119TH CONGRESS
2D SESSION

S. _____

To amend title 9, United States Code, with respect to arbitration of disputes involving child cyber injuries and child sexual exploitation.

IN THE SENATE OF THE UNITED STATES

Mr. HAWLEY (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 9, United States Code, with respect to arbitration of disputes involving child cyber injuries and child sexual exploitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Forced Arbitration for Child Sexual Exploitation and Cyber Injuries Act''.

SEC. 2. PREDISPUTE ARBITRATION OF DISPUTES INVOLVING CHILD CYBER INJURIES AND CHILD SEXUAL EXPLOITATION.

(a) IN GENERAL.—Title 9 of the United States Code is amended by adding at the end the following:

"CHAPTER 5—ARBITRATION OF DISPUTES INVOLVING CHILD CYBER INJURIES AND CHILD SEXUAL EXPLOITATION

''Sec.
''501. Definitions.
''502. No validity or enforceability.

"§ 501. Definitions

''In this chapter:

''(1) CHILD CYBER INJURY DISPUTE.—The term 'child cyber injury dispute' means a dispute involving or relating to a minor, at the time of the dispute or injury, who is alleged to have suffered any kind of personal injury, including death, reputational harm, mental suffering, and emotional distress, caused in whole or in part by the design, features, or operation of—

''(A) an interactive computer service, as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230);

''(B) an information content provider, as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230); or

"(C) an electronic product or service involving a computer or other digital service, computer network, website, software, application, digital platform, artificial intelligence, virtual reality, or augmented reality, whether online or offline,

regardless of whether the conduct of a third party also contributed to the injury.

"(2) CHILD SEXUAL EXPLOITATION DISPUTE.—The term 'child sexual exploitation dispute' means a dispute alleging any conduct that involves—

"(A) a minor engaging in sexually explicit conduct, or any solicitation or attempt to engage a minor in sexually explicit conduct, under section 2256(2) of title 18 or similar applicable Tribal or State law;

"(B) any conduct that would constitute an offense under section 1470 or 1591 of title 18, chapter 110 or 117 of title 18, or any similarly applicable Tribal or State law; or

"(C) any grooming, enticement, or coercion of a minor.

"(3) LEGAL REPRESENTATIVE.—The term 'legal representative' means a parent or an indi-

vidual who qualifies as a legal guardian under State law.

''(4) MINOR.—The term 'minor' means any person under the age of 18 years.

''(5) PREDISPUTE ARBITRATION AGREEMENT; PREDISPUTE JOINT-ACTION WAIVER.—The terms 'predispute arbitration agreement' and 'predispute joint-action waiver' have the meanings given the terms in section 401.

"§ 502. No validity or enforceability

''(a) IN GENERAL.—Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a child cyber injury dispute or a child sexual exploitation dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the child cyber injury dispute or child sexual exploitation dispute.

''(b) DETERMINATION OF APPLICABILITY.—An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chap-

ter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

''(c) LEGAL REPRESENTATIVES OF MINORS.—With respect to the invalidity and unenforceability of a predispute arbitration agreement or predispute joint-action waiver with respect to a dispute involving a minor under subsection (a), the fact that a legal representative of the minor agreed to or is otherwise bound by such agreement or waiver shall have no effect, regardless of whether the minor signed or is otherwise alleged to be bound by such agreement or waiver.''.

''(d) APPLICATION.—An election under subsection (a) shall apply to the case as a whole and to every claim properly joined in the case by the electing claimant, whether or not each claim independently constitutes or relates to the child cyber injury dispute or child sexual exploitation dispute.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Title 9 of the United States Code is amended—

(A) in section 2, by inserting ''or 5'' before the period at the end;

(B) in section 208, in the second sentence, by inserting ''or 5'' before the period at the end; and

(C) in section 307, in the second sentence, by inserting ''or 5'' before the period at the end.

(2) TABLE OF CHAPTERS.—The table of chapters for title 9, United States Code, is amended by adding at the end the following:

''5. Arbitration of disputes involving child cyber injuries and child sexual exploitation ..... 501.''.

SEC. 3. APPLICABILITY.

This Act, and the amendments made by this Act, shall apply with respect to any case or proceeding, including an arbitration, that is pending on or commenced on or after the date of enactment of this Act, regardless of when the conduct, injury, or agreement at issue occurred.