

Calendar No. _____

117TH CONGRESS
2^D SESSION**S. 3663****[Report No. 117-_____]**

To protect the safety of children on the internet.

 IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2022

Mr. BLUMENTHAL (for himself and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

_____ (legislative day, _____), _____

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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: Enforcement.
Sec. 11: Kids Online Safety Council.
Sec. 12: Authorization of appropriations.
Sec. 13: Effective date.
Sec. 14: Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ALGORITHMIC RECOMMENDATION SYS-**
4 **TEM.**—The term “algorithmic recommendation sys-

5 tem” means a fully or partially automated system
6 used to suggest, promote, or rank information.

7 (2) **COVERED PLATFORM.**—The term “covered
8 platform” means a commercial software application
9 or electronic service that connects to the internet
10 and that is used, or is reasonably likely to be used,
11 by a minor.

12 (3) **MINOR.**—The term “minor” means an indi-
13 vidual who is age 16 or younger.

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

17 (5) **PERSONAL DATA.**—The term “personal
18 data” means information that identifies or is linked

1 or reasonably linkable to an individual, household, or
2 consumer device.

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

4 (a) **BEST INTERESTS.**—A covered platform has a
5 duty to act in the best interests of a minor that uses the
6 platform's products or services.

7 (b) **PREVENTION OF HARM TO MINORS.**—In acting
8 in the best interests of minors, a covered platform has a
9 duty to prevent and mitigate the heightened risks of phys-
10 ical, emotional, developmental, or material harms to mi-
11 nors posed by materials on, or engagement with, the plat-
12 form, including—

13 (1) promotion of self-harm, suicide, eating dis-
14 orders, substance abuse, and other matters that pose
15 a risk to physical and mental health of a minor;

16 (2) patterns of use that indicate or encourage
17 addiction-like behaviors;

18 (3) physical harm, online bullying, and harass-
19 ment of a minor;

20 (4) sexual exploitation, including enticement,
21 grooming, sex trafficking, and sexual abuse of mi-
22 nors and trafficking of online child sexual abuse ma-
23 terial;

1 (5) promotion and marketing of products or
2 services that are unlawful for minors, such as illegal
3 drugs, tobacco, gambling, or alcohol; and

4 (6) predatory, unfair, or deceptive marketing
5 practices.

6 **SEC. 4. SAFEGUARDS FOR MINORS.**

7 (a) SAFEGUARDS FOR MINORS.—

8 (1) IN GENERAL.—A covered platform shall
9 provide a minor, or a parent acting on a minor's be-
10 half, with readily accessible and easy-to-use safe-
11 guards to control their experience and personal data
12 on the covered platform, including settings to—

13 (A) limit the ability of other individuals to
14 contact or find a minor, in particular adults
15 with no relationship to the minor;

16 (B) prevent other individuals from viewing
17 the minor's personal data collected by or shared
18 on the covered platform, in particular restrict-
19 ing public access to personal data;

20 (C) limit features that increase, sustain, or
21 extend use of the covered platform by a minor,
22 such as automatic playing of media, rewards for
23 time spent on the platform, and notifications;

24 (D) opt out of algorithmic recommendation
25 systems that use a minor's personal data;

1 ~~(E)~~ delete the minor's account and request
2 removal of personal data;

3 ~~(F)~~ restrict the sharing of the geolocation
4 of a minor and to provide notice regarding the
5 tracking of a minor's geolocation; and

6 ~~(G)~~ limit time spent by a minor on the cov-
7 ered platform.

8 ~~(2) DEFAULT SAFEGUARD SETTINGS FOR MI-~~
9 ~~NORS.—~~A covered platform shall provide that, in the
10 ease of a user that the platform knows or reasonably
11 believes to be a minor, the default setting for any
12 safeguard described under paragraph ~~(1)~~ shall be
13 the strongest option available.

14 ~~(3) ACCESSIBILITY FOR MINORS.—~~With respect
15 to safeguards described under paragraph ~~(1)~~, a cov-
16 ered platform shall provide information and control
17 options in a manner that is age appropriate and
18 does not encourage minors to weaken or turn off
19 safeguards.

20 ~~(b) PARENTAL TOOLS.—~~

21 ~~(1) PARENTAL TOOLS.—~~A covered platform
22 shall provide readily accessible and easy-to-use pa-
23 rental tools for parents to appropriately supervise
24 the use of the covered platform by a minor.

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

3 (A) ~~the ability to control privacy and ac-~~
4 count settings, including the safeguards estab-
5 lished under subsection (a)(1);

6 (B) ~~the ability to restrict purchases and fi-~~
7 nancial transactions by a minor;

8 (C) ~~the ability to track total time spent on~~
9 the platform;

10 (D) ~~a clear and conspicuous mechanism for~~
11 parents to opt out of or turn off any default pa-
12 rental tools put in place by the covered plat-
13 form; and

14 (E) ~~access to other information regarding~~
15 a minor's use of a covered platform and control
16 options necessary to a parent's ability to ad-
17 dress the harms described in section 3(b).

18 (3) ~~NOTICE TO MINORS.~~—A covered platform
19 shall provide clear and conspicuous notice to a minor
20 when parental tools are in effect.

21 (4) ~~DEFAULT PARENTAL TOOLS.~~—A covered
22 platform shall provide that, in the case of a user
23 that the platform knows or reasonably believes to be
24 a minor, parental tools shall be enabled by default.

25 (c) ~~REPORTING MECHANISM.~~—

1 (1) PARENTAL REPORTS.—A covered platform
2 shall provide minors and parents with—

3 (A) a readily accessible and easy-to-use
4 means to submit reports of harms to a minor,
5 including harms described in section 3(b);

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

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

10 (2) TIMING.—A covered platform shall establish
11 an internal process to receive and respond to reports
12 in a reasonable and timely manner.

13 (d) ILLEGAL CONTENT.—A covered platform shall
14 not facilitate the advertising of products or services to mi-
15 nors that are illegal to sell to minors based on applicable
16 State or Federal law.

17 **SEC. 5. DISCLOSURE.**

18 (a) NOTICE.—

19 (1) REGISTRATION.—Prior to registration, use,
20 or purchase of a covered platform by a minor, the
21 platform shall provide clear, accessible, and easy-to-
22 understand—

23 (A) notice of the policies and practices of
24 the covered platform with respect to personal
25 data and safeguards for minors;

1 (B) information about how to access the
2 safeguards and parental tools required under
3 section 4; and

4 (C) notice about whether the covered plat-
5 form, including any algorithmic recommenda-
6 tion systems used by the platform, pose any
7 heightened risks of harm to a minor, including
8 harms described in section 3(b).

9 (2) PARENTAL NOTIFICATION.—For a minor, or
10 an individual that a covered platform reasonably be-
11 lieves is a minor, a covered platform shall addition-
12 ally provide the notice, information, and statement
13 described in paragraph (1) to a parent of the minor.

14 (3) ACKNOWLEDGMENT.—After providing the
15 notice, information, and statement described in
16 paragraph (1), but prior to initial use of the covered
17 platform, the covered platform shall obtain acknowl-
18 edgment from a minor, or a parent of the minor, of
19 the receipt of information related to the heightened
20 risks of harm to minors referenced in the statement
21 in paragraph (1)(C).

22 (b) ALGORITHMIC RECOMMENDATION SYSTEM.—A
23 covered platform that uses an algorithmic recommenda-
24 tion system shall set out in its terms and conditions, in
25 a clear, accessible, and easy-to-understand manner—

1 (1) an overview of how algorithmic rec-
2 ommendation systems are used by the covered plat-
3 form to provide information to users of the platform
4 who are minors, including how such systems use per-
5 sonal data belonging to minors; and

6 (2) options for minors or their parents to mod-
7 ify the results of the algorithmic recommendation
8 system, including the right to opt out or down-rank
9 types or categories of recommendations.

10 (c) ADVERTISING AND MARKETING.—A covered plat-
11 form that facilitates advertising aimed at minors shall pro-
12 vide clear, accessible, and easy-to-understand information
13 and labels regarding—

14 (1) the name of the product, service, or brand
15 and the subject matter of an advertisement or mar-
16 keting material;

17 (2) why the minor is being targeted for a par-
18 ticular advertisement or marketing material if the
19 covered platform engages in targeted advertising, in-
20 cluding meaningful information about how the per-
21 sonal data of the minor was used to target the ad-
22 vertisement or marketing material; and

23 (3) whether particular media displayed to a
24 user is an advertisement or marketing material, in-
25 cluding disclosure of endorsements of products, serv-

1 ices, or brands made for commercial consideration
2 by other users of the platform.

3 ~~(d) RESOURCES FOR PARENTS AND MINORS.—~~A cov-
4 ered platform shall provide to minors and parents clear,
5 accessible, easy-to-understand, and comprehensive infor-
6 mation in a prominent location regarding—

7 ~~(1)~~ its policies and practices with respect to
8 personal data and safeguards for minors; and

9 ~~(2)~~ how to access the safeguards and parental
10 tools required under section 4.

11 **SEC. 6. TRANSPARENCY.**

12 ~~(a) AUDIT OF SYSTEMIC RISKS TO MINORS.—~~

13 ~~(1) IN GENERAL.—~~Not less frequently than
14 once a year, a covered platform shall issue a public
15 report identifying the foreseeable risks of harm to
16 minors based on an independent, third-party audit
17 conducted through reasonable inspection of the cov-
18 ered platform and describe the prevention and miti-
19 gation measures taken to address such risks.

20 ~~(2) CONTENT.—~~

21 ~~(A) TRANSPARENCY.—~~The public reports
22 required of a covered platform under this sec-
23 tion shall include—

1 (i) an assessment of whether the cov-
2 ered platform is reasonably likely to be
3 accessed by minors;

4 (ii) a description of the commercial in-
5 terests of the covered platform in use by
6 minors;

7 (iii) an accounting of the number of
8 individuals using the covered platform rea-
9 sonably believed to be minors in the United
10 States, disaggregated by the age ranges of
11 0–5, 6–9, 10–12, and 13–16;

12 (iv) an accounting of the time spent
13 by the median and average minor in the
14 United States on a daily, weekly, and
15 monthly basis, disaggregated by the age
16 ranges of 0–5, 6–9, 10–12, and 13–16;

17 (v) an accounting, disaggregated by
18 category of harm, of—

19 (I) the total number of reports of
20 the dissemination of illegal or harmful
21 content involving minors; and

22 (II) the prevalence of content
23 that is illegal or harmful to minors;
24 and

1 (vi) a description of any material
2 breaches of parental tools or assurances re-
3 garding minors, unexpected use of the per-
4 sonal data of minors, and other matters re-
5 garding non-compliance.

6 (B) SYSTEMIC RISKS ASSESSMENT.—The
7 public reports required of a covered platform
8 under this section shall include—

9 (i) an audit of the known and emerg-
10 ing risks to minors posed by the covered
11 platform, including the harms described in
12 section 3(b);

13 (ii) an assessment of how algorithmic
14 recommendation systems and targeted ad-
15 vertising systems can contribute to harms
16 to minors;

17 (iii) a description of whether and how
18 the covered platform uses system design
19 features to increase, sustain, or extend use
20 of a product or service by a minor, such as
21 automatic playing of media, rewards for
22 time spent, and notifications;

23 (iv) a description of whether, how,
24 and for what purpose the platform collects
25 or processes geolocation, contact informa-

1 tion, health data, or other categories of
2 personal data of heightened concern re-
3 garding minors, as determined by the
4 Commission;

5 (v) an evaluation of the efficacy and
6 any issues in delivering safeguards to mi-
7 nors under section 4; and

8 (vi) an evaluation of any other rel-
9 evant matters of public concern over risks
10 to minors.

11 (C) MITIGATION.—The public reports re-
12 quired of a covered platform under this section
13 shall include—

14 (i) a description of the safeguards and
15 parental tools available to minors and par-
16 ents on the covered platform;

17 (ii) a description of interventions by
18 the covered platform when it had or has
19 reason to believe that harm could occur to
20 minors;

21 (iii) a description of the prevention
22 and mitigation measures intended to be
23 taken in response to the known and emerg-
24 ing risks identified in its audit of system
25 risks, including steps taken to—

1 (I) adapt or remove system de-
2 sign features that expose minors to
3 risks;

4 (II) set safeguards to their most
5 safe settings by default;

6 (III) prevent the presence of ille-
7 gal and illicit content on the covered
8 platform; and

9 (IV) adapt algorithmic rec-
10 ommendation system to prioritize the
11 best interests of users who are mi-
12 nors;

13 (iv) a description of internal processes
14 for handling reports and automated detec-
15 tion mechanisms for harms to minors, in-
16 cluding the rate, timeliness, and effective-
17 ness of responses under the requirement of
18 section 4(e);

19 (v) the status of implementing preven-
20 tion and mitigation measures identified in
21 prior assessments; and

22 (vi) a description of the additional
23 measures to be taken by the covered plat-
24 form to address the circumvention of safe-
25 guards and parental tools.

1 ~~(3) REASONABLE INSPECTION.~~—In conducting
2 an inspection of the systemic risks of harm to mi-
3 nors, a covered platform shall—

4 ~~(A)~~ take into consideration the function of
5 algorithmic recommendation systems;

6 ~~(B)~~ consult parents, experts, and civil soci-
7 ety with respect to the prevention of harms to
8 minors;

9 ~~(C)~~ conduct research based on experiences
10 of minors that use the covered platform, includ-
11 ing harms reported under section 4(e);

12 ~~(D)~~ take account of research, including re-
13 search regarding system design features, mar-
14 keting, or product integrity, industry best prac-
15 tices, or outside research; and

16 ~~(E)~~ consider indicia or inferences of age of
17 users, in addition to any self-declared informa-
18 tion about the age of individuals.

19 ~~(4) PRIVACY SAFEGUARDS.~~—In issuing the pub-
20 lic reports required under this section, a covered
21 platform shall take steps to safeguard the privacy of
22 its users, including ensuring that data is presented
23 in a de-anonymized, aggregated format.

24 **SEC. 7. INDEPENDENT RESEARCH.**

25 ~~(a) DEFINITIONS.~~—In this section:

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

4 (2) ELIGIBLE RESEARCHER.—The term “eligi-
5 ble researcher” means an individual or group of in-
6 dividuals affiliated with or employed by—

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

10 (B) a nonprofit organization, including any
11 organization described in section 501(c) of the
12 Internal Revenue Code of 1986.

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

15 (4) PUBLIC INTEREST RESEARCH.—The term
16 “public interest research” means the scientific or
17 historical analysis of information that is performed
18 for the primary purpose of advancing a broadly rec-
19 ognized public interest.

20 (5) QUALIFIED RESEARCHER.—The term
21 “qualified researcher” means an eligible researcher
22 who is approved by the Assistant Secretary to con-
23 duct public interest research regarding harms to mi-
24 nors under the Program.

25 (b) ACCESS TO DATA ON HARMS TO MINORS.—

1 (1) ESTABLISHMENT.—The Assistant Secretary
2 shall establish a program under which an eligible re-
3 searcher may apply for, and a covered platform shall
4 provide, access to data assets from the covered plat-
5 form for the sole purpose of conducting public inter-
6 est research regarding harms to the safety and well-
7 being of minors, including matters described in sec-
8 tion 3(b).

9 (2) APPLICATION REQUIREMENTS.—In order to
10 be approved to access data assets from a covered
11 platform, an eligible researcher shall, in the applica-
12 tion submitted under paragraph (1)—

13 (A) conduct the research for noncommer-
14 cial purposes;

15 (B) demonstrate a proven record of exper-
16 tise on the proposed research topic and related
17 research methodologies; and

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

22 (3) DUTIES AND RIGHTS OF COVERED PLAT-
23 FORMS.—

24 (A) ACCESS TO DATA ASSETS.—

1 (i) IN GENERAL.—If the Assistant
2 Secretary approves an application under
3 paragraph (1) with respect to a covered
4 platform, the covered platform shall, in a
5 timely manner, provide the qualified re-
6 searcher with access to data assets nec-
7 essary to conduct public interest research
8 described in that paragraph.

9 (ii) FORM OF ACCESS.—A covered
10 platform shall provide to a qualified re-
11 searcher access to data assets under clause
12 (i) through online databases, application
13 programming interfaces, and data files as
14 appropriate for the qualified researcher to
15 undertake public interest research.

16 (B) NONDISCLOSURE AGREEMENT.—A
17 covered platform may require, as a condition of
18 access to the data assets of the covered plat-
19 form, that a qualified researcher enter into a
20 nondisclosure agreement regarding the release
21 of data assets, provided that—

22 (i) the agreement does not restrict the
23 publication of the qualified researcher's
24 findings; and

1 (ii) the terms of the agreement allow
2 the qualified researcher to provide the
3 original agreement or a copy of the agree-
4 ment to the Assistant Secretary.

5 (C) APPEAL.—A covered platform may ap-
6 peal the granting of an application under para-
7 graph (1) on the grounds that, and the Assist-
8 ant Secretary shall grant such appeal if—

9 (i) the covered platform does not have
10 access to the requested data assets; or

11 (ii) providing access to the data assets
12 will lead to significant vulnerabilities in the
13 security of the covered platform's service.

14 (4) PROCESSES, PROCEDURES, AND STAND-
15 ARDS.—Not later than 1 year after the date of en-
16 actment of this Act, the Assistant Secretary shall es-
17 tablish—

18 (A)(i) a process by which an eligible re-
19 searcher may submit an application described in
20 paragraph (1); and

21 (ii) an appeals process for eligible research-
22 ers to appeal adverse decisions on applications
23 described in paragraph (1) (including a decision
24 to grant an appeal under paragraph (3)(C));

1 (B) procedures for implementation of the
2 Program, including methods for—

3 (i) participation by covered platforms;

4 and

5 (ii) verification by the Assistant Sec-
6 retary of the credentials of eligible re-
7 searchers;

8 (C) standards for privacy, security, and
9 confidentiality required to participate in the
10 Program; and

11 (D) standards for transparency regarding
12 the operation and administration of the Pro-
13 gram.

14 (5) DUTY OF CONFIDENTIALITY.—To protect
15 user privacy, a qualified researcher shall have a duty
16 of confidentiality with respect to data assets pro-
17 vided by a covered platform, which may be defined
18 by the Assistant Secretary.

19 (6) FEDERAL AGENCIES.—Nothing in this sub-
20 section shall be construed to authorize a Federal
21 agency to seek access to the data of a covered plat-
22 form through the Program.

23 (e) SAFE HARBOR FOR INDEPENDENT COLLEC-
24 TION.—With respect to public interest research conducted
25 regarding harms to minors, including matters described

1 in section 3(b), no cause of action related to terms of serv-
2 ice violations undertaken while collecting data assets in
3 the course of such research shall lie or be maintained in
4 any court against the researcher conducting the research.

5 (d) RULEMAKING.—The Assistant Secretary, in con-
6 sultation with the Secretary of Commerce and the Director
7 of the National Institute of Standards and Technology,
8 shall promulgate rules in accordance with section 553 of
9 title 5, United States Code, as necessary to implement this
10 section.

11 **SEC. 8. MARKET RESEARCH.**

12 (a) MARKET RESEARCH BY COVERED PLATFORMS.—
13 The Federal Trade Commission, in coordination with the
14 Secretary of Commerce, shall establish guidelines for cov-
15 ered platforms seeking to conduct market- and product-
16 focused research on minors or individuals it reasonably be-
17 lieves to be minors. Such guidelines shall include—

18 (1) a standard consent form that provides mi-
19 nors and their parents a clear and easy-to-under-
20 stand explanation of the scope and purpose of the
21 research to be conducted, and provides an oppor-
22 tunity for informed consent; and

23 (2) recommendations for research practices for
24 studies that may include minors, disaggregated by

1 the age ranges of 0–5, 6–9, 10–12, 13–15, and 16–
2 17.

3 (b) **GUIDELINES.**—The Federal Trade Commission
4 shall promulgate such guidelines not later than 18 months
5 after the date of enactment of this Act. In doing so, they
6 shall seek input from members of the public and the rep-
7 resentatives of the Kids Online Safety Council established
8 under section 11.

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

10 (a) **STUDY.**—The Director of the National Institute
11 of Standards and Technology, in coordination with the
12 Federal Communications Commission, Federal Trade
13 Commission, and the Secretary of Commerce, shall con-
14 duct a study evaluating the most technologically feasible
15 options for developing systems to verify age at the device
16 or operating system level.

17 (b) **CONTENTS.**—Such study shall consider—

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

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

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

1 (4) how such a system or systems could verify
2 age while mitigating risks to user privacy and data
3 security and safeguarding minors' personal data;
4 and

5 (5) the technical feasibility, including the need
6 for potential hardware and software changes, includ-
7 ing for devices currently in commerce and owned by
8 consumers.

9 (c) REPORT.—Not later than 1 year after the date
10 of enactment of this Act, the agencies described in sub-
11 section (a) shall submit a report containing the results of
12 the study conducted under such subsection to the Com-
13 mittee on Commerce, Science, and Transportation of the
14 Senate and the Committee on Energy and Commerce of
15 the House of Representatives.

16 **SEC. 10. ENFORCEMENT.**

17 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
18 SION.—

19 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
20 TICES.—A violation of this Act or a regulation pro-
21 mulgated under this Act by any person shall be
22 treated as a violation of a rule defining an unfair or
23 deceptive act or practice prescribed under section
24 18(a)(1)(B) of the Federal Trade Commission Act
25 (15 U.S.C. 57a(a)(1)(B)).

1 (2) POWERS OF THE COMMISSION.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B) and subsection (b), the Fed-
4 eral Trade Commission (referred to in this sec-
5 tion as the “Commission”) shall enforce this
6 Act and any regulation promulgated under this
7 Act in the same manner, by the same means,
8 and with the same jurisdiction, powers, and du-
9 ties as though all applicable terms and provi-
10 sions of the Federal Trade Commission Act (15
11 U.S.C. 41 et seq.) were incorporated into and
12 made a part of this Act.

13 (B) APPLICATION TO COMMON CARRIERS
14 AND NONPROFIT ORGANIZATIONS.—Notwith-
15 standing section 4, 5(a)(2), or 6 of the Federal
16 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
17 46) or any jurisdictional limitation of the Com-
18 mission, the Commission shall also enforce this
19 Act and the regulations promulgated under this
20 Act, in the manner provided under this sub-
21 section, with respect to—

22 (i) common carriers subject to the
23 Communications Act of 1934 (47 U.S.C.
24 151 et seq.) and all Acts amendatory
25 thereof and supplementary thereto; and

1 (ii) organizations not organized to
2 carry on business for their own profit or
3 that of their members.

4 (C) PRIVILEGES AND IMMUNITIES.—Any
5 person that violates this Act or a regulation
6 promulgated under this Act shall be subject to
7 the penalties, and entitled to the privileges and
8 immunities, provided in the Federal Trade
9 Commission Act (15 U.S.C. 41 et seq.).

10 (3) REGULATIONS.—The Commission may pro-
11 mulate regulations under section 553 of title 5,
12 United States Code, to carry out sections 4, 5, and
13 6 of this Act.

14 (4) AUTHORITY PRESERVED.—Nothing in this
15 section shall be construed to limit the authority of
16 the Commission under any other provision of law.

17 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
18 ERAL.—

19 (1) IN GENERAL.—

20 (A) CIVIL ACTIONS.—In any case in which
21 the attorney general of a State has reason to
22 believe that an interest of the residents of that
23 State has been or is threatened or adversely af-
24 fected by the engagement of any person in a
25 practice that violates this Act or a regulation

1 promulgated under this Act, the State, as
2 parens patriae, may bring a civil action on be-
3 half of the residents of the State in a district
4 court of the United States or a State court of
5 appropriate jurisdiction to—

6 (i) enjoin that practice;

7 (ii) enforce compliance with this Act
8 or such regulation;

9 (iii) on behalf of residents of the
10 State, obtain damages, statutory damages,
11 restitution, or other compensation, each of
12 which shall be distributed in accordance
13 with State law; or

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

16 (B) NOTICE.—

17 (i) IN GENERAL.—Before filing an ac-
18 tion under subparagraph (A), the attorney
19 general of the State involved shall provide
20 to the Commission—

21 (I) written notice of that action;

22 and

23 (II) a copy of the complaint for
24 that action.

25 (ii) EXEMPTION.—

1 ~~(3) CONSTRUCTION.—~~For purposes of bringing
2 any civil action under paragraph (1), nothing in this
3 Act shall be construed to prevent an attorney gen-
4 eral of a State from exercising the powers conferred
5 on the attorney general by the laws of that State
6 to—

7 ~~(A) conduct investigations;~~

8 ~~(B) administer oaths or affirmations; or~~

9 ~~(C) compel the attendance of witnesses or~~
10 the production of documentary and other evi-
11 dence.

12 ~~(4) ACTIONS BY THE COMMISSION.—~~In any
13 case in which an action is instituted by or on behalf
14 of the Commission for violation of this Act or a reg-
15 ulation promulgated under this Act, no State may,
16 during the pendency of that action, institute an ac-
17 tion under paragraph (1) against any defendant
18 named in the complaint in the action instituted by
19 or on behalf of the Commission for that violation.

20 ~~(5) VENUE; SERVICE OF PROCESS.—~~

21 ~~(A) VENUE.—~~Any action brought under
22 paragraph (1) may be brought in—

23 ~~(i) the district court of the United~~
24 States that meets applicable requirements

1 relating to venue under section ~~1391~~ of
2 title 28, United States Code; or

3 (ii) a State court of competent juris-
4 diction.

5 (B) SERVICE OF PROCESS.—In an action
6 brought under paragraph (1) in a district court
7 of the United States, process may be served
8 wherever defendant—

9 (i) is an inhabitant; or

10 (ii) may be found.

11 **SEC. 11. KIDS ONLINE SAFETY COUNCIL.**

12 (a) ESTABLISHMENT.—Not later than 1 year after
13 the date of enactment of this Act, the Secretary of Com-
14 merce shall establish and convene the Kids Online Safety
15 Council for the purpose of providing advice on the imple-
16 mentation of this Act.

17 (b) PARTICIPATION.—The Kids Online Safety Coun-
18 cil shall include participation from—

19 (1) parents, academic experts, health profes-
20 sionals, and members of civil society with respect to
21 the prevention of harms to minors;

22 (2) youth representation;

23 (3) representatives of covered platforms;

24 (4) representatives of the National Tele-
25 communications and Information Administration;

1 the National Institute of Standards and Technology,
 2 the Federal Trade Commission, and the Department
 3 of Justice; and

4 (5) State attorneys general or their representa-
 5 tives.

6 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated to the Fed-
 8 eral Trade Commission such sums as may be necessary
 9 to carry out this Act.

10 **SEC. 13. EFFECTIVE DATE.**

11 Except as otherwise provided in this Act, this Act
 12 shall take effect on the date that is 18 months after the
 13 date of enactment of this Act.

14 **SEC. 14. SEVERABILITY.**

15 If any provision of this Act, or an amendment made
 16 by this Act, is determined to be unenforceable or invalid,
 17 the remaining provisions of this Act and the amendments
 18 made by this Act shall not be affected.

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

20 (a) *SHORT TITLE.*—This Act may be cited as the
 21 “Kids Online Safety Act”.

22 (b) *TABLE OF CONTENTS.*—The table of contents for
 23 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. Relationship to other laws.*
- Sec. 15. Severability.*

1 **SEC. 2. DEFINITIONS.**

2 *In this Act:*

3 (1) *ALGORITHMIC RECOMMENDATION SYSTEM.*—

4 *The term “algorithmic recommendation system”*
5 *means a fully or partially automated system used to*
6 *suggest, promote, or rank information.*

7 (2) *CHILD.*—*The term “child” means an indi-*
8 *vidual who is age 12 or younger.*

9 (3) *COVERED PLATFORM.*—*The term “covered*
10 *platform” means a social media service, social net-*
11 *work, video game, messaging application, video*
12 *streaming service, educational service, or an online*
13 *platform that connects to the internet and that is*
14 *used, or is reasonably likely to be used, by a minor.*

15 (4) *MENTAL HEALTH DISORDER.*—*The term*
16 *“mental health disorder” has the meaning given such*
17 *term in the Diagnostic and Statistical Manual of*
18 *Mental Health Disorders, 5th Edition (or a successor*
19 *edition).*

1 (5) *MINOR*.—The term “minor” means an indi-
2 vidual who is age 16 or younger.

3 (6) *ONLINE PLATFORM*.—The term “online plat-
4 form” means any public-facing website, online serv-
5 ice, online application, or mobile application that
6 primarily provides a community forum for user gen-
7 erated content, including sharing videos, images,
8 games, audio files, or other content.

9 (7) *PARENT*.—The term “parent” includes a
10 legal guardian or an individual with legal custody
11 over a minor.

12 (8) *PERSONAL DATA*.—The term “personal data”
13 means information that identifies or is linked or rea-
14 sonably linkable to an individual, household, or con-
15 sumer device.

16 (9) *COMPULSIVE USAGE*.—The term “compulsive
17 usage” means any response stimulated by external
18 factors that causes an individual to engage in repet-
19 itive behavior reasonably likely to cause psychological
20 distress, loss of control, anxiety, depression, or harm-
21 ful stress responses.

22 **SEC. 3. DUTY OF CARE.**

23 (a) *BEST INTERESTS*.—A covered platform shall act
24 in the best interests of a minor that uses the platform’s
25 products or services, as described in subsection (b).

1 (b) *PREVENTION OF HARM TO MINORS.—In acting in*
2 *the best interests of minors, a covered platform shall take*
3 *reasonable measures in its design and operation of products*
4 *and services to prevent and mitigate—*

5 (1) *mental health disorders or associated behav-*
6 *iors, including the promotion or exacerbation of self-*
7 *harm, suicide, eating disorders, and substance use*
8 *disorders;*

9 (2) *patterns of use that indicate or encourage ad-*
10 *diction-like behaviors;*

11 (3) *physical violence, online bullying, and har-*
12 *assment of a minor;*

13 (4) *sexual exploitation, including enticement,*
14 *grooming, sex trafficking, and sexual abuse of minors*
15 *and trafficking of online child sexual abuse material;*

16 (5) *promotion and marketing of narcotic drugs*
17 *(as defined in section 102 of the Controlled Sub-*
18 *stances Act (21 U.S.C. 802)), tobacco products, gam-*
19 *bling, or alcohol; and*

20 (6) *predatory, unfair, or deceptive marketing*
21 *practices, or other financial harms.*

22 **SEC. 4. SAFEGUARDS FOR MINORS.**

23 (a) *SAFEGUARDS FOR MINORS.—*

1 (E) delete the minor's account and delete
2 their personal data;

3 (F) restrict the sharing of the geolocation of
4 a minor and provide notice regarding the track-
5 ing of a minor's geolocation; and

6 (G) limit the amount of time spent by a
7 minor on the covered platform.

8 (2) *DEFAULT SAFEGUARD SETTINGS FOR MI-*
9 *NORS.*—A covered platform shall provide that, in the
10 case of a user that the platform knows or reasonably
11 believes to be a minor, the default setting for any safe-
12 guard described under paragraph (1) shall be the op-
13 tion available on the platform that provides the most
14 protective level of control that is offered by the plat-
15 form over privacy and safety for that user.

16 (b) *PARENTAL TOOLS.*—

17 (1) *TOOLS.*—A covered platform shall provide
18 readily-accessible and easy-to-use tools for parents to
19 supervise the use of the covered platform by a minor.

20 (2) *REQUIREMENTS.*—The tools provided by a
21 covered platform shall include—

22 (A) the ability to control privacy and ac-
23 count settings, including the safeguards estab-
24 lished under subsection (a)(1);

1 (B) the ability to restrict purchases and fi-
2 nancial transactions by a minor, where applica-
3 ble;

4 (C) the ability to track metrics of total time
5 spent on the platform; and

6 (D) control options that allow parents to
7 address the harms described in section 3(b).

8 (3) *NOTICE TO MINORS.*—A covered platform
9 shall provide clear and conspicuous notice to a minor
10 when tools described in this subsection are in effect.

11 (4) *DEFAULT TOOLS.*—A covered platform shall
12 provide that, in the case of a user that the platform
13 knows or reasonably believes to be a child, the tools
14 described in this subsection shall be enabled by de-
15 fault.

16 (c) *REPORTING MECHANISM.*—

17 (1) *REPORTS SUBMITTED BY PARENTS, MINORS,*
18 *AND SCHOOLS.*—A covered platform shall provide—

19 (A) a readily-accessible and easy-to-use
20 means to submit reports to the covered platform
21 of harms to minors;

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

24 (C) confirmation of the receipt of such a re-
25 port and a means to track a submitted report.

1 (2) *TIMING.*—A covered platform shall establish
2 an internal process to receive and substantively re-
3 spond to reports in a reasonable and timely manner,
4 but in no case later than 14 days after the receipt of
5 a report.

6 (d) *ADVERTISING OF ILLEGAL PRODUCTS.*—A covered
7 platform shall not facilitate the advertising of narcotic
8 drugs (as defined in section 102 of the Controlled Sub-
9 stances Act (21 U.S.C. 802)), tobacco products, gambling,
10 or alcohol to minors.

11 (e) *APPLICATION.*—

12 (1) *ACCESSIBILITY.*—With respect to safeguards
13 and parental controls described under subsections (a)
14 and (b), a covered platform shall provide—

15 (A) information and control options in a
16 clear and conspicuous manner that takes into
17 consideration the differing ages, capacities, and
18 developmental needs of the minors most likely to
19 access the covered platform and does not encour-
20 age minors or parents to weaken or disable safe-
21 guards or parental controls;

22 (B) readily-accessible and easy-to-use con-
23 trols to enable or disable safeguards or parental
24 controls, as appropriate; and

1 (C) information and control options in the
2 same language, form, and manner as the covered
3 platform provides any product or service used by
4 minors.

5 (2) *DARK PATTERNS PROHIBITION.*—For pur-
6 poses of this section, it shall be unlawful for any cov-
7 ered platform to design, modify, or manipulate a user
8 interface of a covered platform with the purpose or
9 substantial effect of subverting or impairing user au-
10 tonomy, decision-making, or choice in order to weak-
11 en or disable safeguards or parental controls.

12 (3) *RULES OF CONSTRUCTION.*—Nothing in this
13 section shall be construed to—

14 (A) prevent a covered platform from—

15 (i) taking reasonable measures to limit
16 algorithmic recommendation systems from
17 distributing unlawful, obscene, or harmful
18 material to minors as described in section
19 3(b); or

20 (ii) implementing measures to block or
21 filter spam, prevent criminal activity, or
22 protect the security of a platform or service;

23 (B) require the disclosure of a minor's
24 browsing behavior, search history, messages, or
25 other content of their communications; or

- 1 (C) restrict a covered platform’s ability to—
- 2 (i) cooperate with law enforcement
- 3 agencies regarding activity that the oper-
- 4 ator reasonably and in good faith believes
- 5 may violate Federal, State, or local laws,
- 6 rules, or regulations;
- 7 (ii) comply with a civil, criminal, or
- 8 regulatory inquiry or any investigation,
- 9 subpoena, or summons by Federal, State,
- 10 local, or other government authorities; or
- 11 (iii) exercise, respond to, or defend
- 12 against legal claims.

13 **SEC. 5. DISCLOSURE.**

14 (a) NOTICE.—

15 (1) REGISTRATION.—Prior to registration, use,

16 or purchase of a covered platform by a minor, the

17 platform shall provide clear, conspicuous, and easy-

18 to-understand—

19 (A) notice of the policies and practices of

20 the covered platform with respect to personal

21 data and safeguards for minors;

22 (B) information about how to access the

23 safeguards and parental tools required under sec-

24 tion 4; and

1 (C) notice about whether the covered plat-
2 form, including any algorithmic recommenda-
3 tion systems used by the platform, pose any
4 heightened risks of harms to minors.

5 (2) *PARENTAL NOTIFICATION.*—For a minor, or
6 an individual that a covered platform reasonably be-
7 lieves is a minor, a covered platform shall addition-
8 ally provide the notice, information, and statement
9 described in paragraph (1) to a parent of the minor.

10 (3) *ACKNOWLEDGMENT.*—After providing the no-
11 tice, information, and statement described in para-
12 graph (1), but prior to initial use of the covered plat-
13 form, the covered platform shall take reasonable steps
14 to obtain express affirmative acknowledgment from a
15 parent of the minor of the receipt of information re-
16 lated to the heightened risks of harm to minors ref-
17 erenced in the statement in paragraph (1)(C).

18 (4) *RULEMAKING.*—The Commission may issue
19 rules pursuant to section 553 of title 5, United States
20 Code, to establish standards for covered platforms to
21 comply with this subsection, including—

22 (A) a minimum level of information covered
23 platforms must provide pursuant to paragraph
24 (1), where applicable; and

1 (B) processes for parental notification,
2 which may include templates or models of short-
3 form notices.

4 (b) *ALGORITHMIC RECOMMENDATION SYSTEM.*—A
5 covered platform that operates algorithmic recommendation
6 systems that use minors' personal data shall set out in its
7 terms and conditions, in a clear, conspicuous, and easy-
8 to-understand manner—

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

14 (2) information about options for minors or
15 their parents to control algorithmic recommendation
16 systems that use a minor's personal data (including
17 by opting out of such systems).

18 (c) *ADVERTISING AND MARKETING INFORMATION AND*
19 *LABELS.*—

20 (1) *INFORMATION AND LABELS.*—A covered plat-
21 form that facilitates advertising aimed at minors
22 shall provide clear, conspicuous, and easy-to-under-
23 stand information and labels on advertisements and
24 marketing material regarding—

1 (A) *the name of the product, service, or*
2 *brand and the subject matter of an advertisement*
3 *or marketing material;*

4 (B) *why the minor is being targeted for a*
5 *particular advertisement or marketing material*
6 *if the covered platform engages in targeted adver-*
7 *tising, including material information about*
8 *how the minor's personal data was used to target*
9 *the advertisement or marketing material; and*

10 (C) *whether particular media displayed to*
11 *a user is an advertisement or marketing mate-*
12 *rial, including disclosure of endorsements of*
13 *products, services, or brands made for commer-*
14 *cial consideration by other users of the platform.*

15 (2) *RULEMAKING.—The Commission may issue*
16 *rules pursuant to section 553 of title 5, United States*
17 *Code, to implement this subsection, specifically estab-*
18 *lishing the minimum level of information and labels*
19 *necessary for the disclosures required under para-*
20 *graph (1), which may include templates or models of*
21 *short-form notices.*

22 (d) *RESOURCES FOR PARENTS AND MINORS.—A cov-*
23 *ered platform shall provide to minors and parents clear,*
24 *conspicuous, easy-to-understand, and comprehensive infor-*
25 *mation in a prominent location regarding—*

1 (1) *its policies and practices with respect to per-*
2 *sonal data and safeguards for minors; and*

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

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

10 **SEC. 6. TRANSPARENCY.**

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

18 (b) *SCOPE OF APPLICATION.*—The requirements of this
19 *section shall not apply to a covered platform if, for the most*
20 *recent calendar year, the platform averaged less than*
21 *10,000,000 active users on a monthly basis in the United*
22 *States.*

23 (c) *CONTENT.*—

1 (1) *TRANSPARENCY.—The public reports re-*
2 *quired of a covered platform under this section shall*
3 *include—*

4 (A) *an assessment of the extent to which the*
5 *platform is likely to be accessed by minors;*

6 (B) *a description of the commercial inter-*
7 *ests of the covered platform in use by minors;*

8 (C) *an accounting of the number of individ-*
9 *uals using the covered platform reasonably be-*
10 *lieved to be minors in the United States,*
11 *disaggregated by the age ranges of 0-5, 6-9, 10-*
12 *12, and 13-16;*

13 (D) *an accounting of the median and mean*
14 *amounts of time spent on the platform by minors*
15 *in the United States who have accessed the plat-*
16 *form during the reporting year on a daily, week-*
17 *ly, and monthly basis, disaggregated by the age*
18 *ranges of 0-5, 6-9, 10-12, and 13-16;*

19 (E) *an accounting of total reports received*
20 *regarding, and the prevalence of content related*
21 *to, the harms described in section 3(b),*
22 *disaggregated by category of harm; and*

23 (F) *a description of any material breaches*
24 *of parental tools or assurances regarding minors,*
25 *representations regarding the use of the personal*

1 *data of minors, and other matters regarding*
2 *non-compliance.*

3 (2) *SYSTEMIC RISKS ASSESSMENT.*—*The public*
4 *reports required of a covered platform under this sec-*
5 *tion shall include—*

6 (A) *an audit of the reasonably foreseeable*
7 *risk of harms to minors posed by the covered*
8 *platform, including identifying any other phys-*
9 *ical, mental, developmental, or financial harms*
10 *in addition to those described in section 3(b);*

11 (B) *an assessment of how algorithmic rec-*
12 *ommendation systems and targeted advertising*
13 *systems can contribute to harms to minors;*

14 (C) *a description of whether and how the*
15 *covered platform uses system design features to*
16 *increase, sustain, or extend use of a product or*
17 *service by a minor, such as automatic playing of*
18 *media, rewards for time spent, and notifications;*

19 (D) *a description of whether, how, and for*
20 *what purpose the platform collects or processes*
21 *categories of personal data that may cause rea-*
22 *sonably foreseeable risk of harms to minors;*

23 (E) *an evaluation of the efficacy of safe-*
24 *guards for minors under section 4, and any*

1 *issues in delivering such safeguards and the asso-*
2 *ciated parental tools; and*

3 *(F) an evaluation of any other relevant*
4 *matters of public concern over risk of harms to*
5 *minors.*

6 *(3) MITIGATION.—The public reports required of*
7 *a covered platform under this section shall include—*

8 *(A) a description of the safeguards and pa-*
9 *rental tools available to minors and parents on*
10 *the covered platform;*

11 *(B) a description of interventions by the*
12 *covered platform when it had or has reason to*
13 *believe that harms to minors could occur;*

14 *(C) a description of the prevention and*
15 *mitigation measures intended to be taken in re-*
16 *sponse to the known and emerging risks identi-*
17 *fied in its audit of system risks, including steps*
18 *taken to—*

19 *(i) prevent harms to minors, including*
20 *adapting or removing system design fea-*
21 *tures;*

22 *(ii) provide the most protective level of*
23 *control over privacy and safety by default;*
24 *and*

1 (iii) *adapt algorithmic recommenda-*
2 *tion systems to prioritize the best interests*
3 *of users who are minors, as described in sec-*
4 *tion 3(b);*

5 (D) *a description of internal processes for*
6 *handling reports and automated detection mech-*
7 *anisms for harms to minors, including the rate,*
8 *timeliness, and effectiveness of responses under*
9 *the requirement of section 4(c);*

10 (E) *the status of implementing prevention*
11 *and mitigation measures identified in prior as-*
12 *sessments; and*

13 (F) *a description of the additional measures*
14 *to be taken by the covered platform to address the*
15 *circumvention of safeguards for minors and pa-*
16 *rental tools.*

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

20 (1) *take into consideration the function of algo-*
21 *rithmic recommendation systems;*

22 (2) *consult parents and youth experts, including*
23 *public health and mental health nonprofit organiza-*
24 *tions, child and adolescent health and development or-*

1 *ganizations, and civil society with respect to the pre-*
2 *vention of harms to minors;*

3 *(3) conduct research based on experiences of mi-*
4 *nors that use the covered platform, including reports*
5 *under section 4(c) and information provided by law*
6 *enforcement;*

7 *(4) take account of research, including research*
8 *regarding system design features, marketing, or prod-*
9 *uct integrity, industry best practices, or outside re-*
10 *search; and*

11 *(5) consider indicia or inferences of age of users,*
12 *in addition to any self-declared information about the*
13 *age of individuals.*

14 *(e) COOPERATION WITH INDEPENDENT, THIRD-PARTY*
15 *AUDIT.—To facilitate the report required by subsection (c),*
16 *a covered platform shall—*

17 *(1) provide or otherwise make available to the*
18 *independent third-party conducting the audit all in-*
19 *formation and material in its possession, custody, or*
20 *control that is relevant to the audit;*

21 *(2) provide or otherwise make available to the*
22 *independent third-party conducting the audit access*
23 *to all network, systems, and assets relevant to the*
24 *audit; and*

1 (3) *disclose all relevant facts to the independent*
2 *third-party conducting the audit, and not misrepre-*
3 *sent in any manner, expressly or by implication, any*
4 *relevant fact.*

5 (f) *PRIVACY SAFEGUARDS.—*

6 (1) *IN GENERAL.—In issuing the public reports*
7 *required under this section, a covered platform shall*
8 *take steps to safeguard the privacy of its users, in-*
9 *cluding ensuring that data is presented in a de-iden-*
10 *tified, aggregated format.*

11 (2) *CLARIFICATION.—The section shall not be*
12 *construed to require—*

13 (A) *the affirmative collection of any per-*
14 *sonal data with respect to the age of users that*
15 *a covered platform is not already collecting in*
16 *the normal course of business; or*

17 (B) *the covered platform to implement an*
18 *age gating functionality.*

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

22 (h) *RULEMAKING.—The Commission may issue rules*
23 *pursuant to section 553 of title 5, United States Code to*
24 *implement this section, specifically establishing processes*

1 *and minimum standards for third-party auditors to iden-*
2 *tify and assess—*

3 *(1) known and emerging risks to minors; and*

4 *(2) how algorithmic recommendation systems*
5 *and targeted advertising systems can contribute to*
6 *harms to minors as described in section 3(b).*

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

8 *(a) DEFINITIONS.—In this section:*

9 *(1) ASSISTANT SECRETARY.—The term “Assist-*
10 *ant Secretary” means the Assistant Secretary of Com-*
11 *merce for Communications and Information.*

12 *(2) DE-IDENTIFIED DATA.—The term “de-identi-*
13 *fied data” means information—*

14 *(A) that does not identify and is not linked*
15 *or reasonably linkable to an individual or an in-*
16 *dividual’s device; and*

17 *(B) with respect to which a covered plat-*
18 *form or researcher takes reasonable technical and*
19 *contractual measures to ensure that the informa-*
20 *tion is not used to re-identify any individual or*
21 *individual’s device.*

22 *(3) ELIGIBLE RESEARCHER.—The term “eligible*
23 *researcher” means an individual or group of individ-*
24 *uals affiliated with or employed by—*

1 (A) an institution of higher education (as
2 defined in section 101 of the Higher Education
3 Act of 1965 (20 U.S.C. 1001)); or

4 (B) a nonprofit organization described in
5 section 501(c)(3) of the Internal Revenue Code of
6 1986.

7 (4) PROGRAM.—The term “Program” means the
8 program established under subsection (b)(1).

9 (5) PUBLIC INTEREST RESEARCH.—The term
10 “public interest research” means the scientific or his-
11 torical analysis of information that is performed for
12 the primary purpose of advancing a broadly recog-
13 nized public interest.

14 (6) QUALIFIED RESEARCHER.—The term “quali-
15 fied researcher” means an eligible researcher who is
16 approved by the Assistant Secretary to conduct public
17 interest research regarding harms to minors under the
18 Program.

19 (b) PUBLIC INTEREST RESEARCH PROGRAM RELAT-
20 ING TO IDENTIFIED HARMS TO MINORS.—

21 (1) ESTABLISHMENT.—Subject to paragraph (2),
22 the Assistant Secretary shall establish a program,
23 with public notice and an opportunity to comment,
24 under which an eligible researcher may apply for,
25 and a covered platform shall provide, access to data

1 *assets from the covered platform for the sole purpose*
2 *of conducting public interest research regarding the*
3 *harms described in section 3(b).*

4 (2) *SCOPE OF APPLICATION.—The requirements*
5 *of this subsection shall not apply to a covered plat-*
6 *form if, for the most recent calendar year, the plat-*
7 *form averaged less than 10,000,000 active users on a*
8 *monthly basis in the United States.*

9 (3) *PROCESSES, PROCEDURES, AND STAND-*
10 *ARDS.—Not later than 1 year after the date of enact-*
11 *ment of this Act, the Assistant Secretary shall estab-*
12 *lish for the program established under this sub-*
13 *section—*

14 (A) *definitions for data assets (related to*
15 *harms described in section 3(b)) that qualify for*
16 *disclosure to researchers under the program and*
17 *standards of access for data assets to be provided*
18 *under the program;*

19 (B) *a process by which an eligible re-*
20 *searcher may submit an application described in*
21 *paragraph (1);*

22 (C) *an appeals process for eligible research-*
23 *ers to appeal adverse decisions on applications*
24 *described in paragraph (1) (including a decision*
25 *to grant an appeal under paragraph (4)(C));*

1 (D) procedures for implementation of the
2 program, including methods for—

3 (i) participation by covered platforms;

4 and

5 (ii) verification by the Assistant Sec-
6 retary of the credentials of eligible research-
7 ers and processes for the application or dis-
8 qualification to participate in the program;

9 (E) standards for privacy, security, and
10 confidentiality required to participate in the
11 program;

12 (F) a mechanism to allow individuals to
13 control the use of their personal data under the
14 program, including the ability to opt out of the
15 program;

16 (G) standards for transparency regarding
17 the operation and administration of the pro-
18 gram; and

19 (H) rules to prevent requests for data assets
20 that present financial conflicts of interest, in-
21 cluding efforts by covered platforms to gain a
22 competitive advantage by directly funding data
23 access requests, the use of qualified researcher
24 status for commercial gain, or efforts by covered

1 *platforms to obtain access to intellectual prop-*
2 *erty that is otherwise protected by law.*

3 *(4) DUTIES AND RIGHTS OF COVERED PLAT-*
4 *FORMS.—*

5 *(A) ACCESS TO DATA ASSETS.—*

6 *(i) IN GENERAL.—If the Assistant Sec-*
7 *retary approves an application under para-*
8 *graph (1) with respect to a covered plat-*
9 *form, the covered platform shall, in a timely*
10 *manner, provide the qualified researcher*
11 *with access to data assets necessary to con-*
12 *duct public interest research described in*
13 *that paragraph.*

14 *(ii) LIMITATIONS.—Nothing in this*
15 *section shall be construed to require a cov-*
16 *ered platform to provide access to data as-*
17 *sets that are intellectual property protected*
18 *by Federal law, trade secrets, or commercial*
19 *or financial information.*

20 *(iii) FORM OF ACCESS.—A covered*
21 *platform shall provide to a qualified re-*
22 *searcher access to data assets under clause*
23 *(i) through online databases, application*
24 *programming interfaces, and data files as*
25 *appropriate.*

1 (B) *NONDISCLOSURE AGREEMENT.*—A cov-
2 ered platform may require, as a condition of ac-
3 cess to the data assets of the covered platform,
4 that a qualified researcher enter into a non-
5 disclosure agreement restricting the release of
6 data assets, provided that—

7 (i) the agreement does not restrict the
8 publication or discussion regarding the
9 qualified researcher’s findings; and

10 (ii) the terms of the agreement allow
11 the qualified researcher to provide the origi-
12 nal agreement or a copy of the agreement to
13 the Assistant Secretary.

14 (C) *APPEAL.*—

15 (i) *AGENCY APPEAL.*—A covered plat-
16 form may appeal the granting of an appli-
17 cation under paragraph (1) on the grounds
18 that, and the Assistant Secretary shall
19 grant such appeal if—

20 (I) the covered platform does not
21 have access to the requested data assets
22 or the requested data assets are not
23 reasonably tailored to application; or

24 (II) providing access to the data
25 assets will lead to material

1 *vulnerabilities for the privacy of users*
2 *or the security of the covered platform's*
3 *service or create a significant risk of*
4 *the violation of Federal or state law.*

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

11 *(D) TIMING.—A covered platform for which*
12 *this provision applies shall participate no later*
13 *than two years after enactment of this Act.*

14 *(5) APPLICATION REQUIREMENTS.—In order to*
15 *be approved to access data assets from a covered plat-*
16 *form, an eligible researcher shall, in the application*
17 *submitted under paragraph (1)—*

18 *(A) commit to conduct the research for non-*
19 *commercial purposes;*

20 *(B) demonstrate a proven record of exper-*
21 *tise on the proposed research topic and related*
22 *research methodologies;*

23 *(C) if the eligible researcher is seeking ac-*
24 *cess to data assets that include personal data,*
25 *show a reasonable need for access to data assets*

1 *that would be considered personal data, such as*
2 *by demonstrating that the research cannot rea-*
3 *sonably be accomplished using de-identified data*
4 *or aggregated information; and*

5 *(D) commit to fulfill, and demonstrate a ca-*
6 *capacity to fulfill, the specific data security and*
7 *confidentiality requirements corresponding to the*
8 *application.*

9 (6) *PRIVACY AND DUTY OF CONFIDENTIALITY.—*

10 (A) *RESEARCHER CONFIDENTIALITY.—To*
11 *protect user privacy, a qualified researcher shall*
12 *keep data assets provided by a covered platform*
13 *under the program confidential and secure.*

14 (B) *PLATFORM CONFIDENTIALITY.—A cov-*
15 *ered platform shall use reasonable measures to*
16 *enable researcher access to data assets under the*
17 *program in a secure and privacy-protective*
18 *manner, including through the de-identification*
19 *of personal data or use of other privacy-enhanc-*
20 *ing technologies.*

21 (C) *FEDERAL AGENCIES.—Nothing in this*
22 *subsection shall be construed to authorize a Fed-*
23 *eral agency to seek access to the data of a covered*
24 *platform through the program.*

1 (c) *SAFE HARBOR FOR COLLECTION OF DATA FOR*
2 *PUBLIC INTEREST RESEARCH REGARDING IDENTIFIED*
3 *HARMS TO MINORS.*—*If, in the course of conducting public*
4 *interest research regarding harms described in section 3(b)*
5 *(without regard to whether such research is conducted under*
6 *the program), an eligible researcher collects or uses data*
7 *from a covered platform in a manner that violates the terms*
8 *of service of the platform, no cause of action based on such*
9 *violation shall lie or be maintained in any court against*
10 *such researcher unless the violation relates to the failure of*
11 *the researcher to take reasonable measures to protect user*
12 *privacy and security.*

13 (d) *RULEMAKING.*—*The Assistant Secretary, in con-*
14 *sultation with the Secretary of Commerce, the Director of*
15 *the National Institute of Standards and Technology, the Di-*
16 *rector of the National Science Foundation, and the Director*
17 *of the National Institutes of Health shall promulgate rules*
18 *in accordance with section 553 of title 5, United States*
19 *Code, as necessary to implement this section.*

20 **SEC. 8. MARKET RESEARCH.**

21 (a) *MARKET RESEARCH BY COVERED PLATFORMS.*—
22 *The Federal Trade Commission, in consultation with the*
23 *Secretary of Commerce, shall establish guidance for covered*
24 *platforms seeking to conduct market- and product-focused*

1 *research on minors or individuals it reasonably believes to*
2 *be minors. Such guidance shall include—*

3 *(1) a standard consent form that provides mi-*
4 *nors and their parents a clear, conspicuous, and easy-*
5 *to-understand explanation of the scope and purpose of*
6 *the research to be conducted, and provides an oppor-*
7 *tunity for informed consent; and*

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

11 *(b) GUIDELINES.—The Federal Trade Commission*
12 *shall promulgate such guidelines not later than 18 months*
13 *after the date of enactment of this Act. In doing so, they*
14 *shall seek input from members of the public and the rep-*
15 *resentatives of the Kids Online Safety Council established*
16 *under section 12.*

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

18 *(a) STUDY.—The Director of the National Institute of*
19 *Standards and Technology, in coordination with the Fed-*
20 *eral Communications Commission, Federal Trade Commis-*
21 *sion, and the Secretary of Commerce, shall conduct a study*
22 *evaluating the most technologically feasible methods and op-*
23 *tions for developing systems to verify age at the device or*
24 *operating system level.*

25 *(b) CONTENTS.—Such study shall consider —*

1 (1) *the benefits of creating a device or operating*
2 *system level age verification system;*

3 (2) *what information may need to be collected to*
4 *create this type of age verification system;*

5 (3) *the accuracy of such systems and their im-*
6 *port or steps to improve accessibility, including for*
7 *individuals with disabilities;*

8 (4) *how such a system or systems could verify*
9 *age while mitigating risks to user privacy and data*
10 *security and safeguarding minors' personal data, em-*
11 *phasizing minimizing the amount of data collected*
12 *and processed by covered platforms for such a system;*
13 *and*

14 (5) *the technical feasibility, including the need*
15 *for potential hardware and software changes, includ-*
16 *ing for devices currently in commerce and owned by*
17 *consumers.*

18 (c) *REPORT.*—*Not later than 1 year after the date of*
19 *enactment of this Act, the agencies described in subsection*
20 *(a) shall submit a report containing the results of the study*
21 *conducted under such subsection to the Committee on Com-*
22 *merce, Science, and Transportation of the Senate and the*
23 *Committee on Energy and Commerce of the House of Rep-*
24 *resentatives.*

1 **SEC. 10. GUIDANCE.**

2 *Not later than 1 year after the date of enactment of*
3 *this Act, the Federal Trade Commission, in consultation*
4 *with the Kids Online Safety Council established under sec-*
5 *tion 12, shall issue guidance to—*

6 *(1) assist elementary or secondary schools in*
7 *using the notice, safeguards and tools provided under*
8 *this Act and facilitate compliance with student pri-*
9 *vacancy laws; and*

10 *(2) provide information and examples for cov-*
11 *ered platforms and auditors regarding—*

12 *(A) identifying features that are used to in-*
13 *crease, sustain, or extend use of the covered plat-*
14 *form by a minor;*

15 *(B) safeguarding minors against the pos-*
16 *sible misuse of parental tools;*

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

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

23 *(E) methods for evaluating the efficacy of*
24 *safeguards; and*

1 (F) providing additional control options
2 that allow parents to address the harms de-
3 scribed in section 3(b); and

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

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

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

17 (C) establishing default settings that provide
18 enhanced privacy protection to users or otherwise
19 enhance their autonomy and decision-making
20 ability.

21 **SEC. 11. ENFORCEMENT.**

22 (a) **ENFORCEMENT BY FEDERAL TRADE COMMIS-**
23 **SION.—**

24 (1) **UNFAIR AND DECEPTIVE ACTS OR PRAC-**
25 **TICES.—**A violation of this Act or a regulation pro-

1 *mulgated under this Act shall be treated as a viola-*
2 *tion of a rule defining an unfair or deceptive act or*
3 *practice prescribed under section 18(a)(1)(B) of the*
4 *Federal Trade Commission Act (15 U.S.C.*
5 *57a(a)(1)(B)).*

6 (2) *POWERS OF THE COMMISSION.—*

7 (A) *IN GENERAL.—Except as provided in*
8 *subsection (b), the Federal Trade Commission*
9 *(referred to in this section as the “Commission”)*
10 *shall enforce this Act and any regulation pro-*
11 *mulgated under this Act in the same manner, by*
12 *the same means, and with the same jurisdiction,*
13 *powers, and duties as though all applicable*
14 *terms and provisions of the Federal Trade Com-*
15 *mission Act (15 U.S.C. 41 et seq.) were incor-*
16 *porated into and made a part of this Act.*

17 (B) *PRIVILEGES AND IMMUNITIES.—Any*
18 *person that violates this Act or a regulation pro-*
19 *mulgated under this Act shall be subject to the*
20 *penalties, and entitled to the privileges and im-*
21 *munities, provided in the Federal Trade Com-*
22 *mission Act (15 U.S.C. 41 et seq.).*

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

1 **(b) ENFORCEMENT BY STATE ATTORNEYS GENERAL.**—

2 **(1) IN GENERAL.**—

3 **(A) CIVIL ACTIONS.**—*In any case in which*
4 *the attorney general of a State has reason to be-*
5 *lieve that an interest of the residents of that*
6 *State has been or is threatened or adversely af-*
7 *ected by the engagement of any person in a*
8 *practice that violates this Act or a regulation*
9 *promulgated under this Act, the State, as parens*
10 *patriae, may bring a civil action on behalf of the*
11 *residents of the State in a district court of the*
12 *United States or a State court of appropriate ju-*
13 *risdiction to—*

14 *(i) enjoin that practice;*

15 *(ii) enforce compliance with this Act or*
16 *such regulation;*

17 *(iii) on behalf of residents of the State,*
18 *obtain damages, restitution, or other com-*
19 *ensation, each of which shall be distributed*
20 *in accordance with State law; or*

21 *(iv) obtain such other relief as the*
22 *court may consider to be appropriate.*

23 **(B) NOTICE.**—

24 *(i) IN GENERAL.*—*Before filing an ac-*
25 *tion under subparagraph (A), the attorney*

1 *general of the State involved shall provide*
2 *to the Commission—*

3 *(I) written notice of that action;*
4 *and*

5 *(II) a copy of the complaint for*
6 *that action.*

7 *(ii) EXEMPTION.—*

8 *(I) IN GENERAL.—Clause (i) shall*
9 *not apply with respect to the filing of*
10 *an action by an attorney general of a*
11 *State under this paragraph if the at-*
12 *torney general of the State determines*
13 *that it is not feasible to provide the no-*
14 *tice described in that clause before the*
15 *filing of the action.*

16 *(II) NOTIFICATION.—In an action*
17 *described in subclause (I), the attorney*
18 *general of a State shall provide notice*
19 *and a copy of the complaint to the*
20 *Commission at the same time as the*
21 *attorney general files the action.*

22 *(2) INTERVENTION.—*

23 *(A) IN GENERAL.—On receiving notice*
24 *under paragraph (1)(B), the Commission shall*

1 *have the right to intervene in the action that is*
2 *the subject of the notice.*

3 *(B) EFFECT OF INTERVENTION.—If the*
4 *Commission intervenes in an action under para-*
5 *graph (1), it shall have the right—*

6 *(i) to be heard with respect to any*
7 *matter that arises in that action; and*

8 *(ii) to file a petition for appeal.*

9 *(3) CONSTRUCTION.—For purposes of bringing*
10 *any civil action under paragraph (1), nothing in this*
11 *Act shall be construed to prevent an attorney general*
12 *of a State from exercising the powers conferred on the*
13 *attorney general by the laws of that State to—*

14 *(A) conduct investigations;*

15 *(B) administer oaths or affirmations; or*

16 *(C) compel the attendance of witnesses or*
17 *the production of documentary and other evi-*
18 *dence.*

19 *(4) ACTIONS BY THE COMMISSION.—In any case*
20 *in which an action is instituted by or on behalf of the*
21 *Commission for violation of this Act or a regulation*
22 *promulgated under this Act, no State may, during the*
23 *pendency of that action, institute a separate action*
24 *under paragraph (1) against any defendant named in*

1 *the complaint in the action instituted by or on behalf*
2 *of the Commission for that violation.*

3 (5) *VENUE; SERVICE OF PROCESS.—*

4 (A) *VENUE.—Any action brought under*
5 *paragraph (1) may be brought in—*

6 (i) *the district court of the United*
7 *States that meets applicable requirements*
8 *relating to venue under section 1391 of title*
9 *28, United States Code; or*

10 (ii) *a State court of competent juris-*
11 *diction.*

12 (B) *SERVICE OF PROCESS.—In an action*
13 *brought under paragraph (1) in a district court*
14 *of the United States, process may be served wher-*
15 *ever defendant—*

16 (i) *is an inhabitant; or*

17 (ii) *may be found.*

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

19 (a) *ESTABLISHMENT.—Not later than 180 days after*
20 *the date of enactment of this Act, the Secretary of Commerce*
21 *shall establish and convene the Kids Online Safety Council*
22 *for the purpose of providing advice on matters related to*
23 *this Act.*

24 (b) *PARTICIPATION.—The Kids Online Safety Council*
25 *shall include diverse participation from—*

1 (1) *academic experts, health professionals, and*
2 *members of civil society with expertise in mental*
3 *health and the prevention of harms to minors;*

4 (2) *representatives in academia and civil society*
5 *with specific expertise in privacy and civil liberties;*

6 (3) *parents and youth representation;*

7 (4) *representatives of covered platforms;*

8 (5) *representatives of the National Telecommuni-*
9 *cations and Information Administration, the Na-*
10 *tional Institute of Standards and Technology, the*
11 *Federal Trade Commission, the Department of Jus-*
12 *tice, and the Department of Health and Human Serv-*
13 *ices;*

14 (6) *State attorneys general or their designees act-*
15 *ing in State or local government; and*

16 (7) *representatives of communities of socially*
17 *disadvantaged individuals (as defined in section 8 of*
18 *the Small Business Act (15 U.S.C. 637)).*

19 (c) *ACTIVITIES.—The matters to be addressed by the*
20 *Kids Online Safety Council shall include—*

21 (1) *identifying emerging or current risks of*
22 *harms to minors associated with online platforms;*

23 (2) *recommending measures and methods for as-*
24 *sessing, preventing, and mitigating harms to minors*
25 *online;*

1 (3) *recommending methods and themes for con-*
2 *ducting research regarding online harms to minors;*
3 *and*

4 (4) *recommending best practices and clear, con-*
5 *sensus-based technical standards for transparency re-*
6 *ports and audits, as required under this Act.*

7 *The recommended standards for reports and audits under*
8 *paragraph (4) shall include methods, criteria, and scope to*
9 *promote overall accountability.*

10 **SEC. 13. EFFECTIVE DATE.**

11 *Except as otherwise provided in this Act, this Act shall*
12 *take effect on the date that is 18 months after the date of*
13 *enactment of this Act.*

14 **SEC. 14. RELATIONSHIP TO OTHER LAWS.**

15 *Nothing in this Act shall be construed to—*

16 (1) *preempt section 444 of the General Edu-*
17 *cation Provisions Act (20 U.S.C. 1232g, commonly*
18 *known as the “Family Educational Rights and Pri-*
19 *vacancy Act of 1974”) or other Federal or State laws*
20 *governing student privacy; or*

21 (2) *authorize any action that would conflict with*
22 *section 18(h) of the Federal Trade Commission Act*
23 *(15 U.S.C. 57a(h)).*

1 **SEC. 15. SEVERABILITY.**

2 *If any provision of this Act, or an amendment made*
3 *by this Act, is determined to be unenforceable or invalid,*
4 *the remaining provisions of this Act and the amendments*
5 *made by this Act shall not be affected.*