

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) ALGORITHMIC RECOMMENDATION SYS-
9 TEM.—The term “algorithmic recommendation sys-
10 tem” means a fully or partially automated system
11 used to suggest, promote, or rank information.

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

14 (3) COMPULSIVE USAGE.—The term “compul-
15 sive usage” means any response stimulated by exter-
16 nal factors that causes an individual to engage in re-

1 petitive behavior reasonably likely to cause psycho-
2 logical distress, loss of control, anxiety, depression,
3 or harmful stress responses.

4 (4) COVERED PLATFORM.—

5 (A) IN GENERAL.—The term “covered
6 platform” means a social media service, social
7 network, video game (including educational
8 games), messaging application, video streaming
9 service, or an online platform that connects to
10 the internet and that is used, or is reasonably
11 likely to be used, by a minor.

12 (B) EXCEPTIONS.—The term “covered
13 platform” does not include—

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

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

21 (iii) any public or private preschool,
22 elementary, or secondary school, or any in-
23 stitution of vocational, professional, or
24 higher education.

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

6 (6) MINOR.—The term “minor” means an indi-
7 vidual who is age 16 or younger.

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

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

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

21 (10) SEXUAL EXPLOITATION AND ABUSE.—The
22 term “sexual exploitation and abuse” means any of
23 the following:

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

1 (B) Child sexual abuse material, as de-
2 scribed in sections 2251, 2252, 2252A, and
3 2260 of title 18, United States Code.

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

7 (D) Sex trafficking of children, as de-
8 scribed in section 1591 of title 18, United
9 States Code.

10 (11) TARGETED ADVERTISING.—The term “tar-
11 geted advertising” means displaying an advertise-
12 ment to an individual where the advertisement is se-
13 lected based on personal data collected from the in-
14 dividual.

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

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

21 (1) mental health disorders or associated behav-
22 iors, including the promotion or exacerbation of sui-
23 cide, eating disorders, and substance use disorders,
24 consistent with evidence-based medical information;

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,
9 gambling, or alcohol; and

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 any minor from deliberately and independently
15 searching for, or specifically requesting, content.

16 **SEC. 4. SAFEGUARDS FOR MINORS.**

17 (a) SAFEGUARDS FOR MINORS.—

18 (1) SAFEGUARDS.—A covered platform shall
19 provide an individual that the covered platform
20 knows or should know is a minor with readily-acces-
21 sible and easy-to-use safeguards to, as applicable—

22 (A) limit the ability of other individuals to
23 communicate with the minor;

24 (B) prevent other users, whether registered
25 or not, from viewing the minor’s personal data

1 collected by or shared on the covered platform,
2 in particular restricting public access to per-
3 sonal data;

4 (C) limit features that increase, sustain, or
5 extend use of the covered platform by the
6 minor, such as automatic playing of media, re-
7 wards for time spent on the platform, notifica-
8 tions, and other features that result in compul-
9 sive usage of the covered platform by the minor;

10 (D) control algorithmic recommendation
11 systems that use the minor's personal data, in-
12 cluding the right to—

13 (i) opt out of such algorithmic rec-
14 ommendation systems; or

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

17 (E) restrict the sharing of the geolocation
18 of the minor and provide notice regarding the
19 tracking of the minor's geolocation.

20 (2) OPTIONS.—A covered platform shall provide
21 an individual that the covered platform knows or
22 should know is a minor with readily-accessible and
23 easy-to-use options to—

1 (A) delete the minor's account and delete
2 any personal data collected from, or shared by,
3 the minor on the covered platform; or

4 (B) limit the amount of time spent by the
5 minor on the covered platform.

6 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
7 NORS.—A covered platform shall provide that, in the
8 case of a user that the platform knows or should
9 know is a minor, the default setting for any safe-
10 guard described under paragraph (1) shall be the
11 option available on the platform that provides the
12 most protective level of control that is offered by the
13 platform over privacy and safety for that user.

14 (b) PARENTAL TOOLS.—

15 (1) TOOLS.—A covered platform shall provide
16 readily-accessible and easy-to-use settings for par-
17 ents to support an individual that the platform
18 knows or should know is a minor with respect to the
19 individual's use of the platform.

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

22 (A) the ability to manage a minor's privacy
23 and account settings, including the safeguards
24 and options established under subsection (a), in
25 a manner that allows parents to—

1 (i) view the privacy and account set-
2 tings; and

3 (ii) in the case of a user that the plat-
4 form knows or should know is a child,
5 change and control the privacy and ac-
6 count settings;

7 (B) the ability to restrict purchases and fi-
8 nancial transactions by the minor, where appli-
9 cable; and

10 (C) the ability to view metrics of total time
11 spent on the platform.

12 (3) NOTICE TO MINORS.—A covered platform
13 shall provide clear and conspicuous notice to an indi-
14 vidual that the platform knows or should know is a
15 minor when tools described in this subsection are in
16 effect and what settings or controls have been ap-
17 plied.

18 (4) DEFAULT TOOLS.—A covered platform shall
19 provide that, in the case of a user that the platform
20 knows or should know is a child, the tools described
21 in this subsection shall be enabled by default.

22 (c) REPORTING MECHANISM.—

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

1 (A) a readily-accessible and easy-to-use
2 means to submit reports to the covered plat-
3 form of harms to minors;

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

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

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

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

19 (e) APPLICATION.—

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

24 (A) information and control options in a
25 clear and conspicuous manner that takes into

1 consideration the differing ages, capacities, and
2 developmental needs of the minors most likely
3 to access the covered platform and does not en-
4 courage minors or parents to weaken or disable
5 safeguards or parental controls;

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

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

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

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

22 (A) prevent a covered platform from taking
23 reasonable measures to—

24 (i) block, detect, or prevent the dis-
25 tribution of unlawful, obscene, or other

1 harmful material to minors as described in
2 section 3(a); or

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

6 (B) require the disclosure of a minor's
7 browsing behavior, search history, messages, or
8 other content or metadata of their communica-
9 tions.

10 **SEC. 5. DISCLOSURE.**

11 (a) NOTICE.—

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

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

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

23 (C) notice about whether the covered plat-
24 form, including any algorithmic recommenda-

1 tion systems used by the platform, pose any
2 heightened risks of harms to minors.

3 (2) PARENTAL NOTIFICATION.—

4 (A) NOTICE.—A covered platform shall ad-
5 ditionally provide the notice, information, and
6 statement described in paragraph (1) to a par-
7 ent of the minor.

8 (B) ACKNOWLEDGMENT.—After providing
9 the notice, information, and statement de-
10 scribed in paragraph (1), but prior to initial use
11 of the covered platform, the covered platform
12 shall obtain express affirmative acknowledgment
13 from a parent of the minor of the receipt of in-
14 formation related to the heightened risks of
15 harm to minors referenced in the statement in
16 paragraph (1)(C).

17 (C) REASONABLE EFFORT.—The notice
18 and acknowledgement required under this para-
19 graph shall be a reasonable effort (taking into
20 consideration available technology) to ensure a
21 parent receives specific notice and is provided
22 the ability acknowledge receipt.

23 (3) RULEMAKING.—The Commission may issue
24 rules pursuant to section 553 of title 5, United

1 States Code, to establish standards for covered plat-
2 forms to comply with this subsection, including—

3 (A) a minimum level of information cov-
4 ered platforms must provide pursuant to para-
5 graph (1), where applicable; and

6 (B) processes for parental notification,
7 which may include templates or models of
8 short-form notices.

9 (b) ALGORITHMIC RECOMMENDATION SYSTEM.—A
10 covered platform that operates algorithmic recommenda-
11 tion systems that use minors' personal data shall set out
12 in its terms and conditions, in a clear, conspicuous, and
13 easy-to-understand manner—

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

19 (2) information about options for minors or
20 their parents to control algorithmic recommendation
21 systems that use a minor's personal data (including
22 by opting out of such systems).

23 (c) ADVERTISING AND MARKETING INFORMATION
24 AND LABELS.—

1 (1) INFORMATION AND LABELS.—A covered
2 platform that facilitates advertising aimed at users
3 that the platform knows or should know are minors
4 shall provide clear, conspicuous, and easy-to-under-
5 stand information and labels on advertisements re-
6 garding—

7 (A) the name of the product, service, or
8 brand and the subject matter of an advertise-
9 ment;

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

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

21 (2) RULEMAKING.—The Commission may issue
22 rules pursuant to section 553 of title 5, United
23 States Code, to implement this subsection, specifi-
24 cally establishing the minimum level of information
25 and labels necessary for the disclosures required

1 under paragraph (1), which may include templates
2 or models of short-form notices.

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

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

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

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

17 **SEC. 6. TRANSPARENCY.**

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

1 (b) SCOPE OF APPLICATION.—The requirements of
2 this section shall not apply to a covered platform if, for
3 the most recent calendar year, the platform averaged less
4 than 10,000,000 active users on a monthly basis in the
5 United States.

6 (c) CONTENT.—

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

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

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

14 (C) an accounting of the number of indi-
15 viduals using the covered platform reasonably
16 believed to be minors in the United States,
17 disaggregated by the age ranges of 0-5, 6-9, 10-
18 12, and 13-16;

19 (D) an accounting of the median and mean
20 amounts of time spent on the platform by mi-
21 nors in the United States who have accessed
22 the platform during the reporting year on a
23 daily, weekly, and monthly basis, disaggregated
24 by the age ranges of 0-5, 6-9, 10-12, and 13-
25 16;

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

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

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

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

22 (B) an assessment of how algorithmic rec-
23 ommendation systems and targeted advertising
24 systems can contribute to harms to minors;

1 (C) a description of whether and how the
2 covered platform uses system design features to
3 increase, sustain, or extend use of a product or
4 service by a minor, such as automatic playing
5 of media, rewards for time spent, and notifica-
6 tions;

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

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

15 (F) an evaluation of any other relevant
16 matters of public concern over risk of harms to
17 minors.

18 (3) MITIGATION.—The public reports required
19 of a covered platform under this section shall in-
20 clude—

21 (A) a description of the safeguards and pa-
22 rental tools available to minors and parents on
23 the covered platform;

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

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

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

13 (ii) provide the most protective level of
14 control over privacy and safety by default;
15 and

16 (iii) adapt algorithmic recommenda-
17 tion systems to prioritize the best interests
18 of users who are minors, as described in
19 section 3(a);

20 (D) a description of internal processes for
21 handling reports and automated detection
22 mechanisms for harms to minors, including the
23 rate, timeliness, and effectiveness of responses
24 under the requirement of section 4(c);

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

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

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

11 (1) take into consideration the function of algo-
12 rithmic recommendation systems;

13 (2) consult parents and youth experts, including
14 public health and mental health nonprofit organiza-
15 tions, health and development organizations, and
16 civil society with respect to the prevention of harms
17 to minors;

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

22 (4) take account of research, including research
23 regarding system design features, marketing, or
24 product integrity, industry best practices, or outside
25 research; and

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

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

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

11 (2) provide or otherwise make available to the
12 independent third-party conducting the audit access
13 to all network, systems, and assets relevant to the
14 audit; and

15 (3) disclose all relevant facts to the independent
16 third-party conducting the audit, and not misrep-
17 sent in any manner, expressly or by implication, any
18 relevant fact.

19 (f) PRIVACY SAFEGUARDS.—

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

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

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

10 (h) RULEMAKING.—The Commission may issue rules
11 pursuant to section 553 of title 5, United States Code to
12 implement this section, specifically establishing processes
13 and minimum standards for third-party auditors to iden-
14 tify and assess—

15 (1) known and emerging risks to minors; and

16 (2) how algorithmic recommendation systems
17 and targeted advertising systems can contribute to
18 harms to minors as described in section 3(a).

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

20 (a) DEFINITIONS.—In this section:

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

24 (2) DE-IDENTIFIED DATA.—The term “de-iden-
25 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) NONCOMMERCIAL PURPOSE.—The term
19 “noncommercial purpose” means a purpose that
20 does not involve any direct or indirect use of data
21 sets for the sale, resale, solicitation, rental, or lease
22 of a service, or any use by which the user expects
23 a profit, including the sale to the general public of
24 a publication containing public interest research.

1 (5) PROGRAM.—The term “Program” means
2 the program established under subsection (b)(1).

3 (6) PUBLIC INTEREST RESEARCH.—The term
4 “public interest research” means the scientific or
5 historical analysis of information that is performed
6 for the primary purpose of advancing a broadly rec-
7 ognized public interest.

8 (7) QUALIFIED RESEARCHER.—The term
9 “qualified researcher” means an eligible researcher
10 who is approved by the Assistant Secretary to con-
11 duct public interest research regarding harms to mi-
12 nors under the Program.

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

15 (1) ESTABLISHMENT.—Subject to paragraph
16 (2), the Assistant Secretary shall establish a pro-
17 gram, with public notice and an opportunity to com-
18 ment, under which an eligible researcher may apply
19 for, and a covered platform shall provide, access to
20 data sets from the covered platform for the sole pur-
21 pose of conducting public interest research regarding
22 the harms described in section 3(a).

23 (2) SCOPE OF APPLICATION.—The require-
24 ments of this subsection shall not apply to a covered
25 platform if, for the most recent calendar year, the

1 platform averaged less than 10,000,000 active users
2 on a monthly basis in the United States.

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

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

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

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

21 (D) procedures for implementation of the
22 program, including methods for—

23 (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;

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

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

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

1 ered platforms to obtain access to intellectual
2 property that is otherwise protected by law.

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

5 (A) ACCESS TO DATA SETS.—

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

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

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

1 (B) NONDISCLOSURE AGREEMENT.—A
2 covered platform may require, as a condition of
3 access to the data sets of the covered platform,
4 that a qualified researcher enter into a non-
5 disclosure agreement restricting the release of
6 data sets, 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 sets
22 or the requested data sets are not rea-
23 sonably tailored to application; or

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

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

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

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

24 (D) TIMING.—A covered platform for
25 which this provision applies shall participate in

1 the program established under this subsection
2 no later than two years after enactment of this
3 Act.

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

8 (A) explain the public interest purpose for
9 which the research is undertaken;

10 (B) commit to conduct the research for
11 noncommercial purposes;

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

15 (D) if the eligible researcher is seeking ac-
16 cess to data sets that include personal data, ex-
17 plain why the data sets are requested, and the
18 means through which such data sets shall be
19 accessed are the least sensitive and the most
20 privacy-protective means that will permit com-
21 pletion of the research; and

22 (E) commit to fulfill, and demonstrate a
23 capacity to fulfill, the specific data security and
24 confidentiality requirements corresponding to
25 the application.

1 (6) PRIVACY AND DUTY OF CONFIDEN-
2 TIALITY.—

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

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

16 (C) FEDERAL AGENCIES.—Nothing in this
17 subsection shall be construed to authorize a
18 Federal agency to seek access to the data of a
19 covered platform through the program.

20 (e) SAFE HARBOR FOR COLLECTION OF DATA FOR
21 PUBLIC INTEREST RESEARCH REGARDING IDENTIFIED
22 HARMS TO MINORS.—If, in the course of conducting pub-
23 lic interest research for noncommercial purposes regarding
24 harms described in section 3(a) (without regard to wheth-
25 er such research is conducted under the program), an eli-

1 gible researcher collects or uses data from a covered plat-
2 form in a manner that violates the terms of service of the
3 platform, no cause of action based on such violation shall
4 lie or be maintained in any court against such researcher
5 unless the violation relates to the failure of the researcher
6 to take reasonable measures to protect user privacy and
7 security.

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

15 **SEC. 8. MARKET RESEARCH.**

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

21 (1) a standard consent form that provides mi-
22 nors and their parents a clear, conspicuous, and
23 easy-to-understand explanation of the scope and pur-
24 pose of the research to be conducted, and provides
25 an opportunity for informed consent; and

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

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

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

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

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

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

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

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

1 (4) how such a system or systems could verify
2 age while mitigating risks to user privacy and data
3 security and safeguarding minors' personal data,
4 emphasizing minimizing the amount of data col-
5 lected and processed by covered platforms and age
6 verification providers for such a system; and

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

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

18 **SEC. 10. GUIDANCE.**

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

23 (1) assist elementary or secondary schools in
24 using the notice, safeguards and tools provided

1 under this Act and facilitate compliance with stu-
2 dent privacy laws; and

3 (2) provide information and examples for cov-
4 ered platforms and auditors regarding—

5 (A) identifying features that are used to
6 increase, sustain, or extend use of the covered
7 platform by a minor;

8 (B) safeguarding minors against the pos-
9 sible misuse of parental tools;

10 (C) best practices in providing minors and
11 parents the most protective level of control over
12 privacy and safety;

13 (D) using indicia or inferences of age of
14 users for assessing use of the covered platform
15 by minors;

16 (E) methods for evaluating the efficacy of
17 safeguards; and

18 (F) providing additional control options
19 that allow parents to address the harms de-
20 scribed in section 3(a); and

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

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

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

9 (C) establishing default settings that pro-
10 vide enhanced privacy protection to users or
11 otherwise enhance their autonomy and decision-
12 making ability.

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.—**Except as provided in
25 subsection (b), the Federal Trade Commission

1 (referred to in this section as the “Commis-
2 sion”) shall enforce this Act and any regulation
3 promulgated under this Act in the same man-
4 ner, by the same means, and with the same ju-
5 risdiction, powers, and duties as though all ap-
6 plicable terms and provisions of the Federal
7 Trade Commission Act (15 U.S.C. 41 et seq.)
8 were incorporated into and made a part of this
9 Act.

10 (B) PRIVILEGES AND IMMUNITIES.—Any
11 person that violates this Act or a regulation
12 promulgated under this Act shall be subject to
13 the penalties, and entitled to the privileges and
14 immunities, provided in the Federal Trade
15 Commission 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 GEN-
20 ERAL.—

21 (1) IN GENERAL.—

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

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

8 (i) enjoin that practice;

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

11 (iii) on behalf of residents of the
12 State, obtain damages, restitution, or other
13 compensation, each of which shall be dis-
14 tributed in accordance with State law; or

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

17 (B) NOTICE.—

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

22 (I) written notice of that action;

23 and

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

1 (ii) EXEMPTION.—

2 (I) IN GENERAL.—Clause (i)
3 shall not apply with respect to the fil-
4 ing of an action by an attorney gen-
5 eral of a State under this paragraph
6 if the attorney general of the State
7 determines that it is not feasible to
8 provide the notice described in that
9 clause before the filing of the action.

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

16 (2) INTERVENTION.—

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

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

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

1 (ii) to file a petition for appeal.

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

8 (A) conduct investigations;

9 (B) administer oaths or affirmations; or

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

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

21 (5) VENUE; SERVICE OF PROCESS.—

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

24 (i) the district court of the United
25 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 and the prevention of harms to minors;

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

24 (3) parents and youth representation;

25 (4) representatives of covered platforms;

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

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

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

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

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

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

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

22 (4) recommending best practices and clear, con-
23 sensus-based technical standards for transparency
24 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; or

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

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

20 (1) the affirmative collection of any personal
21 data with respect to the age of users that a covered
22 platform is not already collecting in the normal
23 course of business; or

24 (2) a covered platform to implement an age
25 gating functionality.

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

3 (1) cooperate with law enforcement agencies re-
4 garding activity that the operator reasonably and in
5 good faith believes may violate Federal, State, or
6 local laws, rules, or regulations;

7 (2) comply with a civil, criminal, or regulatory
8 inquiry or any investigation, subpoena, or summons
9 by Federal, State, local, or other government au-
10 thorities; or

11 (3) investigate, establish, exercise, respond to,
12 or defend against legal claims.

13 **SEC. 15. SEVERABILITY.**

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