

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 2073

To amend title 31, United States Code, to require agencies to include a list of outdated or duplicative reporting requirements in annual budget justifications, and for other purposes.

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 _____

Viz:

1 In lieu of the matter proposed to be inserted, insert
2 the following:

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Kids Online Safety and Privacy Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—KEEPING KIDS SAFE ONLINE

Subtitle A—Kids Online Safety

Sec. 101. Definitions.
Sec. 102. Duty of care.
Sec. 103. Safeguards for minors.

- Sec. 104. Disclosure.
- Sec. 105. Transparency.
- Sec. 106. Market research.
- Sec. 107. Age verification study and report.
- Sec. 108. Guidance.
- Sec. 109. Enforcement.
- Sec. 110. Kids online safety council.
- Sec. 111. Effective date.
- Sec. 112. Rules of construction and other matters.

Subtitle B—Filter Bubble Transparency

- Sec. 120. Definitions.
- Sec. 121. Requirement to allow users to see unmanipulated content on internet platforms.

Subtitle C—Relationship to State Laws; Severability

- Sec. 130. Relationship to State laws.
- Sec. 131. Severability.

TITLE II—CHILDREN AND TEENS’ ONLINE PRIVACY

- Sec. 201. Online collection, use, disclosure, and deletion of personal information of children and teens.
- Sec. 202. Study and reports of mobile and online application oversight and enforcement.
- Sec. 203. GAO study.
- Sec. 204. Severability.

TITLE III—ELIMINATING USELESS REPORTS

- Sec. 301. Sunsets for agency reports.

1 **TITLE I—KEEPING KIDS SAFE**
 2 **ONLINE**

3 **Subtitle A—Kids Online Safety**

4 **SEC. 101. DEFINITIONS.**

5 In this subtitle:

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

8 (2) COMPULSIVE USAGE.—The term “compul-
 9 sive usage” means a persistent and repetitive use of
 10 a covered platform that significantly impacts one or
 11 more major life activities of an individual, including

1 socializing, sleeping, eating, learning, reading, con-
2 centrating, communicating, or working.

3 (3) COVERED PLATFORM.—

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

10 (B) EXCEPTIONS.—The term “covered
11 platform” does not include—

12 (i) an entity acting in its capacity as
13 a provider of—

14 (I) a common carrier service sub-
15 ject to the Communications Act of
16 1934 (47 U.S.C. 151 et seq.) and all
17 Acts amendatory thereof and supple-
18 mentary thereto;

19 (II) a broadband internet access
20 service (as such term is defined for
21 purposes of section 8.1(b) of title 47,
22 Code of Federal Regulations, or any
23 successor regulation);

24 (III) an email service;

1 (IV) a teleconferencing or video
2 conferencing service that allows recep-
3 tion and transmission of audio or
4 video signals for real-time communica-
5 tion, provided that—

6 (aa) the service is not an on-
7 line platform; and

8 (bb) the real-time commu-
9 nication is initiated by using a
10 unique link or identifier to facili-
11 tate access; or

12 (V) a wireless messaging service,
13 including such a service provided
14 through short messaging service or
15 multimedia messaging service proto-
16 cols, that is not a component of, or
17 linked to, an online platform and
18 where the predominant or exclusive
19 function is direct messaging consisting
20 of the transmission of text, photos or
21 videos that are sent by electronic
22 means, where messages are trans-
23 mitted from the sender to a recipient,
24 and are not posted within an online
25 platform or publicly;

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

4 (iii) any public or private—

5 (I) early childhood education pro-
6 gram or preschool that provides for
7 the care, development, and education
8 of infants, toddlers, or young children
9 who are not yet enrolled in kinder-
10 garten;

11 (II) elementary school (as defined
12 in section 8101 of the Elementary and
13 Secondary Education Act of 1965 (20
14 U.S.C. 7801)) or secondary school (as
15 so defined);

16 (III) school providing career and
17 technical education (as defined in sec-
18 tion 3 of the Carl D. Perkins Career
19 and Technical Education Act of 2006
20 (20 U.S.C. 2302));

21 (IV) school providing adult edu-
22 cation and literacy activities (as de-
23 fined in section 203 of the Adult Edu-
24 cation and Family Literacy Act (29
25 U.S.C. 3272)); or

1 (V) institution of higher edu-
2 cation (as defined in section 101, and
3 subparagraphs (A) and (B) of section
4 102(a)(1), of the Higher Education
5 Act of 1965 (20 U.S.C. 1001,
6 1002(a)(1)));

7 (iv) a library (as defined in section
8 213 of the Library Services and Tech-
9 nology Act (20 U.S.C. 9122));

10 (v) a news or sports coverage website
11 or app where—

12 (I) the inclusion of video content
13 on the website or app is related to the
14 website or app's own gathering, re-
15 porting, or publishing of news content
16 or sports coverage; and

17 (II) the website or app is not
18 otherwise an online platform;

19 (vi) a product or service that pri-
20 marily functions as business-to-business
21 software, such as a cloud storage, file shar-
22 ing, or file collaboration service;

23 (vii) a virtual private network or simi-
24 lar service that exists predominantly to
25 route internet traffic between locations; or

1 (viii) a government entity with a .gov
2 internet domain (as described in section
3 2215 of the Homeland Security Act of
4 2002 (6 U.S.C. 665)).

5 (4) DESIGN FEATURE.—The term “design fea-
6 ture” means any feature or component of a covered
7 platform that will encourage or increase the fre-
8 quency, time spent, or activity of minors on the cov-
9 ered platform. Design features include but are not
10 limited to—

11 (A) infinite scrolling or auto play;

12 (B) rewards or incentives based on the fre-
13 quency, time spent, or activity of minors on the
14 covered platform;

15 (C) notifications and push alerts;

16 (D) badges or other visual award symbols
17 based on the frequency, time spent, or activity
18 of minors on the covered platform;

19 (E) personalized design features;

20 (F) in-game purchases; or

21 (G) appearance altering filters.

22 (5) GEOLOCATION.—The term “geolocation”
23 has the meaning given the term “geolocation infor-
24 mation” in section 1302 of the Children’s Online

1 Privacy Protection Act of 1998 (15 U.S.C. 6501), as
2 added by section 201(a).

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

7 (7) MICROTRANSACTION.—

8 (A) IN GENERAL.—The term “microtrans-
9 action” means a purchase made in an online
10 video game (including a purchase made using a
11 virtual currency that is purchasable or redeem-
12 able using cash or credit or that is included as
13 part of a paid subscription service).

14 (B) INCLUSIONS.—Such term includes a
15 purchase involving surprise mechanics, new
16 characters, or in-game items.

17 (C) EXCLUSIONS.—Such term does not in-
18 clude—

19 (i) a purchase made in an online video
20 game using a virtual currency that is
21 earned through gameplay and is not other-
22 wise purchasable or redeemable using cash
23 or credit or included as part of a paid sub-
24 scription service; or

1 (ii) a purchase of additional levels
2 within the game or an overall expansion of
3 the game.

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

6 (9) NARCOTIC DRUG.—The term “narcotic
7 drug” has the meaning given such term in section
8 102 of the Controlled Substances Act (21 U.S.C.
9 802).

10 (10) ONLINE PLATFORM.—

11 (A) IN GENERAL.—The term “online plat-
12 form” means any public-facing website, online
13 service, online application, or mobile application
14 that predominantly provides a community
15 forum for user generated content, such as shar-
16 ing videos, images, games, audio files, or other
17 content, including a social media service, social
18 network, or virtual reality environment.

19 (B) INCIDENTAL CHAT FUNCTIONS.—A
20 website, online service, online application, or
21 mobile application is not an online platform
22 solely on the basis that it includes a chat, com-
23 ment, or other interactive function that is inci-
24 dental to its predominant purpose.

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

5 (A) create and upload content other than
6 content that is incidental to gameplay, such as
7 character or level designs created by the user,
8 preselected phrases, or short interactions with
9 other users;

10 (B) engage in microtransactions within the
11 game; or

12 (C) communicate with other users.

13 (12) PARENT.—The term “parent” includes a
14 legal guardian.

15 (13) PERSONAL DATA.—The term “personal
16 data” has the same meaning as the term “personal
17 information” as defined in section 1302 of the Chil-
18 dren’s Online Privacy Protection Act (15 U.S.C.
19 6501).

20 (14) PERSONALIZED DESIGN FEATURE.—The
21 term “personalized design feature” means a fully or
22 partially automated system, including a rec-
23 ommendation system, that is based on the collection
24 of personal data of users and that encourages or in-

1 creases the frequency, time spent, or activity of mi-
2 nors on the covered platform.

3 (15) PERSONALIZED RECOMMENDATION SYS-
4 TEM.—The term “personalized recommendation sys-
5 tem” means a fully or partially automated system
6 used to suggest, promote, or rank content, including
7 other users, hashtags, or posts, based on the per-
8 sonal data of users. A recommendation system that
9 suggests, promotes, or ranks content based solely on
10 the user’s language, city or town, or age shall not
11 be considered a personalized recommendation sys-
12 tem.

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

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

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

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

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

4 (17) STATE.—The term “State” means each
5 State of the United States, the District of Columbia,
6 each commonwealth, territory, or possession of the
7 United States, and each federally recognized Indian
8 Tribe.

9 (18) USER.—The term “user” means, with re-
10 spect to a covered platform, an individual who reg-
11 isters an account or creates a profile on the covered
12 platform.

13 **SEC. 102. DUTY OF CARE.**

14 (a) PREVENTION OF HARM TO MINORS.—A covered
15 platform shall exercise reasonable care in the creation and
16 implementation of any design feature to prevent and miti-
17 gate the following harms to minors where a reasonable and
18 prudent person would agree that such harms were reason-
19 ably foreseeable by the covered platform and would agree
20 that the design feature is a contributing factor to such
21 harms:

22 (1) Eating disorders, substance use disorders,
23 and suicidal behaviors.

24 (2) Depressive disorders and anxiety disorders
25 when such conditions have objectively verifiable and

1 clinically diagnosable symptoms and are related to
2 compulsive usage.

3 (3) Patterns of use that indicate compulsive
4 usage.

5 (4) Physical violence or online harassment ac-
6 tivity that is so severe, pervasive, or objectively of-
7 fensive that it impacts a major life activity of a
8 minor.

9 (5) Sexual exploitation and abuse of minors.

10 (6) Distribution, sale, or use of narcotic drugs,
11 tobacco products, cannabis products, gambling, or
12 alcohol.

13 (7) Financial harms caused by unfair or decep-
14 tive acts or practices (as defined in section 5(a)(4)
15 of the Federal Trade Commission Act (15 U.S.C.
16 45(a)(4)).

17 (b) RULES OF CONSTRUCTION.—

18 (1) Nothing in subsection (a) shall be construed
19 to require a covered platform to prevent or preclude
20 any minor from—

21 (A) deliberately and independently search-
22 ing for, or specifically requesting, content; or

23 (B) accessing resources and information
24 regarding the prevention or mitigation of the
25 harms described in subsection (a).

1 (2) Nothing in this section shall be construed to
2 allow a government entity to enforce subsection (a)
3 based upon the viewpoint of users expressed by or
4 through any speech, expression, or information pro-
5 tected by the First Amendment to the Constitution
6 of the United States.

7 **SEC. 103. SAFEGUARDS FOR MINORS.**

8 (a) SAFEGUARDS FOR MINORS.—

9 (1) SAFEGUARDS.—A covered platform shall
10 provide a user or visitor that the covered platform
11 knows is a minor with readily-accessible and easy-to-
12 use safeguards to, as applicable—

13 (A) limit the ability of other users or visi-
14 tors to communicate with the minor;

15 (B) prevent other users or visitors, wheth-
16 er registered or not, from viewing the minor's
17 personal data collected by or shared on the cov-
18 ered platform, in particular restricting public
19 access to personal data;

20 (C) limit by default design features that
21 encourage or increase the frequency, time
22 spent, or activity of minors on the covered plat-
23 form, such as infinite scrolling, auto playing,
24 rewards for time spent on the platform, notifi-
25 cations, and other design features that result in

1 compulsive usage of the covered platform by the
2 minor;

3 (D) control personalized recommendation
4 systems, including the ability for a minor to
5 have—

6 (i) a prominently displayed option to
7 opt out of such personalized recommenda-
8 tion systems, while still allowing the dis-
9 play of content based on a chronological
10 format; and

11 (ii) a prominently displayed option to
12 limit types or categories of recommenda-
13 tions from such systems; and

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

17 (2) OPTION.—A covered platform shall provide
18 a user that the covered platform knows is a minor
19 with a readily-accessible and easy-to-use option to
20 limit the amount of time spent by the minor on the
21 covered platform.

22 (3) DEFAULT SAFEGUARD SETTINGS FOR MI-
23 NORS.—A covered platform shall provide that, in the
24 case of a user or visitor that the platform knows is
25 a minor, the default setting for any safeguard de-

1 scribed under paragraph (1) shall be the option
2 available on the platform that provides the most pro-
3 tective level of control that is offered by the platform
4 over privacy and safety for that user or visitor, un-
5 less otherwise enabled by the parent of the minor.

6 (b) PARENTAL TOOLS.—

7 (1) TOOLS.—A covered platform shall provide
8 readily-accessible and easy-to-use parental tools for
9 parents to support a user that the platform knows
10 is a minor with respect to the use of the platform
11 by that user.

12 (2) REQUIREMENTS.—The parental tools pro-
13 vided by a covered platform under paragraph (1)
14 shall include—

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

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

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

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

4 (C) the ability to view metrics of total time
5 spent on the covered platform and restrict time
6 spent on the covered platform by the minor.

7 (3) NOTICE TO MINORS.—A covered platform
8 shall provide clear and conspicuous notice to a user
9 when the tools described in this subsection are in ef-
10 fect and what settings or controls have been applied.

11 (4) DEFAULT TOOLS.—A covered platform shall
12 provide that, in the case of a user that the platform
13 knows is a child, the tools required under paragraph
14 (1) shall be enabled by default.

15 (5) APPLICATION TO EXISTING ACCOUNTS.—If,
16 prior to the effective date of this subsection, a cov-
17 ered platform provided a parent of a user that the
18 platform knows is a child with notice and the ability
19 to enable the parental tools described under this
20 subsection in a manner that would otherwise comply
21 with this subsection, and the parent opted out of en-
22 abling such tools, the covered platform is not re-
23 quired to enable such tools with respect to such user
24 by default when this subsection takes effect.

25 (c) REPORTING MECHANISM.—

1 (1) REPORTING TOOLS.—A covered platform
2 shall provide—

3 (A) a readily-accessible and easy-to-use
4 means for users and visitors to submit reports
5 to the covered platform of harms to a minor on
6 the covered platform;

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

9 (C) confirmation of the receipt of such a
10 report and, within the applicable time period
11 described in paragraph (2), a substantive re-
12 sponse to the individual that submitted the re-
13 port.

14 (2) TIMING.—A covered platform shall establish
15 an internal process to receive and substantively re-
16 spond to such reports in a reasonable and timely
17 manner, but in no case later than—

18 (A) 10 days after the receipt of a report,
19 if, for the most recent calendar year, the plat-
20 form averaged more than 10,000,000 active
21 users on a monthly basis in the United States;

22 (B) 21 days after the receipt of a report,
23 if, for the most recent calendar year, the plat-
24 form averaged less than 10,000,000 active

1 users on a monthly basis in the United States;
2 and

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

7 (d) ADVERTISING OF ILLEGAL PRODUCTS.—A cov-
8 ered platform shall not facilitate the advertising of nar-
9 cotic drugs, cannabis products, tobacco products, gam-
10 bling, or alcohol to an individual that the covered platform
11 knows is a minor.

12 (e) RULES OF APPLICATION.—

13 (1) ACCESSIBILITY.—With respect to safe-
14 guards and parental tools described under sub-
15 sections (a) and (b), a covered platform shall pro-
16 vide—

17 (A) information and control options in a
18 clear and conspicuous manner that takes into
19 consideration the differing ages, capacities, and
20 developmental needs of the minors most likely
21 to access the covered platform and does not en-
22 courage minors or parents to weaken or disable
23 safeguards or parental tools;

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

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

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

15 (3) TIMING CONSIDERATIONS.—

16 (A) NO INTERRUPTION TO GAMEPLAY.—
17 Subsections (a)(1)(C) and (b)(3) shall not re-
18 quire an online video game to interrupt the nat-
19 ural sequence of game play, such as progressing
20 through game levels or finishing a competition.

21 (B) APPLICATION OF CHANGES TO OFF-
22 LINE DEVICES OR ACCOUNTS.—If a user's de-
23 vice or user account does not have access to the
24 internet at the time of a change to parental
25 tools, a covered platform shall apply changes

1 the next time the device or user is connected to
2 the internet.

3 (f) DEVICE OR CONSOLE CONTROLS.—

4 (1) IN GENERAL.—Nothing in this section shall
5 be construed to prohibit a covered platform from in-
6 tegrating its products or service with, or duplicate
7 controls or tools provided by, third-party systems,
8 including operating systems or gaming consoles, to
9 meet the requirements imposed under subsections
10 (a) and (b) relating to safeguards for minors and
11 parental tools, provided that—

12 (A) the controls or tools meet such require-
13 ments; and

14 (B) the minor or parent is provided suffi-
15 cient notice of the integration and use of the
16 parental tools.

17 (2) PRESERVATION OF PROTECTIONS.—In the
18 event of a conflict between the controls or tools of
19 a third-party system, including operating systems or
20 gaming consoles, and a covered platform, the cov-
21 ered platform is not required to override the controls
22 or tools of a third-party system if it would under-
23 mine the protections for minors from the safeguards
24 or parental tools imposed under subsections (a) and
25 (b).

1 **[(g) EXCEPTION.—**A covered platform shall provide
2 the safeguards and parental tools described in subsections
3 (a) and (b) to an educational agency or institution (as de-
4 fined in section 444 of the General Education Provisions
5 Act (20 U.S.C. 1232g(a)(3)), rather than to the user or
6 visitor, when the covered platform is acting on behalf of
7 the educational agency or institution subject to a written
8 contract that complies with the requirements of the Chil-
9 dren’s Online Privacy Protection Act (15 U.S.C. 6501 et
10 seq.) and the Family Educational Rights and Privacy Act
11 of 1974 (20 U.S.C. 1232g).**]**

12 **(h) RULES OF CONSTRUCTION.—**Nothing in this sec-
13 tion shall be construed to—

14 (1) prevent a covered platform from taking rea-
15 sonable measures to—

16 (A) block, detect, or prevent the distribu-
17 tion of unlawful, obscene, or other harmful ma-
18 terial to minors as described in section 102(a);

19 or

20 (B) block or filter spam, prevent criminal
21 activity, or protect the security of a platform or
22 service;

23 (2) require the disclosure of the browsing be-
24 havior, search history, messages, contact list, or

1 other content or metadata of the communications of
2 a minor;

3 (3) prevent a covered platform from using a
4 personalized recommendation system to display con-
5 tent to a minor if the system only uses information
6 on—

7 (A) the language spoken by the minor;

8 (B) the city the minor is located in; or

9 (C) the minor's age;

10 (4) prevent an online video game from dis-
11 closing a username or other user identification for
12 the purpose of competitive gameplay or to allow for
13 the reporting of users;

14 (5) prevent a covered platform from contracting
15 or entering into an agreement with a third party en-
16 tity, whose primary or exclusive function is to pro-
17 vide the safeguards or parental tools required under
18 subsections (a) and (b) or to offer similar or strong-
19 er protective capabilities for minors, to assist with
20 meeting the requirements imposed under subsections
21 (a) and (b); or

22 (6) prevent a parent or user from authorizing
23 a third party entity described in subparagraph (5) to
24 implement such safeguards or parental tools [or

1 provide similar or stronger protective capabilities for
2 minors, at the choice of the parent or user】.

3 **SEC. 104. DISCLOSURE.**

4 (a) NOTICE.—

5 (1) REGISTRATION OR PURCHASE.—Prior to
6 registration or purchase of a covered platform by an
7 individual that the platform knows is a minor, the
8 platform shall provide clear, conspicuous, and easy-
9 to-understand—

10 (A) notice of the policies and practices of
11 the covered platform with respect to safeguards
12 for minors;

13 (B) information about how to access the
14 safeguards and parental tools required under
15 section 103; and

16 (C) notice about how to access the infor-
17 mation on personalized recommendation sys-
18 tems required under subsection (b).

19 (2) NOTIFICATION.—

20 (A) NOTICE AND ACKNOWLEDGMENT.—In
21 the case of an individual that a covered plat-
22 form knows is a child, the platform shall pro-
23 vide information about the parental tools and
24 safeguards required under section 103 to a par-
25 ent of the child and obtain verifiable consent

1 (as defined in section 1302 of the Children’s
2 Online Privacy Protection Act of 1998 (15
3 U.S.C. 6501)).

4 (B) REASONABLE EFFORT.—A covered
5 platform shall be deemed to have satisfied the
6 requirement described in subparagraph (A) if
7 the covered platform is in compliance with the
8 requirements of the Children’s Online Privacy
9 Protection Act of 1998 (15 U.S.C. 6501 et
10 seq.) to use reasonable efforts (taking into con-
11 sideration available technology) to provide a
12 parent with the information described in sub-
13 paragraph (A) and to obtain verifiable consent
14 as required.

15 (3) CONSOLIDATED NOTICES.—For purposes of
16 this subtitle, a covered platform may consolidate the
17 process for providing information under this sub-
18 section and obtaining verifiable consent or the con-
19 sent of the minor involved (as applicable) as re-
20 quired under this subsection with the obligations of
21 the covered platform to provide relevant notice and
22 obtain verifiable consent under the Children’s Online
23 Privacy Protection Act of 1998 (15 U.S.C. 6501 et
24 seq.).

1 (4) GUIDANCE.—The Federal Trade Commis-
2 sion may issue guidance to assist covered platforms
3 in complying with the specific notice requirements of
4 this subsection.

5 (b) PERSONALIZED RECOMMENDATION SYSTEM.—A
6 covered platform that operates a personalized rec-
7 ommendation system shall set out in its terms and condi-
8 tions, in a clear, conspicuous, and easy-to-understand
9 manner—

10 (1) an overview of how each personalized rec-
11 ommendation system is used by the covered platform
12 to provide information to minors, including how such
13 systems use the personal data of minors; and

14 (2) information about options for minors or
15 their parents to opt out of or control the personal-
16 ized recommendation system (as applicable).

17 (c) ADVERTISING AND MARKETING INFORMATION
18 AND LABELS.—

19 (1) INFORMATION AND LABELS.—A covered
20 platform shall provide clear, conspicuous, and easy-
21 to-understand labels and information, which can be
22 provided through a link to another web page or dis-
23 closure, to minors on advertisements regarding—

1 (A) the name of the product, service, or
2 brand and the subject matter of an advertise-
3 ment; and

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

10 (2) GUIDANCE.—The Federal Trade Commis-
11 sion may issue guidance to assist covered platforms
12 in complying with the requirements of this sub-
13 section, including guidance about the minimum level
14 of information and labels for the disclosures required
15 under paragraph (1).

16 (d) RESOURCES FOR PARENTS AND MINORS.—A cov-
17 ered platform shall provide to minors and parents clear,
18 conspicuous, easy-to-understand, and comprehensive infor-
19 mation in a prominent location, which may include a link
20 to a web page, regarding—

21 (1) the policies and practices of the covered
22 platform with respect to safeguards for minors; and

23 (2) how to access the safeguards and parental
24 tools required under section 103.

1 (e) RESOURCES IN ADDITIONAL LANGUAGES.—A
2 covered platform shall ensure, to the extent practicable,
3 that the disclosures required by this section are made
4 available in the same language, form, and manner as the
5 covered platform provides any product or service used by
6 minors and their parents.

7 **SEC. 105. TRANSPARENCY.**

8 (a) IN GENERAL.—Subject to subsection (b), not less
9 frequently than once a year, a covered platform shall issue
10 a public report that addresses the matters in subsection
11 (c) based on an independent, third-party audit of the cov-
12 ered platform with a reasonable level of assurance.

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

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

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

24 (c) CONTENT.—

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

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

6 (B) a description of the commercial inter-
7 ests of the covered platform being used by mi-
8 nors;

9 (C) an accounting, based on the data held
10 by the covered platform, of—

11 (i) the number of users using the cov-
12 ered platform that the platform knows to
13 be minors in the United States;

14 (ii) the median and mean amounts of
15 time spent on the platform by users known
16 to be minors in the United States who
17 have accessed the platform during the re-
18 porting year on a daily, weekly, and
19 monthly basis; and

20 (iii) the amount of content being
21 accessed by users that the platform knows
22 to be minors in the United States that is
23 in English, and the top 5 non-English lan-
24 guages used by users accessing the plat-
25 form in the United States;

1 (D) an accounting of total reports received
2 through the reporting mechanism described in
3 section 103, disaggregated by language, includ-
4 ing English and the top 5 non-English lan-
5 guages used by users accessing the platform
6 from the United States (as identified under
7 subparagraph (C)(iii)); and

8 (E) an assessment of the safeguards and
9 parental tools under section 103, representa-
10 tions regarding the use of the personal data of
11 minors, and other matters regarding compliance
12 with this subtitle.

13 (2) EVALUATION.—The public reports required
14 under this section shall include—

15 (A) an assessment based on aggregate data
16 on the exercise of safeguards and parental tools
17 described in section 103, and other competent
18 and reliable empirical evidence;

19 (B) a description of whether and how the
20 covered platform uses design features that in-
21 crease, sustain, or extend the use of a product
22 or service by a minor;

23 (C) a description of whether, how, and for
24 what purpose the platform collects or processes
25 categories of personal data, including how per-

1 sonal data is used to operate personalized rec-
2 ommendation systems related to minors;

3 (D) an evaluation of the efficacy of safe-
4 guards for minors and parental tools under sec-
5 tion 103, and any issues in delivering such safe-
6 guards and parental tools; and

7 (E) an assessment of differences, with re-
8 spect to the matters described in subparagraphs
9 (A) through (D), across different English and
10 non-English languages and efficacy of safe-
11 guards in those languages.

12 (3) MITIGATION.—The public reports required
13 of a covered platform under this section shall in-
14 clude, for English and the top 5 non-English lan-
15 guages used by users accessing the platform from
16 the United States (as identified under paragraph
17 (2)(C)(iii))—

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

21 (B) a description of the prevention and
22 mitigation measures a covered platform may
23 take, if any, in response to the assessments con-
24 ducted under paragraph (2), including steps

1 take to provide the most protective level of con-
2 trol over safety by default;

3 (C) a description of the processes used for
4 the creation and implementation of any design
5 feature that will be used by minors;

6 (D) a description and assessment of han-
7 dling reports under the requirement of section
8 103(c), including the rate of response, timeli-
9 ness, and substantiveness of responses; and

10 (E) the status of implementing prevention
11 and mitigation measures identified in prior as-
12 sessments.

13 (d) REASONABLE INSPECTION.—In conducting an in-
14 spection of the reasonably foreseeable risk of harm to mi-
15 nors under this section, an independent, third-party audi-
16 tor shall—

17 (1) take into consideration the function of per-
18 sonalized recommendation systems;

19 (2) consult parents and youth experts, including
20 youth and families with relevant past or current ex-
21 perience, public health and mental health nonprofit
22 organizations, health and development organizations,
23 and civil society with respect to the prevention of
24 harms to minors;

1 (3) conduct research based on experiences of
2 minors that use the covered platform, including re-
3 ports under section 103(c) and information provided
4 by law enforcement;

5 (4) take account of research, including research
6 regarding design features, marketing, or product in-
7 tegrity, industry best practices, or outside research;

8 (5) take into consideration indicia or inferences
9 of age of users, in addition to any self-declared in-
10 formation about the age of users; and

11 (6) take into consideration differences in risk of
12 reasonably foreseeable harms and effectiveness of
13 safeguards across English and non-English lan-
14 guages.

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

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

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

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

5 (f) PRIVACY SAFEGUARDS.—

6 (1) IN GENERAL.—In issuing the public reports
7 required under this section, a covered platform shall
8 take steps to safeguard the privacy of its users, in-
9 cluding ensuring that data is presented in a de-iden-
10 tified, aggregated format such that it is not reason-
11 ably linkable to any user.

12 (2) RULE OF CONSTRUCTION.—This section
13 shall not be construed to require the disclosure of in-
14 formation that will lead to material vulnerabilities
15 for the privacy of users or the security of a covered
16 platform’s service or create a significant risk of the
17 violation of Federal or State law.

18 (3) DEFINITION OF DE-IDENTIFIED.—As used
19 in this subsection, the term “de-identified” means
20 data that does not identify and is not linked or rea-
21 sonably linkable to a device that is linked or reason-
22 ably linkable to an individual, regardless of whether
23 the information is aggregated

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

4 **SEC. 106. MARKET RESEARCH.**

5 (a) PROHIBITION OF RESEARCH ON CHILDREN.—A
6 covered platform shall not, in the case of a user or visitor
7 that the covered platform knows is a child, conduct market
8 or product-focused research on such child.

9 (b) MARKET RESEARCH ON MINORS.—A covered
10 platform may not, in the case of a user or visitor that
11 the online platform knows is a minor, conduct market or
12 product-focused research on such minor, unless the cov-
13 ered platform obtains verifiable parental consent (as de-
14 fined in section 1302 of the Children’s Online Privacy Pro-
15 tection Act of 1998 (15 U.S.C. 6501)) prior to conducting
16 such research on such minor.

17 **SEC. 107. AGE VERIFICATION STUDY AND REPORT.**

18 (a) STUDY.—The Secretary of Commerce, in coordi-
19 nation with the Federal Communications Commission and
20 the Federal Trade Commission, shall conduct a study eval-
21 uating the most technologically feasible methods and op-
22 tions for developing systems to verify age at the device
23 or operating system level.

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

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

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

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

8 (4) how such a system or systems could verify
9 age while mitigating risks to user privacy and data
10 security and safeguarding minors' personal data,
11 emphasizing minimizing the amount of data col-
12 lected and processed by covered platforms and age
13 verification providers for such a system;

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

18 (6) the impact of different age verification sys-
19 tems on competition, particularly the risk of dif-
20 ferent age verification systems creating barriers to
21 entry for small companies.

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

1 mittee on Commerce, Science, and Transportation of the
2 Senate and the Committee on Energy and Commerce of
3 the House of Representatives.

4 **SEC. 108. GUIDANCE.**

5 (a) IN GENERAL.—Not later than 18 months after
6 the date of enactment of this Act, the Federal Trade Com-
7 mission shall issue guidance to—

8 (1) provide information and examples for cov-
9 ered platforms and auditors regarding the following,
10 with consideration given to differences across
11 English and non-English languages—

12 (A) identifying design features that en-
13 courage or increase the frequency, time spent,
14 or activity of minors on the covered platform;

15 (B) safeguarding minors against the pos-
16 sible misuse of parental tools;

17 (C) best practices in providing minors and
18 parents the most protective level of control over
19 privacy and safety;

20 (D) using indicia or inferences of age of
21 users for assessing use of the covered platform
22 by minors;

23 (E) methods for evaluating the efficacy of
24 safeguards set forth in this subtitle; and

1 (F) providing additional parental tool op-
2 tions that allow parents to address the harms
3 described in section 102(a); and

4 (2) outline conduct that does not have the pur-
5 pose or substantial effect of subverting or impairing
6 user autonomy, decision-making, or choice, or of
7 causing, increasing, or encouraging compulsive usage
8 for a minor, such as—

9 (A) de minimis user interface changes de-
10 rived from testing consumer preferences, includ-
11 ing different styles, layouts, or text, where such
12 changes are not done with the purpose of weak-
13 ening or disabling safeguards or parental tools;

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

16 (C) establishing default settings that pro-
17 vide enhanced privacy protection to users or
18 otherwise enhance their autonomy and decision-
19 making ability.

20 (b) GUIDANCE ON KNOWLEDGE STANDARD.—Not
21 later than 18 months after the date of enactment of this
22 Act, the Federal Trade Commission shall issue guidance
23 to provide information, including best practices and exam-
24 ples, for covered platforms to understand how the Com-
25 mission would determine whether a covered platform “had

1 knowledge fairly implied on the basis of objective cir-
2 cumstances” for purposes of this subtitle.

3 (c) LIMITATION ON FEDERAL TRADE COMMISSION
4 GUIDANCE.—

5 (1) EFFECT OF GUIDANCE.—No guidance
6 issued by the Federal Trade Commission with re-
7 spect to this subtitle shall—

8 (A) confer any rights on any person, State,
9 or locality; or

10 (B) operate to bind the Federal Trade
11 Commission or any court, person, State, or lo-
12 cality to the approach recommended in such
13 guidance.

14 (2) USE IN ENFORCEMENT ACTIONS.—In any
15 enforcement action brought pursuant to this subtitle,
16 the Federal Trade Commission or a State attorney
17 general, as applicable—

18 (A) shall allege a violation of a provision of
19 this subtitle; and

20 (B) may not base such enforcement action
21 on, or execute a consent order based on, prac-
22 tices that are alleged to be inconsistent with
23 guidance issued by the Federal Trade Commis-
24 sion with respect to this subtitle, unless the

1 practices are alleged to violate a provision of
2 this subtitle.

3 For purposes of enforcing this subtitle, State attor-
4 neys general shall take into account any guidance
5 issued by the Commission under subsection (b).

6 **SEC. 109. ENFORCEMENT.**

7 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
8 SION.—

9 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
10 TICES.—A violation of this subtitle shall be treated
11 as a violation of a rule defining an unfair or decep-
12 tive act or practice prescribed under section
13 18(a)(1)(B) of the Federal Trade Commission Act
14 (15 U.S.C. 57a(a)(1)(B)).

15 (2) POWERS OF THE COMMISSION.—

16 (A) IN GENERAL.—The Federal Trade
17 Commission (referred to in this section as the
18 “Commission”) shall enforce this subtitle in the
19 same manner, by the same means, and with the
20 same jurisdiction, powers, and duties as though
21 all applicable terms and provisions of the Fed-
22 eral Trade Commission Act (15 U.S.C. 41 et
23 seq.) were incorporated into and made a part of
24 this subtitle.

1 (B) PRIVILEGES AND IMMUNITIES.—Any
2 person that violates this subtitle shall be subject
3 to the penalties, and entitled to the privileges
4 and immunities, provided in the Federal Trade
5 Commission Act (15 U.S.C. 41 et seq.).

6 (3) AUTHORITY PRESERVED.—Nothing in this
7 subtitle shall be construed to limit the authority of
8 the Commission under any other provision of law.

9 (b) ENFORCEMENT BY STATE ATTORNEYS GEN-
10 ERAL.—

11 (1) IN GENERAL.—

12 (A) CIVIL ACTIONS.—In any case in which
13 the attorney general of a State has reason to
14 believe that a covered platform has violated or
15 is violating section 103, 104, or 105, the State,
16 as *parens patriae*, may bring a civil action on
17 behalf of the residents of the State in a district
18 court of the United States or a State court of
19 appropriate jurisdiction to—

20 (i) enjoin any practice that violates
21 section 103, 104, or 105;

22 (ii) enforce compliance with section
23 103, 104, or 105;

24 (iii) on behalf of residents of the
25 State, obtain damages, restitution, or other

1 compensation, each of which shall be dis-
2 tributed in accordance with State law; or

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

5 (B) NOTICE.—

6 (i) IN GENERAL.—Before filing an ac-
7 tion under subparagraph (A), the attorney
8 general of the State involved shall provide
9 to the Commission—

10 (I) written notice of that action;

11 and

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

14 (ii) EXEMPTION.—

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

23 (II) NOTIFICATION.—In an ac-
24 tion described in subclause (I), the at-
25 torney general of a State shall provide

1 notice and a copy of the complaint to
2 the Commission at the same time as
3 the attorney general files the action.

4 (2) INTERVENTION.—

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

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

12 (i) to remove the action to the appro-
13 priate United States district court;

14 (ii) to be heard with respect to any
15 matter that arises in that action; and

16 (iii) to file a petition for appeal.

17 (3) CONSTRUCTION.—For purposes of bringing
18 any civil action under paragraph (1), nothing in this
19 subtitle shall be construed to prevent an attorney
20 general of a State from exercising the powers con-
21 ferred on the attorney general by the laws of that
22 State to—

23 (A) conduct investigations;

24 (B) administer oaths or affirmations; or

1 (C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 (4) ACTIONS BY THE COMMISSION.—In any
5 case in which an action is instituted by or on behalf
6 of the Commission for violation of this subtitle, no
7 State may, during the pendency of that action, insti-
8 tute a separate action under paragraph (1) against
9 any defendant named in the complaint in the action
10 instituted by or on behalf of the Commission for
11 that violation.

12 (5) VENUE; SERVICE OF PROCESS.—

13 (A) VENUE.—Any action brought under
14 paragraph (1) may be brought in—

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

19 (ii) a State court of competent juris-
20 diction.

21 (B) SERVICE OF PROCESS.—In an action
22 brought under paragraph (1) in a district court
23 of the United States, process may be served
24 wherever defendant—

25 (i) is an inhabitant; or

1 (ii) may be found.

2 (6) LIMITATION.—A violation of section 102
3 shall not form the basis of liability in any action
4 brought by the attorney general of a State under a
5 State law.

6 **SEC. 110. KIDS ONLINE SAFETY COUNCIL.**

7 (a) ESTABLISHMENT.—There is established a Kids
8 Online Safety Council (in this section referred to as the
9 “Council”).

10 (b) DUTIES.—The duties of the Council shall be to
11 provide reports to Congress with recommendations and
12 advice on matters related to the safety of minors online.
13 The matters to be addressed by the Council shall in-
14 clude—

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

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

20 (3) recommending methods and themes for con-
21 ducting research regarding online harms to minors,
22 including in English and non-English languages; and

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

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

3 (c) NUMBER AND APPOINTMENT OF MEMBERS.—

4 The Council shall be comprised of 11 members, of whom—

5 (1) 3 members shall be appointed by the Presi-
6 dent, including—

7 (A) the Secretary of Commerce or a des-
8 ignee of the Secretary; and

9 (B) the Secretary of Health and Human
10 Services or a designee of the Secretary;

11 (2) 2 members shall be appointed by the Speak-
12 er of the House of Representatives;

13 (3) 2 members shall be appointed by the Minor-
14 ity Leader of the House of Representatives;

15 (4) 2 members shall be appointed by the Major-
16 ity Leader of the Senate; and

17 (5) 2 members shall be appointed by the Minor-
18 ity Leader of the Senate.

19 (d) TIMING OF APPOINTMENTS.—Each of the ap-
20 pointments under subsection (c) shall be made not later
21 than 180 days after the date of the enactment of this Act.

22 (e) TERMS; VACANCIES.—Each member of the Coun-
23 cil shall be appointed for the life of the Council, and a
24 vacancy in the Council shall be filled in the manner in
25 which the original appointment was made.

1 (f) CHAIRPERSON; VICE CHAIRPERSON.—The Coun-
2 cil, once it has been fully appointed, shall select its own
3 Chair and Vice Chair.

4 (g) PARTICIPATION.—The Council shall consist of 1
5 member from each of the following:

6 (1) academic experts with specific expertise in
7 the prevention of online harms to minors;

8 (2) researchers with specific expertise in social
9 media studies;

10 (3) parents with demonstrated experience in
11 child online safety;

12 (4) youth representatives with demonstrated ex-
13 perience in child online safety;

14 (5) educators with demonstrated experience in
15 child online safety;

16 (6) representatives of online platforms;

17 (7) representatives of online video games;

18 (8) State attorneys general or their designees
19 acting in State or local government;

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

23 (h) REPORTS.—

24 (1) INTERIM REPORT.—Not later than 1 year
25 after the date of the initial meeting of the Council,

1 the Council shall submit to Congress an interim re-
2 port that includes a detailed summary of the work
3 of the Council and any preliminary findings of the
4 Council.

5 (2) FINAL REPORT.—Not later than 3 years
6 after the date of the initial meeting of the Council,
7 the Council shall submit to Congress a final report
8 that includes—

9 (A) a detailed statement of the findings
10 and conclusions of the Council;

11 (B) dissenting opinions of any member of
12 the Council who does not support the findings
13 and conclusions referred to in subparagraph
14 (A); and

15 (C) any recommendations for legislative
16 and administrative actions to address online
17 safety for children and prevent harms to mi-
18 nors.

19 (i) TERMINATION.—The Council shall terminate not
20 later than 30 days after the submission of the final report
21 required under subsection (h)(2).

22 (j) NON-APPLICABILITY OF FACA.—The Kids Online
23 Safety Council shall not be subject to chapter 10 of title
24 5, United States Code (commonly referred to as the “Fed-
25 eral Advisory Committee Act”).

1 **SEC. 111. EFFECTIVE DATE.**

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

5 **SEC. 112. RULES OF CONSTRUCTION AND OTHER MATTERS.**

6 (a) RELATIONSHIP TO OTHER LAWS.—Nothing in
7 this subtitle shall be construed to—

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

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

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

19 (4) expand, limit the scope, or alter the mean-
20 ing of section 230 of the Communications Act of
21 1934 (commonly known as “section 230 of the Com-
22 munications Decency Act of 1996”) (47 U.S.C.
23 230).

24 (b) DETERMINATION OF “FAIRLY IMPLIED ON THE
25 BASIS OF OBJECTIVE CIRCUMSTANCES”.—For purposes
26 of enforcing this subtitle, in making a determination as

1 to whether covered platform has knowledge fairly implied
2 on the basis of objective circumstances that a specific user
3 is a minor, the Federal Trade Commission or a State at-
4 torney general shall rely on competent and reliable evi-
5 dence, taking into account the totality of the cir-
6 cumstances, including whether a reasonable and prudent
7 person under the circumstances would have known that
8 the user is a minor.

9 (c) PROTECTIONS FOR PRIVACY.—Nothing in this
10 subtitle, including a determination described in subsection
11 (b), shall be construed to require—

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

16 (2) a covered platform to implement an age
17 gating or age verification functionality.

18 (d) COMPLIANCE.—Nothing in this subtitle shall be
19 construed to restrict a covered platform’s ability to—

20 (1) cooperate with law enforcement agencies re-
21 garding activity that the covered platform reasonably
22 and in good faith believes may violate Federal,
23 State, or local laws, rules, or regulations;

1 (2) comply with a lawful civil, criminal, or regu-
2 latory inquiry, subpoena, or summons by Federal,
3 State, local, or other government authorities;

4 (3) investigate, establish, exercise, respond to,
5 or defend against legal claims;

6 (4) prevent, detect, protect against, or respond
7 to any security incident, identity theft, fraud, har-
8 assment, malicious or deceptive activity, or any ille-
9 gal activities; or

10 (5) investigate or report those responsible for
11 any action described in paragraph (4).

12 (e) APPLICATION TO VIDEO STREAMING SERVICES.—

13 A video streaming service shall be deemed to be in compli-
14 ance with this subtitle if it predominantly consists of news,
15 sports, entertainment, or other video programming con-
16 tent that is preselected by the provider and not user-gen-
17 erated, and—

18 (1) any chat, comment, or interactive
19 functionality is provided incidental to, directly re-
20 lated to, or dependent on provision of such content;

21 (2) if such video streaming service requires ac-
22 count owner registration and is not predominantly
23 news or sports, the service includes the capability—

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

1 (B) to limit the automatic playing of on-
2 demand content selected by a personalized rec-
3 ommendation system for an individual that the
4 service knows is a minor;

5 (C) for a parent to manage a minor's pri-
6 vacy and account settings, and restrict pur-
7 chases and financial transactions by a minor,
8 where applicable;

9 (D) to provide an electronic point of con-
10 tact specific to matters described in this para-
11 graph;

12 (E) to offer a clear, conspicuous, and easy-
13 to-understand notice of its policies and prac-
14 tices with respect to the capabilities described
15 in this paragraph; and

16 (F) when providing on-demand content, to
17 employ measures that safeguard against serving
18 advertising for narcotic drugs, cannabis prod-
19 ucts, tobacco products, gambling, or alcohol di-
20 rectly to the account or profile of an individual
21 that the service knows is a minor.

22 **Subtitle B—Filter Bubble**
23 **Transparency**

24 **SEC. 120. DEFINITIONS.**

25 In this subtitle:

1 (1) ALGORITHMIC RANKING SYSTEM.—The
2 term “algorithmic ranking system” means a com-
3 putational process, including one derived from algo-
4 rithmic decision-making, machine learning, statisti-
5 cal analysis, or other data processing or artificial
6 intelligence techniques, used to determine the selec-
7 tion, order, relative prioritization, or relative promi-
8 nence of content from a set of information that is
9 provided to a user on an online platform, including
10 the ranking of search results, the provision of con-
11 tent recommendations, the display of social media
12 posts, or any other method of automated content se-
13 lection.

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

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

21 (4) CONNECTED DEVICE.—The term “con-
22 nected device” means an electronic device that—

23 (A) is capable of connecting to the inter-
24 net, either directly or indirectly through a net-

1 work, to communicate information at the direc-
2 tion of an individual;

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

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

8 (5) INPUT-TRANSPARENT ALGORITHM.—

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

18 (B) DATA EXPRESSLY PROVIDED TO THE
19 PLATFORM.—For purposes of subparagraph
20 (A), user-specific data that is provided by a
21 user for the express purpose of determining the
22 selection, order, relative prioritization, or rel-
23 ative prominence of information that is fur-
24 nished to such user on an online platform—

1 (i) includes user-supplied search
2 terms, filters, speech patterns (if provided
3 for the purpose of enabling the platform to
4 accept spoken input or selecting the lan-
5 guage in which the user interacts with the
6 platform), saved preferences, the resump-
7 tion of a previous search, and the current
8 precise geolocation information that is sup-
9 plied by the user;

10 (ii) includes the user's current approx-
11 imate geolocation information;

12 (iii) includes data submitted to the
13 platform by the user that expresses the
14 user's desire to receive particular informa-
15 tion, such as the social media profiles the
16 user follows, the video channels the user
17 subscribes to, or other content or sources
18 of content on the platform the user has se-
19 lected;

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

1 (v) does not include inferences about
2 the user or the connected device of the
3 user, without regard to whether such infer-
4 ences are based on data described in clause
5 (i) or (iii).

6 (6) ONLINE PLATFORM.—

7 (A) IN GENERAL.—Subject to subpara-
8 graph (B), the term “online platform” means
9 any public-facing website, online service, online
10 application, or mobile application that predomi-
11 nantly provides a community forum for user-
12 generated content, such as sharing videos, im-
13 ages, games, audio files, or other content, in-
14 cluding a social media service, social network,
15 or virtual reality environment.

16 (B) SCOPE.—

17 (i) INCIDENTAL CHAT FUNCTIONS.—A
18 website, online service, online application,
19 or mobile application is not an online plat-
20 form solely on the basis that it includes a
21 chat, comment, or other interactive func-
22 tion that is incidental to its predominant
23 purpose.

24 (ii) REVIEW SITES.—A website, online
25 service, online application, or mobile appli-

1 cation that has the predominant purpose of
2 providing travel reviews is not an online
3 platform.

4 (7) OPAQUE ALGORITHM.—The term “opaque
5 algorithm”—

6 (A) means an algorithmic ranking system
7 that determines the selection, order, relative
8 prioritization, or relative prominence of infor-
9 mation that is furnished to such user on an on-
10 line platform based, in whole or part, on user-
11 specific data that was not expressly provided by
12 the user to the platform for such purpose; and

13 (B) does not include an algorithmic rank-
14 ing system used by an online platform if—

15 (i) the only user-specific data (includ-
16 ing inferences about the user) that the sys-
17 tem uses is information relating to the age
18 of the user; and

19 (ii) such information is only used to
20 restrict the access of a user to content on
21 the basis that the individual is not old
22 enough to access such content.

23 (8) PRECISE GEOLOCATION INFORMATION.—
24 The term “precise geolocation information” means

1 geolocation information that identifies the location of
2 an individual to within a range of 5 miles or less.

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

7 **SEC. 121. REQUIREMENT TO ALLOW USERS TO SEE**
8 **UNMANIPULATED CONTENT ON INTERNET**
9 **PLATFORMS.**

10 (a) IN GENERAL.—Beginning on the date that is 1
11 year after the date of enactment of this Act, it shall be
12 unlawful for any person to operate an online platform that
13 uses an opaque algorithm unless the person complies with
14 the requirements of subsection (b).

15 (b) OPAQUE ALGORITHM REQUIREMENTS.—

16 (1) IN GENERAL.—The requirements of this
17 subsection with respect to a person that operates an
18 online platform that uses an opaque algorithm are
19 the following:

20 (A) The person provides users of the plat-
21 form with the following notices:

22 (i) Notice that the platform uses an
23 opaque algorithm that uses user-specific
24 data to select the content the user sees.
25 Such notice shall be presented in a clear

1 and conspicuous manner on the platform
2 whenever the user interacts with an opaque
3 algorithm for the first time, and may be a
4 one-time notice that can be dismissed by
5 the user.

6 (ii) Notice, to be included in the terms
7 and conditions of the online platform, in a
8 clear, accessible, and easily comprehensible
9 manner that is to be updated whenever the
10 online platform makes a material change,
11 of—

12 (I) the most salient features, in-
13 puts, and parameters used by the al-
14 gorithm;

15 (II) how any user-specific data
16 used by the algorithm is collected or
17 inferred about a user of the platform,
18 and the categories of such data;

19 (III) any options that the online
20 platform makes available for a user of
21 the platform to opt out or exercise op-
22 tions under subparagraph (B), modify
23 the profile of the user or to influence
24 the features, inputs, or parameters
25 used by the algorithm; and

1 (IV) any quantities, such as time
2 spent using a product or specific
3 measures of engagement or social
4 interaction, that the algorithm is de-
5 signed to optimize, as well as a gen-
6 eral description of the relative impor-
7 tance of each quantity for such rank-
8 ing.

9 (B) The online platform enables users to
10 easily switch between the opaque algorithm and
11 an input-transparent algorithm in their use of
12 the platform.

13 (2) RULE OF CONSTRUCTION.—Nothing in this
14 subsection shall be construed to require an online
15 platform to disclose any information, including data
16 or algorithms—

17 (A) relating to a trade secret or other pro-
18 tected intellectual property;

19 (B) that is confidential business informa-
20 tion; or

21 (C) that is privileged.

22 (3) PROHIBITION ON DIFFERENTIAL PRIC-
23 ING.—An online platform shall not deny, charge dif-
24 ferent prices or rates for, or condition the provision
25 of a service or product to a user based on the user's

1 election to use an input-transparent algorithm in
2 their use of the platform, as provided under para-
3 graph (1)(B).

4 **[(4) SPECIAL RULE.—**Notwithstanding para-
5 graphs (1) and (2), an online platform shall provide
6 the notice and opt-out described in paragraphs (1)
7 and (2) to the educational agency or institution (as
8 defined in section 444(a)(3) of the General Edu-
9 cation Provisions Act (20 U.S.C. 1232g(a)(3)), rath-
10 er than to the user, when the online platform is act-
11 ing on behalf of an educational agency or institution
12 (as so defined), subject to a written contract that
13 complies with the requirements of the Children’s On-
14 line Privacy Protection Act of 1998 (15 U.S.C.
15 1232g(a)(3)) and section 444 of the General Edu-
16 cation Provisions Act (20 U.S.C. 1232g) (commonly
17 known as the “Family Educational Rights and Pri-
18 vacy Act of 1974”).**]**

19 **(c) ENFORCEMENT BY FEDERAL TRADE COMMIS-**
20 **SION.—**

21 **(1) UNFAIR OR DECEPTIVE ACTS OR PRAC-**
22 **TICES.—**A violation of this section by an operator of
23 an online platform shall be treated as a violation of
24 a rule defining an unfair or deceptive act or practice

1 prescribed under section 18(a)(1)(B) of the Federal
2 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

3 (2) POWERS OF COMMISSION.—

4 (A) IN GENERAL.—The Federal Trade
5 Commission shall enforce this section in the
6 same manner, by the same means, and with the
7 same jurisdiction, powers, and duties as though
8 all applicable terms and provisions of the Fed-
9 eral Trade Commission Act (15 U.S.C. 41 et
10 seq.) were incorporated into and made a part of
11 this section.

12 (B) PRIVILEGES AND IMMUNITIES.—Any
13 person who violates this section shall be subject
14 to the penalties and entitled to the privileges
15 and immunities provided in the Federal Trade
16 Commission Act (15 U.S.C. 41 et seq.).

17 (C) AUTHORITY PRESERVED.—Nothing in
18 this section shall be construed to limit the au-
19 thority of the Commission under any other pro-
20 vision of law.

21 (d) RULE OF CONSTRUCTION TO PRESERVE PERSON-
22 ALIZED BLOCKS.—Nothing in this section shall be con-
23 strued to limit or prohibit an online platform's ability to,
24 at the direction of an individual user or group of users,
25 restrict another user from searching for, finding, access-

1 ing, or interacting with such user's or group's account,
 2 content, data, or online community.

3 **Subtitle C—Relationship to State**
 4 **Laws; Severability**

5 **SEC. 130. RELATIONSHIP TO STATE LAWS.**

6 The provisions of this title shall preempt any State
 7 law, rule, or regulation only to the extent that such State
 8 law, rule, or regulation conflicts with a provision of this
 9 title. Nothing in this title shall be construed to prohibit
 10 a State from enacting a law, rule, or regulation that pro-
 11 vides greater protection to minors than the protection pro-
 12 vided by the provisions of this title.

13 **SEC. 131. SEVERABILITY.**

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

18 **TITLE II—CHILDREN AND**
 19 **TEENS' ONLINE PRIVACY**

20 **SEC. 201. ONLINE COLLECTION, USE, DISCLOSURE, AND DE-**
 21 **LETION OF PERSONAL INFORMATION OF**
 22 **CHILDREN AND TEENS.**

23 (a) DEFINITIONS.—Section 1302 of the Children's
 24 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
 25 is amended—

1 which case, the operator is deemed to
2 have collected the information); and

3 “(B) does not include any nonprofit entity
4 that would otherwise be exempt from coverage
5 under section 5 of the Federal Trade Commis-
6 sion Act (15 U.S.C. 45).”;

7 (2) in paragraph (4)—

8 (A) by amending subparagraph (A) to read
9 as follows:

10 “(A) the release of personal information
11 collected from a child or teen by an operator for
12 any purpose, except where the personal infor-
13 mation is provided to a person other than an
14 operator who—

15 “(i) provides support for the internal
16 operations of the website, online service,
17 online application, or mobile application of
18 the operator, excluding any activity relat-
19 ing to individual-specific advertising to
20 children or teens; and

21 “(ii) does not disclose or use that per-
22 sonal information for any other purpose;
23 and”;

24 (B) in subparagraph (B)—

1 (i) by inserting “or teen” after
2 “child” each place the term appears;

3 (ii) by striking “website or online
4 service” and inserting “website, online
5 service, online application, or mobile appli-
6 cation”; and

7 (iii) by striking “actual knowledge”
8 and inserting “actual knowledge or knowl-
9 edge fairly implied on the basis of objective
10 circumstances”;

11 (3) by striking paragraph (8) and inserting the
12 following:

13 “(8) PERSONAL INFORMATION.—

14 “(A) IN GENERAL.—The term ‘personal in-
15 formation’ means individually identifiable infor-
16 mation about an individual collected online, in-
17 cluding—

18 “(i) a first and last name;

19 “(ii) a home or other physical address
20 including street name and name of a city
21 or town;

22 “(iii) an e-mail address;

23 “(iv) a telephone number;

24 “(v) a Social Security number;

1 “(vi) any other identifier that the
2 Commission determines permits the phys-
3 ical or online contacting of a specific indi-
4 vidual;

5 “(vii) a persistent identifier that can
6 be used to recognize a specific child or teen
7 over time and across different websites, on-
8 line services, online applications, or mobile
9 applications, including but not limited to a
10 customer number held in a cookie, an
11 Internet Protocol (IP) address, a processor
12 or device serial number, or unique device
13 identifier, but excluding an identifier that
14 is used by an operator solely for providing
15 support for the internal operations of the
16 website, online service, online application,
17 or mobile application;

18 “(viii) a photograph, video, or audio
19 file where such file contains a specific
20 child’s or teen’s image or voice;

21 “(ix) geolocation information;

22 “(x) information generated from the
23 measurement or technological processing of
24 an individual’s biological, physical, or phys-

1 iological characteristics that is used to
2 identify an individual, including—

3 “(I) fingerprints;

4 “(II) voice prints;

5 “(III) iris or retina imagery
6 scans;

7 “(IV) facial templates;

8 “(V) deoxyribonucleic acid
9 (DNA) information; or

10 “(VI) gait; or

11 “(xi) information linked or reasonably
12 linkable to a child or teen or the parents
13 of that child or teen (including any unique
14 identifier) that an operator collects online
15 from the child or teen and combines with
16 an identifier described in this subpara-
17 graph.

18 “(B) EXCLUSION.—The term ‘personal in-
19 formation’ shall not include an audio file that
20 contains a child’s or teen’s voice so long as the
21 operator—

22 “(i) does not request information via
23 voice that would otherwise be considered
24 personal information under this paragraph;

1 “(ii) provides clear notice of its collec-
2 tion and use of the audio file and its dele-
3 tion policy in its privacy policy;

4 “(iii) only uses the voice within the
5 audio file solely as a replacement for writ-
6 ten words, to perform a task, or engage
7 with a website, online service, online appli-
8 cation, or mobile application, such as to
9 perform a search or fulfill a verbal instruc-
10 tion or request; and

11 “(iv) only maintains the audio file
12 long enough to complete the stated purpose
13 and then immediately deletes the audio file
14 and does not make any other use of the
15 audio file prior to deletion.

16 “(C) SUPPORT FOR THE INTERNAL OPER-
17 ATIONS OF A WEBSITE, ONLINE SERVICE, ON-
18 LINE APPLICATION, OR MOBILE APPLICATION.—

19 “(i) IN GENERAL.—For purposes of
20 subparagraph (A)(vii), the term ‘support
21 for the internal operations of a website, on-
22 line service, online application, or mobile
23 application’ means those activities nec-
24 essary to—

1 “(I) maintain or analyze the
2 functioning of the website, online serv-
3 ice, online application, or mobile appli-
4 cation;

5 “(II) perform network commu-
6 nications;

7 “(III) authenticate users of, or
8 personalize the content on, the
9 website, online service, online applica-
10 tion, or mobile application;

11 “(IV) serve contextual adver-
12 tising, provided that any persistent
13 identifier is only used as necessary for
14 technical purposes to serve the contex-
15 tual advertisement, or cap the fre-
16 quency of advertising;

17 “(V) protect the security or in-
18 tegrity of the user, website, online
19 service, online application, or mobile
20 application;

21 “(VI) ensure legal or regulatory
22 compliance, or

23 “(VII) fulfill a request of a child
24 or teen as permitted by subpara-

1 graphs (A) through (C) of section
2 1303(b)(2).

3 “(ii) CONDITION.—Except as specifi-
4 cally permitted under clause (i), informa-
5 tion collected for the activities listed in
6 clause (i) cannot be used or disclosed to
7 contact a specific individual, including
8 through individual-specific advertising to
9 children or teens, to amass a profile on a
10 specific individual, in connection with proc-
11 esses that encourage or prompt use of a
12 website or online service, or for any other
13 purpose.”;

14 (4) by amending paragraph (9) to read as fol-
15 lows:

16 “(9) VERIFIABLE CONSENT.—The term
17 ‘verifiable consent’ means any reasonable effort (tak-
18 ing into consideration available technology), includ-
19 ing a request for authorization for future collection,
20 use, and disclosure described in the notice, to ensure
21 that, in the case of a child, a parent of the child,
22 or, in the case of a teen, the teen—

23 “(A) receives direct notice of the personal
24 information collection, use, and disclosure prac-
25 tices of the operator; and

1 “(B) before the personal information of the
2 child or teen is collected, freely and unambig-
3 uously authorizes—

4 “(i) the collection, use, and disclosure,
5 as applicable, of that personal information;
6 and

7 “(ii) any subsequent use of that per-
8 sonal information.”;

9 (5) in paragraph (10)—

10 (A) in the paragraph header, by striking
11 “WEBSITE OR ONLINE SERVICE DIRECTED TO
12 CHILDREN” and inserting “WEBSITE, ONLINE
13 SERVICE, ONLINE APPLICATION, OR MOBILE AP-
14 PPLICATION DIRECTED TO CHILDREN”;

15 (B) by striking “website or online service”
16 each place it appears and inserting “website,
17 online service, online application, or mobile ap-
18 plication”; and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(C) RULE OF CONSTRUCTION.—In con-
22 sidering whether a website, online service, on-
23 line application, or mobile application, or por-
24 tion thereof, is directed to children, the Com-
25 mission shall apply a totality of circumstances

1 test and will also consider competent and reli-
2 able empirical evidence regarding audience com-
3 position and evidence regarding the intended
4 audience of the website, online service, online
5 application, or mobile application.”; and

6 (6) by adding at the end the following:

7 “(13) CONNECTED DEVICE.—The term ‘con-
8 nected device’ means a device that is capable of con-
9 necting to the internet, directly or indirectly, or to
10 another connected device.

11 “(14) ONLINE APPLICATION.—The term ‘online
12 application’—

13 “(A) means an internet-connected software
14 program; and

15 “(B) includes a service or application of-
16 fered via a connected device.

17 “(15) MOBILE APPLICATION.—The term ‘mo-
18 bile application’—

19 “(A) means a software program that runs
20 on the operating system of—

21 “(i) a cellular telephone;

22 “(ii) a tablet computer; or

23 “(iii) a similar portable computing de-
24 vice that transmits data over a wireless
25 connection; and

1 “(ii) profiling of a child or teen or
2 group of children or teens; or

3 “(iii) a unique identifier of the con-
4 nected device.

5 “(B) EXCLUSIONS.—The term ‘individual-
6 specific advertising to children or teens’ shall
7 not include—

8 “(i) advertising or marketing to an in-
9 dividual or the device of an individual in
10 response to the individual’s specific request
11 for information or feedback, such as a
12 child’s or teen’s current search query;

13 “(ii) contextual advertising, such as
14 when an advertisement is displayed based
15 on the content of the website, online serv-
16 ice, online application, mobile application,
17 or connected device in which the advertise-
18 ment appears and does not vary based on
19 personal information related to the viewer;
20 or

21 “(iii) processing personal information
22 solely for measuring or reporting adver-
23 tising or content performance, reach, or
24 frequency, including independent measure-
25 ment.

1 “(C) **RULE OF CONSTRUCTION.**—Nothing
2 in subparagraph (A) shall be construed to pro-
3 hibit an operator with actual knowledge or
4 knowledge fairly implied on the basis of objec-
5 tive circumstances that a user is under the age
6 of 17 from delivering advertising or marketing
7 that is age-appropriate and intended for a child
8 or teen audience, so long as the operator does
9 not use any personal information other than
10 whether the user is under the age of 17.”.

11 (b) **ONLINE COLLECTION, USE, DISCLOSURE, AND**
12 **DELETION OF PERSONAL INFORMATION OF CHILDREN**
13 **AND TEENS.**—Section 1303 of the Children’s Online Pri-
14 vacy Protection Act of 1998 (15 U.S.C. 6502) is amend-
15 ed—

16 (1) by striking the heading and inserting the
17 following: “**ONLINE COLLECTION, USE, DISCLO-**
18 **SURE, AND DELETION OF PERSONAL INFORMA-**
19 **TION OF CHILDREN AND TEENS.**”;

20 (2) in subsection (a)—

21 (A) by amending paragraph (1) to read as
22 follows:

23 “(1) **IN GENERAL.**—It is unlawful for an oper-
24 ator of a website, online service, online application,
25 or mobile application directed to children or for any

1 operator of a website, online service, online applica-
2 tion, or mobile application with actual knowledge or
3 knowledge fairly implied on the basis of objective cir-
4 cumstances that a user is a child or teen—

5 “(A) to collect personal information from a
6 child or teen in a manner that violates the regu-
7 lations prescribed under subsection (b);

8 “(B) except as provided in subparagraphs
9 (B) and (C) of section 1302(18), to collect, use,
10 disclose to third parties, or maintain personal
11 information of a child or teen for purposes of
12 individual-specific advertising to children or
13 teens (or to allow another person to collect, use,
14 disclose, or maintain such information for such
15 purpose);

16 “(C) to collect the personal information of
17 a child or teen except when the collection of the
18 personal information is—

19 “(i) consistent with the context of a
20 particular transaction or service or the re-
21 lationship of the child or teen with the op-
22 erator, including collection necessary to
23 fulfill a transaction or provide a product or
24 service requested by the child or teen; or

1 “(ii) required or specifically author-
2 ized by Federal or State law; or

3 “(D) to store or transfer the personal in-
4 formation of a child or teen outside of the
5 United States unless the operator provides di-
6 rect notice to the parent of the child, in the
7 case of a child, or to the teen, in the case of
8 a teen, that the child’s or teen’s personal infor-
9 mation is being stored or transferred outside of
10 the United States; or

11 “(E) to retain the personal information of
12 a child or teen for longer than is reasonably
13 necessary to fulfill a transaction or provide a
14 service requested by the child or teen except as
15 required or specifically authorized by Federal or
16 State law.”; and

17 (B) in paragraph (2)—

18 (i) in the header, by striking “PAR-
19 ENT” and inserting “‘PARENT OR TEEN’”

20 (ii) by striking “Notwithstanding
21 paragraph (1)” and inserting “Notwith-
22 standing paragraph (1)(A)”;

23 (iii) by striking “of such a website or
24 online service”; and

1 (iv) by striking “subsection
2 (b)(1)(B)(iii) to the parent of a child” and
3 inserting “subsection (b)(1)(B)(iv) to the
4 parent of a child or under subsection
5 (b)(1)(C)(iv) to a teen”;

6 (3) in subsection (b)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

9 (I) by striking “operator of any
10 website” and all that follows through
11 “from a child” and inserting “oper-
12 ator of a website, online service, on-
13 line application, or mobile application
14 directed to children or that has actual
15 knowledge or knowledge fairly implied
16 on the basis of objective circumstances
17 that a user is a child or teen”;

18 (II) in clause (i)—

19 (aa) by striking “notice on
20 the website” and inserting “clear
21 and conspicuous notice on the
22 website”;

23 (bb) by inserting “or teens”
24 after “children”;

1 (cc) by striking “, and the
2 operator’s” and inserting “, the
3 operator’s”; and

4 (dd) by striking “; and” and
5 inserting “, the rights and oppor-
6 tunities available to the parent of
7 the child or teen under subpara-
8 graphs (B) and (C), and the pro-
9 cedures or mechanisms the oper-
10 ator uses to ensure that personal
11 information is not collected from
12 children or teens except in ac-
13 cordance with the regulations
14 promulgated under this para-
15 graph;”;

16 (III) in clause (ii)—

17 (aa) by striking “parental”;

18 (bb) by inserting “or teens”
19 after “children”;

20 (cc) by striking the semi-
21 colon at the end and inserting “;
22 and”; and

23 (IV) by inserting after clause (ii)

24 the following new clause:

1 “(iii) to obtain verifiable consent from
2 a parent of a child or from a teen before
3 using or disclosing personal information of
4 the child or teen for any purpose that is a
5 material change from the original purposes
6 and disclosure practices specified to the
7 parent of the child or the teen under
8 clause (i);”;

9 (ii) in subparagraph (B)—

10 (I) in the matter preceding clause
11 (i), by striking “website or online
12 service” and inserting “operator”;

13 (II) in clause (i), by inserting
14 “and the method by which the oper-
15 ator obtained the personal informa-
16 tion, and the purposes for which the
17 operator collects, uses, discloses, and
18 retains the personal information” be-
19 fore the semicolon;

20 (III) in clause (ii)—

21 (aa) by inserting “to delete
22 personal information collected
23 from the child or content or in-
24 formation submitted by the child
25 to a website, online service, on-

1 line application, or mobile appli-
2 cation and” after “the oppor-
3 tunity at any time”; and

4 (bb) by striking “; and” and
5 inserting a semicolon;

6 (IV) by redesignating clause (iii)
7 as clause (iv) and inserting after
8 clause (ii) the following new clause:

9 “(iii) the opportunity to challenge the
10 accuracy of the personal information and,
11 if the parent of the child establishes the in-
12 accuracy of the personal information, to
13 have the inaccurate personal information
14 corrected;”; and

15 (V) in clause (iv), as so redesi-
16 gnated, by inserting “, if such informa-
17 tion is available to the operator at the
18 time the parent makes the request”
19 before the semicolon;

20 (iii) by redesignating subparagraphs
21 (C) and (D) as subparagraphs (D) and
22 (E), respectively;

23 (iv) by inserting after subparagraph
24 (B) the following new subparagraph:

1 “(C) require the operator to provide, upon
2 the request of a teen under this subparagraph
3 who has provided personal information to the
4 operator, upon proper identification of that
5 teen—

6 “(i) a description of the specific types
7 of personal information collected from the
8 teen by the operator, the method by which
9 the operator obtained the personal infor-
10 mation, and the purposes for which the op-
11 erator collects, uses, discloses, and retains
12 the personal information;

13 “(ii) the opportunity at any time to
14 delete personal information collected from
15 the teen or content or information sub-
16 mitted by the teen to a website, online
17 service, online application, or mobile appli-
18 cation and to refuse to permit the opera-
19 tor’s further use or maintenance in retriev-
20 able form, or online collection, of personal
21 information from the teen;

22 “(iii) the opportunity to challenge the
23 accuracy of the personal information and,
24 if the teen establishes the inaccuracy of the

1 personal information, to have the inac-
2 curate personal information corrected; and

3 “(iv) a means that is reasonable
4 under the circumstances for the teen to ob-
5 tain any personal information collected
6 from the teen, if such information is avail-
7 able to the operator at the time the teen
8 makes the request;”;

9 (v) in subparagraph (D), as so redes-
10 ignated—

11 (I) by striking “a child’s” and in-
12 serting “a child’s or teen’s”; and

13 (II) by inserting “or teen” after
14 “the child”; and

15 (vi) by amending subparagraph (E),
16 as so redesignated, to read as follows:

17 “(E) require the operator to establish, im-
18 plement, and maintain reasonable security prac-
19 tices to protect the confidentiality, integrity,
20 and accessibility of personal information of chil-
21 dren or teens collected by the operator, and to
22 protect such personal information against unau-
23 thorized access.”;

24 (B) in paragraph (2)—

- 1 (i) in the matter preceding subpara-
2 graph (A), by striking “verifiable parental
3 consent” and inserting “verifiable con-
4 sent”;
- 5 (ii) in subparagraph (A)—
- 6 (I) by inserting “or teen” after
7 “collected from a child”;
- 8 (II) by inserting “or teen” after
9 “request from the child”; and
- 10 (III) by inserting “or teen or to
11 contact another child or teen” after
12 “to recontact the child”;
- 13 (iii) in subparagraph (B)—
- 14 (I) by striking “parent or child”
15 and inserting “parent or teen”; and
- 16 (II) by striking “parental con-
17 sent” each place the term appears and
18 inserting “verifiable consent”;
- 19 (iv) in subparagraph (C)—
- 20 (I) in the matter preceding clause
21 (i), by inserting “or teen” after
22 “child” each place the term appears;
- 23 (II) in clause (i)—

1 (aa) by inserting “or teen”
2 after “child” each place the term
3 appears; and

4 (bb) by inserting “or teen,
5 as applicable,” after “parent”
6 each place the term appears; and
7 (III) in clause (ii)—

8 (aa) by striking “without
9 notice to the parent” and insert-
10 ing “without notice to the parent
11 or teen, as applicable,”; and

12 (bb) by inserting “or teen”
13 after “child” each place the term
14 appears; and

15 (v) in subparagraph (D)—

16 (I) in the matter preceding clause
17 (i), by inserting “or teen” after
18 “child” each place the term appears;

19 (II) in clause (ii), by inserting
20 “or teen” after “child”; and

21 (III) in the flush text following
22 clause (iii)—

23 (aa) by inserting “or teen,
24 as applicable,” after “parent”
25 each place the term appears; and

1 (bb) by inserting “or teen”
2 after “child”;

3 (C) by redesignating paragraph (3) as
4 paragraph (4) and inserting after paragraph
5 (2) the following new paragraph:

6 “(3) APPLICATION TO OPERATORS ACTING
7 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES
8 OR INSTITUTIONS.—The regulations may provide
9 that verifiable consent under paragraph (1)(A)(ii) is
10 not required for an operator that is acting under a
11 written agreement with an educational agency or in-
12 stitution (as defined in section 444 of the General
13 Education Provisions Act (commonly known as the
14 ‘Family Educational Rights and Privacy Act of
15 1974’) (20 U.S.C. 1232g(a)(3)) that, at a minimum,
16 requires the—

17 “(A) operator to—

18 “(i) limit its collection, use, and dis-
19 closure of the personal information from a
20 child or teen to solely educational purposes
21 and for no other commercial purposes;

22 “(ii) provide the educational agency or
23 institution with a notice of the specific
24 types of personal information the operator
25 will collect from the child or teen, the

1 method by which the operator will obtain
2 the personal information, and the purposes
3 for which the operator will collect, use, dis-
4 close, and retain the personal information;

5 “(iii) provide the educational agency
6 or institution with a link to the operator’s
7 online notice of information practices as
8 required under subsection (b)(1)(A)(i); and

9 “(iv) provide the educational agency
10 or institution, upon request, with a means
11 to review the personal information collected
12 from a child or teen, to prevent further use
13 or maintenance or future collection of per-
14 sonal information from a child or teen, and
15 to delete personal information collected
16 from a child or teen or content or informa-
17 tion submitted by a child or teen to the op-
18 erator’s website, online service, online ap-
19 plication, or mobile application;

20 “(B) representative of the educational
21 agency or institution to acknowledge and agree
22 that they have authority to authorize the collec-
23 tion, use, and disclosure of personal information
24 from children or teens on behalf of the edu-
25 cational agency or institution, along with such

1 authorization, their name, and title at the edu-
2 cational agency or institution; and

3 “(C) educational agency or institution to—

4 “(i) provide on its website a notice
5 that identifies the operator with which it
6 has entered into a written agreement
7 under this subsection and provides a link
8 to the operator’s online notice of informa-
9 tion practices as required under paragraph
10 (1)(A)(i);

11 “(ii) provide the operator’s notice re-
12 garding its information practices, as re-
13 quired under subparagraph (A)(ii), upon
14 request, to a parent, in the case of a child,
15 or a parent or teen, in the case of a teen;
16 and

17 “(iii) upon the request of a parent, in
18 the case of a child, or a parent or teen, in
19 the case of a teen, request the operator
20 provide a means to review the personal in-
21 formation from the child or teen and pro-
22 vide the parent, in the case of a child, or
23 parent or teen, in the case of the teen, a
24 means to review the personal informa-
25 tion.”;

1 (D) by amending paragraph (4), as so re-
2 designated, to read as follows:

3 “(4) TERMINATION OF SERVICE.—The regula-
4 tions shall permit the operator of a website, online
5 service, online application, or mobile application to
6 terminate service provided to a child whose parent
7 has refused, or a teen who has refused, under the
8 regulations prescribed under paragraphs (1)(B)(ii)
9 and (1)(C)(ii), to permit the operator’s further use
10 or maintenance in retrievable form, or future online
11 collection of, personal information from that child or
12 teen.”; and

13 (E) by adding at the end the following new
14 paragraphs:

15 “(5) CONTINUATION OF SERVICE.—The regula-
16 tions shall prohibit an operator from discontinuing
17 service provided to a child or teen on the basis of
18 a request by the parent of the child or by the teen,
19 under the regulations prescribed under subpara-
20 graph (B) or (C) of paragraph (1), respectively, to
21 delete personal information collected from the child
22 or teen, to the extent that the operator is capable of
23 providing such service without such information.

24 “(6) RULE OF CONSTRUCTION.—A request
25 made pursuant to subparagraph (B) or (C) of para-

1 graph (1) to delete or correct personal information
2 of a child or teen shall not be construed—

3 “(A) to limit the authority of a law en-
4 forcement agency to obtain any content or in-
5 formation from an operator pursuant to a law-
6 fully executed warrant or an order of a court of
7 competent jurisdiction;

8 “(B) to require an operator or third party
9 delete or correct information that—

10 “(i) any other provision of Federal or
11 State law requires the operator or third
12 party to maintain; or

13 “(ii) was submitted to the website, on-
14 line service, online application, or mobile
15 application of the operator by any person
16 other than the user who is attempting to
17 erase or otherwise eliminate the content or
18 information, including content or informa-
19 tion submitted by the user that was repub-
20 lished or resubmitted by another person; or

21 “(C) to prohibit an operator from—

22 “(i) retaining a record of the deletion
23 request and the minimum information nec-
24 essary for the purposes of ensuring compli-

1 ance with a request made pursuant to sub-
2 paragraph (B) or (C);

3 “(ii) preventing, detecting, protecting
4 against, or responding to security inci-
5 dents, identity theft, or fraud, or reporting
6 those responsible for such actions;

7 “(iii) protecting the integrity or secu-
8 rity of a website, online service, online ap-
9 plication or mobile application; or

10 “(iv) ensuring that the child’s or
11 teen’s information remains deleted.

12 “(7) COMMON VERIFIABLE CONSENT MECHA-
13 NISM.—

14 “(A) IN GENERAL.—

15 “(i) FEASIBILITY OF MECHANISM.—
16 The Commission shall assess the feasi-
17 bility, with notice and public comment, of
18 allowing operators the option to use a com-
19 mon verifiable consent mechanism that
20 fully meets the requirements of this title.

21 “(ii) REQUIREMENTS.—The feasibility
22 assessment described in clause (i) shall
23 consider whether a single operator could
24 use a common verifiable consent mecha-
25 nism to obtain verifiable consent, as re-

1 required under this title, from a parent of a
2 child or from a teen on behalf of multiple,
3 listed operators that provide a joint or re-
4 lated service.

5 “(B) REPORT.—Not later than 1 year
6 after the date of enactment of this paragraph,
7 the Commission shall submit a report to the
8 Committee on Commerce, Science, and Trans-
9 portation of the Senate and the Committee on
10 Energy and Commerce of the House of Rep-
11 resentatives with the findings of the assessment
12 required by subparagraph (A).

13 “(C) REGULATIONS.—If the Commission
14 finds that the use of a common verifiable con-
15 sent mechanism is feasible and would meet the
16 requirements of this title, the Commission shall
17 issue regulations to permit the use of a common
18 verifiable consent mechanism in accordance
19 with the findings outlined in such report.”;

20 (4) in subsection (c), by striking “a regulation
21 prescribed under subsection (a)” and inserting “sub-
22 paragraph (B), (C), (D), or (E) of subsection (a)(1),
23 or of a regulation prescribed under subsection (b),”;
24 and

1 (5) by striking subsection (d) and inserting the
2 following:

3 “(d) RELATIONSHIP TO STATE LAW.—The provisions
4 of this title shall preempt any State law, rule, or regula-
5 tion only to the extent that such State law, rule, or regula-
6 tion conflicts with a provision of this title. Nothing in this
7 title shall be construed to prohibit any State from enacting
8 a law, rule, or regulation that provides greater protection
9 to children or teens than the provisions of this title.”.

10 (c) SAFE HARBORS.—Section 1304 of the Children’s
11 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)
12 is amended—

13 (1) in subsection (b)(1), by inserting “and
14 teens” after “children”; and

15 (2) by adding at the end the following:

16 “(d) PUBLICATION.—

17 “(1) IN GENERAL.—Subject to the restrictions
18 described in paragraph (2), the Commission shall
19 publish on the internet website of the Commission
20 any report or documentation required by regulation
21 to be submitted to the Commission to carry out this
22 section.

23 “(2) RESTRICTIONS ON PUBLICATION.—The re-
24 strictions described in section 6(f) and section 21 of
25 the Federal Trade Commission Act (15 U.S.C.

1 46(f), 57b–2) applicable to the disclosure of infor-
2 mation obtained by the Commission shall apply in
3 same manner to the disclosure under this subsection
4 of information obtained by the Commission from a
5 report or documentation described in paragraph
6 (1).”.

7 (d) ACTIONS BY STATES.—Section 1305 of the Chil-
8 dren’s Online Privacy Protection Act of 1998 (15 U.S.C.
9 6504) is amended—

10 (1) in subsection (a)(1)—

11 (A) in the matter preceding subparagraph
12 (A), by inserting “section 1303(a)(1) or” before
13 “any regulation”; and

14 (B) in subparagraph (B), by inserting
15 “section 1303(a)(1) or” before “the regula-
16 tion”; and

17 (2) in subsection (d)—

18 (A) by inserting “section 1303(a)(1) or”
19 before “any regulation”; and

20 (B) by inserting “section 1303(a)(1) or”
21 before “that regulation”.

22 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—
23 Section 1306 of the Children’s Online Privacy Protection
24 Act of 1998 (15 U.S.C. 6505) is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “, in the
2 case of” and all that follows through “the
3 Board of Directors of the Federal Deposit In-
4 surance Corporation;” and inserting the fol-
5 lowing: “by the appropriate Federal banking
6 agency, with respect to any insured depository
7 institution (as those terms are defined in sec-
8 tion 3 of that Act (12 U.S.C. 1813));”; and

9 (B) by striking paragraph (2) and redesign-
10 ating paragraphs (3) through (6) as para-
11 graphs (2) through (5), respectively;
12 (2) in subsection (d)—

13 (A) by inserting “section 1303(a)(1) or”
14 before “a rule”; and

15 (B) by striking “such rule” and inserting
16 “section 1303(a)(1) or a rule of the Commis-
17 sion under section 1303”; and

18 (3) by adding at the end the following new sub-
19 sections:

20 “(f) DETERMINATION OF WHETHER AN OPERATOR
21 HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF
22 OBJECTIVE CIRCUMSTANCES.—

23 “(1) RULE OF CONSTRUCTION.—For purposes
24 of enforcing this title or a regulation promulgated
25 under this title, in making a determination as to

1 whether an operator has knowledge fairly implied on
2 the basis of objective circumstances that a specific
3 user is a child or teen, the Commission or State at-
4 torneys general shall rely on competent and reliable
5 evidence, taking into account the totality of the cir-
6 cumstances, including whether a reasonable and pru-
7 dent person under the circumstances would have
8 known that the user is a child or teen. Nothing in
9 this title, including a determination described in the
10 preceding sentence, shall be construed to require an
11 operator to—

12 “(A) affirmatively collect any personal in-
13 formation with respect to the age of a child or
14 teen that an operator is not already collecting
15 in the normal course of business; or

16 “(B) implement an age gating or age
17 verification functionality.

18 “(2) COMMISSION GUIDANCE.—

19 “(A) IN GENERAL.—Within 180 days of
20 enactment, the Commission shall issue guidance
21 to provide information, including best practices
22 and examples for operators to understand the
23 Commission’s determination of whether an op-
24 erator has knowledge fairly implied on the basis

1 of objective circumstances that a user is a child
2 or teen.

3 “(B) LIMITATION.—No guidance issued by
4 the Commission with respect to this title shall
5 confer any rights on any person, State, or local-
6 ity, nor shall operate to bind the Commission or
7 any person to the approach recommended in
8 such guidance. In any enforcement action
9 brought pursuant to this title, the Commission
10 or State attorney general, as applicable, shall
11 allege a specific violation of a provision of this
12 title. The Commission or State attorney gen-
13 eral, as applicable, may not base an enforce-
14 ment action on, or execute a consent order
15 based on, practices that are alleged to be incon-
16 sistent with any such guidance, unless the prac-
17 tices allegedly violate this title. For purposes of
18 enforcing this title or a regulation promulgated
19 under this title, State attorneys general shall
20 take into account any guidance issued by the
21 Commission under subparagraph (A).

22 “(g) ADDITIONAL REQUIREMENT.—Any regulations
23 issued under this title shall include a description and anal-
24 ysis of the impact of proposed and final Rules on small

1 entities per the Regulatory Flexibility Act of 1980 (5
2 U.S.C. 601 et seq.).”.

3 **SEC. 202. STUDY AND REPORTS OF MOBILE AND ONLINE**
4 **APPLICATION OVERSIGHT AND ENFORCE-**
5 **MENT.**

6 (a) OVERSIGHT REPORT.—Not later than 3 years
7 after the date of enactment of this Act, the Federal Trade
8 Commission shall submit to the Committee on Commerce,
9 Science, and Transportation of the Senate and the Com-
10 mittee on Energy and Commerce of the House of Rep-
11 resentatives a report on the processes of platforms that
12 offer mobile and online applications for ensuring that, of
13 those applications that are websites, online services, online
14 applications, or mobile applications directed to children,
15 the applications operate in accordance with—

16 (1) this title, the amendments made by this
17 title, and rules promulgated under this title; and

18 (2) rules promulgated by the Commission under
19 section 18 of the Federal Trade Commission Act (15
20 U.S.C. 57a) relating to unfair or deceptive acts or
21 practices in marketing.

22 (b) ENFORCEMENT REPORT.—Not later than 1 year
23 after the date of enactment of this Act, and each year
24 thereafter, the Federal Trade Commission shall submit to
25 the Committee on Commerce, Science, and Transportation

1 of the Senate and the Committee on Energy and Com-
2 merce of the House of Representatives a report that ad-
3 dresses, at a minimum—

4 (1) the number of actions brought by the Com-
5 mission during the reporting year to enforce the
6 Children’s Online Privacy Protection Act of 1998
7 (15 U.S.C. 6501) (referred to in this subsection as
8 the “Act”) and the outcome of each such action;

9 (2) the total number of investigations or inquir-
10 ies into potential violations of the Act; during the re-
11 porting year;

12 (3) the total number of open investigations or
13 inquiries into potential violations of the Act as of the
14 time the report is submitted;

15 (4) the number and nature of complaints re-
16 ceived by the Commission relating to an allegation
17 of a violation of the Act during the reporting year;
18 and

19 (5) policy or legislative recommendations to
20 strengthen online protections for children and teens.

21 **SEC. 203. GAO STUDY.**

22 (a) STUDY.—The Comptroller General of the United
23 States (in this section referred to as the “Comptroller
24 General”) shall conduct a study on the privacy of teens
25 who use financial technology products. Such study shall—

1 (1) identify the type of financial technology
2 products that teens are using;

3 (2) identify the potential risks to teens' privacy
4 from using such financial technology products; and

5 (3) determine whether existing laws are suffi-
6 cient to address such risks to teens' privacy.

7 (b) REPORT.—Not later than 1 year after the date
8 of enactment of this section, the Comptroller General shall
9 submit to Congress a report containing the results of the
10 study conducted under subsection (a), together with rec-
11 ommendations for such legislation and administrative ac-
12 tion as the Comptroller General determines appropriate.

13 **SEC. 204. SEVERABILITY.**

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

18 **TITLE III—ELIMINATING**

19 **USELESS REPORTS**

20 **SEC. 301. SUNSETS FOR AGENCY REPORTS.**

21 (a) IN GENERAL.—Section 1125 of title 31, United
22 States Code, is amended—

23 (1) by redesignating subsection (c) as sub-
24 section (d);

1 (2) by striking subsections (a) and (b) and in-
2 serting the following:

3 “(a) DEFINITIONS.—In this section:

4 “(1) BUDGET JUSTIFICATION MATERIALS.—
5 The term ‘budget justification materials’ has the
6 meaning given the term in section 3(b)(2) of the
7 Federal Funding Accountability and Transparency
8 Act of 2006 (31 U.S.C. 6101 note; Public Law 109–
9 282).

10 “(2) PLAN OR REPORT.—The term ‘plan or re-
11 port’ means any plan or report submitted to Con-
12 gress, any committee of Congress, or subcommittee
13 thereof, by not less than 1 agency—

14 “(A) in accordance with Federal law; or

15 “(B) at the direction or request of a con-
16 gressional report.

17 “(3) RECURRING PLAN OR REPORT.—The term
18 ‘recurring plan or report’ means a plan or report
19 submitted on a recurring basis.

20 “(4) RELEVANT CONGRESSIONAL COM-
21 MITTEE.—The term ‘relevant congressional com-
22 mittee’—

23 “(A) means a congressional committee to
24 which a recurring plan or report is required to
25 be submitted; and

1 “(B) does not include any plan or report
2 that is required to be submitted solely to the
3 Committee on Armed Services of the House of
4 Representatives or the Senate.

5 “(b) AGENCY IDENTIFICATION OF UNNECESSARY
6 REPORTS.—

7 “(1) IN GENERAL.—The head of each agency
8 shall include in the budget justification materials of
9 the agency the following:

10 “(A) Subject to paragraphs (2) and (3),
11 the following:

12 “(i) A list of each recurring plan or
13 report submitted by the agency.

14 “(ii) An identification of whether the
15 recurring plan or report listed in clause (i)
16 was included in the most recent report
17 issued by the Clerk of the House of Rep-
18 resentatives concerning the reports that
19 any agency is required by law or directed
20 or requested by a committee report to
21 make to Congress, any committee of Con-
22 gress, or subcommittee thereof.

23 “(iii) If applicable, the unique alpha-
24 numeric identifier for the recurring plan or
25 report as required by section

1 7243(b)(1)(C)(vii) of the James M. Inhofe
2 National Defense Authorization Act for
3 Fiscal Year 2023 (Public Law 117–263).

4 “(iv) The identification of any recur-
5 ring plan or report the head of the agency
6 determines to be outdated or duplicative.

7 “(B) With respect to each recurring plan
8 or report identified in subparagraph (A)(iv), the
9 following:

10 “(i) A recommendation on whether to
11 sunset, modify, consolidate, or reduce the
12 frequency of the submission of the recur-
13 ring plan or report.

14 “(ii) A citation to each provision of
15 law or directive or request in a congres-
16 sional report that requires or requests the
17 submission of the recurring plan or report.

18 “(iii) A list of the relevant congres-
19 sional committees for the recurring plan or
20 report.

21 “(C) A justification explaining, with re-
22 spect to each recommendation described in sub-
23 paragraph (B)(i) relating to a recurring plan or
24 report—

1 “(i) why the head of the agency made
2 the recommendation, which may include an
3 estimate of the resources expended by the
4 agency to prepare and submit the recur-
5 ring plan or report; and

6 “(ii) the understanding of the head of
7 the agency of the purpose of the recurring
8 plan or report.

9 “(2) AGENCY CONSULTATION.—

10 “(A) IN GENERAL.—In preparing the list
11 required under paragraph (1)(A), if, in submit-
12 ting a recurring plan or report, an agency is re-
13 quired to coordinate or consult with another
14 agency or entity, the head of the agency sub-
15 mitting the recurring plan or report shall con-
16 sult with the head of each agency or entity with
17 whom consultation or coordination is required.

18 “(B) INCLUSION IN LIST.—If, after a con-
19 sultation under subparagraph (A), the head of
20 each agency or entity consulted under that sub-
21 paragraph agrees that a recurring plan or re-
22 port is outdated or duplicative, the head of the
23 agency required to submit the recurring plan or
24 report shall—

1 “(i) include the recurring plan or re-
2 port in the list described in paragraph
3 (1)(A); and

4 “(ii) identify each agency or entity
5 with which the head of the agency is re-
6 quired to coordinate or consult in submit-
7 ting the recurring plan or report.

8 “(C) DISAGREEMENT.—If the head of any
9 agency or entity consulted under subparagraph
10 (A) does not agree that a recurring plan or re-
11 port is outdated or duplicative, the head of the
12 agency required to submit the recurring plan or
13 report shall not include the recurring plan or
14 report in the list described in paragraph (1)(A).

15 “(3) GOVERNMENT-WIDE OR MULTI-AGENCY
16 PLAN AND REPORT SUBMISSIONS.—With respect to
17 a recurring plan or report required to be submitted
18 by not less than 2 agencies, the Director of the Of-
19 fice of Management and Budget shall—

20 “(A) determine whether the requirement to
21 submit the recurring plan or report is outdated
22 or duplicative; and

23 “(B) make recommendations to Congress
24 accordingly.

1 “(4) PLAN AND REPORT SUBMISSIONS CON-
2 FORMITY TO THE ACCESS TO CONGRESSIONALLY
3 MANDATED REPORTS ACT.—With respect to an
4 agency recommendation, citation, or justification
5 made under subparagraph (B) or (C) of paragraph
6 (1) or a recommendation by the Director of the Of-
7 fice of Management and Budget under paragraph
8 (3), the agency or Director, as applicable, shall also
9 provide this information to the Director of the Gov-
10 ernment Publishing Office in conformity with the
11 agency submission requirements under section
12 7244(a) of the James M. Inhofe National Defense
13 Authorization Act for Fiscal Year 2023 (Public Law
14 117–263; chapter 41 of title 44 note) in conformity
15 with guidance issued by the Director of the Office of
16 Management and Budget under section 7244(b) of
17 such Act.

18 “(c) RULE OF CONSTRUCTION ON AGENCY REQUIRE-
19 MENTS.—Nothing in this section shall be construed to ex-
20 empt the head of an agency from a requirement to submit
21 a recurring plan or report.”; and

22 (3) in subsection (d), as so redesignated, by
23 striking “in the budget of the United States Govern-
24 ment, as provided by section 1105(a)(37)” and in-

1 serting “in the budget justification materials of each
2 agency”.

3 (b) BUDGET CONTENTS.—Section 1105(a) of title
4 31, United States Code, is amended by striking paragraph
5 (39).

6 (c) CONFORMITY TO THE ACCESS TO CONGRESSION-
7 ALLY MANDATED REPORTS ACT.—

8 (1) AMENDMENT.—Subsections (a) and (b) of
9 section 7244 of the James M. Inhofe National De-
10 fense Authorization Act for Fiscal Year 2023 (Pub-
11 lic Law 117–263; chapter 41 of title 44, United
12 States Code, note), are amended to read as follows:

13 “(a) SUBMISSION OF ELECTRONIC COPIES OF RE-
14 PORTS.—Not earlier than 30 days or later than 60 days
15 after the date on which a congressionally mandated report
16 is submitted to either House of Congress or to any com-
17 mittee of Congress or subcommittee thereof, the head of
18 the Federal agency submitting the congressionally man-
19 dated report shall submit to the Director the information
20 required under subparagraphs (A) through (D) of section
21 7243(b)(1) with respect to the congressionally mandated
22 report. Notwithstanding section 7246, nothing in this sub-
23 title shall relieve a Federal agency of any other require-
24 ment to publish the congressionally mandated report on
25 the online portal of the Federal agency or otherwise sub-

1 mit the congressionally mandated report to Congress or
2 specific committees of Congress, or subcommittees thereof.

3 “(b) GUIDANCE.—Not later than 180 days after the
4 date of the enactment of this subsection and periodically
5 thereafter as appropriate, the Director of the Office of
6 Management and Budget, in consultation with the Direc-
7 tor, shall issue guidance to agencies on the implementation
8 of this subtitle as well as the requirements of section
9 1125(b) of title 31, United States Code.”.

10 (2) UPDATED OMB GUIDANCE.—Not later than
11 180 days after the date of the enactment of this Act,
12 the Director of the Office of Management and Budg-
13 et shall issue updated guidance to agencies to ensure
14 that the requirements under subsections (a) and (b)
15 of section 1125 of title 31, United States Code, as
16 amended by this Act, for agency submissions of rec-
17 ommendations and justifications for plans and re-
18 ports to sunset, modify, consolidate, or reduce the
19 frequency of the submission of are also submitted as
20 a separate attachment in conformity with the agency
21 submission requirements of electronic copies of re-
22 ports submitted by agencies under section 7244(a)
23 of the James M. Inhofe National Defense Authoriza-
24 tion Act for Fiscal Year 2023 (Public Law 117–263;
25 chapter 41 of title 44, United States Code, note) for

- 1 publication on the online portal established under
- 2 section 7243 of such Act.