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## 2021 Assembly Bill 530 Testimony of Representative Cody Horlacher October 21, 2021

Chairman Wichgers and members of the Assembly Committee on Constitution and Ethics, thank you for having me here today to testify on Assembly Bill 530.

Social media has become a part of almost every Wisconsinite's daily life. People use social media to keep up with family, stay up-to-date on the news and share their thoughts and ideas with others.

As people use social media platforms like Facebook and Twitter to share those thoughts and ideas with each other, First Amendment free speech concerns are at the forefront of users concerns. That's because as political speech proliferates these sites, the Big Tech companies that own them have unfortunately seen fit to censor speech they do not agree with. Not only do these companies suppress the free exchange of ideas, they even ban users from their sites just for expressing personal views.

The result has been that people on both sides of the political aisle have seen social media punish their exercise of constitutionally protected free speech.

That's wrong. People should be able to engage in the free expression and exchange of ideas. Therefore, Assembly Bill 530 seeks to make the social media giants more accountable and transparent. This bill requires Big Tech companies do to the following:

1. Publish their moderation standards
2. Apply moderation *consistently* among *all* of its users
3. Notify and explain certain censoring actions they take and provide an annual notice of the types algorithms they use when they moderate content
4. Allow users to opt out of their algorithms' post prioritization

AB 530 would also prohibit social media platforms from censoring content by or about political candidates or elected officials in Wisconsin. If the Big Tech companies *did* take such prohibited actions, the bill allows a user of a social media platform to bring a private cause of action against that social media platform. The bill provides that in such a private cause of action, a court may

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award statutory damages of not more than \$250,000 for each proven claim involving statewide candidates and elected officials, \$200,000 for each proven claim involving other candidates and elected officials, or \$100,000 for each proven claim involving other users. It would further allow actual damages, punitive damages if certain aggravating factors are present; costs and attorneys' fees, and any other form of relief a court would deem just and equitable.

Big Tech has developed a monopolistic grip on social media platforms, and has used that grip to suppress the free speech of Wisconsinites. Assembly Bill 530 would ensure the people of our State maintain the ability to engage in the free expression of ideas and opinions.

Thank you for your time.



# **JULIAN BRADLEY**

WISCONSIN STATE SENATOR

## **Assembly Committee on Constitution and Ethics**

Thursday, October 21, 2021

### **Assembly Bill 530**

Chairman Wichgers and committee members,

The First Amendment is under attack. Recently, social media has been monitoring, fact-checking and censoring posts by people across the political spectrum that's advantageous to elites' political agendas. Social media, which state and federal courts are now saying are constitutionally protected forums, should be a place where free speech flourishes and thrives. But that's not the case.

It's time that we ensure that Mark Zuckerberg, Jack Dorsey, and their Silicon Valley liberal allies cannot restrict Wisconsinites' political speech in these essential public spaces. That's why Representative Horlacher and I have authored Assembly Bill 530 that's before you today. Free expression is one of the most vital components of our democratic republic. We must ensure our citizens can engage in political speech unfiltered and uncensored by Big Tech.

The bill prohibits social media companies from censoring content by or about candidates in Wisconsin or elected officials. Doing so would allow a citizen to sue a social media platform that violates these provisions, with monetary penalties for de-platforming, as well as punitive damages and attorney fees.

Furthermore, a recent story uncovered by the Wall Street Journal shows that Facebook isn't equitable in monitoring its own terms of use. Today, millions of VIP Facebook users don't have to follow the typical enforcement process. An internal review by Facebook found, "We are not actually doing what we say we do publicly." This unequal treatment must end. Facebook and Twitter must consistently and fairly enforce their own rules, which need to allow for free political speech.

Under this bill, we also require Big Tech companies to do the following:

- Publish their moderation standards,
- Apply moderation consistently across all of its users,
- Give notification and an explanation for specific censoring actions, and provide annual notice of the types of algorithms used in content moderation, among other things, and
- Allow users to opt-out of an algorithm's post prioritization.

There is nothing more critical for the future of our country than the survival of our First Amendment right to free speech and petition the government. Social media can be a valuable tool in making that happen, but business as usual proves that Big Tech will continue to censor Wisconsinites' unless we act and do something about it today.

Thank you for your time. I appreciate your consideration of this bill.