

Calendar No. 287

118TH CONGRESS
1ST SESSION

S. 1409

To protect the safety of children on the internet.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2023

Mr. BLUMENTHAL (for himself, Mrs. BLACKBURN, Mr. LUJÁN, Mrs. CAPITO, Ms. BALDWIN, Mr. CASSIDY, Ms. KLOBUCHAR, Ms. ERNST, Mr. PETERS, Mr. DAINES, Mr. HICKENLOOPER, Mr. RUBIO, Mr. WARNER, Mr. SULLIVAN, Mr. COONS, Mr. YOUNG, Mr. SCHATZ, Mr. GRASSLEY, Mr. MURPHY, Mr. GRAHAM, Mr. WELCH, Mr. MARSHALL, Ms. HASSAN, Mrs. HYDE-SMITH, Mr. DURBIN, Mr. MULLIN, Mr. CASEY, Mr. RISCH, Mr. WHITEHOUSE, Mrs. BRITT, Mr. SCOTT of Florida, Ms. LUMMIS, Mr. CORNYN, Ms. MURKOWSKI, Mr. WICKER, Mr. KELLY, Mr. MANCHIN, Mr. LANKFORD, Mr. CRAPO, Mr. CARPER, Mr. KAINE, Mr. CARDIN, Mrs. SHAHEEN, Mr. MENENDEZ, Mr. THUNE, Ms. WARREN, and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 13, 2023

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,*

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

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

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

16 (3) **COVERED PLATFORM.**—

17 (A) **IN GENERAL.**—The term “covered
18 platform” means a social media service, social

1 network, online video game (including edu-
2 cational games), messaging application, video
3 streaming service, or an online platform that
4 connects to the internet and that is used, or is
5 reasonably likely to be used, by a minor.

6 (B) EXCEPTIONS.—The term “covered
7 platform” does not include—

8 (i) an entity acting in its capacity as
9 a provider of—

10 (I) a common carrier service sub-
11 ject to the Communications Act of
12 1934 (47 U.S.C. 151 et seq.) and all
13 Acts amendatory thereof and supple-
14 mentary thereto;

15 (II) a broadband internet access
16 service (as such term is defined for
17 purposes of section 8.1(b) of title 47,
18 Code of Federal Regulations, or any
19 successor regulation);

20 (III) an email service; or

21 (IV) a wireless messaging service
22 provided through the short messaging
23 service or multimedia messaging serv-
24 ice protocols;

1 (ii) an organization not organized to
2 carry on business for its own profit or that
3 of its members;

4 (iii) any public or private preschool,
5 elementary, or secondary school, or any in-
6 stitution of vocational, professional, or
7 higher education; or

8 (iv) a product or service that pri-
9 marily functions as business-to-business
10 software.

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

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

18 (6) ONLINE PLATFORM.—The term “online
19 platform” means any public-facing website, online
20 service, online application, or mobile application that
21 predominantly provides a community forum for user
22 generated content, including sharing videos, images,
23 games, audio files, or other content.

1 (7) PARENT.—The term “parent” includes a
2 legal guardian or an individual with legal custody
3 over a minor.

4 (8) PERSONAL DATA.—The term “personal
5 data” means information that identifies or is linked
6 or reasonably linkable to a particular minor, includ-
7 ing a consumer device identifier associated with a
8 minor.

9 (9) PERSONALIZED RECOMMENDATION SYS-
10 TEM.—The term “personalized recommendation sys-
11 tem” means a fully or partially automated system
12 used to suggest, promote, or rank information based
13 on the personal data of users.

14 (10) SEXUAL EXPLOITATION AND ABUSE.—The
15 term “sexual exploitation and abuse” means any of
16 the following:

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

19 (B) Child sexual abuse material, as de-
20 scribed in sections 2251, 2252, 2252A, and
21 2260 of title 18, United States Code.

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

1 (D) Sex trafficking of children, as de-
2 scribed in section 1591 of title 18, United
3 States Code.

4 (11) TARGETED ADVERTISING.—

5 (A) IN GENERAL.—The term “targeted ad-
6 vertising” means displaying an advertisement to
7 an individual where the advertisement is se-
8 lected based on personal data about the indi-
9 vidual to predict the individual’s preferences
10 and interests.

11 (B) EXCLUSIONS.—Such term does not in-
12 clude—

13 (i) advertising or marketing directed
14 to an individual in response to the individ-
15 ual’s request for information or express se-
16 lection of a product or service;

17 (ii) contextual advertising where an
18 advertisement is displayed to an individual
19 based on the content in which the adver-
20 tisement appears and does not vary based
21 on who the individual is; or

22 (iii) processing personal data solely to
23 measure or report advertising performance,
24 reach, or frequency.

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

2 (a) PREVENTION OF HARM TO MINORS.—A covered
3 platform shall act in the best interests of a user that the
4 platform knows or reasonably should know is a minor by
5 taking reasonable measures in its design and operation of
6 products and services to prevent and mitigate the fol-
7 lowing:

8 (1) Consistent with evidence-informed medical
9 information, the following mental health disorders:
10 anxiety, depression, eating disorders, substance use
11 disorders, and suicidal behaviors.

12 (2) Patterns of use that indicate or encourage
13 addiction-like behaviors.

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

16 (4) Sexual exploitation and abuse.

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

21 (6) Predatory, unfair, or deceptive marketing
22 practices, or other financial harms.

23 (b) LIMITATION.—Nothing in subsection (a) shall be
24 construed to require a covered platform to prevent or pre-
25 clude—

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

4 (2) the covered platform or individuals on the
5 platform from providing resources for the prevention
6 or mitigation of suicidal behaviors, substance use,
7 and other harms, including evidence-informed infor-
8 mation and clinical resources.

9 **SEC. 4. SAFEGUARDS FOR MINORS.**

10 (a) SAFEGUARDS FOR MINORS.—

11 (1) SAFEGUARDS.—A covered platform shall
12 provide an individual that the covered platform
13 knows or reasonably should know is a minor with
14 readily accessible and easy-to-use safeguards to, as
15 applicable—

16 (A) limit the ability of other individuals to
17 communicate with the minor;

18 (B) prevent other users, whether registered
19 or not, from viewing the minor’s personal data
20 collected by or shared on the covered platform,
21 in particular restricting public access to per-
22 sonal data;

23 (C) limit features that increase, sustain, or
24 extend use of the covered platform by the
25 minor, such as automatic playing of media, re-

1 wards for time spent on the platform, notifica-
 2 tions, and other features that result in compulsive
 3 usage of the covered platform by the minor;

4 (D) control personalized recommendation
 5 systems, including the right to—

6 (i) opt out of such personalized recom-
 7 mendation systems, while still allowing
 8 the display of content based on a chrono-
 9 logical format; or

10 (ii) limit types or categories of recom-
 11 mendations from such systems; and

12 (E) restrict the sharing of the geolocation
 13 of the minor and provide notice regarding the
 14 tracking of the minor's geolocation.

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

19 (A) delete the minor's account and delete
 20 any personal data collected from, or shared by,
 21 the minor on the covered platform; or

22 (B) limit the amount of time spent by the
 23 minor on the covered platform.

24 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
 25 NORS.—A covered platform shall provide that, in the

1 ease of a user that the platform knows or reasonably
2 should know is a minor, the default setting for any
3 safeguard described under paragraph (1) shall be
4 the option available on the platform that provides
5 the most protective level of control that is offered by
6 the platform over privacy and safety for that user.

7 (b) PARENTAL TOOLS.—

8 (1) TOOLS.—A covered platform shall provide
9 readily accessible and easy-to-use settings for par-
10 ents to support an individual that the platform
11 knows or reasonably should know is a minor with re-
12 spect to the individual's use of the platform.

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

15 (A) the ability to manage a minor's privacy
16 and account settings, including the safeguards
17 and options established under subsection (a), in
18 a manner that allows parents to—

19 (i) view the privacy and account set-
20 tings; and

21 (ii) in the case of a user that the plat-
22 form knows or reasonably should know is
23 a child, change and control the privacy and
24 account settings;

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

4 (C) the ability to view metrics of total time
5 spent on the platform.

6 (3) NOTICE TO MINORS.—A covered platform
7 shall provide clear and conspicuous notice to an indi-
8 vidual that the platform knows or reasonably should
9 know is a minor when tools described in this sub-
10 section are in effect and what settings or controls
11 have been applied.

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

17 (e) REPORTING MECHANISM.—

18 (1) REPORTS SUBMITTED BY PARENTS, MI-
19 NORS, AND SCHOOLS.—A covered platform shall pro-
20 vide—

21 (A) a readily accessible and easy-to-use
22 means to submit reports to the covered plat-
23 form of harms to minors;

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

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

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

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

11 (B) 21 days after the receipt of a report,
12 if, for the most recent calendar year, the plat-
13 form averaged less than 10,000,000 active
14 users on a monthly basis in the United States;
15 and

16 (C) notwithstanding subparagraphs (A)
17 and (B), if the report involves an imminent
18 threat to the safety of a minor, as promptly as
19 needed to address the reported threat to safety.

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

1 (e) APPLICATION.—

2 (1) ACCESSIBILITY.—With respect to safe-
3 guards and parental controls described under sub-
4 sections (a) and (b), a covered platform shall pro-
5 vide—

6 (A) information and control options in a
7 clear and conspicuous manner that takes into
8 consideration the differing ages, capacities, and
9 developmental needs of the minors most likely
10 to access the covered platform and does not en-
11 courage minors or parents to weaken or disable
12 safeguards or parental controls;

13 (B) readily accessible and easy-to-use con-
14 trols to enable or disable safeguards or parental
15 controls, as appropriate; and

16 (C) information and control options in the
17 same language, form, and manner as the cov-
18 ered platform provides the product or service
19 used by minors and their parents.

20 (2) DARK PATTERNS PROHIBITION.—It shall be
21 unlawful for any covered platform to design, modify,
22 or manipulate a user interface of a covered platform
23 with the purpose or substantial effect of subverting
24 or impairing user autonomy, decision-making, or

1 choice in order to weaken or disable safeguards or
2 parental controls required under this section.

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

5 (A) prevent a covered platform from taking
6 reasonable measures to—

7 (i) block, detect, or prevent the dis-
8 tribution of unlawful, obscene, or other
9 harmful material to minors as described in
10 section 3(a); or

11 (ii) block or filter spam; prevent
12 criminal activity; or protect the security of
13 a platform or service; or

14 (B) require the disclosure of a minor's
15 browsing behavior; search history; messages;
16 contact list; or other content or metadata of
17 their communications.

18 **SEC. 5. DISCLOSURE.**

19 (a) NOTICE.—

20 (1) REGISTRATION.—Prior to registration or
21 purchase of a covered platform by an individual that
22 the platform knows or reasonably should know is a
23 minor, the platform shall provide clear, conspicuous,
24 and easy-to-understand—

1 (A) notice of the policies and practices of
2 the covered platform with respect to personal
3 data and safeguards for minors;

4 (B) information about how to access the
5 safeguards and parental tools required under
6 section 4; and

7 (C) notice about whether the covered plat-
8 form, including any personalized recommenda-
9 tion systems used by the platform, pose any
10 heightened risks of harms to minors.

11 (2) PARENTAL NOTIFICATION.—

12 (A) NOTICE AND ACKNOWLEDGMENT.—In
13 the case of an individual that a covered plat-
14 form knows or reasonably should know is a
15 child, the platform shall additionally provide in-
16 formation about the parental tools and safe-
17 guards required under section 4 to a parent of
18 the child and obtain express affirmative ac-
19 knowledgment from the parent prior to the ini-
20 tial use of the covered platform by the child.

21 (B) REASONABLE EFFORT.—A covered
22 platform shall be deemed to have satisfied the
23 requirement described in subparagraph (A) if
24 the covered platform has undertaken a reason-
25 able effort (taking into consideration available

1 technology) to ensure a parent receives the in-
 2 formation described in such subparagraph and
 3 to obtain a parent's express affirmative ac-
 4 knowledge.

5 (3) CONSOLIDATED NOTICES.—A covered plat-
 6 form may consolidate the process for providing in-
 7 formation and (if applicable) obtaining parental ac-
 8 knowledge as required under this subsection with
 9 its obligations to obtain consent for data privacy
 10 practices, provided the content of the notice meets
 11 the requirements of this subsection.

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

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

22 (1) an overview of how those personalized rec-
 23 ommendation systems are used by the covered plat-
 24 form to provide information to users of the platform

1 who are minors, including how such systems use the
2 personal data of minors; and

3 ~~(2) information about options for minors or~~
4 ~~their parents to control personalized recommenda-~~
5 ~~tion systems (including by opting out of such sys-~~
6 ~~tems).~~

7 ~~(c) ADVERTISING AND MARKETING INFORMATION~~
8 ~~AND LABELS.—~~

9 ~~(1) INFORMATION AND LABELS.—A covered~~
10 ~~platform that facilitates advertising aimed at users~~
11 ~~that the platform knows or reasonably should know~~
12 ~~are minors shall provide clear, conspicuous, and~~
13 ~~easy-to-understand information and labels to minors~~
14 ~~on advertisements regarding—~~

15 ~~(A) the name of the product, service, or~~
16 ~~brand and the subject matter of an advertise-~~
17 ~~ment;~~

18 ~~(B) why the minor is being targeted for a~~
19 ~~particular advertisement if the covered platform~~
20 ~~engages in targeted advertising, including mate-~~
21 ~~rial information about how the minor's personal~~
22 ~~data was used to target the advertisement; and~~

23 ~~(C) whether particular media displayed to~~
24 ~~the minor is an advertisement or marketing ma-~~
25 ~~terial, including disclosure of endorsements of~~

1 products, services, or brands made for commer-
2 cial consideration by other users of the plat-
3 form.

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

10 (d) RESOURCES FOR PARENTS AND MINORS.—A cov-
11 ered platform shall provide to minors and parents clear,
12 conspicuous, easy-to-understand, and comprehensive infor-
13 mation in a prominent location regarding—

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

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

18 (e) RESOURCES IN ADDITIONAL LANGUAGES.—A
19 covered platform shall ensure, to the extent practicable,
20 that the disclosures required by this section are made
21 available in the same language, form, and manner as the
22 covered platform provides any product or service used by
23 minors and their parents.

1 **SEC. 6. TRANSPARENCY.**

2 (a) **IN GENERAL.**—Subject to subsection (b), not less
 3 frequently than once a year, a covered platform shall issue
 4 a public report identifying the reasonably foreseeable risk
 5 of material harms to minors and describing the prevention
 6 and mitigation measures taken to address such risk based
 7 on an independent, third-party audit conducted through
 8 reasonable inspection of the covered platform.

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

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

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

20 (c) **CONTENT.**—

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

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

1 ~~(B)~~ a description of the commercial inter-
2 ests of the covered platform in use by minors;

3 ~~(C)~~ an accounting, based on the data held
4 by the covered platform, of—

5 (i) the number of individuals using
6 the covered platform reasonably believed to
7 be minors in the United States,
8 disaggregated by the age ranges of 0–5, 6–
9 9, 10–12, and 13–16; and

10 (ii) the median and mean amounts of
11 time spent on the platform by minors in
12 the United States who have accessed the
13 platform during the reporting year on a
14 daily, weekly, and monthly basis,
15 disaggregated by the age ranges of 0–5, 6–
16 9, 10–12, and 13–16;

17 ~~(D)~~ an accounting of total reports received
18 regarding, and the prevalence (which can be
19 based on scientifically valid sampling methods
20 using the content available to the covered plat-
21 form in the normal course of business) of con-
22 tent related to, the harms described in section
23 3(a), disaggregated by category of harm; and

24 ~~(E)~~ a description of any material breaches
25 of parental tools or assurances regarding mi-

1 nors, representations regarding the use of the
2 personal data of minors, and other matters re-
3 garding non-compliance.

4 (2) SYSTEMIC RISKS ASSESSMENT.—The public
5 reports required of a covered platform under this
6 section shall include—

7 (A) an assessment of the reasonably fore-
8 seeable risk of harms to minors posed by the
9 covered platform, including identifying any
10 other physical, mental, developmental, or finan-
11 cial harms in addition to those described in sec-
12 tion 3(a);

13 (B) an assessment of how recommendation
14 systems and targeted advertising systems can
15 contribute to harms to minors;

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

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

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

5 (F) an evaluation of any other relevant
6 matters of public concern over risk of harms to
7 minors.

8 (3) MITIGATION.—The public reports required
9 of a covered platform under this section shall in-
10 clude—

11 (A) a description of the safeguards and pa-
12 rental tools available to minors and parents on
13 the covered platform;

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

17 (C) a description of the prevention and
18 mitigation measures intended to be taken in re-
19 sponse to the known and emerging risks identi-
20 fied in its assessment of system risks, including
21 steps taken to—

22 (i) prevent harms to minors, including
23 adapting or removing system design fea-
24 tures or addressing through parental con-
25 trols;

1 (ii) provide the most protective level of
2 control over privacy and safety by default;
3 and

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

7 (D) a description of internal processes for
8 handling reports and automated detection
9 mechanisms for harms to minors, including the
10 rate, timeliness, and effectiveness of responses
11 under the requirement of section 4(e);

12 (E) the status of implementing prevention
13 and mitigation measures identified in prior as-
14 sessments; and

15 (F) a description of the additional meas-
16 ures to be taken by the covered platform to ad-
17 dress the circumvention of safeguards for mi-
18 nors and parental tools.

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

22 (1) take into consideration the function of rec-
23 ommendation systems;

24 (2) consult parents and youth experts, including
25 youth and families with relevant past or current ex-

1 perience, public health and mental health nonprofit
2 organizations, health and development organizations,
3 and civil society with respect to the prevention of
4 harms to minors;

5 (3) conduct research based on experiences of
6 minors that use the covered platform, including re-
7 ports under section 4(c) and information provided by
8 law enforcement;

9 (4) take account of research, including research
10 regarding system design features, marketing, or
11 product integrity, industry best practices, or outside
12 research; and

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

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

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

23 (2) provide or otherwise make available to the
24 independent third-party conducting the audit access

1 to all network, systems, and assets relevant to the
2 audit; and

3 ~~(3)~~ disclose all relevant facts to the independent
4 third-party conducting the audit, and not misrep-
5 sent in any manner, expressly or by implication, any
6 relevant fact.

7 ~~(f)~~ **PRIVACY SAFEGUARDS.—**

8 (1) In issuing the public reports required under
9 this section, a covered platform shall take steps to
10 safeguard the privacy of its users, including ensur-
11 ing that data is presented in a de-identified, aggre-
12 gated format such that it is reasonably impossible
13 for the data to be linked back to any individual user.

14 (2) This section shall not be construed to re-
15 quire the disclosure of information that will lead to
16 material vulnerabilities for the privacy of users or
17 the security of a covered platform's service or create
18 a significant risk of the violation of Federal or State
19 law.

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

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

24 (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) DE-IDENTIFIED DATA.—The term “de-iden-
5 tified data” means information—

6 (A) that does not identify and is not linked
7 or reasonably linkable to an individual or an in-
8 dividual’s device; and

9 (B) with respect to which a covered plat-
10 form or researcher takes reasonable technical
11 and contractual measures to ensure that the in-
12 formation is not used to re-identify any indi-
13 vidual or individual’s device.

14 (3) ELIGIBLE RESEARCHER.—

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

18 (i) an institution of higher education
19 (as defined in section 101 of the Higher
20 Education Act of 1965 (20 U.S.C. 1001));

21 or

22 (ii) a nonprofit organization described
23 in section 501(c)(3) of the Internal Rev-
24 enue Code of 1986.

1 (B) **LIMITATION.**—Such term shall not in-
2 clude an individual or group of individuals that
3 is—

4 (i) not located in the United States;
5 or

6 (ii) affiliated with the government of a
7 foreign adversary (as defined in section
8 8(e)(2) of the Secure and Trusted Commu-
9 nications Networks Act of 2019 (47 U.S.C.
10 1607(e)(2))).

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

17 (5) **NONCOMMERCIAL PURPOSE.**—The term
18 “noncommercial purpose” means a purpose that
19 does not involve any direct or indirect use of data
20 sets for the sale, resale, solicitation, rental, or lease
21 of a service, or any use by which the user expects
22 a profit, including the sale to the general public of
23 a publication containing independent research.

24 (6) **PROGRAM.**—The term “Program” means
25 the program established under subsection (b)(1).

1 (7) QUALIFIED RESEARCHER.—The term
2 “qualified researcher” means an eligible researcher
3 who is approved by the Assistant Secretary to con-
4 duct independent research regarding harms to mi-
5 nors under the Program.

6 (b) INDEPENDENT RESEARCH PROGRAM RELATING
7 TO IDENTIFIED HARMS TO MINORS.—

8 (1) ESTABLISHMENT.—Subject to paragraph
9 (2), the Assistant Secretary shall establish a pro-
10 gram, with public notice and an opportunity to com-
11 ment, under which an eligible researcher may apply
12 for, and a covered platform shall provide, access to
13 data sets from the covered platform for the sole pur-
14 pose of conducting independent research regarding
15 the harms described in section 3(a).

16 (2) SCOPE OF APPLICATION.—The require-
17 ments of this subsection shall apply to a covered
18 platform if—

19 (A) for the most recent calendar year, the
20 platform averaged more than 10,000,000 active
21 users on a monthly basis in the United States;
22 and

23 (B) the platform predominantly provides a
24 community forum for user generated content
25 and discussion, including sharing videos, im-

1 ages, games, audio files, discussion in a virtual
2 setting, or other content, such as acting as a
3 social media platform, virtual reality environ-
4 ment, or social network service.

5 (3) PROCESSES, PROCEDURES, AND STAND-
6 ARDS.—Not later than 1 year after the date of en-
7 actment of this Act, the Assistant Secretary shall es-
8 tablish for the program established under this sub-
9 section—

10 (A) definitions for data sets (related to
11 harms described in section 3(a)) that qualify for
12 disclosure to researchers under the program
13 and standards of access for data sets to be pro-
14 vided under the program;

15 (B) a process by which an eligible re-
16 searcher may submit an application described in
17 paragraph (1);

18 (C) an appeals process for eligible re-
19 searchers to appeal adverse decisions on appli-
20 cations described in paragraph (1) (including a
21 decision to grant an appeal under paragraph
22 (4)(C));

23 (D) procedures for implementation of the
24 program, including methods for—

25 (i) participation by covered platforms;

1 (ii) evaluation of researcher proposals
2 for alignment with program objectives and
3 scoping; and

4 (iii) verification by the Assistant Sec-
5 retary of the credentials of eligible re-
6 searchers and processes for the application
7 or disqualification to participate in the pro-
8 gram;

9 (E) standards for privacy, security, and
10 confidentiality required to participate in the
11 program, including rules to ensure that the pri-
12 vacy and safety of users is not infringed by the
13 program;

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

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

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

1 status for commercial gain, or efforts by cov-
2 ered platforms to obtain access to intellectual
3 property that is otherwise protected by law.

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

6 (A) ACCESS TO DATA SETS.—

7 (i) IN GENERAL.—If the Assistant
8 Secretary approves an application under
9 paragraph (1) with respect to a covered
10 platform, the covered platform shall, in a
11 timely manner, provide the qualified re-
12 searcher with access to data sets necessary
13 to conduct independent research described
14 in that paragraph.

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

21 (iii) FORM OF ACCESS.—A covered
22 platform shall provide to a qualified re-
23 searcher access to data sets under clause
24 (i) through online databases, application

1 programming interfaces, and data files as
2 appropriate.

3 (B) NONDISCLOSURE AGREEMENT.—A
4 covered platform may require, as a condition of
5 access to the data sets of the covered platform,
6 that a qualified researcher enter into a non-
7 disclosure agreement restricting the release of
8 data sets, provided that—

9 (i) the agreement does not restrict the
10 publication or discussion regarding the
11 qualified researcher's findings; and

12 (ii) the terms of the agreement allow
13 the qualified researcher to provide the
14 original agreement or a copy of the agree-
15 ment to the Assistant Secretary.

16 (C) APPEAL.—

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

22 (I) the covered platform does not
23 have access to the requested data sets
24 or the requested data sets are not rea-
25 sonably tailored to application; or

1 (H) providing access to the data
2 sets will lead to material
3 vulnerabilities for the privacy of users
4 or the security of the covered plat-
5 form's service or create a significant
6 risk of the violation of Federal or
7 state law.

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

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

1 (D) ~~TIMING.~~—A covered platform for
2 which this provision applies shall participate in
3 the program established under this subsection
4 no later than two years after enactment of this
5 Act.

6 (5) ~~APPLICATION REQUIREMENTS.~~—In order to
7 be approved to access data sets from a covered plat-
8 form, an eligible researcher shall, in the application
9 submitted under paragraph (1)—

10 (A) explain the purpose for which the inde-
11 pendent research is undertaken;

12 (B) commit to conduct the research for
13 noncommercial purposes;

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

17 (D) if the eligible researcher is seeking ac-
18 cess to data sets that include personal data, ex-
19 plain why the data sets are requested, and the
20 means through which such data sets shall be
21 accessed are the least sensitive and the most
22 privacy-protective means that will permit com-
23 pletion of the research and not compromise the
24 privacy or safety of users; and

1 ~~(E)~~ commit to fulfill, and demonstrate a
2 capacity to fulfill, the specific data security and
3 confidentiality requirements corresponding to
4 the application.

5 ~~(6) PRIVACY AND DUTY OF CONFIDEN-~~
6 ~~TIALITY.—~~

7 ~~(A) RESEARCHER CONFIDENTIALITY.—~~To
8 protect user privacy, a qualified researcher shall
9 keep data sets provided by a covered platform
10 under the program confidential and secure to
11 the specifications set forth under the program
12 rules and the approved application.

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

20 ~~(C) FEDERAL AGENCIES.—~~Nothing in this
21 subsection shall be construed to authorize—

22 (i) a Federal agency to seek access to
23 the data of a covered platform through the
24 program; or

1 (ii) a qualified researcher to transfer
2 or share any data sets provided by a cov-
3 ered platform under the program with a
4 Federal agency.

5 (D) SECURITY.—Nothing in this sub-
6 section shall be construed in a manner that
7 would result in data sets from a covered plat-
8 form being transferred to the Government of
9 the People’s Republic of China or the govern-
10 ment of another foreign adversary (as defined
11 in section 8(e)(2) of the Secure and Trusted
12 Communications Networks Act of 2019 (47
13 U.S.C. 1607(e)(2))).

14 (e) SAFE HARBOR FOR COLLECTION OF DATA FOR
15 INDEPENDENT RESEARCH REGARDING IDENTIFIED
16 HARMS TO MINORS.—If, in the course of conducting inde-
17 pendent research for noncommercial purposes regarding
18 harms described in section 3(a) (without regard to wheth-
19 er such research is conducted under the program), an eli-
20 gible researcher collects or uses data from a covered plat-
21 form in a manner that violates the terms of service of the
22 platform, no cause of action based on such violation shall
23 lie or be maintained in any court against such researcher
24 unless the violation relates to the failure of the researcher

1 to take reasonable measures to protect user privacy and
2 security.

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

10 **SEC. 8. MARKET RESEARCH.**

11 (a) MARKET RESEARCH BY COVERED PLATFORMS.—
12 The Federal Trade Commission, in consultation with the
13 Secretary of Commerce, shall issue guidance for covered
14 platforms seeking to conduct market- and product-focused
15 research on minors. Such guidance shall include—

16 (1) a standard consent form that provides mi-
17 nors and their parents a clear, conspicuous, and
18 easy-to-understand explanation of the scope and pur-
19 pose of the research to be conducted, and provides
20 an opportunity for informed consent; and

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

24 (b) TIMING.—The Federal Trade Commission shall
25 issue such guidance not later than 18 months after the

1 date of enactment of this Act. In doing so, they shall seek
2 input from members of the public and the representatives
3 of the Kids Online Safety Council established under sec-
4 tion 12.

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

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

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

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

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

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

21 (4) how such a system or systems could verify
22 age while mitigating risks to user privacy and data
23 security and safeguarding minors' personal data,
24 emphasizing minimizing the amount of data col-

1 lected and processed by covered platforms and age
 2 verification providers for such a system; and

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

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

14 **SEC. 10. GUIDANCE.**

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

19 ~~(1) provide information and examples for cov-~~
 20 ~~ered platforms and auditors regarding—~~

21 ~~(A) identifying features that are used to~~
 22 ~~increase, sustain, or extend use of the covered~~
 23 ~~platform by a minor;~~

24 ~~(B) safeguarding minors against the pos-~~
 25 ~~sible misuse of parental tools;~~

1 (C) best practices in providing minors and
2 parents the most protective level of control over
3 privacy and safety;

4 (D) using indicia or inferences of age of
5 users for assessing use of the covered platform
6 by minors;

7 (E) methods for evaluating the efficacy of
8 safeguards; and

9 (F) providing additional control options
10 that allow parents to address the harms de-
11 scribed in section 3(a); and

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

17 (A) de minimis user interface changes de-
18 rived from testing consumer preferences, includ-
19 ing different styles, layouts, or text, where such
20 changes are not done with the purpose of weak-
21 ening or disabling safeguards or parental con-
22 trols;

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

1 (C) establishing default settings that pro-
2 vide enhanced privacy protection to users or
3 otherwise enhance their autonomy and decision-
4 making ability.

5 (b) GUIDANCE TO SCHOOLS.—Not later than 18
6 months after the date of enactment of this Act, the Sec-
7 retary of Education, in consultation with the Federal
8 Trade Commission and the Kids Online Safety Council es-
9 tablished under section 12, shall issue guidance to assist
10 to assist elementary and secondary schools in using the
11 notice, safeguards and tools provided under this Act and
12 providing information on online safety for students and
13 teachers.

14 (c) LIMITATION ON FEDERAL TRADE COMMISSION
15 GUIDANCE.—

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

19 (A) confer any rights on any person, State,
20 or locality; or

21 (B) operate to bind the Federal Trade
22 Commission or any person to the approach rec-
23 ommended in such guidance.

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

4 (A) shall allege a violation of a provision of
5 this Act; and

6 (B) may not base such enforcement action
7 on, or execute a consent order based on, prac-
8 tices that are alleged to be inconsistent with
9 guidance issued by the Federal Trade Commis-
10 sion with respect to this Act, unless the prac-
11 tices are alleged to violate a provision of this
12 Act.

13 **SEC. 11. ENFORCEMENT.**

14 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
15 SION.—

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

23 (2) POWERS OF THE COMMISSION.—

24 (A) IN GENERAL.—The Federal Trade
25 Commission (referred to in this section as the

1 “Commission”) shall enforce this Act and any
2 regulation promulgated under this Act in the
3 same manner, by the same means, and with the
4 same jurisdiction, powers, and duties as though
5 all applicable terms and provisions of the Fed-
6 eral Trade Commission Act (15 U.S.C. 41 et
7 seq.) were incorporated into and made a part of
8 this Act.

9 (B) PRIVILEGES AND IMMUNITIES.—Any
10 person that violates this Act or a regulation
11 promulgated under this Act shall be subject to
12 the penalties, and entitled to the privileges and
13 immunities, provided in the Federal Trade
14 Commission Act (15 U.S.C. 41 et seq.).

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

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

20 (1) IN GENERAL.—

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

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

7 (i) enjoin that practice;

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

10 (iii) on behalf of residents of the
 11 State, obtain damages, restitution, or other
 12 compensation, each of which shall be dis-
 13 tributed in accordance 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 (~~I~~) ~~IN GENERAL.~~—Clause (i)
 2 shall not apply with respect to the fil-
 3 ing of an action by an attorney gen-
 4 eral of a State under this paragraph
 5 if the attorney general of the State
 6 determines that it is not feasible to
 7 provide the notice described in that
 8 clause before the filing of the action.

9 (~~II~~) ~~NOTIFICATION.~~—In an ac-
 10 tion described in subclause (~~I~~), the at-
 11 torney general of a State shall provide
 12 notice and a copy of the complaint to
 13 the Commission at the same time as
 14 the attorney general files the action.

15 (~~2~~) ~~INTERVENTION.~~—

16 (~~A~~) ~~IN GENERAL.~~—On receiving notice
 17 under paragraph (1)(~~B~~), the Commission shall
 18 have the right to intervene in the action that is
 19 the subject of the notice.

20 (~~B~~) ~~EFFECT OF INTERVENTION.~~—If the
 21 Commission intervenes in an action under para-
 22 graph (1), it shall have the right—

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

25 (ii) to file a petition for appeal.

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 a sepa-
 17 rate action under paragraph (1) against any defend-
 18 ant named in the complaint in the action instituted
 19 by 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. 12. KIDS ONLINE SAFETY COUNCIL.**

12 (a) ESTABLISHMENT.—Not later than 180 days 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 matters re-
16 lated to this Act.

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

19 (1) academic experts, health professionals, and
20 members of civil society with expertise in mental
21 health, substance use disorders, and the prevention
22 of harms to minors;

23 (2) representatives in academia and civil society
24 with specific expertise in privacy and civil liberties;

25 (3) parents and youth representation;

1 (4) representatives of covered platforms;

2 (5) representatives of the National Tele-
3 communications and Information Administration,
4 the National Institute of Standards and Technology,
5 the Federal Trade Commission, the Department of
6 Justice, and the Department of Health and Human
7 Services;

8 (6) State attorneys general or their designees
9 acting in State or local government; and

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

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

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

17 (2) recommending measures and methods for
18 assessing, preventing, and mitigating harms to mi-
19 nors online;

20 (3) recommending methods and themes for con-
21 ducting research regarding online harms to minors;
22 and

23 (4) recommending best practices and clear, con-
24 sensus-based technical standards for transparency
25 reports and audits, as required under this Act, in-

1 including methods, criteria, and scope to promote
2 overall accountability.

3 **SEC. 13. EFFECTIVE DATE.**

4 Except as otherwise provided in this Act, this Act
5 shall take effect on the date that is 18 months after the
6 date of enactment of this Act.

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

8 (a) **RELATIONSHIP TO OTHER LAWS.**—Nothing in
9 this Act shall be construed to—

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

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

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

21 (b) **PROTECTIONS FOR PRIVACY.**—Nothing in this
22 Act shall be construed to require—

23 (1) the affirmative collection of any personal
24 data with respect to the age of users that a covered

1 platform is not already collecting in the normal
2 course of business; or

3 ~~(2) a covered platform to implement an age~~
4 ~~gating or age verification functionality.~~

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

7 ~~(1) cooperate with law enforcement agencies re-~~
8 ~~garding activity that the covered platform reasonably~~
9 ~~and in good faith believes may violate Federal,~~
10 ~~State, or local laws, rules, or regulations;~~

11 ~~(2) comply with a civil, criminal, or regulatory~~
12 ~~inquiry or any investigation, subpoena, or summons~~
13 ~~by Federal, State, local, or other government au-~~
14 ~~thorities; or~~

15 ~~(3) investigate, establish, exercise, respond to,~~
16 ~~or defend against legal claims.~~

17 **SEC. 15. SEVERABILITY.**

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

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

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

1 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 2 *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 on social media and minors.*
- 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. Filter bubble transparency requirements.*
- Sec. 14. Effective date.*
- Sec. 15. Rules of construction and other matters.*
- Sec. 16. Severability.*

3 **SEC. 2. DEFINITIONS.**

4 *In this Act:*

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

7 (2) *COMPULSIVE USAGE.*—*The term “compulsive*
 8 *usage” means any response stimulated by external*
 9 *factors that causes an individual to engage in repet-*
 10 *itive behavior reasonably likely to cause psychological*
 11 *distress, loss of control, anxiety, or depression.*

12 (3) *COVERED PLATFORM.*—

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

1 (B) *EXCEPTIONS.*—*The term “covered plat-*
2 *form” does not include—*

3 (i) *an entity acting in its capacity as*
4 *a provider of—*

5 (I) *a common carrier service sub-*
6 *ject to the Communications Act of 1934*
7 *(47 U.S.C. 151 et seq.) and all Acts*
8 *amendatory thereof and supplementary*
9 *thereto;*

10 (II) *a broadband internet access*
11 *service (as such term is defined for*
12 *purposes of section 8.1(b) of title 47,*
13 *Code of Federal Regulations, or any*
14 *successor regulation);*

15 (III) *an email service;*

16 (IV) *a teleconferencing or video*
17 *conferencing service that allows recep-*
18 *tion and transmission of audio and*
19 *video signals for real-time commu-*
20 *nication, provided that—*

21 (aa) *is not an online plat-*
22 *form, including a social media*
23 *service or social network; and*

24 (bb) *the real-time commu-*
25 *nication is initiated by using a*

1 *unique link or identifier to*
2 *faciliate access; or*

3 *(V) a wireless messaging service,*
4 *including such a service provided*
5 *through short messaging service or*
6 *multimedia messaging service proto-*
7 *cols, that is not a component of or*
8 *linked to an online platform and where*
9 *the predominant or exclusive function*
10 *is direct messaging consisting of the*
11 *transmission of text, photos or videos*
12 *that are sent by electronic means,*
13 *where messages are transmitted from*
14 *the sender to a recipient, and are not*
15 *posted within an online platform or*
16 *publicly;*

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

20 *(iii) any public or private preschool,*
21 *elementary, or secondary school, or any in-*
22 *stitution of vocational, professional, or high-*
23 *er education;*

1 (iv) a library (as defined in section
2 213(1) of the Library Services and Tech-
3 nology Act (20 U.S.C. 9122(1)));

4 (v) a news website or app where—

5 (I) the inclusion of video content
6 on the website or app is related to the
7 website or app’s own gathering, report-
8 ing, or publishing of news content; and

9 (II) the website or app is not oth-
10 erwise an online platform;

11 (vi) a product or service that pri-
12 marily functions as business-to-business
13 software; or

14 (vii) a virtual private network or simi-
15 lar service that exists solely to route inter-
16 net traffic between locations.

17 (4) *GEOLOCATION.*—The term “geolocation”
18 means information sufficient to identify street name
19 and name of a city or town.

20 (5) *INDIVIDUAL-SPECIFIC ADVERTISING TO MI-*
21 *NORS.*—

22 (A) *IN GENERAL.*—The term “individual-
23 specific advertising to minors” means adver-
24 tising or any other effort to market a product or
25 service that is directed to a specific minor or a

1 *device that is linked or reasonably linkable to a*
2 *minor—*

3 *(i) based on—*

4 *(I) the personal data of—*

5 *(aa) the minor; or*

6 *(bb) a group of minors who*
7 *are similar in sex, age, income*
8 *level, race, or ethnicity to the spe-*
9 *cific minor to whom the product*
10 *or service is marketed;*

11 *(II) psychological profiling of a*
12 *minor or group of minors; or*

13 *(III) a unique identifier of the de-*
14 *vice; or*

15 *(ii) as a result of use by the minor, ac-*
16 *cess by any device of the minor, or use by*
17 *a group of minors who are similar to the*
18 *specific minor, of more than a single—*

19 *(I) website;*

20 *(II) online service;*

21 *(III) online application;*

22 *(IV) mobile application; or*

23 *(V) connected device*

1 (B) *EXCLUSIONS.*—*The term “individual-*
2 *specific advertising to minors” shall not in-*
3 *clude—*

4 (i) *advertising or marketing to an in-*
5 *dividual or the device of an individual in*
6 *response to the individual’s specific request*
7 *for information or feedback, such as a mi-*
8 *nor’s current search query;*

9 (ii) *contextual advertising, such as*
10 *when an advertisement is displayed based*
11 *on the content of the covered platform on*
12 *which the advertisement appears and does*
13 *not vary based on personal information re-*
14 *lated to the viewer;*

15 (iii) *processing personal information*
16 *solely for measuring or reporting adver-*
17 *tising or content performance, reach, or fre-*
18 *quency, including independent measure-*
19 *ment;*

20 (C) *RULE OF CONSTRUCTION.*—*Nothing in*
21 *subparagraph (A) shall be construed to prohibit*
22 *a covered platform with actual knowledge or*
23 *knowledge fairly implied on the basis of objective*
24 *circumstances that an individual is under the*
25 *age of 17 from delivering advertising or mar-*

1 *keting that is age-appropriate for the individual*
2 *involved and intended for a child or teen audi-*
3 *ence (as applicable), so long as the covered plat-*
4 *form does not use any personal data other than*
5 *whether the user is under the age of 17 to deliver*
6 *such advertising or marketing.*

7 (6) *KNOW OR KNOWS.*—*The term “know” or*
8 *“knows” means to have actual knowledge or knowl-*
9 *edge fairly implied on the basis of objective cir-*
10 *cumstances.*

11 (7) *MENTAL HEALTH DISORDER.*—*The term*
12 *“mental health disorder” has the meaning given the*
13 *term “mental disorder” in the Diagnostic and Statis-*
14 *tical Manual of Mental Health Disorders, 5th Edition*
15 *(or the most current successor edition).*

16 (8) *MINOR.*—*The term “minor” means an indi-*
17 *vidual who is under the age of 17.*

18 (9) *ONLINE PLATFORM.*—*The term “online plat-*
19 *form” means any public-facing website, online serv-*
20 *ice, online application, or mobile application that*
21 *predominantly provides a community forum for user*
22 *generated content, such as sharing videos, images,*
23 *games, audio files, or other content, including a social*
24 *media service, social network, or virtual reality envi-*
25 *ronment.*

1 (10) *ONLINE VIDEO GAME.*—*The term “online*
2 *video game” means a video game, including an edu-*
3 *cational video game, that connects to the internet and*
4 *that—*

5 (A) *allows a user to—*

6 (i) *create and upload content;*

7 (ii) *engage in microtransactions with-*
8 *in the game; or*

9 (iii) *communicate with other users; or*

10 (B) *incorporates minor-specific advertising.*

11 (11) *PARENT.*—*The term “parent” includes—*

12 (A) *a natural parent;*

13 (B) *a legal guardian; or*

14 (C) *an individual with legal custody over a*
15 *minor.*

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

21 (13) *PERSONALIZED RECOMMENDATION SYS-*
22 *TEM.*—*The term “personalized recommendation sys-*
23 *tem” means a fully or partially automated system*
24 *used to suggest, promote, or rank content, including*

1 *other users or posts, based on the personal data of*
2 *users.*

3 (14) *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 2260*
10 *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 described*
15 *in section 1591 of title 18, United States Code.*

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

17 (a) *PREVENTION OF HARM TO MINORS.—A covered*
18 *platform shall take reasonable measures in the design and*
19 *operation of any product, service, or feature that the covered*
20 *platform knows is used by minors to prevent and mitigate*
21 *the following harms to minors:*

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

1 (2) *Patterns of use that indicate or encourage*
2 *addiction-like behaviors.*

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

5 (4) *Sexual exploitation and abuse.*

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

10 (6) *Predatory, unfair, or deceptive marketing*
11 *practices, or other financial harms.*

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

15 (1) *any minor from deliberately and independ-*
16 *ently searching for, or specifically requesting, content;*
17 *or*

18 (2) *the covered platform or individuals on the*
19 *platform from providing resources for the prevention*
20 *or mitigation of the harms described in subsection*
21 *(a), including evidence-informed information and*
22 *clinical resources.*

23 **SEC. 4. SAFEGUARDS FOR MINORS.**

24 (a) *SAFEGUARDS FOR MINORS.—*

1 (1) *SAFEGUARDS.*—A covered platform shall pro-
2 vide an individual that the covered platform knows is
3 a minor with readily-accessible and easy-to-use safe-
4 guards to, as applicable—

5 (A) *limit the ability of other individuals to*
6 *communicate with the minor;*

7 (B) *prevent other users, whether registered*
8 *or not, from viewing the minor’s personal data*
9 *collected by or shared on the covered platform, in*
10 *particular restricting public access to personal*
11 *data;*

12 (C) *limit features that increase, sustain, or*
13 *extend use of the covered platform by the minor,*
14 *such as automatic playing of media, rewards for*
15 *time spent on the platform, notifications, and*
16 *other features that result in compulsive usage of*
17 *the covered platform by the minor;*

18 (D) *control personalized recommendation*
19 *systems, including the ability for a minor to*
20 *have at least 1 of the following options—*

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

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

3 (E) restrict the sharing of the geolocation of
4 the minor to other users on the platform and
5 provide notice regarding the tracking of the mi-
6 nor's geolocation.

7 (2) *OPTIONS.*—A covered platform shall provide
8 an individual that the covered platform knows is a
9 minor with readily-accessible and easy-to-use options
10 to—

11 (A) delete the minor's account and delete
12 any personal data collected from, or shared by,
13 the minor on the covered platform; or

14 (B) limit the amount of time spent by the
15 minor on the covered platform.

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

24 (b) *PARENTAL TOOLS.*—

1 (1) *TOOLS.*—A covered platform shall provide
2 *readily-accessible and easy-to-use settings for parents*
3 *to support an individual that the platform knows is*
4 *a minor with respect to the individual’s use of the*
5 *platform.*

6 (2) *REQUIREMENTS.*—The parental tools pro-
7 vided by a covered platform shall include—

8 (A) *the ability to manage a minor’s privacy*
9 *and account settings, including the safeguards*
10 *and options established under subsection (a), in*
11 *a manner that allows parents to—*

12 (i) *view the privacy and account set-*
13 *tings; and*

14 (ii) *in the case of a user that the plat-*
15 *form knows is a child, change and control*
16 *the privacy and account settings;*

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

20 (C) *the ability to view metrics of total time*
21 *spent on the platform and restrict time spent on*
22 *the covered platform by the minor.*

23 (3) *NOTICE TO MINORS.*—A covered platform
24 shall provide clear and conspicuous notice to an indi-
25 vidual that the platform knows is a minor when tools

1 *described in this subsection are in effect and what set-*
2 *tings or controls have been applied.*

3 (4) *DEFAULT TOOLS.*—*A covered platform shall*
4 *provide that, in the case of a user that the platform*
5 *knows is a child, the tools described in this subsection*
6 *shall be enabled by default.*

7 (c) *REPORTING MECHANISM.*—

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

10 (A) *a readily-accessible and easy-to-use*
11 *means to submit reports to the covered platform*
12 *of harms to a minor;*

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

15 (C) *confirmation of the receipt of such a re-*
16 *port 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 such reports in a reasonable and timely*
20 *manner, but in no case later than—*

21 (A) *10 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 a*
24 *monthly basis in the United States;*

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

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

9 (d) *ADVERTISING OF ILLEGAL PRODUCTS.*—A covered
10 platform shall not facilitate the advertising of narcotic
11 drugs (as defined in section 102 of the Controlled Sub-
12 stances Act (21 U.S.C. 802)), tobacco products, gambling,
13 or alcohol to an individual that the covered platform knows
14 is a minor.

15 (e) *APPLICATION.*—

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

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

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

4 (C) information and control options in the
5 same language, form, and manner as the covered
6 platform provides the product or service used by
7 minors and their parents.

8 (2) *DARK PATTERNS PROHIBITION.*—It shall be
9 unlawful for any covered platform to design, modify,
10 or manipulate a user interface of a covered platform
11 with the purpose or substantial effect of subverting or
12 impairing user autonomy, decision-making, or choice
13 with respect to safeguards or parental controls re-
14 quired under this section.

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

17 (A) prevent a covered platform from taking
18 reasonable measures to—

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

23 (ii) block or filter spam, prevent crimi-
24 nal activity, or protect the security of a
25 platform or service;

1 (B) require the disclosure of a minor's
2 browsing behavior, search history, messages, con-
3 tact list, or other content or metadata of their
4 communications;

5 (C) prevent a covered platform from using
6 a personalized recommendation system to dis-
7 play content to a minor if the system only uses
8 information on—

- 9 (i) the language spoken by the minor;
10 (ii) the city the minor is located in; or
11 (iii) the minor's age; or

12 (D) prohibit a covered platform from inte-
13 grating its products or service with controls from
14 third-party systems, including operating systems
15 or gaming consoles, to meet the requirements im-
16 posed under subsections (a) and (b) relating to
17 safeguards for minors and tools for parents, pro-
18 vided that—

- 19 (i) the controls meet such requirements;
20 and
21 (ii) the minor or parent is provided
22 sufficient notice of the integration and use
23 of the controls.

24 **SEC. 5. DISCLOSURE.**

25 (a) NOTICE.—

1 (1) *REGISTRATION OR PURCHASE.*—Prior to reg-
2 istration or purchase of a covered platform by an in-
3 dividual that the platform knows is a minor, the plat-
4 form shall provide clear, conspicuous, and easy-to-un-
5 derstand—

6 (A) notice of the policies and practices of
7 the covered platform with respect to personal
8 data and safeguards for minors;

9 (B) information about how to access the
10 safeguards and parental tools required under sec-
11 tion 4; and

12 (C) notice about whether the covered plat-
13 form uses or makes available to minors a prod-
14 uct, service, or feature, including any personal-
15 ized recommendation system, that poses any
16 heightened risk of harm to minors.

17 (2) *NOTIFICATION.*—

18 (A) *NOTICE AND ACKNOWLEDGMENT.*—In
19 the case of an individual that a covered platform
20 knows is a child, the platform shall additionally
21 provide information about the parental tools and
22 safeguards required under section 4 to a parent
23 of the child and obtain verifiable parental con-
24 sent (as defined in section 1302(9) of the Chil-
25 dren’s Online Privacy Protection Act (15 U.S.C.

1 6501(9))) from the parent prior to the initial use
2 of the covered platform by the child.

3 (B) *REASONABLE EFFORT.*—A covered plat-
4 form shall be deemed to have satisfied the re-
5 quirement described in subparagraph (A) if the
6 covered platform is in compliance with the re-
7 quirements of the Children’s Online Privacy Pro-
8 tection Act (15 U.S.C. 6501 et seq.) to use rea-
9 sonable efforts (taking into consideration avail-
10 able technology) to provide a parent with the in-
11 formation described in subparagraph (A) and to
12 obtain verifiable parental consent as required.

13 (3) *CONSOLIDATED NOTICES.*—A covered plat-
14 form may consolidate the process for providing infor-
15 mation under this subsection and obtaining verifiable
16 parental consent or the consent of the minor involved
17 (as applicable) as required under this subsection with
18 its obligations to provide relevant notice and obtain
19 verifiable parental consent under the Children’s On-
20 line Privacy Protection Act (15 U.S.C. 6501 et seq.).

21 (4) *GUIDANCE.*—The Federal Trade Commission
22 may issue guidance to assist covered platforms in
23 complying with the requirements of this section.

24 (b) *PERSONALIZED RECOMMENDATION SYSTEM.*—A
25 covered platform that operates a personalized recommenda-

1 *tion system shall set out in its terms and conditions, in*
 2 *a clear, conspicuous, and easy-to-understand manner—*

3 *(1) an overview of how such personalized rec-*
 4 *ommendation system is used by the covered platform*
 5 *to provide information to users of the platform who*
 6 *are minors, including how such systems use the per-*
 7 *sonal data of minors; and*

8 *(2) information about options for minors or*
 9 *their parents to opt out of or control the personalized*
 10 *recommendation system (as applicable).*

11 *(c) ADVERTISING AND MARKETING INFORMATION AND*
 12 *LABELS.—*

13 *(1) INFORMATION AND LABELS.—A covered plat-*
 14 *form that facilitates advertising aimed at users that*
 15 *the platform knows are minors shall provide clear,*
 16 *conspicuous, and easy-to-understand information and*
 17 *labels to minors on advertisements regarding—*

18 *(A) the name of the product, service, or*
 19 *brand and the subject matter of an advertise-*
 20 *ment;*

21 *(B) if the covered platform engages in indi-*
 22 *vidual-specific advertising to minors, why a par-*
 23 *ticular advertisement is directed to a specific*
 24 *minor, including material information about*

1 *how the minor’s personal data is used to direct*
2 *the advertisement to the minor; and*

3 (C) *whether particular media displayed to*
4 *the minor is an advertisement or marketing ma-*
5 *terial, including disclosure of endorsements of*
6 *products, services, or brands made for commer-*
7 *cial consideration by other users of the platform.*

8 (2) *GUIDANCE.*—*The Federal Trade Commission*
9 *may issue guidance to assist covered platforms in*
10 *complying with the requirements of this subsection,*
11 *including guidance about the minimum level of infor-*
12 *mation and labels for the disclosures required under*
13 *paragraph (1) .*

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

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

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

22 (e) *RESOURCES IN ADDITIONAL LANGUAGES.*—*A cov-*
23 *ered platform shall ensure, to the extent practicable, that*
24 *the disclosures required by this section are made available*
25 *in the same language, form, and manner as the covered*

1 *platform provides any product or service used by minors*
2 *and their parents.*

3 **SEC. 6. TRANSPARENCY.**

4 (a) *IN GENERAL.*—Subject to subsection (b), not less
5 *frequently than once a year, a covered platform shall issue*
6 *a public report describing the reasonably foreseeable risks*
7 *of material harms to minors and assessing the prevention*
8 *and mitigation measures taken to address such risk based*
9 *on an independent, third-party audit conducted through*
10 *reasonable inspection of the covered platform.*

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

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

16 (2) *the platform predominantly provides a com-*
17 *munity forum for user-generated content and discus-*
18 *sion, including sharing videos, images, games, audio*
19 *files, discussion in a virtual setting, or other content,*
20 *such as acting as a social media platform, virtual re-*
21 *ality environment, or a social network service.*

22 (c) *CONTENT.*—

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

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

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

5 (C) *an accounting, based on the data held*
6 *by the covered platform, of—*

7 (i) *the number of individuals using the*
8 *covered platform reasonably believed to be*
9 *minors in the United States;*

10 (ii) *the median and mean amounts of*
11 *time spent on the platform by minors in the*
12 *United States who have accessed the plat-*
13 *form during the reporting year on a daily,*
14 *weekly, and monthly basis; and*

15 (iii) *the amount of content being*
16 *accessed by individuals that the platform*
17 *knows to be minors that is in English, and*
18 *the top 5 non-English languages used by in-*
19 *dividuals accessing the platform in the*
20 *United States;*

21 (D) *an accounting of total reports received*
22 *regarding, and the prevalence (which can be*
23 *based on scientifically valid sampling methods*
24 *using the content available to the covered plat-*
25 *form in the normal course of business) of content*

1 *related to, the harms described in section 3(a),*
2 *disaggregated by category of harm and language,*
3 *including English and the top 5 non-English*
4 *languages used by individuals accessing the plat-*
5 *form from the United States (as identified under*
6 *subparagraph (C)(iii)); and*

7 *(E) a description of any material breaches*
8 *of parental tools or assurances regarding minors,*
9 *representations regarding the use of the personal*
10 *data of minors, and other matters regarding*
11 *non-compliance.*

12 (2) *REASONABLY FORESEEABLE RISK OF HARM*
13 *TO MINORS.—The public reports required of a covered*
14 *platform under this section shall include—*

15 *(A) an assessment of the reasonably foresee-*
16 *able risk of harms to minors posed by the covered*
17 *platform, including identifying any other phys-*
18 *ical, mental, developmental, or financial harms*
19 *in addition to those described in section 3(a);*

20 *(B) an assessment of how personalized rec-*
21 *ommendation systems and individual-specific*
22 *advertising to minors can contribute to harms to*
23 *minors;*

24 *(C) a description of whether and how the*
25 *covered platform uses system design features that*

1 *increase, sustain, or extend use of a product or*
2 *service by a minor, such as automatic playing of*
3 *media, rewards for time spent, and notifications;*

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

8 *(E) an evaluation of the efficacy of safe-*
9 *guards for minors under section 4, and any*
10 *issues in delivering such safeguards and the asso-*
11 *ciated parental tools;*

12 *(F) an evaluation of any other relevant*
13 *matters of public concern over risk of harms to*
14 *minors; and*

15 *(G) an assessment of differences in risk of*
16 *harm to minors across different English and*
17 *non-English languages and efficacy of safeguards*
18 *in those languages.*

19 *(3) MITIGATION.—The public reports required of*
20 *a covered platform under this section shall include,*
21 *for English and the top 5 non-English languages used*
22 *by individuals accessing the platform from the United*
23 *States (as identified under paragraph (2)(C)(iii))—*

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 mitigate reasonably foreseeable risk of
21 harms to minors, as described in section
22 3(a);

23 (D) a description of internal processes for
24 handling reports and automated detection mech-
25 anisms for harms to minors, including the rate,

1 *timeliness, and effectiveness of responses under*
2 *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 measures*
7 *to be taken by the covered platform to address the*
8 *circumvention of safeguards for minors and pa-*
9 *rental tools.*

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

13 *(1) take into consideration the function of per-*
14 *sonalized recommendation 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 mi-*
22 *norans that use the covered platform, including reports*
23 *under section 4(c) and information provided by law*
24 *enforcement;*

1 (4) *take account of research, including research*
2 *regarding system design features, marketing, or prod-*
3 *uct integrity, industry best practices, or outside re-*
4 *search;*

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

8 (6) *take into consideration differences in risk of*
9 *reasonably foreseeable harms and effectiveness of safe-*
10 *guards across English and non-English languages.*

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

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

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

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

1 (f) *PRIVACY SAFEGUARDS.*—

2 (1) *IN GENERAL.*—*In issuing the public reports*
3 *required under this section, a covered platform shall*
4 *take steps to safeguard the privacy of its users, in-*
5 *cluding ensuring that data is presented in a de-iden-*
6 *tified, aggregated format such that it is reasonably*
7 *impossible for the data to be linked back to any indi-*
8 *vidual user.*

9 (2) *RULE OF CONSTRUCTION.*—*This section shall*
10 *not be construed to require the disclosure of informa-*
11 *tion that will lead to material vulnerabilities for the*
12 *privacy of users or the security of a covered plat-*
13 *form’s service or create a significant risk of the viola-*
14 *tion of Federal or State law.*

15 (3) *DEFINITION OF DE-IDENTIFIED.*—*As used in*
16 *this subsection, the term “de-identified” means data*
17 *that does not identify and is not linked or reasonably*
18 *linkable to a device that is linked or reasonably*
19 *linkable to an individual, regardless of whether the*
20 *information is aggregated*

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

1 **SEC. 7. INDEPENDENT RESEARCH ON SOCIAL MEDIA AND**
2 **MINORS.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *COMMISSION.—The term “Commission”*
5 *means the Federal Trade Commission.*

6 (2) *NATIONAL ACADEMY.—The term “National*
7 *Academy” means the National Academy of Sciences.*

8 (3) *SECRETARY.—The term “Secretary” means*
9 *the Secretary of Health and Human Services.*

10 (b) *RESEARCH ON SOCIAL MEDIA HARMS.—Not later*
11 *than 12 months after the date of enactment of this Act, the*
12 *Commission shall seek to enter into a contract with the Na-*
13 *tional Academy, under which the National Academy shall*
14 *conduct no less than 5 scientific, comprehensive studies and*
15 *reports on the risk of harms to minors by use of social*
16 *media and other online platforms, including in English and*
17 *non-English languages.*

18 (c) *MATTERS TO BE ADDRESSED.—In contracting*
19 *with the National Academy, the Commission, in consulta-*
20 *tion with the Secretary, shall seek to commission separate*
21 *studies and reports, using the Commission’s authority*
22 *under section 6(b) of the Federal Trade Commission Act*
23 *(15 U.S.C. 46(b)), on the relationship between social media*
24 *and other online platforms as defined in this Act on the*
25 *following matters:*

1 (1) *Anxiety, depression, eating disorders, and su-*
2 *icidal behaviors.*

3 (2) *Substance use disorders and the use of nar-*
4 *cotic drugs, tobacco products, gambling, or alcohol by*
5 *minors.*

6 (3) *Sexual exploitation and abuse.*

7 (4) *Addiction-like use of social media and design*
8 *factors that lead to unhealthy and harmful overuse of*
9 *social media.*

10 (d) *ADDITIONAL STUDY.—Not earlier than 4 years*
11 *after enactment, the Commission shall seek to enter into a*
12 *contract with the National Academy under which the Na-*
13 *tional Academy shall conduct an additional study and re-*
14 *port covering the matters described in subsection (c) for the*
15 *purposes of providing additional information, considering*
16 *new research, and other matters.*

17 (e) *CONTENT OF REPORTS.—The comprehensive stud-*
18 *ies and reports conducted pursuant to this section shall seek*
19 *to evaluate impacts and advance understanding, knowledge,*
20 *and remedies regarding the harms to minors posed by social*
21 *media and other online platforms, and may include rec-*
22 *ommendations related to public policy.*

23 (f) *ACTIVE STUDIES.—If the National Academy is en-*
24 *gaged in any active studies on the matters described in sub-*
25 *section (c) at the time that it enters into a contract with*

1 *the Commission to conduct a study under this section, it*
2 *may base the study to be conducted under this section on*
3 *the active study, so long as it otherwise incorporates the*
4 *requirements of this section.*

5 (g) *COLLABORATION.*—*In designing and conducting*
6 *the studies under this section, the Commission, the Sec-*
7 *retary, and the National Academy shall consult with the*
8 *Surgeon General and the Kids Online Safety Council.*

9 (h) *ACCESS TO DATA.*—

10 (1) *FACT-FINDING AUTHORITY.*—*The Commis-*
11 *sion may issue orders to gather and compile informa-*
12 *tion and data necessary to conduct the studies re-*
13 *quired under this section.*

14 (2) *SCOPE.*—*The Commission may issue orders*
15 *under section 6(b) of the Federal Trade Commission*
16 *Act (15 U.S.C. 46(b)) to no more than 5 covered plat-*
17 *forms per study under this section.*

18 (3) *CONFIDENTIAL ACCESS.*—*Pursuant to sub-*
19 *sections (b) and (f) of section 6 of the Federal Trade*
20 *Commission Act (15 U.S.C. 46), the Commission shall*
21 *enter in agreements with the National Academy to*
22 *share appropriate information received from a cov-*
23 *ered platform pursuant to an order under such sub-*
24 *section (b) for a comprehensive study under this sec-*
25 *tion in a confidential and secure manner, and to pro-*

1 hibit the disclosure or sharing of such information by
2 the National Academy.

3 **SEC. 8. MARKET RESEARCH.**

4 (a) *MARKET RESEARCH BY COVERED PLATFORMS.*—
5 The Federal Trade Commission, in consultation with the
6 Secretary of Commerce, shall issue guidance for covered
7 platforms seeking to conduct market- and product-focused
8 research on minors. Such guidance shall include—

9 (1) a standard consent form that provides mi-
10 nors and their parents a clear, conspicuous, and easy-
11 to-understand explanation of the scope and purpose of
12 the research to be conducted, and provides an oppor-
13 tunity for informed consent in the language in which
14 the parent uses the covered platform; and

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

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

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

24 (a) *STUDY.*—The Director of the National Institute of
25 Standards and Technology, in coordination with the Fed-

1 *eral Communications Commission, Federal Trade Commis-*
2 *sion, and the Secretary of Commerce, shall conduct a study*
3 *evaluating the most technologically feasible methods and op-*
4 *tions for developing systems to verify age at the device or*
5 *operating system level.*

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

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

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

11 (3) *the accuracy of such systems and their im-*
12 *portance or steps to improve accessibility, including for*
13 *individuals with disabilities;*

14 (4) *how such a system or systems could verify*
15 *age while mitigating risks to user privacy and data*
16 *security and safeguarding minors' personal data, em-*
17 *phasizing minimizing the amount of data collected*
18 *and processed by covered platforms and age*
19 *verification providers for such a system;*

20 (5) *the technical feasibility, including the need*
21 *for potential hardware and software changes, includ-*
22 *ing for devices currently in commerce and owned by*
23 *consumers; and*

24 (6) *the impact of different age verification sys-*
25 *tems on competition, particularly the risk of different*

1 *age verification systems creating barriers to entry for*
2 *small companies.*

3 *(c) REPORT.—Not later than 1 year after the date of*
4 *enactment of this Act, the agencies described in subsection*
5 *(a) shall submit a report containing the results of the study*
6 *conducted under such subsection to the Committee on Com-*
7 *merce, Science, and Transportation of the Senate and the*
8 *Committee on Energy and Commerce of the House of Rep-*
9 *resentatives.*

10 **SEC. 10. GUIDANCE.**

11 *(a) IN GENERAL.—Not later than 18 months after the*
12 *date of enactment of this Act, the Federal Trade Commis-*
13 *sion, in consultation with the Kids Online Safety Council*
14 *established under section 12, shall issue guidance to—*

15 *(1) provide information and examples for cov-*
16 *ered platforms and auditors regarding the following,*
17 *with consideration given to differences across English*
18 *and non-English languages—*

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

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

1 (C) best practices in providing minors and
2 parents the most protective level of control over
3 privacy and safety;

4 (D) using indicia or inferences of age of
5 users for assessing use of the covered platform by
6 minors;

7 (E) methods for evaluating the efficacy of
8 safeguards; and

9 (F) providing additional control options
10 that allow parents to address the harms de-
11 scribed in section 3(a); and

12 (2) outline conduct that does not have the pur-
13 pose or substantial effect of subverting or impairing
14 user autonomy, decision-making, or choice, or of caus-
15 ing, increasing, or encouraging compulsive usage for
16 a minor, such as—

17 (A) de minimis user interface changes de-
18 rived from testing consumer preferences, includ-
19 ing different styles, layouts, or text, where such
20 changes are not done with the purpose of weak-
21 ening or disabling safeguards or parental con-
22 trols;

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

1 (C) *establishing default settings that provide*
2 *enhanced privacy protection to users or otherwise*
3 *enhance their autonomy and decision-making*
4 *ability.*

5 (b) *GUIDANCE TO SCHOOLS.—Not later than 18*
6 *months after the date of enactment of this Act, the Secretary*
7 *of Education, in consultation with the Federal Trade Com-*
8 *mission and the Kids Online Safety Council established*
9 *under section 12, shall issue guidance to assist to assist ele-*
10 *mentary and secondary schools in using the notice, safe-*
11 *guards and tools provided under this Act and providing*
12 *information on online safety for students and teachers.*

13 (c) *GUIDANCE ON KNOWLEDGE STANDARD.—Not later*
14 *than 18 months after the date of enactment of this Act, the*
15 *Federal Trade Commission shall issue guidance to provide*
16 *information, including best practices and examples, for cov-*
17 *ered platforms to understand the Commission’s determina-*
18 *tion of whether a covered platform “had knowledge fairly*
19 *implied on the basis of objective circumstances” for pur-*
20 *poses of this Act.*

21 (d) *LIMITATION ON FEDERAL TRADE COMMISSION*
22 *GUIDANCE.—*

23 (1) *EFFECT OF GUIDANCE.—No guidance issued*
24 *by the Federal Trade Commission with respect to this*
25 *Act shall—*

1 (A) confer any rights on any person, State,
2 or locality; or

3 (B) operate to bind the Federal Trade Com-
4 mission or any person to the approach rec-
5 ommended in such guidance.

6 (2) *USE IN ENFORCEMENT ACTIONS.*—In any en-
7 forcement action brought pursuant to this Act, the
8 Federal Trade Commission—

9 (A) shall allege a violation of a provision of
10 this Act; and

11 (B) may not base such enforcement action
12 on, or execute a consent order based on, practices
13 that are alleged to be inconsistent with guidance
14 issued by the Federal Trade Commission with re-
15 spect to this Act, unless the practices are alleged
16 to violate a provision of this Act.

17 **SEC. 11. ENFORCEMENT.**

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

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

1 (2) *POWERS OF THE COMMISSION.*—

2 (A) *IN GENERAL.*—*The Federal Trade Com-*
3 *mission (referred to in this section as the “Com-*
4 *mission”)* shall enforce this Act in the same
5 *manner, by the same means, and with the same*
6 *jurisdiction, powers, and duties as though all ap-*
7 *licable terms and provisions of the Federal*
8 *Trade Commission Act (15 U.S.C. 41 et seq.)*
9 *were incorporated into and made a part of this*
10 *Act.*

11 (B) *PRIVILEGES AND IMMUNITIES.*—*Any*
12 *person that violates this Act shall be subject to*
13 *the penalties, and entitled to the privileges and*
14 *immunities, provided in the Federal Trade Com-*
15 *mission Act (15 U.S.C. 41 et seq.).*

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

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

20 (1) *IN GENERAL.*—

21 (A) *CIVIL ACTIONS.*—*In any case in which*
22 *the attorney general of a State has reason to be-*
23 *lieve that an interest of the residents of that*
24 *State has been or is threatened or adversely af-*
25 *ected by the engagement of any person in a*

1 *practice that violates 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 ap-*
 5 *propriate jurisdiction to—*

6 *(i) enjoin that practice;*

7 *(ii) enforce compliance with this Act;*

8 *(iii) on behalf of residents of the State,*
 9 *obtain damages, restitution, or other com-*
 10 *ensation, each of which shall be distributed*
 11 *in accordance with State law; or*

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

14 *(B) NOTICE.—*

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

19 *(I) written notice of that action;*

20 *and*

21 *(II) a copy of the complaint for*
 22 *that action.*

23 *(ii) EXEMPTION.—*

24 *(I) IN GENERAL.—Clause (i) shall*
 25 *not apply with respect to the filing of*

1 *an action by an attorney general of a*
 2 *State under this paragraph if the at-*
 3 *torney general of the State determines*
 4 *that it is not feasible to provide the no-*
 5 *tice described in that clause before the*
 6 *filing of the action.*

7 *(II) NOTIFICATION.—In an action*
 8 *described in subclause (I), the attorney*
 9 *general of a State shall provide notice*
 10 *and a copy of the complaint to the*
 11 *Commission at the same time as the*
 12 *attorney general files the action.*

13 *(2) INTERVENTION.—*

14 *(A) IN GENERAL.—On receiving notice*
 15 *under paragraph (1)(B), the Commission shall*
 16 *have the right to intervene in the action that is*
 17 *the subject of the notice.*

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

- 21 *(i) to be heard with respect to any*
 22 *matter that arises in that action; and*
 23 *(ii) to file a petition for appeal.*

24 *(3) CONSTRUCTION.—For purposes of bringing*
 25 *any civil action under paragraph (1), nothing in this*

1 *Act shall be construed to prevent an attorney general*
2 *of a State from exercising the powers conferred on the*
3 *attorney general by the laws of that State to—*

4 *(A) conduct investigations;*

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

6 *(C) compel the attendance of witnesses or*
7 *the production of documentary and other evi-*
8 *dence.*

9 *(4) ACTIONS BY THE COMMISSION.—In any case*
10 *in which an action is instituted by or on behalf of the*
11 *Commission for violation of this Act, no State may,*
12 *during the pendency of that action, institute a sepa-*
13 *rate action under paragraph (1) against any defend-*
14 *ant named in the complaint in the action instituted*
15 *by or on behalf of the Commission for that violation.*

16 *(5) VENUE; SERVICE OF PROCESS.—*

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

19 *(i) the district court of the United*
20 *States that meets applicable requirements*
21 *relating to venue under section 1391 of title*
22 *28, United States Code; or*

23 *(ii) a State court of competent juris-*
24 *isdiction.*

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

5 (i) *is an inhabitant; or*

6 (ii) *may be found.*

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

8 (a) *ESTABLISHMENT.*—*Not later than 180 days after*
9 *the date of enactment of this Act, the Secretary of Commerce*
10 *shall establish and convene the Kids Online Safety Council*
11 *for the purpose of providing advice on matters related to*
12 *this Act.*

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

15 (1) *academic experts, health professionals, and*
16 *members of civil society with expertise in mental*
17 *health, substance use disorders, and the prevention of*
18 *harms to minors;*

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

21 (3) *parents and youth representation;*

22 (4) *representatives of covered platforms;*

23 (5) *representatives of the National Telecommuni-*
24 *cations and Information Administration, the Na-*
25 *tional Institute of Standards and Technology, the*

1 *Federal Trade Commission, the Department of Jus-*
2 *tice, and the Department of Health and Human Serv-*
3 *ices;*

4 (6) *State attorneys general or their designees act-*
5 *ing in State or local government;*

6 (7) *educators; and*

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

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

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

14 (2) *recommending measures and methods for as-*
15 *sessing, preventing, and mitigating harms to minors*
16 *online;*

17 (3) *recommending methods and themes for con-*
18 *ducting research regarding online harms to minors,*
19 *including in English and non-English languages; and*

20 (4) *recommending best practices and clear, con-*
21 *sensus-based technical standards for transparency re-*
22 *ports and audits, as required under this Act, includ-*
23 *ing methods, criteria, and scope to promote overall*
24 *accountability.*

1 **SEC. 13. FILTER BUBBLE TRANSPARENCY REQUIREMENTS.**

2 (a) *DEFINITIONS.—In this section:*

3 (1) *ALGORITHMIC RANKING SYSTEM.—The term*
4 *“algorithmic ranking system” means a computational*
5 *process, including one derived from algorithmic deci-*
6 *sion-making, machine learning, statistical analysis,*
7 *or other data processing or artificial intelligence tech-*
8 *niques, used to determine the selection, order, relative*
9 *prioritization, or relative prominence of content from*
10 *a set of information that is provided to a user on a*
11 *covered internet platform, including the ranking of*
12 *search results, the provision of content recommenda-*
13 *tions, the display of social media posts, or any other*
14 *method of automated content selection.*

15 (2) *APPROXIMATE GEOLOCATION INFORMA-*
16 *TION.—The term “approximate geolocation informa-*
17 *tion” means information that identifies the location*
18 *of an individual, but with a precision of less than 5*
19 *miles.*

20 (3) *COMMISSION.—The term “Commission”*
21 *means the Federal Trade Commission.*

22 (4) *CONNECTED DEVICE.—The term “connected*
23 *device” means an electronic device that—*

24 (A) *is capable of connecting to the internet,*
25 *either directly or indirectly through a network,*

1 to communicate information at the direction of
2 an individual;

3 (B) has computer processing capabilities for
4 collecting, sending, receiving, or analyzing data;
5 and

6 (C) is primarily designed for or marketed to
7 consumers.

8 (5) COVERED INTERNET PLATFORM.—

9 (A) IN GENERAL.—The term “covered inter-
10 net platform” means any public-facing website,
11 internet application, or mobile application, in-
12 cluding a social network site, video sharing serv-
13 ice, search engine, or content aggregation service.

14 (B) EXCLUSIONS.—Such term shall not in-
15 clude a platform that—

16 (i) is wholly owned, controlled, and op-
17 erated by a person that—

18 (I) for the most recent 6-month
19 period, did not employ more than 500
20 employees;

21 (II) for the most recent 3-year pe-
22 riod, averaged less than \$50,000,000 in
23 annual gross revenue; and

1 (III) collects or processes on an
2 annual basis the user-specific data of
3 less than 1,000,000 users; or

4 (ii) is operated for the sole purpose of
5 conducting research that is not made for
6 profit either directly or indirectly.

7 (6) *INPUT-TRANSPARENT ALGORITHM.*—

8 (A) *IN GENERAL.*—The term “input-trans-
9 parent algorithm” means an algorithmic rank-
10 ing system that does not use the user-specific
11 data of a user to determine the selection, order,
12 relative prioritization, or relative prominence of
13 information that is furnished to such user on a
14 covered internet platform, unless the user-specific
15 data is expressly provided to the platform by the
16 user for such purpose.

17 (B) *DATA PROVIDED FOR EXPRESS PUR-*
18 *POSE OF INTERACTION WITH PLATFORM.*—For
19 purposes of subparagraph (A), user-specific data
20 that is provided by a user for the express purpose
21 of determining the selection, order, relative
22 prioritization, or relative prominence of infor-
23 mation that is furnished to such user on a cov-
24 ered internet platform—

1 (i) shall include user-supplied search
2 terms, filters, speech patterns (if provided
3 for the purpose of enabling the platform to
4 accept spoken input or selecting the lan-
5 guage in which the user interacts with the
6 platform), saved preferences, and the cur-
7 rent precise geolocation information that is
8 supplied by the user;

9 (ii) shall include the user's current ap-
10 proximate geolocation information;

11 (iii) shall include data affirmatively
12 supplied to the platform by the user that ex-
13 presses the user's desire to receive particular
14 information, such as the social media pro-
15 files the user follows, the video channels the
16 user subscribes to, or other content or
17 sources of content on the platform the user
18 has selected;

19 (iv) shall not include the history of the
20 user's connected device, including the user's
21 history of web searches and browsing, pre-
22 vious geographical locations, physical activ-
23 ity, device interaction, and financial trans-
24 actions; and

1 (v) shall not include inferences about
2 the user or the user’s connected device, with-
3 out regard to whether such inferences are
4 based on data described in clause (i) or
5 (iii).

6 (7) OPAQUE ALGORITHM.—

7 (A) IN GENERAL.—The term “opaque algo-
8 rithm” means an algorithmic ranking system
9 that determines the selection, order, relative
10 prioritization, or relative prominence of infor-
11 mation that is furnished to such user on a cov-
12 ered internet platform based, in whole or part,
13 on user-specific data that was not expressly pro-
14 vided by the user to the platform for such pur-
15 pose.

16 (B) EXCEPTION FOR AGE-APPROPRIATE
17 CONTENT FILTERS.—Such term shall not include
18 an algorithmic ranking system used by a covered
19 internet platform if—

20 (i) the only user-specific data (includ-
21 ing inferences about the user) that the sys-
22 tem uses is information relating to the age
23 of the user; and

24 (ii) such information is only used to
25 restrict a user’s access to content on the

1 *basis that the individual is not old enough*
2 *to access such content.*

3 (8) *PRECISE GEOLOCATION INFORMATION.*—*The*
4 *term “precise geolocation information” means*
5 *geolocation information that identifies an individ-*
6 *ual’s location to within a range of 5 miles or less.*

7 (9) *SEARCH SYNDICATION CONTRACT; UPSTREAM*
8 *PROVIDER; DOWNSTREAM PROVIDER.*—

9 (A) *SEARCH SYNDICATION CONTRACT.*—*The*
10 *term “search syndication contract” means a con-*
11 *tract or subcontract for the sale of, license of, or*
12 *other right to access an index of web pages or*
13 *search results on the internet for the purpose of*
14 *operating an internet search engine.*

15 (B) *UPSTREAM PROVIDER.*—*The term “up-*
16 *stream provider” means, with respect to a search*
17 *syndication contract, the person that grants ac-*
18 *cess to an index of web pages or search results*
19 *on the internet to a downstream provider pursu-*
20 *ant to the contract.*

21 (C) *DOWNSTREAM PROVIDER.*—*The term*
22 *“downstream provider” means, with respect to a*
23 *search syndication contract, the person that re-*
24 *ceives access to an index of web pages on the*

1 *internet from an upstream provider under such*
2 *contract.*

3 (10) *USER-SPECIFIC DATA.*—*The term “user-spe-*
4 *cific data” means information relating to an indi-*
5 *vidual or a specific connected device that would not*
6 *necessarily be true of every individual or device.*

7 (b) *REQUIREMENT TO ALLOW USERS TO SEE*
8 *UNMANIPULATED CONTENT ON INTERNET PLATFORMS.*—

9 (1) *IN GENERAL.*—*Beginning on the date that is*
10 *1 year after the date of enactment of this Act, it shall*
11 *be unlawful—*

12 (A) *for any person to operate a covered*
13 *internet platform that uses an opaque algorithm*
14 *unless the person complies with the requirements*
15 *of paragraph (2); or*

16 (B) *for any upstream provider to grant ac-*
17 *cess to an index of web pages on the internet*
18 *under a search syndication contract that does*
19 *not comply with the requirements of paragraph*
20 *(3).*

21 (2) *OPAQUE ALGORITHM REQUIREMENTS.*—

22 (A) *IN GENERAL.*—*The requirements of this*
23 *paragraph with respect to a person that operates*
24 *a covered internet platform that uses an opaque*
25 *algorithm are the following:*

1 (i) *The person provides notice to users*
2 *of the platform—*

3 (I) *that the platform uses an*
4 *opaque algorithm that uses user-spe-*
5 *cific data to select the content the user*
6 *sees. Such notice shall be presented in*
7 *a clear, conspicuous manner on the*
8 *platform whenever the user interacts*
9 *with an opaque algorithm for the first*
10 *time, and may be a one-time notice*
11 *that can be dismissed by the user; and*

12 (II) *in the terms and conditions*
13 *of the covered internet platform, in a*
14 *clear, accessible, and easily comprehen-*
15 *sible manner to be updated no less fre-*
16 *quently than once every 6 months—*

17 (aa) *the most salient fea-*
18 *tures, inputs, and parameters*
19 *used by the algorithm;*

20 (bb) *how any user-specific*
21 *data used by the algorithm is col-*
22 *lected or inferred about a user of*
23 *the platform, and the categories of*
24 *such data;*

1 (cc) any options that the cov-
2 ered internet platform makes
3 available for a user of the plat-
4 form to opt out or exercise options
5 under clause (ii), modify the pro-
6 file of the user or to influence the
7 features, inputs, or parameters
8 used by the algorithm; and

9 (dd) any quantities, such as
10 time spent using a product or spe-
11 cific measures of engagement or
12 social interaction, that the algo-
13 rithm is designed to optimize, as
14 well as a general description of
15 the relative importance of each
16 quantity for such ranking.

17 (ii) The person makes available a
18 version of the platform that uses an input-
19 transparent algorithm and enables users to
20 easily switch between the version of the
21 platform that uses an opaque algorithm and
22 the version of the platform that uses the
23 input-transparent algorithm.

24 (B) NONAPPLICATION TO CERTAIN DOWN-
25 STREAM PROVIDERS.—Subparagraph (A) shall

1 *not apply with respect to an internet search en-*
2 *gine if—*

3 *(i) the search engine is operated by a*
4 *downstream provider with fewer than 1,000*
5 *employees; and*

6 *(ii) the search engine uses an index of*
7 *web pages on the internet to which such*
8 *provider received access under a search syn-*
9 *dication contract.*

10 (3) *SEARCH SYNDICATION CONTRACT REQUIRE-*
11 *MENT.—The requirements of this paragraph with re-*
12 *spect to a search syndication contract are that—*

13 *(A) as part of the contract, the upstream*
14 *provider makes available to the downstream pro-*
15 *vider the same input-transparent algorithm used*
16 *by the upstream provider for purposes of com-*
17 *plying with paragraph (2)(A)(ii); and*

18 *(B) the upstream provider does not impose*
19 *any additional costs, degraded quality, reduced*
20 *speed, or other constraint on the functioning of*
21 *such algorithm when used by the downstream*
22 *provider to operate an internet search engine rel-*
23 *ative to the performance of such algorithm when*
24 *used by the upstream provider to operate an*
25 *internet search engine.*

1 (4) *PROHIBITION ON DIFFERENTIAL PRICING.*—A
2 covered internet platform shall not deny, charge dif-
3 ferent prices or rates for, or condition the provision
4 of a service or product to an individual based on the
5 individual's election to use a version of the platform
6 that uses an input-transparent algorithm as provided
7 under paragraph (2)(A)(ii).

8 (c) *ENFORCEMENT BY FEDERAL TRADE COMMIS-*
9 *SION.*—

10 (1) *UNFAIR OR DECEPTIVE ACTS OR PRAC-*
11 *TICES.*—A violation of this section by an operator of
12 a covered internet platform shall be treated as a vio-
13 lation of a rule defining an unfair or deceptive act
14 or practice prescribed under section 18(a)(1)(B) of the
15 *Federal Trade Commission Act (15 U.S.C.*
16 *57a(a)(1)(B)).*

17 (2) *POWERS OF COMMISSION.*—

18 (A) *IN GENERAL.*—Except as provided in
19 subparagraph (C), the Federal Trade Commis-
20 sion shall enforce this section in the same man-
21 ner, by the same means, and with the same juris-
22 diction, powers, and duties as though all appli-
23 cable terms and provisions of the Federal Trade
24 Commission Act (15 U.S.C. 41 et seq.) were in-
25 corporated into and made a part of this section.

1 (B) *PRIVILEGES AND IMMUNITIES.*—*Except*
2 *as provided in subparagraph (C), any person*
3 *who violates this Act shall be subject to the pen-*
4 *alties and entitled to the privileges and immuni-*
5 *ties provided in the Federal Trade Commission*
6 *Act (15 U.S.C. 41 et seq.).*

7 (C) *COMMON CARRIERS AND NONPROFIT OR-*
8 *GANIZATIONS.*—*Notwithstanding section 4,*
9 *5(a)(2), or 6 of the Federal Trade Commission*
10 *Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdic-*
11 *tional limitation of the Commission, the Com-*
12 *mission shall also enforce this Act, in the same*
13 *manner provided in subparagraphs (A) and (B)*
14 *of this paragraph, with respect to—*

15 (i) *common carriers subject to the*
16 *Communications Act of 1934 (47 U.S.C.*
17 *151 et seq.) and Acts amendatory thereof*
18 *and supplementary thereto; and*

19 (ii) *organizations not organized to*
20 *carry on business for their own profit or*
21 *that of their members.*

22 (D) *AUTHORITY PRESERVED.*—*Nothing in*
23 *this section shall be construed to limit the au-*
24 *thority of the Commission under any other pro-*
25 *vision of law.*

1 (3) *RULE OF APPLICATION.*—Section 11 shall not
2 apply to this section.

3 (d) *RULE OF CONSTRUCTION TO PRESERVE PERSON-*
4 *ALIZED BLOCKS.*—Nothing in this section shall be con-
5 *strued to limit or prohibit a covered internet platform’s*
6 *ability to, at the direction of an individual user or group*
7 *of users, restrict another user from searching for, finding,*
8 *accessing, or interacting with such user’s or group’s ac-*
9 *count, content, data, or online community.*

10 **SEC. 14. 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. 15. RULES OF CONSTRUCTION AND OTHER MATTERS.**

15 (a) *RELATIONSHIP TO OTHER LAWS.*—Nothing in this
16 *Act shall be construed to—*

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

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

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

4 (b) *DETERMINATION OF “FAIRLY IMPLIED ON THE*
5 *BASIS OF OBJECTIVE CIRCUMSTANCES”.—For purposes of*
6 *enforcing this Act, in making a determination as to whether*
7 *covered platform has knowledge fairly implied on the basis*
8 *of objective circumstances that a user is a minor, the Fed-*
9 *eral Trade Commission shall rely on competent and reliable*
10 *empirical evidence, taking into account the totality of the*
11 *circumstances, including consideration of whether the oper-*
12 *ator, using available technology, exercised reasonable care.*

13 (c) *PROTECTIONS FOR PRIVACY.—Nothing in this Act*
14 *shall be construed to require—*

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

19 (2) *a covered platform to implement an age gat-*
20 *ing or age verification functionality.*

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

23 (1) *cooperate with law enforcement agencies re-*
24 *garding activity that the covered platform reasonably*

1 *and in good faith believes may violate Federal, State,*
2 *or local laws, rules, or regulations;*

3 (2) *comply with a civil, criminal, or regulatory*
4 *inquiry or any investigation, subpoena, or summons*
5 *by Federal, State, local, or other government authori-*
6 *ties; or*

7 (3) *investigate, establish, exercise, respond to, or*
8 *defend against legal claims.*

9 (e) *APPLICATION TO VIDEO STREAMING SERVICES.—*

10 *A video streaming service shall be deemed to be in compli-*
11 *ance with this Act if it predominantly consists of news,*
12 *sports, entertainment, or other video programming content*
13 *that is preselected by the provider and not user-generated,*
14 *and—*

15 (1) *any chat, comment, or interactive*
16 *functionality is provided incidental to, directly re-*
17 *lated to, or dependent on provision of such content;*

18 (2) *if such video streaming service requires ac-*
19 *count owner registration and is not predominantly*
20 *news or sports, the service includes the capability—*

21 (A) *to limit a minor's access to the service,*
22 *which may utilize a system of age-rating;*

23 (B) *to limit the automatic playing of on-de-*
24 *mand content selected by a personalized rec-*

1 *ommendation system for an individual that the*
2 *service knows is a minor;*

3 *(C) to provide an individual that the serv-*
4 *ice knows is a minor with readily-accessible and*
5 *easy-to-use options to delete an account held by*
6 *the minor and delete any personal data collected*
7 *from the minor on the service, or, in the case of*
8 *a service that allows a parent to create a profile*
9 *for a minor, to allow a parent to delete the mi-*
10 *nor's profile, and to delete any personal data col-*
11 *lected from the minor on the service;*

12 *(D) for a parent to manage a minor's pri-*
13 *vacancy and account settings, and restrict purchases*
14 *and financial transactions by a minor, where*
15 *applicable;*

16 *(E) to provide an electronic point of contact*
17 *specific to matters described in this paragraph;*

18 *(F) to offer a clear, conspicuous, and easy-*
19 *to-understand notice of its policies and practices*
20 *with respect to personal data and the capabili-*
21 *ties described in this paragraph; and*

22 *(G) when providing on-demand content, to*
23 *employ measures that safeguard against serving*
24 *advertising for narcotic drugs (as defined in sec-*
25 *tion 102 of the Controlled Substances Act (21*

1 *U.S.C. 802)), tobacco products, gambling, or al-*
2 *cohol directly to the account or profile of an in-*
3 *dividual that the service knows is a minor.*

4 **SEC. 16. SEVERABILITY.**

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

Calendar No. 287

118TH CONGRESS
1ST Session

S. 1409

A BILL

To protect the safety of children on the internet.

DECEMBER 13, 2023

Reported with an amendment