

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 2d Sess.**

**S. 3398**

To establish a National Commission on Online Child Sexual  
Exploitation Prevention, 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 intended to be proposed by Mr. LEE to the  
amendment (No. \_\_\_\_\_) proposed by Mr. GRAHAM

Viz:

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Eliminating Abusive  
5 and Rampant Neglect of Interactive Technologies Act of  
6 2020”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) COMMISSION.—The term “Commission”  
10 means the National Commission on Online Child  
11 Sexual Exploitation Prevention.



1 (ii) The Secretary of Homeland Secu-  
2 rity or his or her representative.

3 (iii) The Chairman of the Federal  
4 Trade Commission or his or her represent-  
5 ative.

6 (C) OTHER MEMBERS.—Of the remaining  
7 16 members of the Commission—

8 (i) 4 shall be appointed by the major-  
9 ity leader of the Senate, of whom—

10 (I) 1 shall have the qualifications  
11 required under clause (i) or (ii) of  
12 paragraph (2)(A);

13 (II) 1 shall have the qualifica-  
14 tions required under paragraph  
15 (2)(B);

16 (III) 1 shall have the qualifica-  
17 tions required under clause (i) or (ii)  
18 of paragraph (2)(C); and

19 (IV) 1 shall have the qualifica-  
20 tions required under clause (i) or (ii)  
21 of paragraph (2)(D);

22 (ii) 4 shall be appointed by the minor-  
23 ity leader of the Senate, of whom—

1 (I) 1 shall have the qualifications  
2 required under clause (i) or (ii) of  
3 paragraph (2)(A);

4 (II) 1 shall have the qualifica-  
5 tions required under paragraph  
6 (2)(B);

7 (III) 1 shall have the qualifica-  
8 tions required under clause (i) or (ii)  
9 of paragraph (2)(C); and

10 (IV) 1 shall have the qualifica-  
11 tions required under clause (i) or (ii)  
12 of paragraph (2)(D);

13 (iii) 4 shall be appointed by the  
14 Speaker of the House of Representatives,  
15 of whom—

16 (I) 1 shall have the qualifications  
17 required under clause (i) or (ii) of  
18 paragraph (2)(A);

19 (II) 1 shall have the qualifica-  
20 tions required under paragraph  
21 (2)(B);

22 (III) 1 shall have the qualifica-  
23 tions required under clause (i) or (ii)  
24 of paragraph (2)(C); and

1 (IV) 1 shall have the qualifica-  
2 tions required under clause (i) or (ii)  
3 of paragraph (2)(D); and

4 (iv) 4 shall be appointed by the minor-  
5 ity leader of the House of Representatives,  
6 of whom—

7 (I) 1 shall have the qualifications  
8 required under clause (i) or (ii) of  
9 paragraph (2)(A);

10 (II) 1 shall have the qualifica-  
11 tions required under paragraph  
12 (2)(B);

13 (III) 1 shall have the qualifica-  
14 tions required under clause (i) or (ii)  
15 of paragraph (2)(C); and

16 (IV) 1 shall have the qualifica-  
17 tions required under clause (i) or (ii)  
18 of paragraph (2)(D).

19 (2) QUALIFICATIONS.—Of the 16 members of  
20 the Commission appointed under paragraph  
21 (1)(C)—

22 (A) 4 shall have current experience in in-  
23 vestigating online child sexual exploitation  
24 crimes, of whom—

1 (i) 2 shall have such experience in a  
2 law enforcement capacity; and

3 (ii) 2 shall have such experience in a  
4 prosecutorial capacity;

5 (B) 4 shall be survivors of online child sex-  
6 ual exploitation, or have current experience in  
7 providing services for victims of online child  
8 sexual exploitation in a non-governmental ca-  
9 pacity;

10 (C)(i) 2 shall have current experience in  
11 matters related to constitutional law, consumer  
12 protection, or privacy; and

13 (ii) 2 shall have current experience in com-  
14 puter science or software engineering related to  
15 matters of cryptography, data security, or arti-  
16 ficial intelligence in a non-governmental capac-  
17 ity; and

18 (D) 4 shall be individuals who each cur-  
19 rently work for an interactive computer service  
20 that is unrelated to each other interactive com-  
21 puter service represented under this subpara-  
22 graph, representing diverse types of businesses  
23 and areas of professional expertise, of whom—

24 (i) 2 shall have current experience in  
25 addressing online child sexual exploitation

1 and promoting child safety at an inter-  
2 active computer service with not less than  
3 30,000,000 registered monthly users in the  
4 United States; and

5 (ii) 2 shall have current experience in  
6 addressing online child sexual exploitation  
7 and promoting child safety at an inter-  
8 active computer service with less than  
9 10,000,000 registered monthly users in the  
10 United States.

11 (3) DATE.—The initial appointments of mem-  
12 bers to the Commission under paragraph (1)(C)  
13 shall be made not later than 90 days after the date  
14 of enactment of this Act.

15 (d) PERIOD OF APPOINTMENT; VACANCIES.—

16 (1) PERIOD OF APPOINTMENT.—A member of  
17 the Commission shall be appointed for a term of 5  
18 years.

19 (2) VACANCIES.—

20 (A) EFFECT ON COMMISSION.—Any va-  
21 cancy in the Commission shall not affect the  
22 powers of the Commission.

23 (B) FILLING OF VACANCIES.—A vacancy  
24 in the Commission shall be filled in the same

1           manner as the original appointment under sub-  
2           section (c)(1).

3           (e) INITIAL MEETING.—The Commission shall hold  
4 the first meeting of the Commission not later than 60 days  
5 after the date on which a majority of the members of the  
6 Commission have been appointed.

7           (f) CHAIRPERSON.—The Attorney General or his or  
8 her representative shall serve as the Chairperson of the  
9 Commission.

10          (g) QUORUM.—A majority of the members of the  
11 Commission shall constitute a quorum, but a lesser num-  
12 ber of members may hold a meeting.

13          (h) MEETINGS.—The Commission shall meet at the  
14 call of the Chairperson.

15          (i) AUTHORITY OF COMMISSION.—The Commission  
16 may, for the purpose of carrying out this section and sec-  
17 tion 4, hold such hearings, sit and act at such times and  
18 places, take such testimony, and receive such evidence as  
19 the Commission considers appropriate.

20          (j) INFORMATION FROM FEDERAL AGENCIES.—

21            (1) IN GENERAL.—The Commission may secure  
22 directly from any Federal department or agency  
23 such information as the Commission considers nec-  
24 essary to carry out this section and section 4.



1           (2) FURNISHING INFORMATION.—Upon request  
2           of the Chairperson of the Commission for informa-  
3           tion under paragraph (1), the head of a Federal de-  
4           partment or agency shall furnish the information to  
5           the Commission, unless the information is subject to  
6           an active investigation or otherwise privileged or  
7           confidential.

8           (k) TRAVEL EXPENSES.—A member of the Commis-  
9           sion shall serve without compensation, but shall be allowed  
10          travel expenses, including per diem in lieu of subsistence,  
11          at rates authorized for employees of agencies under sub-  
12          chapter I of chapter 57 of title 5, United States Code,  
13          while away from the home or regular places of business  
14          of the member in the performance of services for the Com-  
15          mission.

16          (l) DURATION.—Section 14 of the Federal Advisory  
17          Committee Act (5 U.S.C. App.) shall not apply to the  
18          Commission.

19          **SEC. 4. DUTIES OF THE COMMISSION.**

20          (a) RECOMMENDED BEST PRACTICES.—

21                  (1) INITIAL RECOMMENDATIONS.—

22                          (A) IN GENERAL.—Not later than 18  
23                          months after the date on which a majority of  
24                          the members of the Commission required to be  
25                          appointed under section 3(c)(1)(C) have been so

1 appointed, the Commission shall develop and  
2 submit to the Attorney General recommended  
3 best practices that providers of interactive com-  
4 puter services may choose to engage in to pre-  
5 vent, reduce, and respond to the online sexual  
6 exploitation of children, including the entice-  
7 ment, grooming, sex trafficking, and sexual  
8 abuse of children and the proliferation of online  
9 child sexual abuse material.

10 (B) REQUIREMENTS.—

11 (i) ALTERNATIVE BEST PRACTICES.—

12 The best practices required to be developed  
13 and submitted under subparagraph (A)  
14 shall include alternatives that take into  
15 consideration—

16 (I) the size, type of product, and  
17 business model of a provider of an  
18 interactive computer service;

19 (II) whether an interactive com-  
20 puter service—

21 (aa) is made available to the  
22 public;

23 (bb) is primarily responsible  
24 for the transmission and storage

1 of information on behalf of other  
2 interactive computer services; or  
3 (cc) provides the capability  
4 to transmit data to and receive  
5 data from all or substantially all  
6 internet endpoints on behalf of a  
7 consumer; and

8 (III) whether a type of product,  
9 business model, product design, or  
10 other factors related to the provision  
11 of an interactive computer service  
12 could make a product or service sus-  
13 ceptible to the use and facilitation of  
14 online child sexual exploitation.

15 (ii) SCOPE.—Notwithstanding para-  
16 graph (3), the alternatives described in  
17 clause (i) of this subparagraph may ex-  
18 clude certain matters required to be ad-  
19 dressed under paragraph (3), as the Com-  
20 mission determines appropriate based on  
21 the nature of particular products or serv-  
22 ices or other factors relevant to the pur-  
23 poses of this Act.

24 (2) SUPPORT REQUIREMENT.—The Commission  
25 may only recommend the best practices under para-

1 graph (1) if not fewer than 14 members of the Com-  
2 mission support the best practices.

3 (3) MATTERS ADDRESSED.—The matters ad-  
4 dressed by the recommended best practices devel-  
5 oped and submitted by the Commission under para-  
6 graph (1) shall include—

7 (A) preventing, identifying, disrupting, and  
8 reporting child sexual exploitation;

9 (B) coordinating with non-profit organiza-  
10 tions and other providers of interactive com-  
11 puter services to preserve, remove from view,  
12 and report child sexual exploitation;

13 (C) retaining child sexual exploitation con-  
14 tent and related user identification and location  
15 data;

16 (D) receiving and triaging reports of child  
17 sexual exploitation by users of interactive com-  
18 puter services, including self-reporting;

19 (E) implementing a standard rating and  
20 categorization system to identify the type and  
21 severity of child sexual abuse material;

22 (F) training and supporting content mod-  
23 erators who review child sexual exploitation con-  
24 tent for the purposes of preventing and dis-  
25 rupting online child sexual exploitation;

1 (G) preparing and issuing transparency re-  
2 ports, including disclosures in terms of service,  
3 relating to identifying, categorizing, and report-  
4 ing child sexual exploitation and efforts to pre-  
5 vent and disrupt online child sexual exploi-  
6 tation;

7 (H) coordinating with voluntary initiatives  
8 offered among and to providers of interactive  
9 computer services relating to identifying, cat-  
10 egorizing, and reporting child sexual exploi-  
11 tation;

12 (I) employing age rating and age gating  
13 systems to reduce child sexual exploitation;

14 (J) offering parental control products that  
15 enable customers to limit the types of websites,  
16 social media platforms, and internet content  
17 that are accessible to children; and

18 (K) contractual and operational practices  
19 to ensure third parties, contractors, and affili-  
20 ates comply with the best practices.

21 (4) RELEVANT CONSIDERATIONS.—In devel-  
22 oping best practices under paragraph (1), the Com-  
23 mission shall consider—

24 (A) the cost and technical limitations of  
25 implementing the best practices;

1 (B) the impact on competition, product  
2 and service quality, data security, and privacy;

3 (C) the impact on the ability of law en-  
4 forcement agencies to investigate and prosecute  
5 child sexual exploitation and rescue victims; and

6 (D) the current state of technology.

7 (5) PERIODIC UPDATES.—Not less frequently  
8 than once every 5 years, the Commission shall up-  
9 date and resubmit to the Attorney General rec-  
10 ommended best practices under paragraph (1).

11 (b) PUBLICATION OF BEST PRACTICES.—Not later  
12 than 30 days after the date on which the Commission sub-  
13 mits recommended best practices under subsection (a), in-  
14 cluding updated recommended best practices under para-  
15 graph (5) of that subsection, the Attorney General shall  
16 publish the recommended best practices on the website of  
17 the Department of Justice and in the Federal Register.

18 (c) FUNDING.—The Attorney General shall carry out  
19 section 3 and this section using amounts otherwise avail-  
20 able to the Attorney General.