

119TH CONGRESS
1ST SESSION

S. 836

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 teens, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2025

Mr. MARKEY (for himself, Mr. CASSIDY, Ms. CANTWELL, Mr. SCHATZ, Mrs. CAPITO, Ms. KLOBUCHAR, Mr. CRAPO, Mr. WYDEN, Mr. GRASSLEY, Mr. LUJÁN, Mr. BLUMENTHAL, Mr. MERKLEY, Mr. WELCH, Mr. KING, Mr. KELLY, Mrs. BRITT, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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 teens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children and Teens’ Online Privacy Protection Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Online collection, use, disclosure, and deletion of personal information of children and teens.

Sec. 3. Study and reports of mobile and online application oversight and enforcement.

Sec. 4. GAO study.

Sec. 5. Severability.

3 **SEC. 2. ONLINE COLLECTION, USE, DISCLOSURE, AND DE-**
 4 **LETION OF PERSONAL INFORMATION OF**
 5 **CHILDREN AND TEENS.**

6 (a) DEFINITIONS.—Section 1302 of the Children’s
 7 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
 8 is amended—

9 (1) by amending paragraph (2) to read as fol-
 10 lows:

11 “(2) OPERATOR.—The term ‘operator’—

12 “(A) means any person—

13 “(i) who, for commercial purposes, in
 14 interstate or foreign commerce operates or
 15 provides a website on the internet, an on-
 16 line service, an online application, or a mo-
 17 bile application; and

18 “(ii) who—

19 “(I) collects or maintains, either
 20 directly or through a service provider,
 21 personal information from or about

1 the users of that website, service, or
2 application;

3 “(II) allows another person to
4 collect personal information directly
5 from users of that website, service, or
6 application (in which case, the oper-
7 ator is deemed to have collected the
8 information); or

9 “(III) allows users of that
10 website, service, or application to pub-
11 licly disclose personal information (in
12 which case, the operator is deemed to
13 have collected the information); and

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

18 (2) in paragraph (4)—

19 (A) by amending subparagraph (A) to read
20 as follows:

21 “(A) the release of personal information
22 collected from a child or teen by an operator for
23 any purpose, except where the personal infor-
24 mation is provided to a person other than an
25 operator who—

1 “(i) provides support for the internal
 2 operations of the website, online service,
 3 online application, or mobile application of
 4 the operator, excluding any activity relat-
 5 ing to individual-specific advertising to
 6 children or teens; and

7 “(ii) does not disclose or use that per-
 8 sonal information for any other purpose;
 9 and”; and

10 (B) in subparagraph (B)—

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

13 (ii) by striking “website or online
 14 service” and inserting “website, online
 15 service, online application, or mobile appli-
 16 cation”; and

17 (iii) by striking “actual knowledge”
 18 and inserting “actual knowledge or knowl-
 19 edge fairly implied on the basis of objective
 20 circumstances”;

21 (3) by striking paragraph (8) and inserting the
 22 following:

23 “(8) PERSONAL INFORMATION.—

24 “(A) IN GENERAL.—The term ‘personal in-
 25 formation’ means individually identifiable infor-

1 mation about an individual collected online, in-
2 cluding—

3 “(i) a first and last name;

4 “(ii) a home or other physical address
5 including street name and name of a city
6 or town;

7 “(iii) an e-mail address;

8 “(iv) a telephone number;

9 “(v) a Social Security number;

10 “(vi) any other identifier that the
11 Commission determines permits the phys-
12 ical or online contacting of a specific indi-
13 vidual;

14 “(vii) a persistent identifier that can
15 be used to recognize a specific child or teen
16 over time and across different websites, on-
17 line services, online applications, or mobile
18 applications, including but not limited to a
19 customer number held in a cookie, an
20 Internet Protocol (IP) address, a processor
21 or device serial number, or unique device
22 identifier, but excluding an identifier that
23 is used by an operator solely for providing
24 support for the internal operations of the

1 website, online service, online application,
2 or mobile application;

3 “(viii) a photograph, video, or audio
4 file where such file contains a specific
5 child’s or teen’s image or voice;

6 “(ix) geolocation information;

7 “(x) information generated from the
8 measurement or technological processing of
9 an individual’s biological, physical, or phys-
10 iological characteristics that is used to
11 identify an individual, including—

12 “(I) fingerprints;

13 “(II) voice prints;

14 “(III) iris or retina imagery
15 scans;

16 “(IV) facial templates;

17 “(V) deoxyribonucleic acid
18 (DNA) information; or

19 “(VI) gait; or

20 “(xi) information linked or reasonably
21 linkable to a child or teen or the parents
22 of that child or teen (including any unique
23 identifier) that an operator collects online
24 from the child or teen and combines with

1 an identifier described in this subpara-
2 graph.

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

7 “(i) does not request information via
8 voice that would otherwise be considered
9 personal information under this paragraph;

10 “(ii) provides clear notice of its collec-
11 tion and use of the audio file and its dele-
12 tion policy in its privacy policy;

13 “(iii) only uses the voice within the
14 audio file solely as a replacement for writ-
15 ten words, to perform a task, or engage
16 with a website, online service, online appli-
17 cation, or mobile application, such as to
18 perform a search or fulfill a verbal instruc-
19 tion or request; and

20 “(iv) only maintains the audio file
21 long enough to complete the stated purpose
22 and then immediately deletes the audio file
23 and does not make any other use of the
24 audio file prior to deletion.

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

4 “(i) IN GENERAL.—For purposes of
 5 subparagraph (A)(vii), the term ‘support
 6 for the internal operations of a website, on-
 7 line service, online application, or mobile
 8 application’ means those activities nec-
 9 essary to—

10 “(I) maintain or analyze the
 11 functioning of the website, online serv-
 12 ice, online application, or mobile appli-
 13 cation;

14 “(II) perform network commu-
 15 nications;

16 “(III) authenticate users of, or
 17 personalize the content on, the
 18 website, online service, online applica-
 19 tion, or mobile application;

20 “(IV) serve contextual adver-
 21 tising, provided that any persistent
 22 identifier is only used as necessary for
 23 technical purposes to serve the contex-
 24 tual advertisement, or cap the fre-
 25 quency of advertising;

1 “(V) protect the security or in-
 2 tegrity of the user, website, online
 3 service, online application, or mobile
 4 application;

5 “(VI) ensure legal or regulatory
 6 compliance, or

7 “(VII) fulfill a request of a child
 8 or teen as permitted by subpara-
 9 graphs (A) through (C) of section
 10 1303(b)(2).

11 “(ii) CONDITION.—Except as specifi-
 12 cally permitted under clause (i), informa-
 13 tion collected for the activities listed in
 14 clause (i) cannot be used or disclosed to
 15 contact a specific individual, including
 16 through individual-specific advertising to
 17 children or teens, to amass a profile on a
 18 specific individual, in connection with proc-
 19 esses that encourage or prompt use of a
 20 website or online service, or for any other
 21 purpose.”;

22 (4) by amending paragraph (9) to read as fol-
 23 lows:

24 “(9) VERIFIABLE CONSENT.—The term
 25 ‘verifiable consent’ means any reasonable effort (tak-

1 ing into consideration available technology), includ-
 2 ing a request for authorization for future collection,
 3 use, and disclosure described in the notice, to ensure
 4 that, in the case of a child, a parent of the child,
 5 or, in the case of a teen, the teen—

6 “(A) receives direct notice of the personal
 7 information collection, use, and disclosure prac-
 8 tices of the operator; and

9 “(B) before the personal information of the
 10 child or teen is collected, freely and unambig-
 11 uously authorizes—

12 “(i) the collection, use, and disclosure,
 13 as applicable, of that personal information;
 14 and

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

17 (5) in paragraph (10)—

18 (A) in the paragraph header, by striking
 19 “WEBSITE OR ONLINE SERVICE DIRECTED TO
 20 CHILDREN” and inserting “WEBSITE, ONLINE
 21 SERVICE, ONLINE APPLICATION, OR MOBILE AP-
 22 PLICATION DIRECTED TO CHILDREN”;

23 (B) by striking “website or online service”
 24 each place it appears and inserting “website,

1 online service, online application, or mobile ap-
2 plication”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(C) RULE OF CONSTRUCTION.—In con-
6 sidering whether a website, online service, on-
7 line application, or mobile application, or por-
8 tion thereof, is directed to children, the Com-
9 mission shall apply a totality of circumstances
10 test and will also consider competent and reli-
11 able empirical evidence regarding audience com-
12 position and evidence regarding the intended
13 audience of the website, online service, online
14 application, or mobile application.”; and

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

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

20 “(14) ONLINE APPLICATION.—The term ‘online
21 application’—

22 “(A) means an internet-connected software
23 program; and

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

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

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

5 “(i) a cellular telephone;

6 “(ii) a tablet computer; or

7 “(iii) a similar portable computing de-
8 vice that transmits data over a wireless
9 connection; and

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

12 “(16) GEOLOCATION INFORMATION.—The term
13 ‘geolocation information’ means information suffi-
14 cient to identify a street name and name of a city
15 or town.

16 “(17) TEEN.—The term ‘teen’ means an indi-
17 vidual who has attained age 13 and is under the age
18 of 17.

19 “(18) INDIVIDUAL-SPECIFIC ADVERTISING TO
20 CHILDREN OR TEENS.—

21 “(A) IN GENERAL.—The term ‘individual-
22 specific advertising to children or teens’ means
23 advertising or any other effort to market a
24 product or service that is directed to a specific
25 child or teen or a connected device that is

1 linked or reasonably linkable to a child or teen
2 based on—

3 “(i) the personal information from—

4 “(I) the child or teen; or

5 “(II) a group of children or teens
6 who are similar in sex, age, household
7 income level, race, or ethnicity to the
8 specific child or teen to whom the
9 product or service is marketed;

10 “(ii) profiling of a child or teen or
11 group of children or teens; or

12 “(iii) a unique identifier of the con-
13 nected device.

14 “(B) EXCLUSIONS.—The term ‘individual-
15 specific advertising to children or teens’ shall
16 not include—

17 “(i) advertising or marketing to an in-
18 dividual or the device of an individual in
19 response to the individual’s specific request
20 for information or feedback, such as a
21 child’s or teen’s current search query;

22 “(ii) contextual advertising, such as
23 when an advertisement is displayed based
24 on the content of the website, online serv-
25 ice, online application, mobile application,

or connected device in which the advertisement appears and does not vary based on personal information related to the viewer; or

“(iii) processing personal information solely for measuring or reporting advertising or content performance, reach, or frequency, including independent measurement.

“(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed to prohibit an operator with actual knowledge or knowledge fairly implied on the basis of objective circumstances that a user is under the age of 17 from delivering advertising or marketing that is age-appropriate and intended for a child or teen audience, so long as the operator does not use any personal information other than whether the user is under the age of 17.

“(19) EDUCATIONAL AGENCY OR INSTITUTION.—The term ‘educational agency or institution’ means—

“(A) a State educational agency or local educational agency, as such terms are defined in section 8101 of the Elementary and Sec-

1 ondary Education Act of 1965 (20 U.S.C.
2 7801); or

3 “(B) an institutional day or residential
4 school, including a public school (including a
5 charter school) or private school, that provides
6 elementary or secondary education, as deter-
7 mined under State law.”.

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

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

17 (2) in subsection (a)—

18 (A) by amending paragraph (1) to read as
19 follows:

20 “(1) **IN GENERAL.**—It is unlawful for an oper-
21 ator of a website, online service, online application,
22 or mobile application directed to children or for any
23 operator of a website, online service, online applica-
24 tion, or mobile application with actual knowledge or

1 knowledge fairly implied on the basis of objective cir-
2 cumstances that a user is a child or teen—

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

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

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

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

23 “(ii) required or specifically author-
24 ized by Federal or State law; or

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

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

15 (B) in paragraph (2)—

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

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

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

23 (iv) by striking “subsection
 24 (b)(1)(B)(iii) to the parent of a child” and
 25 inserting “subsection (b)(1)(B)(iv) to the

1 parent of a child or under subsection
 2 (b)(1)(C)(iv) to a teen”;

3 (3) in subsection (b)—

4 (A) in paragraph (1)—

5 (i) in subparagraph (A)—

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

15 (II) in clause (i)—

16 (aa) by striking “notice on
 17 the website” and inserting “clear
 18 and conspicuous notice on the
 19 website”;

20 (bb) by inserting “or teens”
 21 after “children”;

22 (cc) by striking “, and the
 23 operator’s” and inserting “, the
 24 operator’s”; and

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

13 (III) in clause (ii)—

14 (aa) by striking “parental”;

15 (bb) by inserting “or teens”
 16 after “children”;

17 (cc) by striking the semi-
 18 colon at the end and inserting “;
 19 and”; and

20 (IV) by inserting after clause (ii)
 21 the following new clause:

22 “(iii) to obtain verifiable consent from
 23 a parent of a child or from a teen before
 24 using or disclosing personal information of
 25 the child or teen for any purpose that is a

1 material change from the original purposes
2 and disclosure practices specified to the
3 parent of the child or the teen under
4 clause (i);”;

5 (ii) in subparagraph (B)—

6 (I) in the matter preceding clause
7 (i), by striking “website or online
8 service” and inserting “operator”;

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

16 (III) in clause (ii)—

17 (aa) by inserting “to delete
18 personal information collected
19 from the child or content or in-
20 formation submitted by the child
21 to a website, online service, on-
22 line application, or mobile appli-
23 cation and” after “the oppor-
24 tunity at any time”; and

1 (bb) by striking “; and” and
2 inserting a semicolon;

3 (IV) by redesignating clause (iii)
4 as clause (iv) and inserting after
5 clause (ii) the following new clause:

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

12 (V) in clause (iv), as so redesign-
13 nated, by inserting “, if such informa-
14 tion is available to the operator at the
15 time the parent makes the request”
16 before the semicolon;

17 (iii) by redesignating subparagraphs
18 (C) and (D) as subparagraphs (D) and
19 (E), respectively;

20 (iv) by inserting after subparagraph
21 (B) the following new subparagraph:

22 “(C) require the operator to provide, upon
23 the request of a teen under this subparagraph
24 who has provided personal information to the

operator, upon proper identification of that teen—

“(i) a description of the specific types of personal information collected from the teen by the operator, the method by which the operator obtained the personal information, and the purposes for which the operator collects, uses, discloses, and retains the personal information;

“(ii) the opportunity at any time to delete personal information collected from the teen or content or information submitted by the teen to a website, online service, online application, or mobile application and to refuse to permit the operator’s further use or maintenance in retrievable form, or online collection, of personal information from the teen;

“(iii) the opportunity to challenge the accuracy of the personal information and, if the teen establishes the inaccuracy of the personal information, to have the inaccurate personal information corrected; and

“(iv) a means that is reasonable under the circumstances for the teen to ob-

tain any personal information collected from the teen, if such information is available to the operator at the time the teen makes the request;”;

(v) in subparagraph (D), as so redesignated—

(I) by striking “a child’s” and inserting “a child’s or teen’s”; and

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

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

“(E) require the operator to establish, implement, and maintain reasonable security practices to protect the confidentiality, integrity, and accessibility of personal information of children or teens collected by the operator, and to protect such personal information against unauthorized access.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “verifiable parental consent” and inserting “verifiable consent”;

(ii) in subparagraph (A)—

1 (I) by inserting “or teen” after
 2 “collected from a child”;

3 (II) by inserting “or teen” after
 4 “request from the child”; and

5 (III) by inserting “or teen or to
 6 contact another child or teen” after
 7 “to recontact the child”;

8 (iii) in subparagraph (B)—

9 (I) by striking “parent or child”
 10 and inserting “parent or teen”; and

11 (II) by striking “parental con-
 12 sent” each place the term appears and
 13 inserting “verifiable consent”;

14 (iv) in subparagraph (C)—

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

18 (II) in clause (i)—

19 (aa) by inserting “or teen”
 20 after “child” each place the term
 21 appears; and

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

25 (III) in clause (ii)—

1 (aa) by striking “without
 2 notice to the parent” and insert-
 3 ing “without notice to the parent
 4 or teen, as applicable,”; and

5 (bb) by inserting “or teen”
 6 after “child” each place the term
 7 appears; and

8 (v) in subparagraph (D)—

9 (I) in the matter preceding clause
 10 (i), by inserting “or teen” after
 11 “child” each place the term appears;

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

14 (III) in the flush text following
 15 clause (iii)—

16 (aa) by inserting “or teen,
 17 as applicable,” after “parent”
 18 each place the term appears; and

19 (bb) by inserting “or teen”
 20 after “child”;

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

24 “(3) APPLICATION TO OPERATORS ACTING
 25 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES

1 OR INSTITUTIONS.—The regulations may provide
2 that verifiable consent under paragraph (1)(A)(ii) is
3 not required for an operator that is acting under a
4 written agreement with an educational agency or in-
5 stitution that, at a minimum, requires the—

6 “(A) operator to—

7 “(i) limit its collection, use, and dis-
8 closure of the personal information from a
9 child or teen to solely educational purposes
10 and for no other commercial purposes;

11 “(ii) provide the educational agency or
12 institution with a notice of the specific
13 types of personal information the operator
14 will collect from the child or teen, the
15 method by which the operator will obtain
16 the personal information, and the purposes
17 for which the operator will collect, use, dis-
18 close, and retain the personal information;

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

23 “(iv) provide the educational agency
24 or institution, upon request, with a means
25 to review the personal information collected

1 from a child or teen, to prevent further use
2 or maintenance or future collection of per-
3 sonal information from a child or teen, and
4 to delete personal information collected
5 from a child or teen or content or informa-
6 tion submitted by a child or teen to the op-
7 erator's website, online service, online ap-
8 plication, or mobile application;

9 “(B) representative of the educational
10 agency or institution to acknowledge and agree
11 that they have authority to authorize the collec-
12 tion, use, and disclosure of personal information
13 from children or teens on behalf of the edu-
14 cational agency or institution, along with such
15 authorization, their name, and title at the edu-
16 cational agency or institution; and

17 “(C) educational agency or institution to—

18 “(i) provide on its website a notice
19 that identifies the operator with which it
20 has entered into a written agreement
21 under this subsection and provides a link
22 to the operator's online notice of informa-
23 tion practices as required under paragraph
24 (1)(A)(i);

“(ii) provide the operator’s notice regarding its information practices, as required under subparagraph (A)(ii), upon request, to a parent, in the case of a child, or a parent or teen, in the case of a teen; and

“(iii) upon the request of a parent, in the case of a child, or a parent or teen, in the case of a teen, request the operator provide a means to review the personal information from the child or teen and provide the parent, in the case of a child, or parent or teen, in the case of the teen, a means to review the personal information.”;

(D) by amending paragraph (4), as so redesignated, to read as follows:

“(4) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website, online service, online application, or mobile application to terminate service provided to a child whose parent has refused, or a teen who has refused, under the regulations prescribed under paragraphs (1)(B)(ii) and (1)(C)(ii), to permit the operator’s further use or maintenance in retrievable form, or future online

1 collection of, personal information from that child or
2 teen.”; and

3 (E) by adding at the end the following new
4 paragraphs:

5 “(5) CONTINUATION OF SERVICE.—The regula-
6 tions shall prohibit an operator from discontinuing
7 service provided to a child or teen on the basis of
8 a request by the parent of the child or by the teen,
9 under the regulations prescribed under subpara-
10 graph (B) or (C) of paragraph (1), respectively, to
11 delete personal information collected from the child
12 or teen, to the extent that the operator is capable of
13 providing such service without such information.

14 “(6) RULE OF CONSTRUCTION.—A request
15 made pursuant to subparagraph (B) or (C) of para-
16 graph (1) to delete or correct personal information
17 of a child or teen shall not be construed—

18 “(A) to limit the authority of a law en-
19 forcement agency to obtain any content or in-
20 formation from an operator pursuant to a law-
21 fully executed warrant or an order of a court of
22 competent jurisdiction;

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

1 “(i) any other provision of Federal or
2 State law requires the operator or third
3 party to maintain; or

4 “(ii) was submitted to the website, on-
5 line service, online application, or mobile
6 application of the operator by any person
7 other than the user who is attempting to
8 erase or otherwise eliminate the content or
9 information, including content or informa-
10 tion submitted by the user that was repub-
11 lished or resubmitted by another person; or
12 “(C) to prohibit an operator from—

13 “(i) retaining a record of the deletion
14 request and the minimum information nec-
15 essary for the purposes of ensuring compli-
16 ance with a request made pursuant to sub-
17 paragraph (B) or (C);

18 “(ii) preventing, detecting, protecting
19 against, or responding to security inci-
20 dents, identity theft, or fraud, or reporting
21 those responsible for such actions;

22 “(iii) protecting the integrity or secu-
23 rity of a website, online service, online ap-
24 plication or mobile application; or

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

3 “(7) COMMON VERIFIABLE CONSENT MECHA-
4 NISM.—

5 “(A) IN GENERAL.—

6 “(i) FEASIBILITY OF MECHANISM.—
7 The Commission shall assess the feasi-
8 bility, with notice and public comment, of
9 allowing operators the option to use a com-
10 mon verifiable consent mechanism that
11 fully meets the requirements of this title.

12 “(ii) REQUIREMENTS.—The feasibility
13 assessment described in clause (i) shall
14 consider whether a single operator could
15 use a common verifiable consent mecha-
16 nism to obtain verifiable consent, as re-
17 quired under this title, from a parent of a
18 child or from a teen on behalf of multiple,
19 listed operators that provide a joint or re-
20 lated service.

21 “(B) REPORT.—Not later than 1 year
22 after the date of enactment of this paragraph,
23 the Commission shall submit a report to the
24 Committee on Commerce, Science, and Trans-
25 portation of the Senate and the Committee on

1 Energy and Commerce of the House of Rep-
2 resentatives with the findings of the assessment
3 required by subparagraph (A).

4 “(C) REGULATIONS.—If the Commission
5 finds that the use of a common verifiable con-
6 sent mechanism is feasible and would meet the
7 requirements of this title, the Commission shall
8 issue regulations to permit the use of a common
9 verifiable consent mechanism in accordance
10 with the findings outlined in such report.”;

11 (4) in subsection (c), by striking “a regulation
12 prescribed under subsection (a)” and inserting “sub-
13 paragraph (B), (C), (D), or (E) of subsection (a)(1),
14 or of a regulation prescribed under subsection (b),”;
15 and

16 (5) by striking subsection (d) and inserting the
17 following:

18 “(d) RELATIONSHIP TO STATE LAW.—The provisions
19 of this title shall preempt any State law, rule, or regula-
20 tion only to the extent that such State law, rule, or regula-
21 tion conflicts with a provision of this title. Nothing in this
22 title shall be construed to prohibit any State from enacting
23 a law, rule, or regulation that provides greater protection
24 to children or teens than the provisions of this title.”.

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

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

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

7 “(d) PUBLICATION.—

8 “(1) IN GENERAL.—Subject to the restrictions
 9 described in paragraph (2), the Commission shall
 10 publish on the internet website of the Commission
 11 any report or documentation required by regulation
 12 to be submitted to the Commission to carry out this
 13 section.

14 “(2) RESTRICTIONS ON PUBLICATION.—The re-
 15 strictions described in section 6(f) and section 21 of
 16 the Federal Trade Commission Act (15 U.S.C.
 17 46(f), 57b–2) applicable to the disclosure of infor-
 18 mation obtained by the Commission shall apply in
 19 same manner to the disclosure under this subsection
 20 of information obtained by the Commission from a
 21 report or documentation described in paragraph
 22 (1).”.

23 (d) ACTIONS BY STATES.—Section 1305 of the Chil-
 24 dren’s Online Privacy Protection Act of 1998 (15 U.S.C.
 25 6504) is amended—

1 (1) in subsection (a)(1)—

2 (A) in the matter preceding subparagraph
3 (A), by inserting “section 1303(a)(1) or” before
4 “any regulation”; and

5 (B) in subparagraph (B), by inserting
6 “section 1303(a)(1) or” before “the regula-
7 tion”; and

8 (2) in subsection (d)—

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

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

13 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

14 Section 1306 of the Children’s Online Privacy Protection
15 Act of 1998 (15 U.S.C. 6505) is amended—

16 (1) in subsection (b)—

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

1 (B) by striking paragraph (2) and redesignig-
 2 nating paragraphs (3) through (6) as para-
 3 graphs (2) through (5), respectively;
 4 (2) in subsection (d)—

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

7 (B) by striking “such rule” and inserting
 8 “section 1303(a)(1) or a rule of the Commis-
 9 sion under section 1303”; and
 10 (3) by adding at the end the following new sub-
 11 sections:

12 “(f) DETERMINATION OF WHETHER AN OPERATOR
 13 HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF
 14 OBJECTIVE CIRCUMSTANCES.—

15 “(1) RULE OF CONSTRUCTION.—For purposes
 16 of enforcing this title or a regulation promulgated
 17 under this title, in making a determination as to
 18 whether an operator has knowledge fairly implied on
 19 the basis of objective circumstances that a specific
 20 user is a child or teen, the Commission or State at-
 21 torneys general shall rely on competent and reliable
 22 evidence, taking into account the totality of the cir-
 23 cumstances, including whether a reasonable and pru-
 24 dent person under the circumstances would have
 25 known that the user is a child or teen. Nothing in

1 this title, including a determination described in the
2 preceding sentence, shall be construed to require an
3 operator to—

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

8 “(B) implement an age gating or age
9 verification functionality.

10 “(2) COMMISSION GUIDANCE.—

11 “(A) IN GENERAL.—Within 180 days of
12 enactment, the Commission shall issue guidance
13 to provide information, including best practices
14 and examples for operators to understand the
15 Commission’s determination of whether an op-
16 erator has knowledge fairly implied on the basis
17 of objective circumstances that a user is a child
18 or teen.

19 “(B) LIMITATION.—No guidance issued by
20 the Commission with respect to this title shall
21 confer any rights on any person, State, or local-
22 ity, nor shall operate to bind the Commission or
23 any person to the approach recommended in
24 such guidance. In any enforcement action
25 brought pursuant to this title, the Commission

1 or State attorney general, as applicable, shall
 2 allege a specific violation of a provision of this
 3 title. The Commission or State attorney gen-
 4 eral, as applicable, may not base an enforce-
 5 ment action on, or execute a consent order
 6 based on, practices that are alleged to be incon-
 7 sistent with any such guidance, unless the prac-
 8 tices allegedly violate this title. For purposes of
 9 enforcing this title or a regulation promulgated
 10 under this title, State attorneys general shall
 11 take into account any guidance issued by the
 12 Commission under subparagraph (A).

13 “(g) **ADDITIONAL REQUIREMENT.**—Any regulations
 14 issued under this title shall include a description and anal-
 15 ysis of the impact of proposed and final Rules on small
 16 entities per the Regulatory Flexibility Act of 1980 (5
 17 U.S.C. 601 et seq.).”.

18 **SEC. 3. STUDY AND REPORTS OF MOBILE AND ONLINE AP-**
 19 **PLICATION OVERSIGHT AND ENFORCEMENT.**

20 (a) **OVERSIGHT REPORT.**—Not later than 3 years
 21 after the date of enactment of this Act, the Federal Trade
 22 Commission shall submit to the Committee on Commerce,
 23 Science, and Transportation of the Senate and the Com-
 24 mittee on Energy and Commerce of the House of Rep-
 25 resentatives a report on the processes of platforms that

1 offer mobile and online applications for ensuring that, of
2 those applications that are websites, online services, online
3 applications, or mobile applications directed to children,
4 the applications operate in accordance with—

5 (1) this Act, the amendments made by this Act,
6 and rules promulgated under this Act; and

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

11 (b) ENFORCEMENT REPORT.—Not later than 1 year
12 after the date of enactment of this Act, and each year
13 thereafter, the Federal Trade Commission shall submit to
14 the Committee on Commerce, Science, and Transportation
15 of the Senate and the Committee on Energy and Com-
16 merce of the House of Representatives a report that ad-
17 dresses, at a minimum—

18 (1) the number of actions brought by the Com-
19 mission during the reporting year to enforce the
20 Children’s Online Privacy Protection Act of 1998
21 (15 U.S.C. 6501) (referred to in this subsection as
22 the “Act”) and the outcome of each such action;

23 (2) the total number of investigations or inquir-
24 ies into potential violations of the Act; during the re-
25 porting year;

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

4 (4) the number and nature of complaints re-
5 ceived by the Commission relating to an allegation
6 of a violation of the Act during the reporting year;
7 and

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

10 **SEC. 4. GAO STUDY.**

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

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

17 (2) identify the potential risks to teens’ privacy
18 from using such financial technology products; and

19 (3) determine whether existing laws are suffi-
20 cient to address such risks to teens’ privacy.

21 (b) REPORT.—Not later than 1 year after the date
22 of enactment of this section, the Comptroller General shall
23 submit to Congress a report containing the results of the
24 study conducted under subsection (a), together with rec-

1 ommendations for such legislation and administrative ac-
2 tion as the Comptroller General determines appropriate.

3 **SEC. 5. SEVERABILITY.**

4 If any provision of this Act, or an amendment made
5 by this Act, is determined to be unenforceable or invalid,
6 the remaining provisions of this Act and the amendments
7 made by this Act shall not be affected.

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