AMENDMENT NO._______ Calendar No._______

Purpose: In the nature of a substitute.


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 following:

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

4 (b) TABLE OF CONTENTS.—The table of contents for 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. 2. DEFINITIONS.

In this Act:

(1) **Algorithmic recommendation system.**—The term “algorithmic recommendation system” means a fully or partially automated system used to suggest, promote, or rank information.

(2) **Child.**—The term “child” means an individual who is age 12 or younger.

(3) **Covered platform.**—The term “covered platform” means a social media service, social network, video game, messaging application, video streaming service, educational service, or an online platform that connects to the internet and that is used, or is reasonably likely to be used, by a minor.

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

(5) **Minor.**—The term “minor” means an individual who is age 16 or younger.

(6) **Online platform.**—The term “online platform” means any public-facing website, online
service, online application, or mobile application that
primarily provides a community forum for user gen-
erated content, including sharing videos, images,
games, audio files, or other content.

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

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

SEC. 3. DUTY OF CARE.

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

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

(1) mental health disorders or associated behav-
iors, including the promotion or exacerbation of self-
harm, suicide, eating disorders, and substance use
disorders;
(2) patterns of use that indicate or encourage addiction-like behaviors;

(3) physical harm, online bullying, and harassment of a minor;

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

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

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

SEC. 4. SAFEGUARDS FOR MINORS.

(a) SAFEGUARDS FOR MINORS.—

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

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

(B) prevent other individuals from viewing the minor’s personal data collected by or shared on the covered platform, in particular restricting public access to personal data;
(C) limit features that increase, sustain, or extend use of the covered platform by a minor, such as automatic playing of media, rewards for time spent on the platform, and notifications;

(D) control algorithmic recommendation systems that use a minor’s personal data, including the right to opt out of such algorithmic recommendation systems or limit types or categories of recommendations from such systems;

(E) delete the minor’s account and delete their personal data;

(F) restrict the sharing of the geolocation of a minor and provide notice regarding the tracking of a minor’s geolocation; and

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

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

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

(2) **Requirements.**—The tools provided by a covered platform shall include—

(A) the ability to control privacy and account settings, including the safeguards established under subsection (a)(1);

(B) the ability to restrict purchases and financial transactions by a minor;

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

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

(3) **Notice to Minors.**—A covered platform shall provide clear and conspicuous notice to a minor when tools described in this subsection are in effect.

(4) **Default Tools.**—A covered platform shall provide that, in the case of a user that the platform knows or reasonably believes to be a child, the tools described in this subsection shall be enabled by default.

(c) **Reporting Mechanism.**—
(1) **Reports submitted by parents, minors, and schools.**—A covered platform shall provide—

(A) a readily-accessible and easy-to-use means to submit reports to the covered platform of harms to minors, including harms described in section 3(b);

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

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

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

(d) **Illegal content.**—A covered platform shall not facilitate the advertising of products or services to minors that are unlawful to sell to minors based on applicable State or Federal law.

(e) **Application.**—

(1) **Accessibility.**—With respect to safeguards and parental controls described under subsections (a) and (b), a covered platform shall provide—
(A) information and control options in a manner that is age appropriate and does not encourage minors or parents to weaken or disable safeguards or parental controls; and

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

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

(A) prevent a covered company from taking reasonable measures to limit algorithmic recommendation systems from distributing illegal or harmful material to minors; or

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

SEC. 5. DISCLOSURE.

(a) NOTICE.—

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

(A) notice of the policies and practices of the covered platform with respect to personal data and safeguards for minors;
(B) information about how to access the safeguards and parental tools required under section 4; and

(C) notice about whether the covered platform, including any algorithmic recommendation systems used by the platform, pose any heightened risks of harm to a minor, including harms described in section 3(b).

(2) PARENTAL NOTIFICATION.—For a minor, or an individual that a covered platform reasonably believes is a minor, a covered platform shall additionally provide the notice, information, and statement described in paragraph (1) to a parent of the minor.

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

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

(1) an overview of how those algorithmic recommendation systems are used by the covered platform to provide information to users of the platform who are minors, including how such systems use the personal data of minors; and

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

(c) Advertising and Marketing Information and Labels.—A covered platform that facilitates advertising aimed at minors shall provide clear, conspicuous, and easy-to-understand information and labels on advertisements and marketing material regarding—

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

(2) why the minor is being targeted for a particular advertisement or marketing material if the covered platform engages in targeted advertising, including material information about how the minor’s personal data was used to target the advertisement or marketing material; and
whether particular media displayed to a user is an advertisement or marketing material, including disclosure of endorsements of products, services, or brands made for commercial consideration by other users of the platform.

(d) Resources for Parents and Minors.—A covered platform shall provide to minors and parents clear, conspicuous, easy-to-understand, and comprehensive information in a prominent location regarding—

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

(2) how to access the safeguards and tools required under section 4.

SEC. 6. TRANSPARENCY.

(a) In General.—Subject to subsection (b), not less frequently than once a year, a covered platform shall issue a public report identifying the foreseeable risks of harm to minors and describing the prevention and mitigation measures taken to address such risks based on an independent, third-party audit conducted through reasonable inspection of the covered platform and describe the prevention and mitigation measures taken to address such risks.

(b) Scope of Application.—The requirements of this section shall not apply to a covered platform if, for
the most recent calendar year, the platform had less than 10,000,000 active users on a monthly basis in the United States.

(c) CONTENT.—

(1) TRANSPARENCY.—The public reports required of a covered platform under this section shall include—

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

(B) a description of the commercial interests of the covered platform in use by minors;

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

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

(E) an accounting, disaggregated by category of harm as described in section 3(b), of—
(i) the total number of reports of the dissemination of illegal or harmful content involving minors; and

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

(F) a description of any material breaches of parental tools or assurances regarding minors, representations regarding the use of the personal data of minors, and other matters regarding non-compliance.

(2) Systemic risks assessment.—The public reports required of a covered platform under this section shall include—

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

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

(C) a description of whether and how the covered platform uses system design features to increase, sustain, or extend use of a product or service by a minor, such as automatic playing of media, rewards for time spent, and notifications;
(D) a description of whether, how, and for what purpose the platform collects or processes geolocation, contact information, health data, or other categories of personal data that may cause reasonably foreseeable risks of harm to a minor, as described in section 3(b) and as determined by the Commission.

(E) an evaluation of the efficacy of safeguards for minors under section 4, and any issues in delivering such safeguards and the associated parental tools; and

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

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

(A) a description of the safeguards and parental tools available to minors and parents on the covered platform;

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

(C) a description of the prevention and mitigation measures intended to be taken in response to the known and emerging risks identi-
fied in its audit of system risks, including steps taken to—

(i) adapt or remove system design features that expose minors to risks;

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

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

(iv) adapt algorithmic recommendation systems to prioritize the best interests of users who are minors;

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

(E) the status of implementing prevention and mitigation measures identified in prior assessments; and

(F) a description of the additional measures to be taken by the covered platform to address the circumvention of safeguards for minors and parental tools.
(d) **Reasonable Inspection.**—In conducting an inspection of the systemic risks of harm to minors under this section, an independent, third-party auditor shall—

1. take into consideration the function of algorithmic recommendation systems;
2. consult parents and youth experts, including public health and mental health nonprofit organizations, child and adolescent health and development organizations, and civil society with respect to the prevention of harms to minors;
3. conduct research based on experiences of minors that use the covered platform, including reports under section 4(c) and information provided by law enforcement;
4. take account of research, including research regarding system design features, marketing, or product integrity, industry best practices, or outside research; and
5. consider indicia or inferences of age of users, in addition to any self-declared information about the age of individuals.

(e) **Cooperation With Independent, Third-Party Audit.**—To facilitate the report required by subsection (c), a covered platform shall—
(1) provide or otherwise make available to the independent third-party conducting the audit all information and material in its possession, custody, or control that is relevant to the audit;

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

(3) disclose all relevant facts to the independent third-party conducting the audit, and not misrepresent in any manner, expressly or by implication, any relevant fact.

(f) PRIVACY SAFEGUARDS.—In issuing the public reports required under this section, a covered platform shall take steps to safeguard the privacy of its users, including ensuring that data is presented in a de-identified, aggregated format.

SEC. 7. INDEPENDENT RESEARCH.

(a) DEFINITIONS.—In this section:

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

(2) DE-IDENTIFIED DATA.—The term “de-identified data” means information—
(A) that does not identify and is not linked
or reasonably linkable to an individual or an in-
dividual’s device; and

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

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

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

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

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

(5) PUBLIC INTEREST RESEARCH.—The term
“public interest research” means the scientific or
historical analysis of information that is performed
for the primary purpose of advancing a broadly rec-
ognized public interest.
(6) Qualified Researcher.—The term “qualified researcher” means an eligible researcher who is approved by the Assistant Secretary to conduct public interest research regarding harms to minors under the Program.

(b) Public Interest Research Program.—

(1) Establishment.—Subject to paragraph (2), the Assistant Secretary shall establish a program under which an eligible researcher may apply for, and a covered platform shall provide, access to data assets from the covered platform for the sole purpose of conducting public interest research regarding harms to the safety and well-being of minors, including matters described in section 3(b).

(2) Scope of Application.—The requirements of this subsection shall not apply to a covered platform if, for the most recent calendar year, the platform had less than 10,000,000 active users on a monthly basis in the United States.

(3) Processes, Procedures, and Standards.—Not later than 1 year after the date of enactment of this Act, the Assistant Secretary shall establish for the program established under this subsection—
(A) definitions for data assets that qualify for disclosure to researchers under the program and standards of access for data assets to be provided under the program;

(B) a process by which an eligible researcher may submit an application described in paragraph (1);

(C) an appeals process for eligible researchers to appeal adverse decisions on applications described in paragraph (1) (including a decision to grant an appeal under paragraph (4)(C));

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

(i) participation by covered platforms;

and

(ii) verification by the Assistant Secretary of the credentials of eligible researchers and processes for the application or disqualification to participate in the program;

(E) standards for privacy, security, and confidentiality required to participate in the program;
(F) a mechanism to allow individuals to opt out of, or control the use of their personal data under, the program; and

(G) standards for transparency regarding the operation and administration of the program.

(4) DUTIES AND RIGHTS OF COVERED PLATFORMS.—

(A) ACCESS TO DATA ASSETS.—

(i) IN GENERAL.—If the Assistant Secretary approves an application under paragraph (1) with respect to a covered platform, the covered platform shall, in a timely manner, provide the qualified researcher with access to data assets necessary to conduct public interest research described in that paragraph.

(ii) FORM OF ACCESS.—A covered platform shall provide to a qualified researcher access to data assets under clause (i) through online databases, application programming interfaces, and data files as appropriate for the qualified researcher to undertake public interest research.
(B) Nondisclosure Agreement.—A covered platform may require, as a condition of access to the data assets of the covered platform, that a qualified researcher enter into a nondisclosure agreement restricting the release of data assets, provided that—

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

(ii) the terms of the agreement allow the qualified researcher to provide the original agreement or a copy of the agreement to the Assistant Secretary.

(C) Appeal.—

(i) Agency Appeal.—A covered platform may appeal the granting of an application under paragraph (1) on the grounds that, and the Assistant Secretary shall grant such appeal if—

(I) the covered platform does not have access to the requested data assets or the requested data assets are not reasonably tailored to application; or
(II) providing access to the data assets will lead to material vulnerabilities for the privacy of users or the security of the covered platform’s service or create a significant risk of the violation of Federal or state law.

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

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

(5) APPLICATION REQUIREMENTS.—In order to be approved to access data assets from a covered platform, an eligible researcher shall, in the application submitted under paragraph (1)—

(A) commit to conduct the research for noncommercial purposes;
(B) demonstrate a proven record of expertise on the proposed research topic and related research methodologies;

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

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

(6) Privacy and duty of confidentiality.—

(A) Researcher confidentiality.—To protect user privacy, a qualified researcher shall keep data assets provided by a covered platform under the program confidential and secure.

(B) Platform confidentiality.—A covered platform shall use reasonable measures to enable researcher access to data assets under the program in a secure and privacy-protective manner, including through the de-identification
of personal data or use of other privacy-enhancing technologies.

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

(e) SAFE HARBOR FOR COLLECTION OF DATA FOR PUBLIC INTEREST RESEARCH.—If, in the course of conducting public interest research regarding harms to the safety and well-being of minors (without regard to whether such research is conducted under the program), an eligible researcher collects or uses data from a covered platform in a manner that violates the terms of service of the platform, no cause of action based on such violation shall lie or be maintained in any court against such researcher unless the violation relates to the failure of the researcher to take reasonable measures to protect user privacy and security.

(d) RULEMAKING.—The Assistant Secretary, in consultation with the Secretary of Commerce, the Director of the National Institute of Standards and Technology, the Director of the National Science Foundation, and the Director of the National Institutes of Health shall promulgate rules in accordance with section 553 of title 5, United States Code, as necessary to implement this section.
SEC. 8. MARKET RESEARCH.

(a) Market Research by Covered Platforms.—
The Federal Trade Commission, in consultation with the Secretary of Commerce, shall establish guidance for covered platforms seeking to conduct market- and product-focused research on minors or individuals it reasonably believes to be minors. Such guidance shall include—

(1) a standard consent form that provides minors and their parents a clear, conspicuous, and easy-to-understand explanation of the scope and purpose of the research to be conducted, and provides an opportunity for informed consent; and

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

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

SEC. 9. AGE VERIFICATION STUDY AND REPORT.

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

(b) CONTENTS.—Such study shall consider —

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

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

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

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

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

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

SEC. 10. GUIDANCE.

Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission, in consultation with the Kids Online Safety Council established under section 12, shall issue guidance to—

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

(2) assist schools in using the notice, safeguards and tools provided under this Act and facilitate compliance with student privacy laws; and

(3) provide guidance on the scope of the definition of online platforms for purposes of compliance with this Act.

SEC. 11. ENFORCEMENT.

(a) Enforcement by Federal Trade Commission.—

(1) Unfair and deceptive acts or practices.—A violation of this Act or a regulation promulgated under this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).
(2) POWERS OF THE COMMISSION.—

(A) IN GENERAL.—Except as provided in subsection (b), the Federal Trade Commission (referred to in this section as the “Commission”) shall enforce this Act and any regulation promulgated under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

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

(3) REGULATIONS.—The Commission may promulgate regulations under section 553 of title 5, United States Code, to carry out sections 4, 5, and 6 of this Act.

(4) AUTHORITY PRESERVED.—Nothing in this Act shall be construed to limit the authority of the Commission under any other provision of law.
(b) **Enforcement by State Attorneys General.**

(1) **In general.**

(A) **Civil actions.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates this Act or a regulation promulgated under this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States or a State court of appropriate jurisdiction to—

(i) enjoin that practice;

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

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

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

(B) **Notice.**—
(i) **In general.**—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Commission—

(I) written notice of that action; and

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

(ii) **Exemption.**—

(I) **In general.**—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph if the attorney general of the State determines that it is not feasible to provide the notice described in that clause before the filing of the action.

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

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

(B) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under paragraph (1), it shall have the right—

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

(ii) to file a petition for appeal.

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

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

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

(5) **Venue; Service of process.**—

(A) **Venue.**—Any action brought under paragraph (1) may be brought in—

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

(ii) a State court of competent jurisdiction.

(B) **Service of process.**—In an action brought under paragraph (1) in a district court of the United States, process may be served wherever defendant—

(i) is an inhabitant; or

(ii) may be found.

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

(a) **Establishment.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall establish and convene the Kids Online Safety Council for the purpose of providing advice on matters related to this Act.
(b) PARTICIPATION.—The Kids Online Safety Council shall include diverse participation from—

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

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

(3) parents and youth representation;

(4) representatives of covered platforms;

(5) representatives of the National Telecommunications and Information Administration, the National Institute of Standards and Technology, the Federal Trade Commission, the Department of Justice, and the Department of Health and Human Services; and

(6) State attorneys general or their designees.

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

(1) identifying emerging or current risks to minors associated with online platforms;

(2) recommending measures and methods for assessing, preventing, and mitigating online harms to minors;
(3) recommending methods and themes for conducting research regarding online harms to minors; and,

(4) recommending best practices for transparency reports and audits, as required under this Act.

SEC. 13. EFFECTIVE DATE.

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

SEC. 14. RELATIONSHIP TO STUDENT PRIVACY LAWS.

Nothing in this Act shall be construed to preempt section 444 of the General Education Provisions Act (20 U.S.C. 1232g, commonly known as the “Family Educational Rights and Privacy Act of 1974”) or other Federal or State laws governing student privacy.

SEC. 15. SEVERABILITY.

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