

118TH CONGRESS
1ST SESSION

S. _____

To protect the safety of children on the internet.

IN THE SENATE OF THE UNITED STATES

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To protect the safety of children on the internet.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Kids Online Safety Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Duty of care.
- Sec. 4. Safeguards for minors.
- Sec. 5. Disclosure.
- Sec. 6. Transparency.
- Sec. 7. Independent research.
- Sec. 8. Market research.
- Sec. 9. Age verification study and report.
- Sec. 10. Guidance.

- Sec. 11. Enforcement.
- Sec. 12. Kids online safety council.
- Sec. 13. Effective date.
- Sec. 14. Rules of construction and other matters.
- Sec. 15. Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CHILD.—The term “child” means an indi-
4 vidual who is under the age of 13.

5 (2) COMPULSIVE USAGE.—The term “compul-
6 sive usage” means any response stimulated by exter-
7 nal factors that causes an individual to engage in re-
8 petitive behavior reasonably likely to cause psycho-
9 logical distress, loss of control, anxiety, depression,
10 or harmful stress responses.

11 (3) COVERED PLATFORM.—

12 (A) IN GENERAL.—The term “covered
13 platform” means a social media service, social
14 network, online video game (including edu-
15 cational games), messaging application, video
16 streaming service, or an online platform that
17 connects to the internet and that is used, or is
18 reasonably likely to be used, by a minor.

19 (B) EXCEPTIONS.—The term “covered
20 platform” does not include—

21 (i) an entity acting in its capacity as
22 a provider of—

1 (I) a common carrier service sub-
2 ject to the Communications Act of
3 1934 (47 U.S.C. 151 et seq.) and all
4 Acts amendatory thereof and supple-
5 mentary thereto;

6 (II) a broadband internet access
7 service (as such term is defined for
8 purposes of section 8.1(b) of title 47,
9 Code of Federal Regulations, or any
10 successor regulation);

11 (III) an email service; or

12 (IV) a wireless messaging service
13 provided through the short messaging
14 service or multimedia messaging serv-
15 ice protocols;

16 (ii) an organization not organized to
17 carry on business for its own profit or that
18 of its members;

19 (iii) any public or private preschool,
20 elementary, or secondary school, or any in-
21 stitution of vocational, professional, or
22 higher education; or

23 (iv) a product or service that pri-
24 marily functions as business-to-business
25 software.

1 (4) MENTAL HEALTH DISORDER.—The term
2 “mental health disorder” has the meaning given the
3 term “mental disorder” in the Diagnostic and Sta-
4 tistical Manual of Mental Health Disorders, 5th Edi-
5 tion (or the most current successor edition).

6 (5) MINOR.—The term “minor” means an indi-
7 vidual who is under the age of 17.

8 (6) ONLINE PLATFORM.—The term “online
9 platform” means any public-facing website, online
10 service, online application, or mobile application that
11 predominantly provides a community forum for user
12 generated content, including sharing videos, images,
13 games, audio files, or other content.

14 (7) PARENT.—The term “parent” includes a
15 legal guardian or an individual with legal custody
16 over a minor.

17 (8) PERSONAL DATA.—The term “personal
18 data” means information that identifies or is linked
19 or reasonably linkable to a particular minor, includ-
20 ing a consumer device identifier associated with a
21 minor.

22 (9) PERSONALIZED RECOMMENDATION SYS-
23 TEM.—The term “personalized recommendation sys-
24 tem” means a fully or partially automated system

1 used to suggest, promote, or rank information based
2 on the personal data of users.

3 (10) SEXUAL EXPLOITATION AND ABUSE.—The
4 term “sexual exploitation and abuse” means any of
5 the following:

6 (A) Coercion and enticement, as described
7 in section 2422 of title 18, United States Code.

8 (B) Child sexual abuse material, as de-
9 scribed in sections 2251, 2252, 2252A, and
10 2260 of title 18, United States Code.

11 (C) Trafficking for the production of im-
12 ages, as described in section 2251A of title 18,
13 United States Code.

14 (D) Sex trafficking of children, as de-
15 scribed in section 1591 of title 18, United
16 States Code.

17 (11) TARGETED ADVERTISING.—

18 (A) IN GENERAL.—The term “targeted ad-
19 vertising” means displaying an advertisement to
20 an individual where the advertisement is se-
21 lected based on personal data about the indi-
22 vidual to predict the individual’s preferences
23 and interests.

24 (B) EXCLUSIONS.—Such term does not in-
25 clude—

1 (i) advertising or marketing directed
2 to an individual in response to the individ-
3 ual's request for information or express se-
4 lection of a product or service;

5 (ii) contextual advertising where an
6 advertisement is displayed to an individual
7 based on the content in which the adver-
8 tisement appears and does not vary based
9 on who the individual is; or

10 (iii) processing personal data solely to
11 measure or report advertising performance,
12 reach, or frequency.

13 **SEC. 3. DUTY OF CARE.**

14 (a) PREVENTION OF HARM TO MINORS.—A covered
15 platform shall act in the best interests of a user that the
16 platform knows or reasonably should know is a minor by
17 taking reasonable measures in its design and operation of
18 products and services to prevent and mitigate the fol-
19 lowing:

20 (1) Consistent with evidence-informed medical
21 information, the following mental health disorders:
22 anxiety, depression, eating disorders, substance use
23 disorders, and suicidal behaviors.

24 (2) Patterns of use that indicate or encourage
25 addiction-like behaviors.

1 (3) Physical violence, online bullying, and har-
2 assment of the minor.

3 (4) Sexual exploitation and abuse.

4 (5) Promotion and marketing of narcotic drugs
5 (as defined in section 102 of the Controlled Sub-
6 stances Act (21 U.S.C. 802)), tobacco products,
7 gambling, or alcohol.

8 (6) Predatory, unfair, or deceptive marketing
9 practices, or other financial harms.

10 (b) LIMITATION.—Nothing in subsection (a) shall be
11 construed to require a covered platform to prevent or pre-
12 clude—

13 (1) any minor from deliberately and independ-
14 ently searching for, or specifically requesting, con-
15 tent; or

16 (2) the covered platform or individuals on the
17 platform from providing resources for the prevention
18 or mitigation of suicidal behaviors, substance use,
19 and other harms, including evidence-informed infor-
20 mation and clinical resources.

21 **SEC. 4. SAFEGUARDS FOR MINORS.**

22 (a) SAFEGUARDS FOR MINORS.—

23 (1) SAFEGUARDS.—A covered platform shall
24 provide an individual that the covered platform
25 knows or reasonably should know is a minor with

1 readily-accessible and easy-to-use safeguards to, as
2 applicable—

3 (A) limit the ability of other individuals to
4 communicate with the minor;

5 (B) prevent other users, whether registered
6 or not, from viewing the minor's personal data
7 collected by or shared on the covered platform,
8 in particular restricting public access to per-
9 sonal data;

10 (C) limit features that increase, sustain, or
11 extend use of the covered platform by the
12 minor, such as automatic playing of media, re-
13 wards for time spent on the platform, notifica-
14 tions, and other features that result in compul-
15 sive usage of the covered platform by the minor;

16 (D) control personalized recommendation
17 systems, including the right to—

18 (i) opt out of such personalized rec-
19 ommendation systems, while still allowing
20 the display of content based on a chrono-
21 logical format; or

22 (ii) limit types or categories of rec-
23 ommendations from such systems; and

1 (E) restrict the sharing of the geolocation
2 of the minor and provide notice regarding the
3 tracking of the minor’s geolocation.

4 (2) OPTIONS.—A covered platform shall provide
5 an individual that the covered platform knows or
6 reasonably should know is a minor with readily-ac-
7 cessible and easy-to-use options to—

8 (A) delete the minor’s account and delete
9 any personal data collected from, or shared by,
10 the minor on the covered platform; or

11 (B) limit the amount of time spent by the
12 minor on the covered platform.

13 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
14 NORS.—A covered platform shall provide that, in the
15 case of a user that the platform knows or reasonably
16 should know is a minor, the default setting for any
17 safeguard described under paragraph (1) shall be
18 the option available on the platform that provides
19 the most protective level of control that is offered by
20 the platform over privacy and safety for that user.

21 (b) PARENTAL TOOLS.—

22 (1) TOOLS.—A covered platform shall provide
23 readily-accessible and easy-to-use settings for par-
24 ents to support an individual that the platform

1 knows or reasonably should know is a minor with re-
2 spect to the individual's use of the platform.

3 (2) REQUIREMENTS.—The parental tools pro-
4 vided by a covered platform shall include—

5 (A) the ability to manage a minor's privacy
6 and account settings, including the safeguards
7 and options established under subsection (a), in
8 a manner that allows parents to—

9 (i) view the privacy and account set-
10 tings; and

11 (ii) in the case of a user that the plat-
12 form knows or reasonably should know is
13 a child, change and control the privacy and
14 account settings;

15 (B) the ability to restrict purchases and fi-
16 nancial transactions by the minor, where appli-
17 cable; and

18 (C) the ability to view metrics of total time
19 spent on the platform.

20 (3) NOTICE TO MINORS.—A covered platform
21 shall provide clear and conspicuous notice to an indi-
22 vidual that the platform knows or reasonably should
23 know is a minor when tools described in this sub-
24 section are in effect and what settings or controls
25 have been applied.

1 (4) DEFAULT TOOLS.—A covered platform shall
2 provide that, in the case of a user that the platform
3 knows or reasonably should know is a child, the tools
4 described in this subsection shall be enabled by de-
5 fault.

6 (c) REPORTING MECHANISM.—

7 (1) REPORTS SUBMITTED BY PARENTS, MI-
8 NORS, AND SCHOOLS.—A covered platform shall pro-
9 vide—

10 (A) a readily-accessible and easy-to-use
11 means to submit reports to the covered plat-
12 form of harms to minors;

13 (B) an electronic point of contact specific
14 to matters involving harms to a minor; and

15 (C) confirmation of the receipt of such a
16 report and a means to track a submitted report.

17 (2) TIMING.—A covered platform shall establish
18 an internal process to receive and substantively re-
19 spond to reports in a reasonable and timely manner,
20 but in no case later than—

21 (A) 7 days after the receipt of a report, if,
22 for the most recent calendar year, the platform
23 averaged more than 10,000,000 active users on
24 a monthly basis in the United States;

1 (B) 21 days after the receipt of a report,
2 if, for the most recent calendar year, the plat-
3 form averaged less than 10,000,000 active
4 users on a monthly basis in the United States;
5 and

6 (C) notwithstanding subparagraphs (A)
7 and (B), if the report involves an imminent
8 threat to the safety of a minor, as promptly as
9 needed to address the reported threat to safety.

10 (d) ADVERTISING OF ILLEGAL PRODUCTS.—A cov-
11 ered platform shall not facilitate the advertising of nar-
12 cotic drugs (as defined in section 102 of the Controlled
13 Substances Act (21 U.S.C. 802)), tobacco products, gam-
14 bling, or alcohol to an individual that the covered platform
15 knows or reasonably should know is a minor.

16 (e) APPLICATION.—

17 (1) ACCESSIBILITY.—With respect to safe-
18 guards and parental controls described under sub-
19 sections (a) and (b), a covered platform shall pro-
20 vide—

21 (A) information and control options in a
22 clear and conspicuous manner that takes into
23 consideration the differing ages, capacities, and
24 developmental needs of the minors most likely
25 to access the covered platform and does not en-

1 courage minors or parents to weaken or disable
2 safeguards or parental controls;

3 (B) readily-accessible and easy-to-use con-
4 trols to enable or disable safeguards or parental
5 controls, as appropriate; and

6 (C) information and control options in the
7 same language, form, and manner as the cov-
8 ered platform provides the product or service
9 used by minors and their parents.

10 (2) DARK PATTERNS PROHIBITION.—It shall be
11 unlawful for any covered platform to design, modify,
12 or manipulate a user interface of a covered platform
13 with the purpose or substantial effect of subverting
14 or impairing user autonomy, decision-making, or
15 choice in order to weaken or disable safeguards or
16 parental controls required under this section.

17 (3) RULES OF CONSTRUCTION.—Nothing in
18 this section shall be construed to—

19 (A) prevent a covered platform from taking
20 reasonable measures to—

21 (i) block, detect, or prevent the dis-
22 tribution of unlawful, obscene, or other
23 harmful material to minors as described in
24 section 3(a); or

1 (ii) block or filter spam, prevent
2 criminal activity, or protect the security of
3 a platform or service; or

4 (B) require the disclosure of a minor's
5 browsing behavior, search history, messages,
6 contact list, or other content or metadata of
7 their communications.

8 **SEC. 5. DISCLOSURE.**

9 (a) NOTICE.—

10 (1) REGISTRATION.—Prior to registration or
11 purchase of a covered platform by an individual that
12 the platform knows or reasonably should know is a
13 minor, the platform shall provide clear, conspicuous,
14 and easy-to-understand—

15 (A) notice of the policies and practices of
16 the covered platform with respect to personal
17 data and safeguards for minors;

18 (B) information about how to access the
19 safeguards and parental tools required under
20 section 4; and

21 (C) notice about whether the covered plat-
22 form, including any personalized recommenda-
23 tion systems used by the platform, pose any
24 heightened risks of harms to minors.

25 (2) PARENTAL NOTIFICATION.—

1 (A) NOTICE AND ACKNOWLEDGMENT.—In
2 the case of an individual that a covered plat-
3 form knows or reasonably should know is a
4 child, the platform shall additionally provide in-
5 formation about the parental tools and safe-
6 guards required under section 4 to a parent of
7 the child and obtain express affirmative ac-
8 knowledgment from the parent prior to the ini-
9 tial use of the covered platform by the child.

10 (B) REASONABLE EFFORT.—A covered
11 platform shall be deemed to have satisfied the
12 requirement described in subparagraph (A) if
13 the covered platform has undertaken a reason-
14 able effort (taking into consideration available
15 technology) to ensure a parent receives the in-
16 formation described in such subparagraph and
17 to obtain a parent’s express affirmative ac-
18 knowledgment.

19 (3) CONSOLIDATED NOTICES.—A covered plat-
20 form may consolidate the process for providing in-
21 formation and (if applicable) obtaining parental ac-
22 knowledgment as required under this subsection with
23 its obligations to obtain consent for data privacy
24 practices, provided the content of the notice meets
25 the requirements of this subsection.

1 (4) RULEMAKING.—The Federal Trade Com-
2 mission may issue rules pursuant to section 553 of
3 title 5, United States Code, to establish templates or
4 models of short-form notices that include the min-
5 imum level of information and labels necessary for
6 the disclosures required under paragraph (1).

7 (b) PERSONALIZED RECOMMENDATION SYSTEM.—A
8 covered platform that operates personalized recommenda-
9 tion systems shall set out in its terms and conditions, in
10 a clear, conspicuous, and easy-to-understand manner—

11 (1) an overview of how those personalized rec-
12 ommendation systems are used by the covered plat-
13 form to provide information to users of the platform
14 who are minors, including how such systems use the
15 personal data of minors; and

16 (2) information about options for minors or
17 their parents to control personalized recommenda-
18 tion systems (including by opting out of such sys-
19 tems).

20 (c) ADVERTISING AND MARKETING INFORMATION
21 AND LABELS.—

22 (1) INFORMATION AND LABELS.—A covered
23 platform that facilitates advertising aimed at users
24 that the platform knows or reasonably should know
25 are minors shall provide clear, conspicuous, and

1 easy-to-understand information and labels to minors
2 on advertisements regarding—

3 (A) the name of the product, service, or
4 brand and the subject matter of an advertise-
5 ment;

6 (B) why the minor is being targeted for a
7 particular advertisement if the covered platform
8 engages in targeted advertising, including mate-
9 rial information about how the minor’s personal
10 data was used to target the advertisement; and

11 (C) whether particular media displayed to
12 the minor is an advertisement or marketing ma-
13 terial, including disclosure of endorsements of
14 products, services, or brands made for commer-
15 cial consideration by other users of the plat-
16 form.

17 (2) RULEMAKING.—The Federal Trade Com-
18 mission may issue rules pursuant to section 553 of
19 title 5, United States Code, to establish templates or
20 models of short-form notices that include the min-
21 imum level of information and labels necessary for
22 the disclosures required under paragraph (1).

23 (d) RESOURCES FOR PARENTS AND MINORS.—A cov-
24 ered platform shall provide to minors and parents clear,

1 conspicuous, easy-to-understand, and comprehensive infor-
2 mation in a prominent location regarding—

3 (1) its policies and practices with respect to
4 personal data and safeguards for minors; and

5 (2) how to access the safeguards and tools re-
6 quired under section 4.

7 (e) **RESOURCES IN ADDITIONAL LANGUAGES.**—A
8 covered platform shall ensure, to the extent practicable,
9 that the disclosures required by this section are made
10 available in the same language, form, and manner as the
11 covered platform provides any product or service used by
12 minors and their parents.

13 **SEC. 6. TRANSPARENCY.**

14 (a) **IN GENERAL.**—Subject to subsection (b), not less
15 frequently than once a year, a covered platform shall issue
16 a public report identifying the reasonably foreseeable risk
17 of material harms to minors and describing the prevention
18 and mitigation measures taken to address such risk based
19 on an independent, third-party audit conducted through
20 reasonable inspection of the covered platform.

21 (b) **SCOPE OF APPLICATION.**—The requirements of
22 this section shall apply to a covered platform if—

23 (1) for the most recent calendar year, the plat-
24 form averaged more than 10,000,000 active users on
25 a monthly basis in the United States; and

1 (2) the platform predominantly provides a com-
2 munity forum for user-generated content and discus-
3 sion, including sharing videos, images, games, audio
4 files, discussion in a virtual setting, or other content,
5 such as acting as a social media platform, virtual re-
6 ality environment, or a social network service.

7 (c) CONTENT.—

8 (1) TRANSPARENCY.—The public reports re-
9 quired of a covered platform under this section shall
10 include—

11 (A) an assessment of the extent to which
12 the platform is likely to be accessed by minors;

13 (B) a description of the commercial inter-
14 ests of the covered platform in use by minors;

15 (C) an accounting, based on the data held
16 by the covered platform, of—

17 (i) the number of individuals using
18 the covered platform reasonably believed to
19 be minors in the United States,
20 disaggregated by the age ranges of 0-5, 6-
21 9, 10-12, and 13-16; and

22 (ii) the median and mean amounts of
23 time spent on the platform by minors in
24 the United States who have accessed the
25 platform during the reporting year on a

1 daily, weekly, and monthly basis,
2 disaggregated by the age ranges of 0-5, 6-
3 9, 10-12, and 13-16;

4 (D) an accounting of total reports received
5 regarding, and the prevalence (which can be
6 based on scientifically valid sampling methods
7 using the content available to the covered plat-
8 form in the normal course of business) of con-
9 tent related to, the harms described in section
10 3(a), disaggregated by category of harm; and

11 (E) a description of any material breaches
12 of parental tools or assurances regarding mi-
13 nors, representations regarding the use of the
14 personal data of minors, and other matters re-
15 garding non-compliance.

16 (2) SYSTEMIC RISKS ASSESSMENT.—The public
17 reports required of a covered platform under this
18 section shall include—

19 (A) an assessment of the reasonably fore-
20 seeable risk of harms to minors posed by the
21 covered platform, including identifying any
22 other physical, mental, developmental, or finan-
23 cial harms in addition to those described in sec-
24 tion 3(a);

1 (B) an assessment of how recommendation
2 systems and targeted advertising systems can
3 contribute to harms to minors;

4 (C) a description of whether and how the
5 covered platform uses system design features
6 that increase, sustain, or extend use of a prod-
7 uct or service by a minor, such as automatic
8 playing of media, rewards for time spent, and
9 notifications;

10 (D) a description of whether, how, and for
11 what purpose the platform collects or processes
12 categories of personal data that may cause rea-
13 sonably foreseeable risk of harms to minors;

14 (E) an evaluation of the efficacy of safe-
15 guards for minors under section 4, and any
16 issues in delivering such safeguards and the as-
17 sociated parental tools; and

18 (F) an evaluation of any other relevant
19 matters of public concern over risk of harms to
20 minors.

21 (3) MITIGATION.—The public reports required
22 of a covered platform under this section shall in-
23 clude—

1 (A) a description of the safeguards and pa-
2 rental tools available to minors and parents on
3 the covered platform;

4 (B) a description of interventions by the
5 covered platform when it had or has reason to
6 believe that harms to minors could occur;

7 (C) a description of the prevention and
8 mitigation measures intended to be taken in re-
9 sponse to the known and emerging risks identi-
10 fied in its assessment of system risks, including
11 steps taken to—

12 (i) prevent harms to minors, including
13 adapting or removing system design fea-
14 tures or addressing through parental con-
15 trols;

16 (ii) provide the most protective level of
17 control over privacy and safety by default;
18 and

19 (iii) adapt recommendation systems to
20 prioritize the best interests of users who
21 are minors, as described in section 3(a);

22 (D) a description of internal processes for
23 handling reports and automated detection
24 mechanisms for harms to minors, including the

1 rate, timeliness, and effectiveness of responses
2 under the requirement of section 4(c);

3 (E) the status of implementing prevention
4 and mitigation measures identified in prior as-
5 sessments; and

6 (F) a description of the additional meas-
7 ures to be taken by the covered platform to ad-
8 dress the circumvention of safeguards for mi-
9 nors and parental tools.

10 (d) REASONABLE INSPECTION.—In conducting an in-
11 spection of the systemic risks of harm to minors under
12 this section, an independent, third-party auditor shall—

13 (1) take into consideration the function of rec-
14 ommendation systems;

15 (2) consult parents and youth experts, including
16 youth and families with relevant past or current ex-
17 perience, public health and mental health nonprofit
18 organizations, health and development organizations,
19 and civil society with respect to the prevention of
20 harms to minors;

21 (3) conduct research based on experiences of
22 minors that use the covered platform, including re-
23 ports under section 4(c) and information provided by
24 law enforcement;

1 (4) take account of research, including research
2 regarding system design features, marketing, or
3 product integrity, industry best practices, or outside
4 research; and

5 (5) consider indicia or inferences of age of
6 users, in addition to any self-declared information
7 about the age of individuals.

8 (e) COOPERATION WITH INDEPENDENT, THIRD-
9 PARTY AUDIT.—To facilitate the report required by sub-
10 section (c), a covered platform shall—

11 (1) provide or otherwise make available to the
12 independent third-party conducting the audit all in-
13 formation and material in its possession, custody, or
14 control that is relevant to the audit;

15 (2) provide or otherwise make available to the
16 independent third-party conducting the audit access
17 to all network, systems, and assets relevant to the
18 audit; and

19 (3) disclose all relevant facts to the independent
20 third-party conducting the audit, and not misrepre-
21 sent in any manner, expressly or by implication, any
22 relevant fact.

23 (f) PRIVACY SAFEGUARDS.—

24 (1) In issuing the public reports required under
25 this section, a covered platform shall take steps to

1 safeguard the privacy of its users, including ensur-
2 ing that data is presented in a de-identified, aggre-
3 gated format such that it is reasonably impossible
4 for the data to be linked back to any individual user.

5 (2) This section shall not be construed to re-
6 quire the disclosure of information that will lead to
7 material vulnerabilities for the privacy of users or
8 the security of a covered platform’s service or create
9 a significant risk of the violation of Federal or State
10 law.

11 (g) LOCATION.—The public reports required under
12 this section should be posted by a covered platform on an
13 easy to find location on a publicly-available website.

14 **SEC. 7. INDEPENDENT RESEARCH.**

15 (a) DEFINITIONS.—In this section:

16 (1) ASSISTANT SECRETARY.—The term “Assist-
17 ant Secretary” means the Assistant Secretary of
18 Commerce for Communications and Information.

19 (2) DE-IDENTIFIED DATA.—The term “de-iden-
20 tified data” means information—

21 (A) that does not identify and is not linked
22 or reasonably linkable to an individual or an in-
23 dividual’s device; and

24 (B) with respect to which a covered plat-
25 form or researcher takes reasonable technical

1 and contractual measures to ensure that the in-
2 formation is not used to re-identify any indi-
3 vidual or individual’s device.

4 (3) ELIGIBLE RESEARCHER.—

5 (A) IN GENERAL.—The term “eligible re-
6 searcher” means an individual or group of indi-
7 viduals affiliated with or employed by—

8 (i) an institution of higher education
9 (as defined in section 101 of the Higher
10 Education Act of 1965 (20 U.S.C. 1001));
11 or

12 (ii) a nonprofit organization described
13 in section 501(c)(3) of the Internal Rev-
14 enue Code of 1986.

15 (B) LIMITATION.—Such term shall not in-
16 clude an individual or group of individuals that
17 is—

18 (i) not located in the United States;
19 or

20 (ii) affiliated with the government of a
21 foreign adversary (as defined in section
22 8(c)(2) of the Secure and Trusted Commu-
23 nications Networks Act of 2019 (47 U.S.C.
24 1607(c)(2))).

1 (4) INDEPENDENT RESEARCH.—The term
2 “independent research” means the scientific or his-
3 torical analysis of information that is performed for
4 the primary purpose of advancing understanding,
5 knowledge, and remedies regarding the harms to mi-
6 nors described in section 3(a).

7 (5) NONCOMMERCIAL PURPOSE.—The term
8 “noncommercial purpose” means a purpose that
9 does not involve any direct or indirect use of data
10 sets for the sale, resale, solicitation, rental, or lease
11 of a service, or any use by which the user expects
12 a profit, including the sale to the general public of
13 a publication containing independent research.

14 (6) PROGRAM.—The term “Program” means
15 the program established under subsection (b)(1).

16 (7) QUALIFIED RESEARCHER.—The term
17 “qualified researcher” means an eligible researcher
18 who is approved by the Assistant Secretary to con-
19 duct independent research regarding harms to mi-
20 nors under the Program.

21 (b) INDEPENDENT RESEARCH PROGRAM RELATING
22 TO IDENTIFIED HARMS TO MINORS.—

23 (1) ESTABLISHMENT.—Subject to paragraph
24 (2), the Assistant Secretary shall establish a pro-
25 gram, with public notice and an opportunity to com-

1 ment, under which an eligible researcher may apply
2 for, and a covered platform shall provide, access to
3 data sets from the covered platform for the sole pur-
4 pose of conducting independent research regarding
5 the harms described in section 3(a).

6 (2) SCOPE OF APPLICATION.—The require-
7 ments of this subsection shall apply to a covered
8 platform if—

9 (A) for the most recent calendar year, the
10 platform averaged more than 10,000,000 active
11 users on a monthly basis in the United States;
12 and

13 (B) the platform predominantly provides a
14 community forum for user generated content
15 and discussion, including sharing videos, im-
16 ages, games, audio files, discussion in a virtual
17 setting, or other content, such as acting as a
18 social media platform, virtual reality environ-
19 ment, or social network service.

20 (3) PROCESSES, PROCEDURES, AND STAND-
21 ARDS.—Not later than 1 year after the date of en-
22 actment of this Act, the Assistant Secretary shall es-
23 tablish for the program established under this sub-
24 section—

1 (A) definitions for data sets (related to
2 harms described in section 3(a)) that qualify for
3 disclosure to researchers under the program
4 and standards of access for data sets to be pro-
5 vided under the program;

6 (B) a process by which an eligible re-
7 searcher may submit an application described in
8 paragraph (1);

9 (C) an appeals process for eligible re-
10 searchers to appeal adverse decisions on appli-
11 cations described in paragraph (1) (including a
12 decision to grant an appeal under paragraph
13 (4)(C));

14 (D) procedures for implementation of the
15 program, including methods for—

16 (i) participation by covered platforms;

17 (ii) evaluation of researcher proposals
18 for alignment with program objectives and
19 scoping; and

20 (iii) verification by the Assistant Sec-
21 retary of the credentials of eligible re-
22 searchers and processes for the application
23 or disqualification to participate in the pro-
24 gram;

1 (E) standards for privacy, security, and
2 confidentiality required to participate in the
3 program, including rules to ensure that the pri-
4 vacy and safety of users is not infringed by the
5 program;

6 (F) a mechanism to allow individuals to
7 control the use of their personal data under the
8 program, including the ability to opt out of the
9 program;

10 (G) standards for transparency regarding
11 the operation and administration of the pro-
12 gram; and

13 (H) rules to prevent requests for data sets
14 that present financial conflicts of interest, in-
15 cluding efforts by covered platforms to gain a
16 competitive advantage by directly funding data
17 access requests, the use of qualified researcher
18 status for commercial gain, or efforts by cov-
19 ered platforms to obtain access to intellectual
20 property that is otherwise protected by law.

21 (4) DUTIES AND RIGHTS OF COVERED PLAT-
22 FORMS.—

23 (A) ACCESS TO DATA SETS.—

24 (i) IN GENERAL.—If the Assistant
25 Secretary approves an application under

1 paragraph (1) with respect to a covered
2 platform, the covered platform shall, in a
3 timely manner, provide the qualified re-
4 searcher with access to data sets necessary
5 to conduct independent research described
6 in that paragraph.

7 (ii) LIMITATIONS.—Nothing in this
8 section shall be construed to require a cov-
9 ered platform to provide access to data
10 sets that are intellectual property protected
11 by Federal law, trade secrets, or commer-
12 cial or financial information.

13 (iii) FORM OF ACCESS.—A covered
14 platform shall provide to a qualified re-
15 searcher access to data sets under clause
16 (i) through online databases, application
17 programming interfaces, and data files as
18 appropriate.

19 (B) NONDISCLOSURE AGREEMENT.—A
20 covered platform may require, as a condition of
21 access to the data sets of the covered platform,
22 that a qualified researcher enter into a non-
23 disclosure agreement restricting the release of
24 data sets, provided that—

1 (i) the agreement does not restrict the
2 publication or discussion regarding the
3 qualified researcher's findings; and

4 (ii) the terms of the agreement allow
5 the qualified researcher to provide the
6 original agreement or a copy of the agree-
7 ment to the Assistant Secretary.

8 (C) APPEAL.—

9 (i) AGENCY APPEAL.—A covered plat-
10 form may appeal the granting of an appli-
11 cation under paragraph (1) on the grounds
12 that, and the Assistant Secretary shall
13 grant such appeal if—

14 (I) the covered platform does not
15 have access to the requested data sets
16 or the requested data sets are not rea-
17 sonably tailored to application; or

18 (II) providing access to the data
19 sets will lead to material
20 vulnerabilities for the privacy of users
21 or the security of the covered plat-
22 form's service or create a significant
23 risk of the violation of Federal or
24 state law.

1 (ii) JUDICIAL REVIEW.—A decision of
2 the Assistant Secretary with respect to an
3 appeal under clause (i) shall be considered
4 to be a final agency action for purposes of
5 judicial review under chapter 7 of title 5,
6 United States Code.

7 (iii) ALTERNATIVE MEANS OF FUL-
8 FILLMENT.—As part of an appeal under
9 clause (i) that is made on the basis of sub-
10 clause (II) of such clause, a covered plat-
11 form shall propose one or more alternative
12 data sets or means of accessing the re-
13 quested data sets that are appropriate and
14 sufficient to fulfill the purpose of the appli-
15 cation, or shall explain why there are no
16 alternative data sets or means of access
17 which acceptably mitigate the applicable
18 privacy, security, or legal concerns.

19 (D) TIMING.—A covered platform for
20 which this provision applies shall participate in
21 the program established under this subsection
22 no later than two years after enactment of this
23 Act.

24 (5) APPLICATION REQUIREMENTS.—In order to
25 be approved to access data sets from a covered plat-

1 form, an eligible researcher shall, in the application
2 submitted under paragraph (1)—

3 (A) explain the purpose for which the inde-
4 pendent research is undertaken;

5 (B) commit to conduct the research for
6 noncommercial purposes;

7 (C) demonstrate a proven record of exper-
8 tise on the proposed research topic and related
9 research methodologies;

10 (D) if the eligible researcher is seeking ac-
11 cess to data sets that include personal data, ex-
12 plain why the data sets are requested, and the
13 means through which such data sets shall be
14 accessed are the least sensitive and the most
15 privacy-protective means that will permit com-
16 pletion of the research and not compromise the
17 privacy or safety of users; and

18 (E) commit to fulfill, and demonstrate a
19 capacity to fulfill, the specific data security and
20 confidentiality requirements corresponding to
21 the application.

22 (6) PRIVACY AND DUTY OF CONFIDEN-
23 TIALITY.—

24 (A) RESEARCHER CONFIDENTIALITY.—To
25 protect user privacy, a qualified researcher shall

1 keep data sets provided by a covered platform
2 under the program confidential and secure to
3 the specifications set forth under the program
4 rules and the approved application.

5 (B) PLATFORM CONFIDENTIALITY.—A cov-
6 ered platform shall use reasonable measures to
7 enable researcher access to data sets under the
8 program in a secure and privacy-protective
9 manner, including through the de-identification
10 of personal data or use of other privacy-enhanc-
11 ing technologies.

12 (C) FEDERAL AGENCIES.—Nothing in this
13 subsection shall be construed to authorize—

14 (i) a Federal agency to seek access to
15 the data of a covered platform through the
16 program; or

17 (ii) a qualified researcher to transfer
18 or share any data sets provided by a cov-
19 ered platform under the program with a
20 Federal agency.

21 (D) SECURITY.—Nothing in this sub-
22 section shall be construed in a manner that
23 would result in data sets from a covered plat-
24 form being transferred to the Government of
25 the People’s Republic of China or the govern-

1 ment of another foreign adversary (as defined
2 in section 8(c)(2) of the Secure and Trusted
3 Communications Networks Act of 2019 (47
4 U.S.C. 1607(c)(2))).

5 (c) SAFE HARBOR FOR COLLECTION OF DATA FOR
6 INDEPENDENT RESEARCH REGARDING IDENTIFIED
7 HARMS TO MINORS.—If, in the course of conducting inde-
8 pendent research for noncommercial purposes regarding
9 harms described in section 3(a) (without regard to wheth-
10 er such research is conducted under the program), an eli-
11 gible researcher collects or uses data from a covered plat-
12 form in a manner that violates the terms of service of the
13 platform, no cause of action based on such violation shall
14 lie or be maintained in any court against such researcher
15 unless the violation relates to the failure of the researcher
16 to take reasonable measures to protect user privacy and
17 security.

18 (d) RULEMAKING.—The Assistant Secretary, in con-
19 sultation with the Secretary of Commerce, the Director
20 of the National Institute of Standards and Technology,
21 the Director of the National Science Foundation, and the
22 Director of the National Institutes of Health shall promul-
23 gate rules in accordance with section 553 of title 5, United
24 States Code, as necessary to implement this section.

1 **SEC. 8. MARKET RESEARCH.**

2 (a) MARKET RESEARCH BY COVERED PLATFORMS.—

3 The Federal Trade Commission, in consultation with the
4 Secretary of Commerce, shall issue guidance for covered
5 platforms seeking to conduct market- and product-focused
6 research on minors. Such guidance shall include—

7 (1) a standard consent form that provides mi-
8 nors and their parents a clear, conspicuous, and
9 easy-to-understand explanation of the scope and pur-
10 pose of the research to be conducted, and provides
11 an opportunity for informed consent; and

12 (2) recommendations for research practices for
13 studies that may include minors, disaggregated by
14 the age ranges of 0-5, 6-9, 10-12, and 13-16.

15 (b) TIMING.—The Federal Trade Commission shall
16 issue such guidance not later than 18 months after the
17 date of enactment of this Act. In doing so, they shall seek
18 input from members of the public and the representatives
19 of the Kids Online Safety Council established under sec-
20 tion 12.

21 **SEC. 9. AGE VERIFICATION STUDY AND REPORT.**

22 (a) STUDY.—The Director of the National Institute
23 of Standards and Technology, in coordination with the
24 Federal Communications Commission, Federal Trade
25 Commission, and the Secretary of Commerce, shall con-
26 duct a study evaluating the most technologically feasible

1 methods and options for developing systems to verify age
2 at the device or operating system level.

3 (b) CONTENTS.—Such study shall consider —

4 (1) the benefits of creating a device or oper-
5 ating system level age verification system;

6 (2) what information may need to be collected
7 to create this type of age verification system;

8 (3) the accuracy of such systems and their im-
9 pact or steps to improve accessibility, including for
10 individuals with disabilities;

11 (4) how such a system or systems could verify
12 age while mitigating risks to user privacy and data
13 security and safeguarding minors' personal data,
14 emphasizing minimizing the amount of data col-
15 lected and processed by covered platforms and age
16 verification providers for such a system; and

17 (5) the technical feasibility, including the need
18 for potential hardware and software changes, includ-
19 ing for devices currently in commerce and owned by
20 consumers.

21 (c) REPORT.—Not later than 1 year after the date
22 of enactment of this Act, the agencies described in sub-
23 section (a) shall submit a report containing the results of
24 the study conducted under such subsection to the Com-
25 mittee on Commerce, Science, and Transportation of the

1 Senate and the Committee on Energy and Commerce of
2 the House of Representatives.

3 **SEC. 10. GUIDANCE.**

4 (a) IN GENERAL.—Not later than 18 months after
5 the date of enactment of this Act, the Federal Trade Com-
6 mission, in consultation with the Kids Online Safety Coun-
7 cil established under section 12, shall issue guidance to—

8 (1) provide information and examples for cov-
9 ered platforms and auditors regarding—

10 (A) identifying features that are used to
11 increase, sustain, or extend use of the covered
12 platform by a minor;

13 (B) safeguarding minors against the pos-
14 sible misuse of parental tools;

15 (C) best practices in providing minors and
16 parents the most protective level of control over
17 privacy and safety;

18 (D) using indicia or inferences of age of
19 users for assessing use of the covered platform
20 by minors;

21 (E) methods for evaluating the efficacy of
22 safeguards; and

23 (F) providing additional control options
24 that allow parents to address the harms de-
25 scribed in section 3(a); and

1 (2) outline conduct that does not have the pur-
2 pose or substantial effect of subverting or impairing
3 user autonomy, decision-making, or choice, or of
4 causing, increasing, or encouraging compulsive usage
5 for a minor, such as—

6 (A) de minimis user interface changes de-
7 rived from testing consumer preferences, includ-
8 ing different styles, layouts, or text, where such
9 changes are not done with the purpose of weak-
10 ening or disabling safeguards or parental con-
11 trols;

12 (B) algorithms or data outputs outside the
13 control of a covered platform; and

14 (C) establishing default settings that pro-
15 vide enhanced privacy protection to users or
16 otherwise enhance their autonomy and decision-
17 making ability.

18 (b) **GUIDANCE TO SCHOOLS.**—Not later than 18
19 months after the date of enactment of this Act, the Sec-
20 retary of Education, in consultation with the Federal
21 Trade Commission and the Kids Online Safety Council es-
22 tablished under section 12, shall issue guidance to assist
23 to assist elementary and secondary schools in using the
24 notice, safeguards and tools provided under this Act and

1 providing information on online safety for students and
2 teachers.

3 (c) LIMITATION ON FEDERAL TRADE COMMISSION
4 GUIDANCE.—

5 (1) EFFECT OF GUIDANCE.—No guidance
6 issued by the Federal Trade Commission with re-
7 spect to this Act shall—

8 (A) confer any rights on any person, State,
9 or locality; or

10 (B) operate to bind the Federal Trade
11 Commission or any person to the approach rec-
12 ommended in such guidance.

13 (2) USE IN ENFORCEMENT ACTIONS.—In any
14 enforcement action brought pursuant to this Act, the
15 Federal Trade Commission—

16 (A) shall allege a violation of a provision of
17 this Act; and

18 (B) may not base such enforcement action
19 on, or execute a consent order based on, prac-
20 tices that are alleged to be inconsistent with
21 guidance issued by the Federal Trade Commis-
22 sion with respect to this Act, unless the prac-
23 tices are alleged to violate a provision of this
24 Act.

1 **SEC. 11. ENFORCEMENT.**

2 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
3 SION.—

4 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
5 TICES.—A violation of this Act or a regulation pro-
6 mulgated under this Act shall be treated as a viola-
7 tion of a rule defining an unfair or deceptive act or
8 practice prescribed under section 18(a)(1)(B) of the
9 Federal Trade Commission Act (15 U.S.C.
10 57a(a)(1)(B)).

11 (2) POWERS OF THE COMMISSION.—

12 (A) IN GENERAL.—The Federal Trade
13 Commission (referred to in this section as the
14 “Commission”) shall enforce this Act and any
15 regulation promulgated under this Act in the
16 same manner, by the same means, and with the
17 same jurisdiction, powers, and duties as though
18 all applicable terms and provisions of the Fed-
19 eral Trade Commission Act (15 U.S.C. 41 et
20 seq.) were incorporated into and made a part of
21 this Act.

22 (B) PRIVILEGES AND IMMUNITIES.—Any
23 person that violates this Act or a regulation
24 promulgated under this Act shall be subject to
25 the penalties, and entitled to the privileges and

1 immunities, provided in the Federal Trade
2 Commission Act (15 U.S.C. 41 et seq.).

3 (3) AUTHORITY PRESERVED.—Nothing in this
4 Act shall be construed to limit the authority of the
5 Commission under any other provision of law.

6 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
7 ERAL.—

8 (1) IN GENERAL.—

9 (A) CIVIL ACTIONS.—In any case in which
10 the attorney general of a State has reason to
11 believe that an interest of the residents of that
12 State has been or is threatened or adversely af-
13 fected by the engagement of any person in a
14 practice that violates this Act or a regulation
15 promulgated under this Act, the State, as
16 parens patriae, may bring a civil action on be-
17 half of the residents of the State in a district
18 court of the United States or a State court of
19 appropriate jurisdiction to—

20 (i) enjoin that practice;

21 (ii) enforce compliance with this Act
22 or such regulation;

23 (iii) on behalf of residents of the
24 State, obtain damages, restitution, or other

1 compensation, each of which shall be dis-
2 tributed in accordance with State law; or

3 (iv) obtain such other relief as the
4 court may consider to be appropriate.

5 (B) NOTICE.—

6 (i) IN GENERAL.—Before filing an ac-
7 tion under subparagraph (A), the attorney
8 general of the State involved shall provide
9 to the Commission—

10 (I) written notice of that action;

11 and

12 (II) a copy of the complaint for
13 that action.

14 (ii) EXEMPTION.—

15 (I) IN GENERAL.—Clause (i)
16 shall not apply with respect to the fil-
17 ing of an action by an attorney gen-
18 eral of a State under this paragraph
19 if the attorney general of the State
20 determines that it is not feasible to
21 provide the notice described in that
22 clause before the filing of the action.

23 (II) NOTIFICATION.—In an ac-
24 tion described in subclause (I), the at-
25 torney general of a State shall provide

1 notice and a copy of the complaint to
2 the Commission at the same time as
3 the attorney general files the action.

4 (2) INTERVENTION.—

5 (A) IN GENERAL.—On receiving notice
6 under paragraph (1)(B), the Commission shall
7 have the right to intervene in the action that is
8 the subject of the notice.

9 (B) EFFECT OF INTERVENTION.—If the
10 Commission intervenes in an action under para-
11 graph (1), it shall have the right—

12 (i) to be heard with respect to any
13 matter that arises in that action; and

14 (ii) to file a petition for appeal.

15 (3) CONSTRUCTION.—For purposes of bringing
16 any civil action under paragraph (1), nothing in this
17 Act shall be construed to prevent an attorney gen-
18 eral of a State from exercising the powers conferred
19 on the attorney general by the laws of that State
20 to—

21 (A) conduct investigations;

22 (B) administer oaths or affirmations; or

23 (C) compel the attendance of witnesses or
24 the production of documentary and other evi-
25 dence.

1 (4) ACTIONS BY THE COMMISSION.—In any
2 case in which an action is instituted by or on behalf
3 of the Commission for violation of this Act or a reg-
4 ulation promulgated under this Act, no State may,
5 during the pendency of that action, institute a sepa-
6 rate action under paragraph (1) against any defend-
7 ant named in the complaint in the action instituted
8 by or on behalf of the Commission for that violation.

9 (5) VENUE; SERVICE OF PROCESS.—

10 (A) VENUE.—Any action brought under
11 paragraph (1) may be brought in—

12 (i) the district court of the United
13 States that meets applicable requirements
14 relating to venue under section 1391 of
15 title 28, United States Code; or

16 (ii) a State court of competent juris-
17 diction.

18 (B) SERVICE OF PROCESS.—In an action
19 brought under paragraph (1) in a district court
20 of the United States, process may be served
21 wherever defendant—

22 (i) is an inhabitant; or

23 (ii) may be found.

1 **SEC. 12. KIDS ONLINE SAFETY COUNCIL.**

2 (a) ESTABLISHMENT.—Not later than 180 days after
3 the date of enactment of this Act, the Secretary of Com-
4 merce shall establish and convene the Kids Online Safety
5 Council for the purpose of providing advice on matters re-
6 lated to this Act.

7 (b) PARTICIPATION.—The Kids Online Safety Coun-
8 cil shall include diverse participation from—

9 (1) academic experts, health professionals, and
10 members of civil society with expertise in mental
11 health, substance use disorders, and the prevention
12 of harms to minors;

13 (2) representatives in academia and civil society
14 with specific expertise in privacy and civil liberties;

15 (3) parents and youth representation;

16 (4) representatives of covered platforms;

17 (5) representatives of the National Tele-
18 communications and Information Administration,
19 the National Institute of Standards and Technology,
20 the Federal Trade Commission, the Department of
21 Justice, and the Department of Health and Human
22 Services;

23 (6) State attorneys general or their designees
24 acting in State or local government; and

1 (7) representatives of communities of socially
2 disadvantaged individuals (as defined in section 8 of
3 the Small Business Act (15 U.S.C. 637)).

4 (c) ACTIVITIES.—The matters to be addressed by the
5 Kids Online Safety Council shall include—

6 (1) identifying emerging or current risks of
7 harms to minors associated with online platforms;

8 (2) recommending measures and methods for
9 assessing, preventing, and mitigating harms to mi-
10 nors online;

11 (3) recommending methods and themes for con-
12 ducting research regarding online harms to minors;
13 and

14 (4) recommending best practices and clear, con-
15 sensus-based technical standards for transparency
16 reports and audits, as required under this Act, in-
17 cluding methods, criteria, and scope to promote
18 overall accountability.

19 **SEC. 13. EFFECTIVE DATE.**

20 Except as otherwise provided in this Act, this Act
21 shall take effect on the date that is 18 months after the
22 date of enactment of this Act.

23 **SEC. 14. RULES OF CONSTRUCTION AND OTHER MATTERS.**

24 (a) RELATIONSHIP TO OTHER LAWS.—Nothing in
25 this Act shall be construed to—

1 (1) preempt section 444 of the General Edu-
2 cation Provisions Act (20 U.S.C. 1232g, commonly
3 known as the “Family Educational Rights and Pri-
4 vacy Act of 1974”) or other Federal or State laws
5 governing student privacy;

6 (2) preempt the Children’s Online Privacy Pro-
7 tection Act of 1998 (15 U.S.C. 6501 et seq.) or any
8 rule or regulation promulgated under such Act; or

9 (3) authorize any action that would conflict
10 with section 18(h) of the Federal Trade Commission
11 Act (15 U.S.C. 57a(h)).

12 (b) PROTECTIONS FOR PRIVACY.—Nothing in this
13 Act shall be construed to require—

14 (1) the affirmative collection of any personal
15 data with respect to the age of users that a covered
16 platform is not already collecting in the normal
17 course of business; or

18 (2) a covered platform to implement an age
19 gating or age verification functionality.

20 (c) COMPLIANCE.—Nothing in this Act shall be con-
21 strued to restrict a covered platform’s ability to—

22 (1) cooperate with law enforcement agencies re-
23 garding activity that the covered platform reasonably
24 and in good faith believes may violate Federal,
25 State, or local laws, rules, or regulations;

1 (2) comply with a civil, criminal, or regulatory
2 inquiry or any investigation, subpoena, or summons
3 by Federal, State, local, or other government au-
4 thorities; or

5 (3) investigate, establish, exercise, respond to,
6 or defend against legal claims.

7 **SEC. 15. SEVERABILITY.**

8 If any provision of this Act, or an amendment made
9 by this Act, is determined to be unenforceable or invalid,
10 the remaining provisions of this Act and the amendments
11 made by this Act shall not be affected.