

118TH CONGRESS
2D SESSION

H. R. 7890

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 HOUSE OF REPRESENTATIVES

APRIL 9, 2024

Mr. WALBERG (for himself, Ms. CASTOR of Florida, Mr. BUCSHON, Ms. ESHOO, Mr. CARTER of Georgia, Mr. MOULTON, Mr. DUNN of Florida, and Mr. AUCHINCLOSS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 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. Severability.

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

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

7 (1) by amending paragraph (2) to read as fol-
8 lows:

9 “(2) OPERATOR.—The term ‘operator’—

10 “(A) means any person—

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

16 “(ii) who—

17 “(I) collects or maintains, either
18 directly or through a service provider,
19 personal information from or about
20 the users of that website, service, or
21 application;

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

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

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

16 (2) in paragraph (4)—

17 (A) by amending subparagraph (A) to read
18 as follows:

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

24 “(i) provides support for the internal
25 operations of the website, online service,

1 online application, or mobile application of
2 the operator, excluding any activity relat-
3 ing to individual-specific advertising to
4 children or teens; and

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

8 (B) in subparagraph (B)—

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

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

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

19 (3) by striking paragraph (8) and inserting the
20 following:

21 “(8) PERSONAL INFORMATION.—

22 “(A) IN GENERAL.—The term ‘personal in-
23 formation’ means individually identifiable infor-
24 mation about an individual collected online, in-
25 cluding—

1 “(i) a first and last name;

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

5 “(iii) an e-mail address;

6 “(iv) a telephone number;

7 “(v) a Social Security number;

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

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

1 “(viii) a photograph, video, or audio
2 file where such file contains a specific
3 child’s or teen’s image or voice;
4 “(ix) geolocation information;
5 “(x) information generated from the
6 measurement or technological processing of
7 an individual’s biological, physical, or phys-
8 iological characteristics that is used to
9 identify an individual, including—
10 “(I) fingerprints;
11 “(II) voice prints;
12 “(III) iris or retina imagery
13 scans;
14 “(IV) facial templates;
15 “(V) deoxyribonucleic acid
16 (DNA) information; or
17 “(VI) gait; or
18 “(xi) information linked or reasonably
19 linkable to a child or teen or the parents
20 of that child or teen (including any unique
21 identifier) that an operator collects online
22 from the child or teen and combines with
23 an identifier described in this subpara-
24 graph.

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

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

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

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

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

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

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

7 “(I) maintain or analyze the
8 functioning of the website, online serv-
9 ice, online application, or mobile appli-
10 cation;

11 “(II) perform network commu-
12 nications;

13 “(III) authenticate users of, or
14 personalize the content on, the
15 website, online service, online applica-
16 tion, or mobile application;

17 “(IV) cap the frequency of adver-
18 tising;

19 “(V) protect the security or in-
20 tegrity of the user, website, online
21 service, online application, or mobile
22 application;

23 “(VI) ensure legal or regulatory
24 compliance, or

1 “(VII) fulfill a request of a child
2 or teen as permitted by subpara-
3 graphs (A) through (C) of section
4 1303(b)(2).

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

16 (4) by amending paragraph (9) to read as fol-
17 lows:

18 “(9) VERIFIABLE CONSENT.—The term
19 ‘verifiable consent’ means any reasonable effort (tak-
20 ing into consideration available technology), includ-
21 ing a request for authorization for future collection,
22 use, and disclosure described in the notice, to ensure
23 that, in the case of a child, a parent of the child,
24 or, in the case of a teen, the teen—

1 “(A) receives direct notice of the personal
2 information collection, use, and disclosure prac-
3 tices of the operator; and

4 “(B) before the personal information of the
5 child or teen is collected, freely and unambig-
6 uously authorizes—

7 “(i) the collection, use, and disclosure,
8 as applicable, of that personal information;
9 and

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

12 (5) in paragraph (10)—

13 (A) in the paragraph header, by striking
14 “WEBSITE OR ONLINE SERVICE DIRECTED TO
15 CHILDREN” and inserting “WEBSITE, ONLINE
16 SERVICE, ONLINE APPLICATION, OR MOBILE AP-
17 PPLICATION DIRECTED TO CHILDREN”;

18 (B) by striking “website or online service”
19 each place it appears and inserting “website,
20 online service, online application, or mobile ap-
21 plication”; and

22 (C) by adding at the end the following new
23 subparagraph:

24 “(C) RULE OF CONSTRUCTION.—In con-
25 sidering whether a website, online service, on-

1 line application, or mobile application, or por-
2 tion thereof, is directed to children, the Com-
3 mission shall apply a totality of circumstances
4 test and will also consider competent and reli-
5 able empirical evidence regarding audience com-
6 position and evidence regarding the intended
7 audience of the website, online service, online
8 application, or mobile application.”; and

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

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

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

16 “(A) means an internet-connected software
17 program; and

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

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

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

24 “(i) a cellular telephone;

25 “(ii) a tablet computer; or

1 “(iii) a similar portable computing de-
2 vice that transmits data over a wireless
3 connection; and

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

6 “(16) GEOLOCATION INFORMATION.—The term
7 ‘geolocation information’ means information suffi-
8 cient to identify a street name and name of a city
9 or town.

10 “(17) TEEN.—The term ‘teen’ means an indi-
11 vidual over the age of 12 and under the age of 17.

12 “(18) INDIVIDUAL-SPECIFIC ADVERTISING TO
13 CHILDREN OR TEENS.—

14 “(A) IN GENERAL.—The term ‘individual-
15 specific advertising to children or teens’ means
16 advertising or any other effort to market a
17 product or service that is directed to a specific
18 child or teen or a connected device that is
19 linked or reasonably linkable to a child or teen
20 based on—

21 “(i) the personal information from—

22 “(I) the child or teen; or

23 “(II) a group of children or teens
24 who are similar in sex, age, household
25 income level, race, or ethnicity to the

1 specific child or teen to whom the
2 product or service is marketed;

3 “(ii) profiling of a child or teen or
4 group of children or teens; or

5 “(iii) a unique identifier of the con-
6 nected device.

7 “(B) EXCLUSIONS.—The term ‘individual-
8 specific advertising to children or teens’ shall
9 not include—

10 “(i) advertising or marketing to an in-
11 dividual or the device of an individual in
12 response to the individual’s specific request
13 for information or feedback, such as a
14 child’s or teen’s current search query;

15 “(ii) contextual advertising, such as
16 when an advertisement is displayed based
17 on the content of the website, online serv-
18 ice, online application, mobile application,
19 or connected device in which the advertise-
20 ment appears and does not vary based on
21 personal information related to the viewer;
22 or

23 “(iii) processing personal information
24 solely for measuring or reporting adver-
25 tising or content performance, reach, or

1 frequency, including independent measure-
2 ment.

3 “(C) RULE OF CONSTRUCTION.—Nothing
4 in subparagraph (A) shall be construed to pro-
5 hibit an operator with actual knowledge or
6 knowledge fairly implied on the basis of objec-
7 tive circumstances that a user is under the age
8 of 17 from delivering advertising or marketing
9 that is age-appropriate and intended for a child
10 or teen audience, so long as the operator does
11 not use any personal information other than
12 whether the user is under the age of 17.”.

13 (b) ONLINE COLLECTION, USE, DISCLOSURE, AND
14 DELETION OF PERSONAL INFORMATION OF CHILDREN
15 AND TEENS.—Section 1303 of the Children’s Online Pri-
16 vacy Protection Act of 1998 (15 U.S.C. 6502) is amend-
17 ed—

18 (1) by striking the heading and inserting the
19 following: “**ONLINE COLLECTION, USE, DISCLO-**
20 **SURE, AND DELETION OF PERSONAL INFORMA-**
21 **TION OF CHILDREN AND TEENS.**”;

22 (2) in subsection (a)—

23 (A) by amending paragraph (1) to read as
24 follows:

1 “(1) IN GENERAL.—It is unlawful for an oper-
2 ator of a website, online service, online application,
3 or mobile application directed to children or for any
4 operator of a website, online service, online applica-
5 tion, or mobile application with actual knowledge or
6 knowledge fairly implied on the basis of objective cir-
7 cumstances that a user is a child or teen—

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

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

19 “(C) to collect the personal information of
20 a child or teen except when the collection of the
21 personal information is—

22 “(i) consistent with the context of a
23 particular transaction or service or the re-
24 lationship of the child or teen with the op-
25 erator, including collection necessary to

1 fulfill a transaction or provide a product or
2 service requested by the child or teen; or

3 “(ii) required or specifically author-
4 ized by Federal or State law; or

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

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

19 (B) in paragraph (2)—

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

22 (ii) by striking “Notwithstanding
23 paragraph (1)” and inserting “Notwith-
24 standing paragraph (1)(A)”;

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

3 (iv) by striking “subsection
4 (b)(1)(B)(iii) to the parent of a child” and
5 inserting “subsection (b)(1)(B)(iv) to the
6 parent of a child or under subsection
7 (b)(1)(C)(iv) to a teen”;

8 (3) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A)—

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

20 (II) in clause (i)—

21 (aa) by striking “notice on
22 the website” and inserting “clear
23 and conspicuous notice on the
24 website”;

1 (bb) by inserting “or teens”
2 after “children”;

3 (cc) by striking “, and the
4 operator’s” and inserting “, the
5 operator’s”; and

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

18 (III) in clause (ii)—

19 (aa) by striking “parental”;

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

22 (cc) by striking the semi-
23 colon at the end and inserting “;
24 and”; and

1 (IV) by inserting after clause (ii)
2 the following new clause:

3 “(iii) to obtain verifiable consent from
4 a parent of a child or from a teen before
5 using or disclosing personal information of
6 the child or teen for any purpose that is a
7 material change from the original purposes
8 and disclosure practices specified to the
9 parent of the child or the teen under
10 clause (i);”;

11 (ii) in subparagraph (B)—

12 (I) in the matter preceding clause
13 (i), by striking “website or online
14 service” and inserting “operator”;

15 (II) in clause (i), by inserting
16 “and the method by which the oper-
17 ator obtained the personal informa-
18 tion, and the purposes for which the
19 operator collects, uses, discloses, and
20 retains the personal information” be-
21 fore the semicolon;

22 (III) in clause (ii)—

23 (aa) by inserting “to delete
24 personal information collected
25 from the child or content or in-

1 formation submitted by the child
2 to a website, online service, on-
3 line application, or mobile appli-
4 cation and” after “the oppor-
5 tunity at any time”; and

6 (bb) by striking “; and” and
7 inserting a semicolon;

8 (IV) by redesignating clause (iii)
9 as clause (iv) and inserting after
10 clause (ii) the following new clause:

11 “(iii) the opportunity to challenge the
12 accuracy of the personal information and,
13 if the parent of the child establishes the in-
14 accuracy of the personal information, to
15 have the inaccurate personal information
16 corrected;” and

17 (V) in clause (iv), as so redesign-
18 nated, by inserting “, if such informa-
19 tion is available to the operator at the
20 time the parent makes the request”
21 before the semicolon;

22 (iii) by redesignating subparagraphs
23 (C) and (D) as subparagraphs (D) and
24 (E), respectively;

1 (iv) by inserting after subparagraph
2 (B) the following new subparagraph:

3 “(C) require the operator to provide, upon
4 the request of a teen under this subparagraph
5 who has provided personal information to the
6 operator, upon proper identification of that
7 teen—

8 “(i) a description of the specific types
9 of personal information collected from the
10 teen by the operator, the method by which
11 the operator obtained the personal infor-
12 mation, and the purposes for which the op-
13 erator collects, uses, discloses, and retains
14 the personal information;

15 “(ii) the opportunity at any time to
16 delete personal information collected from
17 the teen or content or information sub-
18 mitted by the teen to a website, online
19 service, online application, or mobile appli-
20 cation and to refuse to permit the opera-
21 tor’s further use or maintenance in retriev-
22 able form, or online collection, of personal
23 information from the teen;

24 “(iii) the opportunity to challenge the
25 accuracy of the personal information and,

1 if the teen establishes the inaccuracy of the
2 personal information, to have the inac-
3 curate personal information corrected; and

4 “(iv) a means that is reasonable
5 under the circumstances for the teen to ob-
6 tain any personal information collected
7 from the teen, if such information is avail-
8 able to the operator at the time the teen
9 makes the request;”;

10 (v) in subparagraph (D), as so reded-
11 igned—

12 (I) by striking “a child’s” and in-
13 serting “a child’s or teen’s”; and

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

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

18 “(E) require the operator to establish, im-
19 plement, and maintain reasonable security prac-
20 tices to protect the confidentiality, integrity,
21 and accessibility of personal information of chil-
22 dren or teens collected by the operator, and to
23 protect such personal information against unau-
24 thorized access.”;

25 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-
2 graph (A), by striking “verifiable parental
3 consent” and inserting “verifiable con-
4 sent”;

5 (ii) in subparagraph (A)—

6 (I) by inserting “or teen” after
7 “collected from a child”;

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

10 (III) by inserting “or teen or to
11 contact another child or teen” after
12 “to recontact the child”;

13 (iii) in subparagraph (B)—

14 (I) by striking “parent or child”
15 and inserting “parent or teen”; and

16 (II) by striking “parental con-
17 sent” each place the term appears and
18 inserting “verifiable consent”;

19 (iv) in subparagraph (C)—

20 (I) in the matter preceding clause
21 (i), by inserting “or teen” after
22 “child” each place the term appears;

23 (II) in clause (i)—

1 (aa) by inserting “or teen”
2 after “child” each place the term
3 appears; and

4 (bb) by inserting “or teen,
5 as applicable,” after “parent”
6 each place the term appears; and
7 (III) in clause (ii)—

8 (aa) by striking “without
9 notice to the parent” and insert-
10 ing “without notice to the parent
11 or teen, as applicable,”; and

12 (bb) by inserting “or teen”
13 after “child” each place the term
14 appears; and

15 (v) in subparagraph (D)—

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

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

21 (III) in the flush text following
22 clause (iii)—

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

1 (bb) by inserting “or teen”
2 after “child”;

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

6 “(3) APPLICATION TO OPERATORS ACTING
7 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES
8 OR INSTITUTIONS.—The regulations may provide
9 that verifiable consent under paragraph (1)(A)(ii) is
10 not required for an operator that is acting under a
11 written agreement with an educational agency or in-
12 stitution (as defined in section 444 of the General
13 Education Provisions Act (commonly known as the
14 ‘Family Educational Rights and Privacy Act of
15 1974’)) (20 U.S.C. 1232g(a)(3)) that, at a min-
16 imum, requires the—

17 “(A) operator to—

18 “(i) limit its collection, use, and dis-
19 closure of the personal information from a
20 child or teen to solely educational purposes
21 and for no other commercial purposes;

22 “(ii) provide the educational agency or
23 institution with a notice of the specific
24 types of personal information the operator
25 will collect from the child or teen, the

1 method by which the operator will obtain
2 the personal information, and the purposes
3 for which the operator will collect, use, dis-
4 close, and retain the personal information;

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

9 “(iv) provide the educational agency
10 or institution, upon request, with a means
11 to review the personal information collected
12 from a child or teen, to prevent further use
13 or maintenance or future collection of per-
14 sonal information from a child or teen, and
15 to delete personal information collected
16 from a child or teen or content or informa-
17 tion submitted by a child or teen to the op-
18 erator’s website, online service, online ap-
19 plication, or mobile application;

20 “(B) representative of the educational
21 agency or institution to acknowledge and agree
22 that they have authority to authorize the collec-
23 tion, use, and disclosure of personal information
24 from children or teens on behalf of the edu-
25 cational agency or institution, along with such

1 authorization, their name, and title at the edu-
2 cational agency or institution; and

3 “(C) educational agency or institution to—

4 “(i) provide on its website a notice
5 that identifies the operator with which it
6 has entered into a written agreement
7 under this subsection and provides a link
8 to the operator’s online notice of informa-
9 tion practices as required under paragraph
10 (1)(A)(i);

11 “(ii) provide the operator’s notice re-
12 garding its information practices, as re-
13 quired under subparagraph (A)(ii), upon
14 request, to a parent, in the case of a child,
15 or a parent or teen, in the case of a teen;
16 and

17 “(iii) upon the request of a parent, in
18 the case of a child, or a parent or teen, in
19 the case of a teen, request the operator
20 provide a means to review the personal in-
21 formation from the child or teen and pro-
22 vide the parent, in the case of a child, or
23 parent or teen, in the case of the teen, a
24 means to review the personal informa-
25 tion.”;

1 (D) by amending paragraph (4), as so re-
2 designated, to read as follows:

3 “(4) TERMINATION OF SERVICE.—The regula-
4 tions shall permit the operator of a website, online
5 service, online application, or mobile application to
6 terminate service provided to a child whose parent
7 has refused, or a teen who has refused, under the
8 regulations prescribed under paragraphs (1)(B)(ii)
9 and (1)(C)(ii), to permit the operator’s further use
10 or maintenance in retrievable form, or future online
11 collection of, personal information from that child or
12 teen.”; and

13 (E) by adding at the end the following new
14 paragraphs:

15 “(5) CONTINUATION OF SERVICE.—The regula-
16 tions shall prohibit an operator from discontinuing
17 service provided to a child or teen on the basis of
18 a request by the parent of the child or by the teen,
19 under the regulations prescribed under subpara-
20 graph (B) or (C) of paragraph (1), respectively, to
21 delete personal information collected from the child
22 or teen, to the extent that the operator is capable of
23 providing such service without such information.

24 “(6) RULE OF CONSTRUCTION.—A request
25 made pursuant to subparagraph (B) or (C) of para-

1 graph (1) to delete or correct personal information
2 of a child or teen shall not be construed—

3 “(A) to limit the authority of a law en-
4 forcement agency to obtain any content or in-
5 formation from an operator pursuant to a law-
6 fully executed warrant or an order of a court of
7 competent jurisdiction;

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

10 “(i) any other provision of Federal or
11 State law requires the operator or third
12 party to maintain; or

13 “(ii) was submitted to the website, on-
14 line service, online application, or mobile
15 application of the operator by any person
16 other than the user who is attempting to
17 erase or otherwise eliminate the content or
18 information, including content or informa-
19 tion submitted by the user that was repub-
20 lished or resubmitted by another person; or

21 “(C) to prohibit an operator from—

22 “(i) retaining a record of the deletion
23 request and the minimum information nec-
24 essary for the purposes of ensuring compli-

1 ance with a request made pursuant to sub-
2 paragraph (B) or (C);

3 “(ii) preventing, detecting, protecting
4 against, or responding to security inci-
5 dents, identity theft, or fraud, or reporting
6 those responsible for such actions;

7 “(iii) protecting the integrity or secu-
8 rity of a website, online service, online ap-
9 plication or mobile application; or

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

12 “(7) COMMON VERIFIABLE CONSENT MECHA-
13 NISM.—

14 “(A) IN GENERAL.—

15 “(i) FEASIBILITY OF MECHANISM.—
16 The Commission shall assess the feasi-
17 bility, with notice and public comment, of
18 allowing operators the option to use a com-
19 mon verifiable consent mechanism that
20 fully meets the requirements of this title.

21 “(ii) REQUIREMENTS.—The feasibility
22 assessment described in clause (i) shall
23 consider whether a single operator could
24 use a common verifiable consent mecha-
25 nism to obtain verifiable consent, as re-

1 required under this title, from a parent of a
2 child or from a teen on behalf of multiple,
3 listed operators that provide a joint or re-
4 lated service.

5 “(B) REPORT.—Not later than 1 year
6 after the date of enactment of this paragraph,
7 the Commission shall submit a report to the
8 Committee on Commerce, Science, and Trans-
9 portation of the Senate and the Committee on
10 Energy and Commerce of the House of Rep-
11 resentatives with the findings of the assessment
12 required by subparagraph (A).

13 “(C) REGULATIONS.—If the Commission
14 finds that the use of a common verifiable con-
15 sent mechanism is feasible and would meet the
16 requirements of this title, the Commission shall
17 issue regulations to permit the use of a common
18 verifiable consent mechanism in accordance
19 with the findings outlined in such report.”;

20 (4) in subsection (c), by striking “a regulation
21 prescribed under subsection (a)” and inserting “sub-
22 paragraph (B), (C), (D), or (E) of subsection (a)(1),
23 or of a regulation prescribed under subsection (b),”;
24 and

1 (5) by striking subsection (d) and inserting the
2 following:

3 “(d) RELATIONSHIP TO STATE LAW.—The provisions
4 of this title shall preempt any State law, rule, or regula-
5 tion only to the extent that such State law, rule, or regula-
6 tion conflicts with a provision of this title. Nothing in this
7 title shall be construed to prohibit any State from enacting
8 a law, rule, or regulation that provides greater protection
9 to children or teens than the provisions of this title.”.

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

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

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

16 “(d) PUBLICATION.—

17 “(1) IN GENERAL.—Subject to the restrictions
18 described in paragraph (2), the Commission shall
19 publish on the internet website of the Commission
20 any report or documentation required by regulation
21 to be submitted to the Commission to carry out this
22 section.

23 “(2) RESTRICTIONS ON PUBLICATION.—The re-
24 strictions described in section 6(f) and section 21 of
25 the Federal Trade Commission Act (15 U.S.C.

1 46(f), 57b–2) applicable to the disclosure of infor-
2 mation obtained by the Commission shall apply in
3 same manner to the disclosure under this subsection
4 of information obtained by the Commission from a
5 report or documentation described in paragraph
6 (1).”.

7 (d) ACTIONS BY STATES.—Section 1305 of the Chil-
8 dren’s Online Privacy Protection Act of 1998 (15 U.S.C.
9 6504) is amended—

10 (1) in subsection (a)(1)—

11 (A) in the matter preceding subparagraph
12 (A), by inserting “section 1303(a)(1) or” before
13 “any regulation”; and

14 (B) in subparagraph (B), by inserting
15 “section 1303(a)(1) or” before “the regula-
16 tion”; and

17 (2) in subsection (d)—

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

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

22 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—
23 Section 1306 of the Children’s Online Privacy Protection
24 Act of 1998 (15 U.S.C. 6505) is amended—

25 (1) in subsection (d)—

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

3 (B) by striking “such rule” and inserting
4 “section 1303(a)(1) or a rule of the Commis-
5 sion under section 1303”; and

6 (2) by adding at the end the following new sub-
7 sections:

8 “(f) DETERMINATION OF WHETHER AN OPERATOR
9 HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF
10 OBJECTIVE CIRCUMSTANCES.—

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

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

5 “(B) implement an age gating or age
6 verification functionality.

7 “(2) COMMISSION GUIDANCE.—

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

16 “(B) LIMITATION.—No guidance issued by
17 the Commission with respect to this title shall
18 confer any rights on any person, State, or local-
19 ity, nor shall operate to bind the Commission or
20 any person to the approach recommended in
21 such guidance. In any enforcement action
22 brought pursuant to this title, the Commission
23 or State attorney general, as applicable, shall
24 allege a specific violation of a provision of this
25 title. The Commission or State attorney gen-

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

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

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

17 (2) the total number of investigations or inquir-
18 ies into potential violations of the Act; during the re-
19 porting year;

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

23 (4) the number and nature of complaints re-
24 ceived by the Commission relating to an allegation

1 of a violation of the Act during the reporting year;
2 and

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

5 **SEC. 4. SEVERABILITY.**

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

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