

Blumenthal\_Substitute



AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.****S. 3663**

To protect the safety of children on the internet.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. BLUMENTHAL (for himself and  
Mrs. BLACKBURN)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Kids Online Safety Act”.6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Duty of care.
- Sec. 4. Safeguards for minors.
- Sec. 5. Disclosure.
- Sec. 6. Transparency.
- Sec. 7. Independent research.
- Sec. 8. Market research.
- Sec. 9. Age verification study and report.
- Sec. 10. Guidance.
- Sec. 11. Enforcement.

- Sec. 12. Kids online safety council.
- Sec. 13. Effective date.
- Sec. 14. Relationship to student privacy laws.
- Sec. 15. Severability.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ALGORITHMIC RECOMMENDATION SYS-**  
4 **TEM.**—The term “algorithmic recommendation sys-  
5 tem” means a fully or partially automated system  
6 used to suggest, promote, or rank information.

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

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

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

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

22 (6) **ONLINE PLATFORM.**—The term “online  
23 platform” means any public-facing website, online

1 service, online application, or mobile application that  
2 primarily provides a community forum for user gen-  
3 erated content, including sharing videos, images,  
4 games, audio files, or other content.

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

8 (8) PERSONAL DATA.—The term “personal  
9 data” means information that identifies or is linked  
10 or reasonably linkable to an individual, household, or  
11 consumer device.

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

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

16 (b) PREVENTION OF HARM TO MINORS.—In acting  
17 in the best interests of minors, a covered platform has a  
18 duty to take reasonable measures in its design and oper-  
19 ation of products and services to prevent and mitigate  
20 physical, mental, financial, developmental, or other mate-  
21 rial harms to minors, including—

22 (1) mental health disorders or associated behav-  
23 iors, including the promotion or exacerbation of self-  
24 harm, suicide, eating disorders, and substance use  
25 disorders;

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

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

5           (4) sexual exploitation, including enticement,  
6 grooming, sex trafficking, and sexual abuse of mi-  
7 nors and trafficking of online child sexual abuse ma-  
8 terial;

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

12           (6) predatory, unfair, or deceptive marketing  
13 practices.

14 **SEC. 4. SAFEGUARDS FOR MINORS.**

15 (a) SAFEGUARDS FOR MINORS.—

16           (1) IN GENERAL.—A covered platform shall  
17 provide a minor with readily-accessible and easy-to-  
18 use safeguards to—

19                   (A) limit the ability of other individuals to  
20 contact or find a minor, in particular adults  
21 with no relationship to the minor;

22                   (B) prevent other individuals from viewing  
23 the minor’s personal data collected by or shared  
24 on the covered platform, in particular restrict-  
25 ing public access to personal data;

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

5 (D) control algorithmic recommendation  
6 systems that use a minor's personal data, in-  
7 cluding the right to opt out of such algorithmic  
8 recommendation systems or limit types or cat-  
9 egories of recommendations from such systems;

10 (E) delete the minor's account and delete  
11 their personal data;

12 (F) restrict the sharing of the geolocation  
13 of a minor and provide notice regarding the  
14 tracking of a minor's geolocation; and

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

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

25 (b) PARENTAL TOOLS.—

1           (1) TOOLS.—A covered platform shall provide  
2 readily-accessible and easy-to-use tools for parents to  
3 supervise the use of the covered platform by a  
4 minor.

5           (2) REQUIREMENTS.—The tools provided by a  
6 covered platform shall include—

7           (A) the ability to control privacy and ac-  
8 count settings, including the safeguards estab-  
9 lished under subsection (a)(1);

10           (B) the ability to restrict purchases and fi-  
11 nancial transactions by a minor;

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

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

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

19           (4) DEFAULT TOOLS.—A covered platform shall  
20 provide that, in the case of a user that the platform  
21 knows or reasonably believes to be a child, the tools  
22 described in this subsection shall be enabled by de-  
23 fault.

24           (c) REPORTING MECHANISM.—

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

4                   (A) a readily-accessible and easy-to-use  
5           means to submit reports to the covered plat-  
6           form of harms to minors, including harms de-  
7           scribed in section 3(b);

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

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

12           (2) TIMING.—A covered platform shall establish  
13           an internal process to receive and respond to reports  
14           in a reasonable and timely manner, but in no case  
15           later than 14 days after the receipt of a report.

16           (d) ILLEGAL CONTENT.—A covered platform shall  
17           not facilitate the advertising of products or services to mi-  
18           nors that are unlawful to sell to minors based on applica-  
19           ble State or Federal law.

20           (e) APPLICATION.—

21                   (1) ACCESSIBILITY.—With respect to safe-  
22           guards and parental controls described under sub-  
23           sections (a) and (b), a covered platform shall pro-  
24           vide—

1 (A) information and control options in a  
2 manner that is age appropriate and does not  
3 encourage minors or parents to weaken or dis-  
4 able safeguards or parental controls; and

5 (B) readily-accessible and easy-to-use con-  
6 trols to enable or disable safeguards or parental  
7 controls, as appropriate.

8 (2) SAFETY AND SECURITY.—Nothing in this  
9 section shall be construed to—

10 (A) prevent a covered company from tak-  
11 ing reasonable measures to limit algorithmic  
12 recommendation systems from distributing ille-  
13 gal or harmful material to minors; or

14 (B) require the disclosure of a minor’s  
15 browsing behavior, search history, messages, or  
16 other content of their communications.

17 **SEC. 5. DISCLOSURE.**

18 (a) NOTICE.—

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

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



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

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

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

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

22 (b) ALGORITHMIC RECOMMENDATION SYSTEM.—A  
23 covered platform that operates algorithmic recommenda-  
24 tion systems that use minors' personal data shall set out

1 in its terms and conditions, in a clear, conspicuous, and  
2 easy-to-understand manner—

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

8 (2) information about options for minors or  
9 their parents to control algorithmic recommendation  
10 systems that use a minor's personal data (including  
11 by opting out of such systems).

12 (c) ADVERTISING AND MARKETING INFORMATION  
13 AND LABELS.—A covered platform that facilitates adver-  
14 tising aimed at minors shall provide clear, conspicuous,  
15 and easy-to-understand information and labels on adver-  
16 tisements and marketing material regarding—

17 (1) the name of the product, service, or brand  
18 and the subject matter of an advertisement or mar-  
19 keting material;

20 (2) why the minor is being targeted for a par-  
21 ticular advertisement or marketing material if the  
22 covered platform engages in targeted advertising, in-  
23 cluding material information about how the minor's  
24 personal data was used to target the advertisement  
25 or marketing material; and

1           (3) whether particular media displayed to a  
2           user is an advertisement or marketing material, in-  
3           cluding disclosure of endorsements of products, serv-  
4           ices, or brands made for commercial consideration  
5           by other users of the platform.

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

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

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

14           **SEC. 6. TRANSPARENCY.**

15           (a) **IN GENERAL.**—Subject to subsection (b), not less  
16           frequently than once a year, a covered platform shall issue  
17           a public report identifying the foreseeable risks of harm  
18           to minors and describing the prevention and mitigation  
19           measures taken to address such risks based on an inde-  
20           pendent, third-party audit conducted through reasonable  
21           inspection of the covered platform and describe the pre-  
22           vention and mitigation measures taken to address such  
23           risks.

24           (b) **SCOPE OF APPLICATION.**—The requirements of  
25           this section shall not apply to a covered platform if, for

1 the most recent calendar year, the platform had less than  
2 10,000,000 active users on a monthly basis in the United  
3 States.

4 (c) CONTENT.—

5 (1) TRANSPARENCY.—The public reports re-  
6 quired of a covered platform under this section shall  
7 include—

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

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

12 (C) an accounting of the number of indi-  
13 viduals using the covered platform reasonably  
14 believed to be minors in the United States,  
15 disaggregated by the age ranges of 0-5, 6-9, 10-  
16 12, and 13-16;

17 (D) an accounting of the median and mean  
18 amounts of time spent on the platform by mi-  
19 nors in the United States who have accessed  
20 the platform during the reporting year on a  
21 daily, weekly, and monthly basis, disaggregated  
22 by the age ranges of 0-5, 6-9, 10-12, and 13-  
23 16;

24 (E) an accounting, disaggregated by cat-  
25 egory of harm as described in section 3(b), of—

1 (i) the total number of reports of the  
2 dissemination of illegal or harmful content  
3 involving minors; and

4 (ii) the prevalence of content that is  
5 illegal or harmful to minors; and

6 (F) a description of any material breaches  
7 of parental tools or assurances regarding mi-  
8 nors, representations regarding the use of the  
9 personal data of minors, and other matters re-  
10 garding non-compliance.

11 (2) SYSTEMIC RISKS ASSESSMENT.—The public  
12 reports required of a covered platform under this  
13 section shall include—

14 (A) an audit of the known and emerging  
15 risks to minors posed by the covered platform,  
16 including the harms described in section 3(b);

17 (B) an assessment of how algorithmic rec-  
18 ommendation systems and targeted advertising  
19 systems can contribute to harms to minors;

20 (C) a description of whether and how the  
21 covered platform uses system design features to  
22 increase, sustain, or extend use of a product or  
23 service by a minor, such as automatic playing  
24 of media, rewards for time spent, and notifica-  
25 tions;

1 (D) a description of whether, how, and for  
2 what purpose the platform collects or processes  
3 geolocation, contact information, health data, or  
4 other categories of personal data that may  
5 cause reasonably foreseeable risks of harm to a  
6 minor, as described in section 3(b) and as de-  
7 termined by the Commission.

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 as-  
11 sociated parental tools; and

12 (F) an evaluation of any other relevant  
13 matters of public concern over risks to minors.

14 (3) MITIGATION.—The public reports required  
15 of a covered platform under this section shall in-  
16 clude—

17 (A) a description of the safeguards and pa-  
18 rental tools available to minors and parents on  
19 the covered platform;

20 (B) a description of interventions by the  
21 covered platform when it had or has reason to  
22 believe that harm could occur to minors;

23 (C) a description of the prevention and  
24 mitigation measures intended to be taken in re-  
25 sponse to the known and emerging risks identi-

1           fied in its audit of system risks, including steps  
2           taken to—

3                   (i) adapt or remove system design fea-  
4                   tures that expose minors to risks;

5                   (ii) provide the most protective level of  
6                   control over privacy and safety by default;

7                   (iii) prevent the presence of illegal and  
8                   illicit content on the covered platform; and

9                   (iv) adapt algorithmic recommenda-  
10                  tion systems to prioritize the best interests  
11                  of users who are minors;

12                 (D) a description of internal processes for  
13                 handling reports and automated detection  
14                 mechanisms for harms to minors, including the  
15                 rate, timeliness, and effectiveness of responses  
16                 under the requirement of section 4(c);

17                 (E) the status of implementing prevention  
18                 and mitigation measures identified in prior as-  
19                 sessments; and

20                 (F) a description of the additional meas-  
21                 ures to be taken by the covered platform to ad-  
22                 dress the circumvention of safeguards for mi-  
23                 nors and parental tools.

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

4 (1) take into consideration the function of algo-  
5 rithmic recommendation systems;

6 (2) consult parents and youth experts, including  
7 public health and mental health nonprofit organiza-  
8 tions, child and adolescent health and development  
9 organizations, and civil society with respect to the  
10 prevention of harms to minors;

11 (3) conduct research based on experiences of  
12 minors that use the covered platform, including re-  
13 ports under section 4(c) and information provided by  
14 law enforcement;

15 (4) take account of research, including research  
16 regarding system design features, marketing, or  
17 product integrity, industry best practices, or outside  
18 research; and

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

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



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

5           (2) provide or otherwise make available to the  
6 independent third-party conducting the audit access  
7 to all network, systems, and assets relevant to the  
8 audit; and

9           (3) disclose all relevant facts to the independent  
10 third-party conducting the audit, and not misrep-  
11 sent in any manner, expressly or by implication, any  
12 relevant fact.

13       (f) **PRIVACY SAFEGUARDS.**—In issuing the public re-  
14 ports required under this section, a covered platform shall  
15 take steps to safeguard the privacy of its users, including  
16 ensuring that data is presented in a de-identified, aggre-  
17 gated format.

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

19       (a) **DEFINITIONS.**—In this section:

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

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

1 (A) that does not identify and is not linked  
2 or reasonably linkable to an individual or an in-  
3 dividual’s device; and

4 (B) with respect to which a covered plat-  
5 form or researcher takes reasonable technical  
6 and contractual measures to ensure that the in-  
7 formation is not used to re-identify any indi-  
8 vidual or individual’s device.

9 (3) ELIGIBLE RESEARCHER.—The term “eligi-  
10 ble researcher” means an individual or group of in-  
11 dividuals affiliated with or employed by—

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

15 (B) a nonprofit organization described in  
16 section 501(c)(3) of the Internal Revenue Code  
17 of 1986.

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

20 (5) PUBLIC INTEREST RESEARCH.—The term  
21 “public interest research” means the scientific or  
22 historical analysis of information that is performed  
23 for the primary purpose of advancing a broadly rec-  
24 ognized public interest.

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

6           (b) PUBLIC INTEREST RESEARCH PROGRAM.—

7           (1) ESTABLISHMENT.—Subject to paragraph  
8           (2), the Assistant Secretary shall establish a pro-  
9           gram under which an eligible researcher may apply  
10          for, and a covered platform shall provide, access to  
11          data assets from the covered platform for the sole  
12          purpose of conducting public interest research re-  
13          garding harms to the safety and well-being of mi-  
14          nors, including matters described in section 3(b).

15          (2) SCOPE OF APPLICATION.—The require-  
16          ments of this subsection shall not apply to a covered  
17          platform if, for the most recent calendar year, the  
18          platform had less than 10,000,000 active users on a  
19          monthly basis in the United States.

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

1 (A) definitions for data assets that qualify  
2 for disclosure to researchers under the program  
3 and standards of access for data assets to be  
4 provided under the program;

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

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

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

15 (i) participation by covered platforms;

16 and

17 (ii) verification by the Assistant Sec-  
18 retary of the credentials of eligible re-  
19 searchers and processes for the application  
20 or disqualification to participate in the pro-  
21 gram;

22 (E) standards for privacy, security, and  
23 confidentiality required to participate in the  
24 program;

1 (F) a mechanism to allow individuals to  
2 opt out of, or control the use of their personal  
3 data under, the program; and

4 (G) standards for transparency regarding  
5 the operation and administration of the pro-  
6 gram.

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

9 (A) ACCESS TO DATA ASSETS.—

10 (i) IN GENERAL.—If the Assistant  
11 Secretary approves an application under  
12 paragraph (1) with respect to a covered  
13 platform, the covered platform shall, in a  
14 timely manner, provide the qualified re-  
15 searcher with access to data assets nec-  
16 essary to conduct public interest research  
17 described in that paragraph.

18 (ii) FORM OF ACCESS.—A covered  
19 platform shall provide to a qualified re-  
20 searcher access to data assets under clause  
21 (i) through online databases, application  
22 programming interfaces, and data files as  
23 appropriate for the qualified researcher to  
24 undertake public interest research.

1 (B) NONDISCLOSURE AGREEMENT.—A  
2 covered platform may require, as a condition of  
3 access to the data assets of the covered plat-  
4 form, that a qualified researcher enter into a  
5 nondisclosure agreement restricting the release  
6 of data assets, provided that—

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

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

14 (C) APPEAL.—

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

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

1 (II) providing access to the data  
2 assets 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 (D) TIMING.—A covered platform for  
15 which this provision applies shall participate no  
16 later than two years after enactment of this  
17 Act.

18 (5) APPLICATION REQUIREMENTS.—In order to  
19 be approved to access data assets from a covered  
20 platform, an eligible researcher shall, in the applica-  
21 tion submitted under paragraph (1)—

22 (A) commit to conduct the research for  
23 noncommercial purposes;

1 (B) demonstrate a proven record of exper-  
2 tise on the proposed research topic and related  
3 research methodologies;

4 (C) if the eligible researcher is seeking ac-  
5 cess to data assets that include personal data,  
6 show a reasonable need for access to data as-  
7 sets that would be considered personal data,  
8 such as by demonstrating that the research  
9 cannot reasonably be accomplished using de-  
10 identified data or aggregated information; and

11 (D) commit to fulfill, and demonstrate a  
12 capacity to fulfill, the specific data security and  
13 confidentiality requirements corresponding to  
14 the application.

15 (6) PRIVACY AND DUTY OF CONFIDEN-  
16 TIALITY.—

17 (A) RESEARCHER CONFIDENTIALITY.—To  
18 protect user privacy, a qualified researcher shall  
19 keep data assets provided by a covered platform  
20 under the program confidential and secure.

21 (B) PLATFORM CONFIDENTIALITY.—A cov-  
22 ered platform shall use reasonable measures to  
23 enable researcher access to data assets under  
24 the program in a secure and privacy-protective  
25 manner, including through the de-identification



1 of personal data or use of other privacy-enhanc-  
2 ing technologies.

3 (C) FEDERAL AGENCIES.—Nothing in this  
4 subsection shall be construed to authorize a  
5 Federal agency to seek access to the data of a  
6 covered platform through the program.

7 (c) SAFE HARBOR FOR COLLECTION OF DATA FOR  
8 PUBLIC INTEREST RESEARCH.—If, in the course of con-  
9 ducting public interest research regarding harms to the  
10 safety and well-being of minors (without regard to whether  
11 such research is conducted under the program), an eligible  
12 researcher collects or uses data from a covered platform  
13 in a manner that violates the terms of service of the plat-  
14 form, no cause of action based on such violation shall lie  
15 or be maintained in any court against such researcher un-  
16 less the violation relates to the failure of the researcher  
17 to take reasonable measures to protect user privacy and  
18 security.

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

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

2 (a) MARKET RESEARCH BY COVERED PLATFORMS.—

3 The Federal Trade Commission, in consultation with the  
4 Secretary of Commerce, shall establish guidance for cov-  
5 ered platforms seeking to conduct market- and product-  
6 focused research on minors or individuals it reasonably be-  
7 lieves to be minors. Such guidance shall include—

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

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

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

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

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

1 duct a study evaluating the most technologically feasible  
2 methods and options for developing systems to verify age  
3 at the device or operating system level.

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

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

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

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

12 (4) how such a system or systems could verify  
13 age while mitigating risks to user privacy and data  
14 security and safeguarding minors' personal data;  
15 and

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

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

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

3 **SEC. 10. GUIDANCE.**

4 Not later than 1 year after the date of enactment  
5 of this Act, the Federal Trade Commission, in consulta-  
6 tion with the Kids Online Safety Council established under  
7 section 12, shall issue guidance to—

8 (1) support covered platforms in safeguarding  
9 minors against the misuse of parental tools;

10 (2) assist schools in using the notice, safe-  
11 guards and tools provided under this Act and facili-  
12 tate compliance with student privacy laws; and

13 (3) provide guidance on the scope of the defini-  
14 tion of online platforms for purposes of compliance  
15 with this Act.

16 **SEC. 11. ENFORCEMENT.**

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

19 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-  
20 TICES.—A violation of this Act or a regulation pro-  
21 mulgated under this Act shall be treated as a viola-  
22 tion of a rule defining an unfair or deceptive act or  
23 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.—Except as provided in  
3 subsection (b), the Federal Trade Commission  
4 (referred to in this section as the “Commis-  
5 sion”) shall enforce this Act and any regulation  
6 promulgated under this Act in the same man-  
7 ner, by the same means, and with the same ju-  
8 risdiction, powers, and duties as though all ap-  
9 plicable terms and provisions of the Federal  
10 Trade Commission Act (15 U.S.C. 41 et seq.)  
11 were incorporated into and made a part of this  
12 Act.

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

19 (3) REGULATIONS.—The Commission may pro-  
20 mulgate regulations under section 553 of title 5,  
21 United States Code, to carry out sections 4, 5, and  
22 6 of this Act.

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

1 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-  
2 ERAL.—

3 (1) IN GENERAL.—

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

15 (i) enjoin that practice;

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

18 (iii) on behalf of residents of the  
19 State, obtain damages, statutory damages,  
20 restitution, or other compensation, each of  
21 which shall be distributed in accordance  
22 with State law; or

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

25 (B) NOTICE.—

1 (i) IN GENERAL.—Before filing an ac-  
2 tion under subparagraph (A), the attorney  
3 general of the State involved shall provide  
4 to the Commission—

5 (I) written notice of that action;

6 and

7 (II) a copy of the complaint for  
8 that action.

9 (ii) EXEMPTION.—

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

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

24 (2) INTERVENTION.—

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

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

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

10                   (ii) to file a petition for appeal.

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

17                   (A) conduct investigations;

18                   (B) administer oaths or affirmations; or

19                   (C) compel the attendance of witnesses or  
20           the production of documentary and other evi-  
21           dence.

22           (4) ACTIONS BY THE COMMISSION.—In any  
23           case in which an action is instituted by or on behalf  
24           of the Commission for violation of this Act or a reg-  
25           ulation promulgated under this Act, no State may,



1 during the pendency of that action, institute a separate  
2 rate action under paragraph (1) against any defendant  
3 named in the complaint in the action instituted  
4 by or on behalf of the Commission for that violation.

5 (5) VENUE; SERVICE OF PROCESS.—

6 (A) VENUE.—Any action brought under  
7 paragraph (1) may be brought in—

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

12 (ii) a State court of competent jurisdiction.  
13

14 (B) SERVICE OF PROCESS.—In an action  
15 brought under paragraph (1) in a district court  
16 of the United States, process may be served  
17 wherever defendant—

18 (i) is an inhabitant; or

19 (ii) may be found.

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

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

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

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

6 (2) representatives in academia and civil society  
7 with specific expertise in privacy and civil liberties;

8 (3) parents and youth representation;

9 (4) representatives of covered platforms;

10 (5) representatives of the National Tele-  
11 communications and Information Administration,  
12 the National Institute of Standards and Technology,  
13 the Federal Trade Commission, the Department of  
14 Justice, and the Department of Health and Human  
15 Services; and

16 (6) State attorneys general or their designees.

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

19 (1) identifying emerging or current risks to mi-  
20 nors associated with online platforms;

21 (2) recommending measures and methods for  
22 assessing, preventing, and mitigating online harms  
23 to minors;

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

4           (4) recommending best practices for trans-  
5           parency reports and audits, as required under this  
6           Act.

7   **SEC. 13. EFFECTIVE DATE.**

8           Except as otherwise provided in this Act, this Act  
9           shall take effect on the date that is 18 months after the  
10          date of enactment of this Act.

11   **SEC. 14. RELATIONSHIP TO STUDENT PRIVACY LAWS.**

12          Nothing in this Act shall be construed to preempt  
13          section 444 of the General Education Provisions Act (20  
14          U.S.C. 1232g, commonly known as the “Family Edu-  
15          cational Rights and Privacy Act of 1974”) or other Fed-  
16          eral or State laws governing student privacy.

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.