

The Kids Online Safety and Privacy Act

Section-by-Section Summary

Title I: Keeping Kids Safe Online

Subtitle A: Kids Online Safety

Section 101 – Definitions [*excerpts of key definitions*]

- Child – a person that is under the age of 13.
- Covered platform – a social media service, social network, online video game, messaging application, video streaming service, or an online platform that connects to the internet and that is used, or is reasonably likely to be used, by a minor. Excludes broadband, email, teleconferencing, and non-social media messaging services (such as private messaging apps), as well as nonprofits, schools, libraries, and business-to-business services.
- Design feature – features or components of a covered platform that will encourage or increase the frequency, time spent, or activity of minors on the covered platform, such as nudges, filters, and personalized recommendation systems.
- Knows – actual knowledge or knowledge fairly implied on the basis of objective circumstances.
- Minor – a person that is under the age of 17.
- Personalized Recommendation System – a fully or partially automated system used to suggest, promote, or rank information based on the personal data of users.

Section 102 – Duty of Care

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

Section 103 – Safeguards for Minors

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

KOSA's requirements. Finally, ensures that the safeguards do not interfere with existing legal obligations to provide information.

Section 104 – Disclosure

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

Section 105 – Transparency

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

Section 106 – Research on Social Media and Minors

- The National Academy of Sciences and the FTC shall conduct no less than 5 scientific, comprehensive studies and reports on the risk of harms to minors by use of social media and other online platforms, including on mental health disorders, substance abuse, sexual exploitation, and addiction. The FTC can use its legal authorities to gather and compile

information and data from covered platforms necessary to conduct the studies, but must keep that information confidential.

Section 107 – Market Research

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

Section 108 – Age Verification Study and Report

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

Section 109 – Guidance

- The FTC shall issue guidance eighteen months after enactment to support covered platforms on compliance and address emerging harms to minors, as well as to assist schools in taking advantage of the protections offered under the Act.
- Clarifies that any enforcement action brought by the FTC must be based on the allegation of a violation of law, and not solely based on practices alleged to be inconsistent with guidance.
- Requires the FTC issue guidance to provide information, including best practices and examples, on meeting the knowledge standard in this Act.

Section 110 – Enforcement

- The FTC shall enforce this act, and state Attorneys General shall enforce sections 103, 104, and 105.

Section 111 – Kids Online Safety Council

- The Secretary of Commerce shall establish and convene a Kids Online Safety Council for the purpose of providing advice on the implementation of this Act. The Council will be made up of parents, experts, representatives from covered platforms, federal agencies, state Attorneys General, youth voices, and disadvantaged communities. The Federal Advisory Committee Act does not apply to the Council.

Section 112 – Effective Date: this Act shall take effect on the date that is 18 months after the date of enactment.

Section 113 – Relationship to Other Laws and Rules of Construction:

- Clarifies that the title does not preempt Federal or State student privacy laws or the Children's Online Privacy Protection Act, or authorize actions that would conflict with Congress's four-decade-old restriction on the FTC "KidVid" proceeding.
- Makes clear that the law does not impose any new affirmative data collection requirement or create an age gating or age verification requirement.
- Provides that the FTC should, when making determinations about whether a company knew a user was a minor or child, rely on competent and reliable evidence, taking into account the totality of the circumstances, including whether a reasonable and prudent person under the circumstances would have known that the user is a minor.
- Provides video streaming services may be deemed compliant if they provide age-rating information, limits on recommendations, and other specific parental controls and options.

Section 114 – Severability: If any provision of this Act is held unconstitutional, the remaining provisions shall apply.

Subtitle B: Filter Bubble Transparency

- Definition of "online platform" – means any public-facing website, online service, online application, or mobile application that predominantly provides a community forum for user-generated content, such as sharing videos, images, games, audio files, or other content, including a social media service, social network, or virtual reality environment.
- Requires online platforms to provide greater transparency to consumers about algorithmic recommendation systems that uses their personal data.
- Requires online platforms to enable users to easily switch between the algorithms that use their personal data and alternative versions (such as chronological feeds).
- Enforced by the FTC.

Subtitle C: Relationship to State Laws; Severability

- The provisions of this Act shall preempt any State law, rule, or regulation only to the extent that such State law, rule, or regulation conflicts with a provision of this Act. Nothing in this Act shall be construed to prohibit a State from enacting a law, rule, or

regulation that provides greater protection to minors than the protection provided by the provisions of this Act.

Title II – Children and Teen’s Online Privacy

Section 201(a) – Definitions [*excerpts of key definitions*]

This section adds or revises definitions of the following terms: “operator,” “personal information,” “verifiable consent,” “connected device,” “online application,” “mobile application,” “geolocation information,” “teen,” and “individual-specific advertising to children or teens.”

- Individual-Specific Advertising to Children or Teens – Advertising directed to a specific individual or connected device based on (i) the personal information of the individual or a similar group of individuals; (ii) psychological profiling; or (iii) a unique identifier of the connected device. This definition does not include advertising in response to an individual’s specific request, contextual advertising, or processing personal information solely for measuring the advertisement’s performance, reach, or frequency.
- Personal information – Individually identifiable information about an individual, including (i) a first and last name; (ii) a home or other physical address; (iii) an e-mail address; (iv) a telephone number; (v) a Social Security number; (vi) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; (vii) a persistent identifier (but excluding an identifier that is used solely for providing support for the internal operations of the website, online service, online application, or mobile application); (viii) a photograph, video, or audio file where such file contains a specific child’s or teen’s image or voice; (ix) geolocation information; (x) biometric information; or (xi) information linked or reasonably linkable to a child or teen or the parents of that child or teen that an operator collects online and combines with an identifier described in this subparagraph.
- Teen – an individual who has attained age 13 and is under the age of 17.

Section 201(b) – Online Collection, Use, Disclosure, and Deletion of Personal Information of Children and Teens.

- (1) This paragraph revises a heading in the Children’s Online Privacy Protection Act (COPPA) to reflect the updated inclusion of teens in its protections.

(2) This paragraph adds new prohibitions on an operator’s collection, use, and disclosure of personal information.

- Targeted Advertising — Prohibits individual-specific advertising to children and teens;
- Data Minimization — Limits the online collection of personal information of children and teens to when collection of the personal information is consistent with the context of a particular transaction or service or the relationship of the child or teen with the operator, or required or specifically authorized by law;
- Overseas Transfers — Prohibits an operator from storing or transferring personal information of a child or teen outside of the United States unless the operator notifies the parent of the child or the teen that the personal information is being stored or transferred outside the United States; and
- Retention Limits — Prohibits an operator from retaining personal information collected from a child or teen for longer than is reasonably necessary to fulfill a transaction or a service.

(3) This paragraph expands COPPA’s knowledge standard, modernizes the notice-and-consent requirements and consumer rights in COPPA, codifies a limited exception for consent in the school-context, and makes technical changes.

- Knowledge Standard — Expands COPPA’s knowledge standard, so that operators with knowledge fairly implied on the basis of objective circumstances that a user is a child or teen must comply with COPPA;
- Online Privacy Notice — Requires operators to update their online privacy notice with information about the consumer rights available to the parent of the child or the teen and the procedures the operator uses to limit its collection of personal information except in accordance with COPPA;
- Material Change in Data Practices — Requires operators to obtain verifiable consent before using or disclosing personal information for any purpose that is a material change from the original purposes specified to the parent or the teen;
- Expanded Rights for Parents — Requires operators to provide additional information about their privacy practices to a parent of a child and the right to challenge the accuracy of the personal information and, as applicable, to have the information corrected;

- New Rights for Teens — Requires operators to provide the same consumer rights to teens as for parents of a child, including (a) the right to obtain information about the operator’s privacy practices; (b) the right to delete their personal information or content or information submitted by the teen; (c) the right to challenge the accuracy of the personal information and, as applicable, to have the information corrected; and (d) the right to obtain any personal information collected from the teen;
- School Consent Exception — Authorizes the Federal Trade Commission to create an exception for verifiable consent where an operator has a written agreement with an educational agency or institution, provided certain conditions are met, including limiting collection, use, and disclosure of the personal information to solely educational purpose and providing the educational agency or institution with the right to review and delete the child or teen’s personal information; and
- Common Verifiable Consent Mechanism — Directs the Commission to study and issue a report on the feasibility of allowing operators the option to use a common verifiable consent mechanism to comply with COPPA.

(4) This paragraph makes technical changes to COPPA.

(5) This paragraph amends the preemption language in COPPA to state: “The provisions of this title shall preempt any State law, rule, or regulation only to the extent that such State law, rule, or regulation conflicts with a provision of this title. Nothing in this title shall be construed to prohibit any State from enacting a law, rule, or regulation that provides greater protection to children or teens than the provisions of this title.”

Section 201(c) – Safe Harbors

- Requires the Commission to publish any report or documentation required by regulation to be submitted to the Commission, with limited restrictions on publication.

Section 201(d) – Action by States

- Makes technical changes to COPPA’s enforcement section.

Section 201(e) – Administration and Applicability of Act

- Provides that the FTC should, when making determinations about whether a company knew a user was a minor or child, rely on competent and reliable evidence, taking into account the totality of the circumstances, including whether a reasonable and prudent

person under the circumstances would have known that the user is a minor.

- Makes clear that the law does not impose any new affirmative data collection requirement or create an age gating or age verification requirement.
- Requires the Commission to issue guidance within 180 days of enactment to provide information, including best practices and examples, for operators to understand the Commission's determination of whether an operator has knowledge fairly implied on the basis of objective circumstances that a user is a child or teen.

Section 202 – Study of Mobile and Online Application Oversight

- Requires the Commission, not later than three years after enactment of this Act, to submit a report to the relevant congressional committees on the processes of platforms that offer mobile and online applications for ensuring that applications that are directed to children operate in accordance with COPPA, rules promulgated by the Commission under COPPA, and any other federal or state law relating to the privacy of children or teens.
- Requires the Commission, not later than a year after enactment of this Act and each year thereafter, to submit a report to the relevant congressional committees with information on the number of COPPA actions, investigations, and complaints received and any policy recommendations to strengthen online privacy protections for children and teens.

Section 203 – GAO Study: This section directs the Comptroller General of the United States to conduct a study on the privacy of teens who use financial technology products.

Section 204 – Severability: If any provision of this Act is held unconstitutional, the remaining provisions shall apply.

Title III – Eliminating Useless Reports

Section 301 – Sunsets for Agency Reports: This section requires federal agencies to list within their annual budget justification of any recurring reports, including governmentwide and interagency reports, they identify as outdated or duplicative and to recommend whether to sunset, modify, consolidate, or reduce the frequency of those reports. This bipartisan legislation increases government efficiency by eliminating unnecessary Federal agency reports, saving taxpayer dollars and eliminating waste.