds 15 times a day or more, responded quicker and more intensely to perceived good or bad emotions from peers, compared to students who checked once a day or less.¹¹
- A study on the effects of social media use on mental health during adolescent development indicates that there are two windows of time when children are most sensitive to detrimental effects of social media, and when higher estimated social media use predicts a decrease in life satisfaction ratings a year later. For girls, the windows occur at ages 11 through 13, and 19; and for boys, the windows occur at ages 14 through 15, and 19.¹²

Social media also provides benefits to teens because it allows them to create online identities, communicate with others, and build social networks, which can provide teens with valuable support, especially helping those who experience exclusion. Social media can expose teens to current events, allow them to interact across geographic barriers, and teach them about a variety of subjects, including healthy behaviors. Also, social media that is humorous or provides a meaningful connection to peers may help teens avoid depression.¹³

According to a study conducted by the Pew Research Center, teens credit social media for helping to build stronger friendships and exposing them to a more diverse world, but they express concern that these sites lead to drama and social pressure.¹⁴

Safety Measures and Parental Controls

⁸ Haidt, J., Rausch, Z., & Twenge, J., *Social Media and Mental Health: A Collaborative Review*, New York University, <https://jonathanhaidt.com/reviews/> (last visited Feb. 20, 2024).

⁹ Michaeleen Doucleff, *The truth about teens, social media and the mental health crisis*, NPR Health Shots (Apr. 25, 2023), <https://www.npr.org/sections/health-shots/2023/04/25/1171773181/social-media-teens-mental-health> (last visited Feb. 20, 2024).

¹⁰ Sarah D. Sparks, *Preteens’ Social Media Habits Could Be Changing Their Brains*, Education Week (Jan. 6, 2023), <https://www.edweek.org/leadership/preteens-social-media-habits-could-be-changing-their-brains/2023/01> (last visited Feb. 20, 2024); Maria T. Maza et. al., *Association of Habitual Checking Behaviors on Social Media With Longitudinal Functional Brain Development*, JAMA Pediatrics (Jan. 3, 2023), <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2799812> (last visited Feb. 20, 2024).

¹¹ *Id.*

¹² Kirsten Weir, *Social media brings benefits and risks to teens. Here’s how psychology can help identify a path forward*, American Psychological Association (Sep. 1, 2023), <https://www.apa.org/monitor/2023/09/protecting-teens-on-social-media#:~:text=During%20those%20windows%E2%80%94around%2011,1649%2C%202022> (last visited Feb. 20, 2024).

¹³ Mayo Clinic Staff, *Teens and social media use: What’s the impact?*, Mayo Foundation for Medical Education and Research, <https://www.mayoclinic.org/healthy-lifestyle/tween-and-teen-health/in-depth/teens-and-social-media-use/art-20474437> (last visited Feb. 20, 2024).

¹⁴ Monica Anderson et. al., *Connection, Creativity and Drama, Teen Life on Social Media in 2022*, Pew Research Center (Nov. 16, 2022), <https://www.pewresearch.org/internet/2022/11/16/connection-creativity-and-drama-teen-life-on-social-media-in-2022/> (last visited Feb. 20, 2024).

Providing children with information on ways to more safely use social media may decrease the harm they experience. Having conversations about the benefits and risks of social media may help promote positive social media usage.¹⁵

Also, parental controls can help protect children from inappropriate content, cyberbullying, and other online safety issues. Generally, parental controls are a group of settings that put a parent in control of what content a child can see.¹⁶ Many websites, games, software, devices, and user interfaces offer the optional use of parental controls. Examples of parental controls include blocking websites, filtering content, imposing limits on screen time, allowing parents to monitor online activity, location tracking, and disabling Wi-Fi.¹⁷

Laws Protecting Children Online

Children's Online Privacy Protection Act (COPPA)

The Children's Online Privacy Protection Act (COPPA)¹⁸ and its related rules, is a federal law that regulates websites' collection and use of children's information. The operator of a website or online service that is directed to children, or that has actual knowledge that it collects children's personal information (covered entities), must comply with requirements regarding data collection and use, privacy policy notifications, and data security.¹⁹

A covered entity may not collect personal information from a child under the age of 13 without the prior, verifiable consent of his or her parent.²⁰

COPPA requires covered entities to:²¹

- Give parents direct notice of their privacy policies, including a description of their data collection and sharing practices;
- Post a clear link to their privacy policies on their home page and at each area of their website where they collect personal information from children;
- Institute procedures to protect the personal information that they hold;
- Ensure that any third party with which they share collected personal information implements the same protection procedures; and
- Delete children's personal information after the purpose for its retention has been fulfilled.

Violations of COPPA are deemed an unfair or deceptive act or practice and may therefore be prosecuted by the FTC. COPPA also authorizes state attorneys general to enforce violations that affect residents of their states. There is no criminal prosecution or private right of action provided for under COPPA.²²

California Age-Appropriate Design Code Act

In 2022, California adopted the California Age-Appropriate Design Code Act (CAADCA),²³ legislation modelled on the United Kingdom's Age Appropriate Design Code,²⁴ which requires online platforms to

¹⁵ Dan Brennan M.D., *How to Talk to Your Kids About Social Media*, WebMD.com (Apr. 9, 2023), <https://www.webmd.com/parenting/how-to-talk-to-kids-about-social-media> (last visited Feb. 20, 2024).

¹⁶ Internetmatters.org, *Parental Controls*, <https://www.internetmatters.org/parental-controls/> (last visited Feb. 20, 2024).

¹⁷ Caroline Knorr, *Parents' Ultimate Guide to Parental Controls*, Common Sense Media (Mar. 9, 2021), <https://www.commonsensemedia.org/articles/parents-ultimate-guide-to-parental-controls> (last visited Feb. 20, 2024).

¹⁸ 16 C.F.R. pt. 312.

¹⁹ See 15 U.S.C. § 6502.

²⁰ 15 U.S.C. § 6502(a)-(b).

²¹ See Federal Trade Commission, *Complying with COPPA: Frequently Asked Questions*, <https://www.ftc.gov/tips-advice/business-center/guidance/complying-coppa-frequently-asked-questions-0> (last visited Feb. 20, 2024).

²² *Id.*

²³ Cal. Civil Code § 1798.99.28-.35

²⁴ 5Rights Foundation, *California follows UK lead as child data protection law is passed*, <https://5rightsfoundation.com/in-action/california-follows-uk-lead-as-child-data-protection-law-is-passed.html> (last visited Feb. 20, 2023).

adhere to strict default privacy and safety settings that protect the best interest of children.²⁵ CAADCA covers children under 18 years of age.²⁶

CAADCA requires certain businesses that provide an online service, product, or feature that is likely to be accessed by children to comply with several new requirements and restrictions, including:²⁷

- Prohibitions on using any personal information that it knows or should know is materially detrimental to a child's physical or mental health and/or wellbeing; and
- Prohibitions on obscuring user interface features to deliberately defeat consent or manipulate children into providing unnecessary personal information, otherwise called "dark patterns."

Such businesses must complete a Data Protection Impact Assessment for any new feature they wish to offer to the public if it is likely to be accessed by children, which will determine if any dark patterns are employed, if there is an asymmetrical reward, or if targeted advertisements are deployed in a way that could harm or exploit children.²⁸

On September 18, 2023, a federal district court enjoined the CAADCA despite the fact that California has a substantial interest in protecting children because the CAADCA did not appropriately address that interest.²⁹

Required Instruction in Florida Schools

Under Florida's Constitution, unless otherwise voted upon by electors, each county constitutes a school district.³⁰ In Florida, there are 67 school districts to match the 67 counties in the state.³¹ The Florida Constitution further states that each school district must have a school board composed of five or more members.³² The school boards operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.³³ The powers and duties of the district school board are further set forth in law.³⁴

The law requires each district school board to provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education adopted standards³⁵ in the following subject areas:

- reading and other language arts;
- mathematics;
- science;
- social studies;
- foreign languages;
- health and physical education; and
- the arts.³⁶

²⁵ Office of Governor Gavin Newsom, *Governor Newsom Signs First-in-Nation Bill Protecting Children's Online Data and Privacy*, <https://www.gov.ca.gov/2022/09/15/governor-newsom-signs-first-in-nation-bill-protecting-childrens-online-data-and-privacy/> (last visited Feb. 20, 2024).

²⁶ Cal. Civil Code § 1798.99.28-.35

²⁷ Alexander Misakian, *California Enacts the California Age-Appropriate Design Code Act*, Foley Blogs (Sep. 20, 2022), <https://www.foley.com/insights/publications/2022/09/california-enacts-age-appropriate-design-code-act/> (last visited Feb. 20, 2024).

²⁸ *Id.*

²⁹ *See NetChoice, LLC v. Bonta*, No. 22-CV-0881-BLF, 2023 WL 6135551, at *11-20 (N.D. Cal. Sept. 18, 2023).

³⁰ Art. IX, s. 4(a), Fla. Const.; s. 1001.30, F.S. Two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district.

³¹ Florida Department of Education, *Public Schools/Districts*, https://web03.fldoe.org/Schools/schoolmap_text.asp (last visited Jan. 31, 2024). The Florida School for the Deaf and Blind, the Florida Virtual School, and the university laboratory schools are considered independent school districts but their governing boards are not elected.

³² Art. IX, s. 4(a), Fla. Const.

³³ Art. IX, s. 4(b), Fla. Const.

³⁴ Ss. 1001.41–1001.42, F.S.

³⁵ In 2020, the State Board of Education adopted new standards for English language arts and mathematics, called the Benchmarks for Excellent Student Thinking (B.E.S.T.) Standards. The English language arts standards implementation began with the 2021-2022 school year and implementation of the math standards began in the 2022-2023 school year. Rule 6A-1.09401, F.A.C.

³⁶ S. 1003.42(1)(a), F.S.

In addition, the law identifies specific topics a teacher must teach.³⁷ One such topic is comprehensive age-appropriate and developmentally appropriate K-12 instruction on health education that addresses concepts of community health, consumer health, environmental health, and family life, including:

- injury prevention and safety;
- Internet safety;
- nutrition;
- personal health;
- prevention and control of disease;
- substance use and abuse; and
- prevention of child sexual abuse, exploitation, and human trafficking.³⁸

Teachers must teach the topics specified in law efficiently and faithfully, using books and materials meeting the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction.³⁹ Unless otherwise specified, the law generally does not prescribe grade level, instructional hours, or instructional materials requirements for these topics.

While not required, an elective course on social media⁴⁰ is available in CPALMS.⁴¹ A school may offer this social media course to enable students in grades 9 through 12 to develop fundamental skills in the use of social media across print, multimedia, web, and broadcast platforms, including ethical and legal uses. The content of the elective course should include, but not be limited to, the following:⁴²

- Demonstrating entry-level skills in digital communication and packaging them across the platforms/mediums of print, multimedia, online, and broadcast;
- Demonstrating fundamental skills in social media platforms and their uses; expressing social connections with maturity and complexity appropriate to writer, audience, purpose, and context;
- Using fundamental research skills and networking formats;
- Collaborating amongst peers; and
- Using effective listening, speaking, and viewing strategies with an emphasis on the use of evidence to support or refute a claim in multimedia presentations, class discussions, and extended text discussions.

Effect of the Bill

The bill defines “social media platform” or “platform” to mean a digital platform operating in the state predominantly accessed by platform users who are under the age of 18 that offers forms of electronic communication through which such platform users are permitted to create online communities to share information, ideas, personal messages, and other content.

Beginning January 1, 2025, the bill requires social media platforms to:

- Disclose the following social media platform policies, in a manner that is clearly, concisely, prominently, and understandably written, using clear language suited to the age of users likely to routinely access the platform without unrelated, confusing, or contradictory materials:
 - The content moderation policies used by the social media platform for content on the platform.
 - Whether the social media platform uses or allows the use of addictive design or deceptive pattern features including autoplay or infinite scroll.
 - Whether the social media platform allows manipulated photographs or digital images to be shared on the platform.

³⁷ S. 1003.42(2)(a)-(t), F.S.

³⁸ S. 1003.42(2)(n)1.a.-g., F.S.

³⁹ S. 1003.42(2), F.S.

⁴⁰ CPALMS, Course, *Social Media 1 (#1006375)*, <https://www.cpalms.org/PreviewCourse/Preview/17758>, (last visited Feb. 20, 2024).

⁴¹ CPALMS is the State of Florida’s official source for standards information and course descriptions. It provides access to thousands of standards-aligned, free, and high-quality instructional/educational resources that have been developed specifically for the standards and vetted through a rigorous review process. CPALMS, *About CPALMS*, http://www.cpalms.org/CPALMS/about_us.aspx, (last visited Feb. 20, 2024).

⁴² CPALMS, *supra* note 40.

- Whether the social media platform considers the best interests of minors when designing, developing, and providing services.
- The methodology the social media platform uses to consider the best interests of minors when designing, developing, and providing services.
- The policies and protections used by the social media platform to protect against harmful behaviors, such as bullying, harassment, and threats of violence or self-harm.
- Whether the platform collects or sells personal information of platform users who are under the age of 18, including personal identifiers, biometrics, and geolocation data. If such personal information is collected, the platform must disclose the type of personal information is collected and the purpose for such, and if such personal information is sold, the platform must disclose to whom the information is sold.
- Provide clear access to the following:
 - Zip code-based references to local resources for law enforcement, suicide prevention, and domestic violence prevention services.
 - Protective measures such as screen time limitations, data usage limitations, content filters, and other parental settings.
 - Reporting mechanisms related to harmful behaviors, such as bullying, harassment, and threats of violence or self-harm

The bill requires the above operating requirements to be on the social media platform's Internet homepage or platform user login page or through a clearly labeled, conspicuous, and readily accessible link contained on such page.

The bill requires, at the time of log in, and before obtaining access to the platform, a social media platform to require platform users who are under the age of 18 to read and accept a disclaimer which must be in substantially the following form:

This application may be harmful to your mental health and may use design features that have addictive qualities or present unverified information, or that may be manipulated by [insert platform name] or others for your viewing. This application may also collect your personal data to further manipulate your viewable content and may share your personal data with others.

The bill prohibits a public K-12 school from:

- Using or having an account on a social media platform that does not have a compliance statement on its Internet homepage or platform user login page.
- Requiring students, regardless of age, to register, enroll, or participate in a social media platform as a means to access information, materials, or resources related to school-sponsored educational activities.

Schools may still require student use of portal, email, and message board accounts used for official business with the school, and classroom information, materials, or resources viewed in a classroom on one screen controlled by instructional or administrative personnel of the school.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 501.174, F.S.; providing a definition; requiring social media platforms to disclose specified policies and provide specified resources, measures, and disclaimers; authorizing social media platforms to post specified compliance statements on their Internet homepage or platform user login page; prohibiting certain schools from using or having an account on certain social media platforms and from requiring students to register, enroll, or participate in social media platforms for educational purposes; providing applicability.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will require social media platforms to expend resources to develop standards and mechanisms to comply with the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

State Authority to Regulate to Protect Minors

Commercial speech is expressions related solely to the economic interests of the speaker and its audience.⁴³ The Constitution accords a lesser protection to commercial speech than to other constitutionally guaranteed expression,⁴⁴ and permit governments to require warnings or disclaimers in order to dissipate the possibility of consumer confusion or deception.⁴⁵ Under the standard for commercial speech scrutiny, if a regulation restricts speech that is neither misleading nor related to unlawful activity, the State must show "at least that the statute directly advances a substantial government interest and that the measure is drawn to achieve that interest."⁴⁶ The U.S. Supreme

⁴³ *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 561 (1980).

⁴⁴ *Id.* at 557.

⁴⁵ *Bates v. State Bar of Arizona*, 433 U.S. 350, 384 (1977).

⁴⁶ *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 572 (2011).

Court has determined that the state has a "compelling interest in protecting the physical and psychological well-being of minors."⁴⁷ In doing so, however, a restriction must "directly advance the state interest involved" and cannot be "more extensive than is necessary to serve that interest."⁴⁸ A restriction "directly and materially advances" the government's interests if the government can show "the harms it recites are real and that its restriction will in fact alleviate them to a material degree."⁴⁹

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁴⁷ *Sable Commc's of California, Inc. vs. F.C.C.*, 492 U.S. 115, 126 (1989).

⁴⁸ *Cent. Hudson*, 447 U.S. at 564-66 (1980).

⁴⁹ *Fla. Bar v. Went For It, Inc.*, 515 U.S. 618, 626 (1995).