



Policy Brief: A Comparison of Federal Child Privacy Bills

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Executive Summary

This US policy brief compares four children’s privacy bills introduced in the 117th Congress (2021-2022): the Protecting the Information of our Vulnerable Children and Youth Act (Kids PRIVCY Act), the Children and Teen’s Online Privacy Protection Act (COPPA 2.0), the Kids Internet Design and Safety Act (KIDS Act), and the Kids Online Safety Act. All four bills seek to provide greater online privacy protections for children, but they differ in key respects. For example:

- » The Kids PRIVCY Act and COPPA 2.0 are competing attempts to amend the longstanding Children’s Online Privacy Protection Act of 1998 (“COPPA”). Meanwhile, the KIDS Act and the Kids Online Safety Act propose novel privacy requirements for platforms and applications that children frequent.
- » While all bills would be enforceable by the FTC and State Attorneys General, only one—the Kids PRIVCY Act—would establish a private right of action for parents of children and teenagers.
- » All of the bills create privacy rights for older minors than COPPA, which is limited to children under the age of 13. The Kids PRIVCY Act affords privacy rights to users under the age of 18, while COPPA 2.0 and the KIDS Act apply to users under the age of 16, and the Kids Online Safety Act is applicable to users under 17.

While the four bills vary, all would impose additional obligations on organizations that offer online services to young people. Regardless of whether any of the four bills pass, the legislation may serve as a blueprint for future child privacy laws at the federal or state levels.

Background

Child privacy continues to be a top tech policy topic among lawmakers, companies, and the public. Amidst [calls from the President](#) to strengthen children’s online privacy protections, recent [COPPA enforcement](#) and a [new policy statement](#) from by the Federal Trade Commission (“FTC”), the [2019 call for feedback](#) concerning the COPPA Rule, and a flurry of child privacy bills at the state and federal levels, efforts to enhance child privacy are gaining momentum.

As of June 2022, members of Congress have introduced four child privacy bills during the 2021-2022 legislative sessions: the Kids PRIVCY Act, COPPA 2.0, the KIDS Act and the Kids Online Safety Act.

Even if these four proposals do not advance, they contain provisions that highlight the spectrum of current legislative approaches to child privacy in the US, and will be foundational to future discussions. This policy brief compares the four child privacy bills contrasting between the proposals as well as existing law.

Current Child Privacy Landscape

In a short period of time, internet technologies have become ubiquitous for children and teenagers living in the US. [According to the American Community Survey](#), an estimated 95 percent of 3- to 18-year-olds had some degree of home internet access in 2019. Like all internet users, children’s online activities are often tracked through the use of technologies such as [cookies](#) or [device fingerprinting](#). Scrutiny of child privacy, however, has increased as new data-driven technologies develop and [children spend more hours online in the wake of the COVID-19 Public Health Crisis](#).

Given the heightened sensitivity of children’s personal information, [Congress and the FTC have regulated children’s online privacy for decades](#), beginning with the passage of the 1998 Children’s Online Privacy Protection Act ([COPPA](#)). COPPA restricts when providers of online services can knowingly collect, process, and share the personal information of users under the age of 13. COPPA requires [compliance from](#): (1) commercial websites and online services directed, in whole or in part, at users under the age of 13 (“children”) that collect, use, or disclose children’s personal information; (2) commercial websites or online services that have actual knowledge of their collection, use, or disclosure of children’s personal information; and (3) third parties with actual knowledge

that they collect personal information from another site targeted to children (examples include advertising networks and plug-ins).

Currently, COPPA-covered entities must adhere to notice, consent, and deletion requirements outlined in the [original 1998 law](#) and [the FTC’s COPPA Rule](#). COPPA also prohibits covered entities from retaining childrens’ data for longer than necessary to achieve the collection purpose. Notably, the law requires covered entities to obtain some form of technically-feasible [verifiable parental consent \(VPC\)](#) before collecting, using, or disclosing children’s data. Entities that violate COPPA requirements are subject to enforcement actions by the FTC and state Attorneys General unless covered under [an FTC-approved self-regulatory safe harbor](#).

Since 2021, members of Congress have introduced two bills that seek to amend COPPA: COPPA 2.0 and the Kids PRIVCY Act. Among other things, both bills propose increasing the age of users receiving COPPA protections, addressing the growing use of algorithmic processes, and adjusting the criteria used to define covered entities.

Because children are particularly vulnerable to [deceitful data collection practices](#) (often called “manipulative design” or “[dark patterns](#)”), some jurisdictions have introduced legislation that would prescribe specific technical design standards for web services frequented by children. The [UK](#) and [Ireland](#) have already adopted age-appropriate design codes and related guidance. [California](#) is also considering the first age-appropriate design proposal at the US state level.

Two additional federal child privacy bills take a different approach: the KIDS Act and the Kids Online Safety Act would not amend COPPA; instead, both bills incorporate various age-appropriate design standards. The bills would enshrine default privacy-preserving child safety settings for certain apps and platforms. The proverbial devil, however, is always in the details, and both proposals address children’s online safety in unique and innovative ways.

Federal Bills In This Comparison

The comparative analysis charts in this resource look at four federal bills introduced in the 117th Congress (beginning January 3, 2021 to date of this resource’s publication in June 2022).

Below is background information about each of the four bills. Notably, two of the four bills, COPPA 2.0 and the Kids Online Safety Act, currently have bipartisan support. Moreover, two of the bills, COPPA 2.0 and the KIDS Act, were introduced in previous sessions. Finally, it's notable that lawmakers in both chambers of Congress have introduced the KIDS Act.

Children and Teens' Online Privacy Protection Act (COPPA 2.0) S.1628

Original Sponsors: Senators Markey (D-MA) and Cassidy (R-LA)

Additional Cosponsors (as of June 2022): Senators Blumenthal (D-CT) and Lummis (R-WY)

Session: 117th Congress, First Session (May 2021)

Previously Introduced: Senators Markey and Hawley (R-MO) previously introduced the bill which, at the time, was called "A bill to amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes" in March 2019 ([S.748](#)).

Kids PRIVCY Act H.R.4801

Original Sponsor: Representative Castor (D-FL)

Additional Cosponsors (as of June 2022): Representatives Casten (D-IL), Rice (D-NY), Trahan (D-MA), Soto (D-FL), Demings (D-FL), Tonko (D-NY), Roybal-Allard (D-CA), Cárdenas (D-CA), Khanna (D-CA), Morelle (D-NY), Raskin (D-MD), Carson (D-IN), DeGette (D-CO), Schrier (D-WA), Porter (D-CA), Moulton (D-MA), Grijalva (D-AZ), Wexton (D-VA), Scanlon (D-PA), Neguss (D-CO), Stansbury (D-NM), Schiff (D-CA), Lamb (D-PA), and Sires (D-NJ), Cicilline (D-RI), Delegate Norton (D-DC),

Session: 117th Congress, First Session (July 2021)

Kids Online Safety Act S.3663

Original Sponsors: Senators Blumenthal (D-CT) and Blackburn (R-TN).

Additional Cosponsors (as of June 2022): Senators Markey (D-MA), Capito (R-WV), Lujan (D-NM), Cassidy (R-LA), Baldwin (D-WI), and Ernst (R-IA).

Session: 117th Congress, Second Session (February 2022)

KIDS Act S.2918, H.R.5439

Original Senate Sponsors: Senators Markey (D-MA) and Blumenthal (D-CT).

Additional Senate Cosponsors (as of June 2022): Senators Hirono (D-HI) and Booker (D-NJ).

Original House Sponsors: Representatives Castor (D-FL), Clarke (D-NY), Wexton (D-VA), and Trahan (D-MA).

Additional House Cosponsors (as of June 2022): Representatives Case (D-HI), Roybal-Allard (D-CA), Lieu (D-CA), Morelle (D-NY), Newman (D-IL), Hayes (D-CT), and Cicilline (D-RI).

Session: 117th Congress, First Session (September 2021)

Previously Introduced: Senators Markey and Blumenthal previously introduced the bill in March 2020 ([S.3411](#)). In the House, Representatives Castor, Clarke, and Wexton first introduced the bill during the previous Congress in September 2020 ([H.R. 8372](#)).

How To Read This Comparison

Table 1 and Table 2 (below) provide a factual summary of the key similarities and differences between the four current US federal proposals. Table 1 compares the two federal bills that, if enacted, would update and amend COPPA: the Kids PRIVACY Act and COPPA 2.0, while noting existing, relevant COPPA provisions. Table 2 analyzes the similarities and differences between the two bills that are independent and complementary to COPPA and would not directly amend existing law: The Kids Online Safety Act and the KIDS Act.

The tables highlight the following points of comparison:

Age: The age groups the bills define and seek to protect;

Verifiable Consent: The consent companies must seek to process protected data;

Covered Entities: The categories of businesses subject to regulation;

Parent and Minor Rights: The access, deletion, or correction rights provided to parents or minors;

Safeguards: Technical requirements to protect the integrity of, and restrict access to, personal data;

Notice Requirements: Required notices that covered entities must provide users and the public;

PI Use Restrictions: Specific processing restrictions placed on categories of personal information;

Enforcement: Provisions allowing the FTC, state Attorneys General, or private litigants to enforce a bill's requirements;

Safe Harbors (Table 1 only): How safe harbor provisions of COPPA would be altered or amended; and

Other Responsibilities and Prohibitions (Table 2 only): Additional points of comparison specific to a single bill or not covered in previous factors.

These tables provide a high level overview of key differences between the proposed bills. Notably, all four bills would authorize [FTC rulemaking](#), an important component that would provide for future regulatory developments, including potentially more stringent requirements than the statutory requirements discussed in this brief.

Given the timing of this publication (June 2022), further co-sponsor support or amendments could occur prior to the end of session in 2022.

Table 1. Federal Child Privacy Bills That Would Directly Amend COPPA //

	COPPA Rule as of 2022	COPPA 2.0	Kids PRIVCY Act
Age	“Child” refers to an individual under the age of 13.	“ Child ” continues to refer to an individual under the age of 13. “ Minor ” refers to an individual over the age of 12 and under the age of 16.	“Child” continues to refer to an individual under the age of 13. “ Teenager ” refers to an individual over the age of 12 and under the age of 18.
Verifiable Consent	Verifiable parental consent , as defined in the law, is required before personal data collection from a child.	Verifiable consent , as defined in the bill, requires the consent of a parent to collect personal data from a child , and the consent from the minor themselves to collect personal data from a minor.	Verifiable parental consent , as defined in the bill, is required to collect personal data from a child. Verifiable consent from the teenager themselves is required to collect personal data from a teenager.
Covered Entities	<p>1) Commercial websites and online service providers that collect, use, or disclose children’s personal information and are *directed to children.</p> <p>2) Commercial websites or online service providers with actual knowledge that they collect, use, or disclose personal information of children under the age of 13.</p> <p>3) Third party websites and online service providers with actual knowledge that they directly collect data from users of websites or online services that are directed to children.</p> <p><i>*Commercial websites and online service providers are deemed “directed to children” if they are targeted to children either in whole or in part.</i></p> <p>Nonprofit organizations operating non-commercial websites are exempt.</p>	<p>An “operator” is a provider of a website, online application, online services, mobile application, or connected device, for commercial purposes that collects or maintains (directly or indirectly) personal information about users. Collection, for these purposes, includes situations where, on its own service, an entity allows another to collect users’ personal information or allows users to publicly disclose personal information.</p> <p>Knowledge, for purposes of COPPA enforcement, is extended to include constructive knowledge. Operators would be considered to have constructive knowledge in seven circumstances ranging from specific processing activities to hosting certain child-centric content. The FTC may also issue rules outlining additional activities that establish constructive knowledge.</p> <p>An operator must comply if it has constructive knowledge that it is collecting personal information from children/minors online, or if the service is directed to children/minors.</p> <p>Nonprofit organizations continue to be exempt.</p>	<p>A “children’s service” is a digital service or portion of a digital service that is directed to children.</p> <p>A platform is directed to children if the digital service is “targeted or attractive to children” as evidenced by design, subject matter, audience, or hosted content. Services are also considered directed to children if operators have actual or constructive knowledge of data in their possession collected from users of other services directed to children.</p> <p>Nonprofit organizations are included and must comply.</p>
Personal Information	Personal Information means individually identifiable information of a child collected online. This includes a list of direct identifiers (name, address, online contact information, user name, telephone number, social security number, persistent identifiers, video or audio recordings, geolocation) as well as any information concerning an individual that has been combined with an identifier.	Personal information would explicitly include the following: geolocation information, biometric identifiers, IP addresses or other information that allows for the identification of an individual or individual’s device, information that links with an identifier, and information “ reasonably associated with or attributed to an individual. ”	Covered personal information is “any information, linked or reasonably linkable to a specific teenager or child” or their device. This can include name, government identification, persistent identifiers, demographic information, commercial and financial information, biometric information, internet activity, geolocation, sensory information, health information, education information, facial recognition information, inferences and profiles, and contents of communications. <p>Covered information does not include a teenager’s employment information or de-identified information as defined by the bill.</p>

	COPPA Rule as of 2022	COPPA 2.0	Kids PRIVCY Act
Parent and Minor Rights	<p>The covered entity must provide parents the ability to access or delete their child’s personal information.</p> <p>Operators may not condition children’s participation in an activity on the disclosure of more personal information than reasonably necessary to facilitate participation.</p> <p>Operators must provide parents an opportunity to refuse to permit the operator’s further use or maintenance of their child’s personal information.</p> <p>Upon request of the parent, the entity must provide a description of, and opportunity to obtain, personal information collected from the child.</p>	<p>In addition to giving parents the opportunity to access or delete their <i>children’s</i> personal information, the bill would also require covered entities to provide minors the ability to access or delete their own personal information.</p>	<p>In addition to giving parents the opportunity to access or delete their <i>children’s</i> personal information, the bill would also require covered entities to provide teenagers the ability to access or delete their own personal information.</p>
Safeguards	<p>When covered entities collect personal information from children, they must establish reasonable procedures to protect the confidentiality, security, and integrity of such information.</p>	<p>Requires the personal information of a child or minor be protected by “reasonable and appropriate security safeguards against risks such as loss or unauthorized access, destruction, use, modification, or disclosure.”</p>	<p>Regulations promulgated by the FTC under this bill must require an operator to “make the best interests of children and teenagers a primary design consideration.”</p> <p>This bill prohibits the processing of covered information in a manner inconsistent with reasonable expectations of teenagers or parents of children. The bill also prohibits processing covered information in a way that is harmful or detrimental to the well-being of children or teenagers.</p> <p>Before launching a service, the operator must comply with Privacy and Security Impact Assessment and Mitigation (PSIAM) requirements.</p>
Notice Requirements	<p>Covered Entities must provide notice of what information they collect from children, how they use such information, and disclosure practices for such information.</p>	<p>Manufacturers of connected devices must prominently display a “privacy dashboard” on the packaging detailing whether, what, and how personal information from a child or minor is collected, transmitted, retained, used, and protected.</p>	<p>Operators must provide easily understandable privacy policies in “plain and concise language.”</p> <p>A covered entity must disclose in its privacy policy “whether a covered entity sells or otherwise shares covered information with data brokers or processes covered information for targeted advertising.”</p>

	COPPA Rule as of 2022	COPPA 2.0	Kids PRIVCY Act
PI Use Restrictions	Operators must delete children's personal information once such information is no longer reasonably necessary to fulfill the original purpose for which it was collected.	<p>Targeted marketing to children is prohibited (including 1st and 3rd party marketing). Minors may opt-in to targeted marketing.</p> <p>Collection of a minor's PI with constructive knowledge would be prohibited unless the operator adopts Fair Information Privacy Principles on the following:</p> <ul style="list-style-type: none"> • Collection Limitation; • Data Quality; • Purpose Specification; • Retention Limitation; • Security Safeguards; • Transparency; • Consent and; • Racial and Socioeconomic Profiling. <p>Covered entities must not direct content to a child or minor on the basis of race, socioeconomic factors, or any proxy of such factors.</p>	The bill prohibits the use of some emerging practices on children and teens, namely: <ul style="list-style-type: none"> • Targeted advertising based on covered information or online behavior; • Cross-device tracking; • Discriminatory algorithmic processing; • The disclosure of sensitive biometric and geolocation information and; • The default collection of geolocation information without clear notice of tracking.
Enforcement	<p>The FTC and State Attorneys General are the primary enforcers of COPPA. The FTC may enforce violations of COPPA as an unfair or deceptive practice under the FTC Act.</p> <p>State Attorneys General may also bring civil actions against entities that violate COPPA to seek restitution for users or enjoin violating practices.</p> <p>The law does not create a private right of action.</p>	<p>The FTC and State Attorneys General would continue to share joint enforcement authority. The FTC would now have the authority to bring enforcement actions against telecommunications carriers.</p> <p>If passed, the bill would establish a Youth Privacy and Marketing Division at FTC.</p> <p>The bill would not create a private right of action.</p>	<p>The FTC and State Attorneys General would continue to share joint enforcement authority.</p> <p>If passed, the bill would also establish a Youth Privacy and Marketing Division at FTC to investigate privacy violations and marketing activities directed at children and teens.</p> <p>When necessary, the FTC may audit PSIAM measures conducted by an operator.</p> <p>The bill introduces a private right of action for parents of children and teenagers to redress COPPA violations. Plaintiffs must demonstrate their child or teen has suffered an injury in fact as a result of the violation.</p> <p>Litigants would be able to seek injunctive relief, actual damages, punitive damages, attorneys fees, and other relief a court deems appropriate.</p> <p>The private right of action provision would invalidate pre-dispute arbitration agreements with respect to violations of children's and teens' privacy.</p>
Safe Harbors	Covered entities can comply with COPPA by following a set of approved, self-regulatory guidelines. Safe harbor programs must be pre-approved by the FTC. Entities that facilitate an approved safe harbor must comply with annual reporting requirements on operations, disciplinary actions, and membership.	The original COPPA Safe Harbors remain in place , but the bill would further require the FTC's Inspector General to review the efficacy of the Safe Harbor provisions every two years by submitting reports to the Senate and House. Reports may include policy proposals to amend the Safe Harbor language.	COPPA Safe Harbors would be repealed.

Table 2. Federal Child Privacy Bills Independent of COPPA //

	Kids Online Safety Act	KIDS Act
Age	Applies to minors ages 16 and younger .	“Covered users” are users under the age of 16 .
Verifiable Consent	Prior to a minor’s initial use, a covered platform must “obtain acknowledgment” indicating that the minor or parent of the minor has received information relating to heightened risks of harm to minors.	N/A
Covered Entities	<p>A “covered platform” is broadly defined as a “commercial software application or electronic service that connects to the internet and that is used, or is reasonably likely to be used, by a minor.”</p> <p>Covered platforms may include commercial platforms that the FTC regulates, as well as nonprofit- and common carrier-run platforms.</p>	<p>Covered entities are platforms directed to children. Here, “directed to children” means the platform targets, in whole or in part, children under 16. Notably, the text of the bill gives examples of ways in which a platform might target children.</p> <p>The bill also introduces a definition of operator. An “operator” is defined as “any person who, for commercial purposes in interstate or foreign commerce, operates or provides an online platform.”</p>
Parent and Minor Rights	<p>When a covered platform knows or reasonably believes the user is a minor, the platform must enable parental supervision tools and the strongest available safeguard options by default.</p> <p>Covered platforms must also implement settings allowing a minor, or parent acting on a minor’s behalf, to delete the minor’s account and request removal of personal data.</p>	N/A
Safeguards	The covered entity must provide safeguards for algorithmic recommendation systems and other child safety features, including a clear and easily understood explanation of how algorithmic recommendation systems are used by the platform, and providing the right to opt-out or down-rank types of categories.	N/A
Notice Requirements	<p>Prior to a minor’s registration, use, or purchase on a covered platform, the covered platform must provide easily accessible and understandable notice of its policies regarding personal information, safeguards for minors, parental tools, and any heightened risk of harm to minors on the platform (or algorithmic recommendation systems that the platform uses) poses.</p> <p>A covered entity that “facilitates advertising aimed at minors” has a responsibility to provide easily accessible and understandable information about the advertised product, “meaningful information” about how the minor’s personal information was used to target the advertising material, and disclosure of endorsements from “other users” on the platform, like influencers.</p> <p>Platforms must “provide clear and conspicuous notice” to minor users when parental tools are in use.</p> <p>Covered platforms must publish an annual, third-party audit identifying foreseeable risks to minors and any mitigation measures taken to address such risks.</p>	Covered platforms must “distinguish commercial content from noncommercial content ” using “online visual elements or other indicators.”

	Kids Online Safety Act	KIDS Act
PI Use Restrictions	Covered platforms must include settings that prevent other individuals from viewing a minor’s personal data collected by or shared on the platform, including restrictions on public access to personal data.	Platforms may not use age-verification information for any commercial purposes .
Enforcement	<p>Any violation of this bill is considered an “unfair and deceptive act” enforceable under the Federal Trade Commission Act. State Attorneys General may also bring civil actions for violations against residents of their respective states.</p> <p>The bill would not create a private right of action.</p>	<p>Both the FTC and State Attorneys General may enforce violations of this bill.</p> <p>The bill would not create a private right of action.</p> <p>The bill would require the FTC to submit a report to Congress with recommendations about online content labeling and publish a study regarding online advertising on platforms directed to children and usage of algorithmic processes.</p>
Other Responsibilities and Prohibitions	<p>Covered platforms have a duty of care to “act in the best interest of a minor that uses the platform’s products or services.” Specifically, covered platforms must mitigate minors’ exposure to content that “poses a heightened risk of physical, emotional, developmental, or material harms” (the bill provides explicit examples of such content).</p> <p>The bill would establish a program for eligible researchers to apply for access to data assets from covered platforms for public interest research about “harms to the safety and well-being of minors”.</p> <p>The bill would commission an intergovernmental study to research best practices for technologically feasible age verification.</p> <p>The bill would direct the Secretary of Commerce to establish a Kids Online Safety Council—composed of various stakeholders as well as youth representatives—to provide advice on implementation.</p>	<p>This bill seeks to regulate the design of platforms interacting with children by prohibiting certain features, formatting, and advertising material, including:</p> <ul style="list-style-type: none"> - Platform design that unfairly or deceptively keeps children on the website, manipulative interface elements, and certain advertising and algorithmic processes. - Auto-play features without user input. - Push alerts that urge a child to stay on the platform if not actively engaged. - Badges that encourage engagement or design features that unfairly encourage users to make purchases/interact with the platform. <p>The bill would direct the Secretary of Commerce to establish an Advisory Council on Children’s Online Content.</p>

Additional Resources //

- » [Children’s Online Privacy Protection Act of 1998 \(COPPA\) Original Text + 2013 Regulations](#)
- » [S.748 COPPA 2.0 Text + Press Release](#)
- » [H.R.4801 PRIVCY Act Text + Press Release](#)
- » [S.3663 Kids Online Safety Act Text + Press Release](#)
- » [H.R.5439 KIDS Act Text + Press Release](#)
- » [FTC Children’s Privacy Business Guidance](#)



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