

# *The Kids Online Safety Act of 2023*

Sponsored by Senators Blumenthal and Blackburn

## **Section-by-Section Summary**

The Kids Online Safety Act provides kids and parents with the safeguards, tools, and transparency they need to protect against threats to children’s and teens’ health and wellbeing online. The legislation would require online platforms to put the interests of kids first, providing an environment that is safe by default. The Kids Online Safety Act also ensures that parents and policymakers know whether social media platforms are taking meaningful steps to address risks to kids by requiring independent audits and supporting access to important data for experts and academic researchers.

**Section 1 – Short Title:** the “Kids Online Safety Act”

**Section 2 – Definitions** [*excerpts of key definitions*]

- Child – a person that is under the age of 13.
- Covered platform – a social media service, social network, video game, messaging application, video streaming service, or an online platform that connects to the internet and that is used, or is reasonably likely to be used, by a minor. Excludes broadband, email, and text message services, as well as nonprofits, schools, and business-to-business services.
- Minor – a person that is under the age of 17.
- Personalized Recommendation System – a fully or partially automated system used to suggest, promote, or rank information based on the personal data of users.

**Section 3 – Duty of Care**

- (a) Prevention of Harm to Minors – Outlines a set of harms to minors that covered platforms must take reasonable measures to prevent and mitigate, including promotion of suicide, eating disorders, substance abuse, sexual exploitation, and certain unlawful products for minors (*i.e.*, narcotic drugs, tobacco products, gambling, and alcohol).
- (b) Limitation – Clarifies that the duty of care does not require a covered platform to limit searches for information or access to support services (*e.g.*, suicide prevent services).

## Section 4 – Safeguards for Minors

- (a) Safeguards for Minors – Requires covered platforms to provide minors and their parents with controls to protect against stalking, exploitation, addiction, and rabbit holes of dangerous material. Such controls include the ability to limit screen time, restrict features that encourage compulsive use, control personalization systems, and limit access to their profiles. For minors, those controls must be set, by default, to the strongest option and be understandable for young audiences.
- (b) Parental Tools – Requires covered platforms to provide parents with tools to help manage a minor’s use of a platform, including options to control safety settings, track their time, limit purchases, and address harmful usage. Those tools must be enabled by default for children but opt in for teens, and their use clearly communicated to minors.
- (c) Reporting Mechanism – Requires covered platforms to provide a dedicated reporting channel to alert the platform to harms to minors, and requires them to substantively respond in a reasonable and timely manner, taking into account the size of the platform and the urgency of the request.
- (d) Advertising of Illegal Products – Prohibits covered platforms from facilitating the advertising of products or services to minors of certain unlawful products for minors (*i.e.*, narcotic drugs, tobacco products, gambling, and alcohol).
- (e) Application –
  - 1. Requires covered platforms to offer controls and options in a manner that is easy to use and does not encourage parents or kids to weaken their privacy or safety, and prohibits the use of ‘dark patterns’ that mislead or confuse consumers.
  - 2. Requires covered platforms to provide controls and options in the same language and manner that the minor uses the platform.
  - 3. Clarifies that the safeguards do not require disclosure of a minor’s messages, search history, contact lists, browsing history, and other private communications. Also clarifies that safeguards do not prevent platforms from taking steps to prevent the distribution of illegal or harmful content to minors. Finally, ensures that the safeguards do not interfere with existing legal obligations to provide information.

## Section 5 – Disclosure

- (a) Notice – Prior to registration or use by a minor, the platform shall provide clear, accessible, and easy-to-understand notice of the policies, practices, and safeguards. Use by a child requires parental consent. The FTC may promulgate model disclosures to encourage platforms provide comprehensive and usable information to users.
- (b) Personalized Recommendation System – A covered platform that uses a personalized recommendation system shall provide information about how a minor’s personal data is used in those systems and options to modify those recommendations, including the option to opt out of such systems.
- (c) Advertising and Marketing Information and Labels – A covered platform that facilitates advertising aimed at minors shall provide clear, accessible, and easy-to-understand labels for such advertisements, and information about how personal data is used in targeted ads. The FTC may promulgate model disclosures to encourage platforms provide comprehensive and usable information to users.
- (d) Resources for Parents and Minors – A covered platform shall provide to minors and parents with clear and comprehensive information about the policies, practices, and safeguards available for minors and parents.
- (e) Resources in Additional Languages – Requires covered platforms to provide disclosures under this section in the same language and manner that the minor uses the platform.

## **Section 6 – Transparency**

- Requires a covered platform to annually issue a public report identifying the risks of harm to minors, based on an independent, third-party audit conducted through reasonable inspection of the covered platform, and describing the prevention and mitigation measures taken by the platform.
- This section only applies to covered platforms with more than 10 million active monthly users in the United States and considered to be social media, social networking services, or another type of online forum for user generated content.

## **Section 7 – Independent Research**

### (a) Definitions – [*excerpts of key definitions*]

- Independent Research – the scientific or historical analysis of information that is performed for the primary purpose of advancing understanding, knowledge, and remedies regarding the harms to minors outlined in the duty of care.

- Eligible Researcher – an individual or group of individuals affiliated with or employed by an institution of higher education or a nonprofit organization located in the United States and not affiliated with a government of a foreign adversary.

(b) Independent Research Program Relating to Identified Harms to Minors –

- The Administrator of the National Telecommunications & Information Administration (NTIA) 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 the harms to minors identified in Section 3.
- This section only applies to covered platforms with more than 10 million active monthly users in the United States and considered to be social media, social networking services, or another type of online forum for user generated content.
- Requires the NTIA to establish rules to protect user privacy, provide opt out options, address conflicts of interest, and otherwise create processes and policies to administer the program.

(c) Safe Harbor for Collection of Data for Public Interest Research Regarding Identified Harms to Minors – Provides protections for public interest researchers collecting data on harms to minors on covered platforms.

(d) Rulemaking – Allows the NTIA Administrator to promulgate rules to implement this section.

### **Section 8 – Market Research**

- Requires the Federal Trade Commission to establish guidance for covered platforms seeking to conduct market- and product-focused research on minors.

### **Section 9 – Age Verification Study and Report**

- Requires the National Institute of Standards and Technology to conduct a study evaluating the most technologically feasible options for developing systems to verify age at the device or operating system level, with an emphasis on the privacy of minors.

### **Section 10 – Guidance**

- The FTC and the Department of Education shall issue guidance eighteen months after enactment to support covered platforms on compliance and address emerging harms to

minors, as well as to assist schools in taking advantage of the protections offered under the Act.

- Clarifies that any enforcement action brought by the FTC must be based on the allegation of a violation of law, and not solely based on practices alleged to be inconsistent with guidance.

#### **Section 11 – Enforcement**

- The FTC and state Attorneys General shall enforce this act.

#### **Section 12 – Kids Online Safety Council**

- The Secretary of Commerce shall establish and convene a Kids Online Safety Council for the purpose of providing advice on the implementation of this Act. The Council will be made up of parents, experts, representatives from covered platforms, federal agencies, state Attorneys General, youth voices, and disadvantaged communities.

**Section 13 – Effective Date:** this Act shall take effect on the date that is 18 months after the date of enactment.

#### **Section 14 – Relationship to Other Laws and Rules of Construction:**

- Clarifies that the Act does not preempt Federal or State student privacy laws or the Children's Online Privacy Protection Act, or authorize actions that would conflict with Congress's four-decade-old restriction on the FTC "KidVid" investigation.
- Makes clear that the law does not impose any new affirmative data collection requirement or create an age gating or age verification requirement.

**Section 15 – Severability:** If any provision of this Act is held unconstitutional, the remaining provisions shall apply.