

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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. GAO study.

Sec. 5. 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;

22 “(II) allows another person to  
23 collect personal information directly

1 from users of that website, service, or  
2 application (in which case, the oper-  
3 ator is deemed to have collected the  
4 information); or

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

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

14 (2) in paragraph (4)—

15 (A) by amending subparagraph (A) to read  
16 as follows:

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

22 “(i) provides support for the internal  
23 operations of the website, online service,  
24 online application, or mobile application of  
25 the operator, excluding any activity relat-

1 ing to individual-specific advertising to  
2 children or teens; and

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

6 (B) in subparagraph (B)—

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

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

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

17 (3) by striking paragraph (8) and inserting the  
18 following:

19 “(8) PERSONAL INFORMATION.—

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

24 “(i) a first and last name;

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

4                   “(iii) an e-mail address;

5                   “(iv) a telephone number;

6                   “(v) a Social Security number;

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

11                   “(vii) a persistent identifier that can  
12 be used to recognize a specific child or teen  
13 over time and across different websites, on-  
14 line services, online applications, or mobile  
15 applications, including but not limited to a  
16 customer number held in a cookie, an  
17 Internet Protocol (IP) address, a processor  
18 or device serial number, or unique device  
19 identifier, but excluding an identifier that  
20 is used by an operator solely for providing  
21 support for the internal operations of the  
22 website, online service, online application,  
23 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) serve contextual adver-  
18                  tising, provided that any persistent  
19                  identifier is only used as necessary for  
20                  technical purposes to serve the contex-  
21                  tual advertisement, or cap the fre-  
22                  quency of advertising;

23                  “(V) protect the security or in-  
24                  tegrity of the user, website, online



1 service, online application, or mobile  
2 application;

3 “(VI) ensure legal or regulatory  
4 compliance, or

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

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

20 (4) by amending paragraph (9) to read as fol-  
21 lows:

22 “(9) VERIFIABLE CONSENT.—The term  
23 ‘verifiable consent’ means any reasonable effort (tak-  
24 ing into consideration available technology), includ-  
25 ing a request for authorization for future collection,

1 use, and disclosure described in the notice, to ensure  
2 that, in the case of a child, a parent of the child,  
3 or, in the case of a teen, the teen—

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

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

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

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

15 (5) in paragraph (10)—

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

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

1 (C) by adding at the end the following new  
2 subparagraph:

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

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

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

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

20 “(A) means an internet-connected software  
21 program; and

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

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

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

3                   “(i) a cellular telephone;

4                   “(ii) a tablet computer; or

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

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

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

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

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

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

1 “(i) the personal information from—

2 “(I) the child or teen; or

3 “(II) a group of children or teens

4 who are similar in sex, age, household

5 income level, race, or ethnicity to the

6 specific child or teen to whom the

7 product or service is marketed;

8 “(ii) profiling of a child or teen or

9 group of children or teens; or

10 “(iii) a unique identifier of the con-

11 nected device.

12 “(B) EXCLUSIONS.—The term ‘individual-

13 specific advertising to children or teens’ shall

14 not include—

15 “(i) advertising or marketing to an in-

16 dividual or the device of an individual in

17 response to the individual’s specific request

18 for information or feedback, such as a

19 child’s or teen’s current search query;

20 “(ii) contextual advertising, such as

21 when an advertisement is displayed based

22 on the content of the website, online serv-

23 ice, online application, mobile application,

24 or connected device in which the advertise-

25 ment appears and does not vary based on

1 personal information related to the viewer;

2 or

3 “(iii) processing personal information  
4 solely for measuring or reporting adver-  
5 tising or content performance, reach, or  
6 frequency, including independent measure-  
7 ment.

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

18 “(19) EDUCATIONAL AGENCY OR INSTITU-  
19 TION.—The term ‘educational agency or institution’  
20 means—

21 “(A) a State educational agency or local  
22 educational agency, as such terms are defined  
23 in section 8101 of the Elementary and Sec-  
24 ondary Education Act of 1965 (20 U.S.C.  
25 7801); or

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

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

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

15           (2) in subsection (a)—

16           (A) by amending paragraph (1) to read as  
17 follows:

18           “(1) **IN GENERAL.**—It is unlawful for an oper-  
19 ator of a website, online service, online application,  
20 or mobile application directed to children or for any  
21 operator of a website, online service, online applica-  
22 tion, or mobile application with actual knowledge or  
23 knowledge fairly implied on the basis of objective cir-  
24 cumstances that a user is a child or teen—

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

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

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

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

21           “(ii) required or specifically author-  
22 ized by Federal or State law; or

23           “(D) to store or transfer the personal in-  
24 formation of a child or teen outside of the  
25 United States unless the operator provides di-



1 rect notice to the parent of the child, in the  
2 case of a child, or to the teen, in the case of  
3 a teen, that the child’s or teen’s personal infor-  
4 mation is being stored or transferred outside of  
5 the United States; or

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

12 (B) in paragraph (2)—

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

15 (ii) by striking “Notwithstanding  
16 paragraph (1)” and inserting “Notwith-  
17 standing paragraph (1)(A)”;

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

20 (iv) by striking “subsection  
21 (b)(1)(B)(iii) to the parent of a child” and  
22 inserting “subsection (b)(1)(B)(iv) to the  
23 parent of a child or under subsection  
24 (b)(1)(C)(iv) to a teen”;

25 (3) in subsection (b)—

1 (A) in paragraph (1)—

2 (i) in subparagraph (A)—

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

12 (II) in clause (i)—

13 (aa) by striking “notice on  
14 the website” and inserting “clear  
15 and conspicuous notice on the  
16 website”;

17 (bb) by inserting “or teens”  
18 after “children”;

19 (cc) by striking “, and the  
20 operator’s” and inserting “, the  
21 operator’s”; and

22 (dd) by striking “; and” and  
23 inserting “, the rights and oppor-  
24 tunities available to the parent of  
25 the child or teen under subpara-

1 graphs (B) and (C), and the pro-  
2 cedures or mechanisms the oper-  
3 ator uses to ensure that personal  
4 information is not collected from  
5 children or teens except in ac-  
6 cordance with the regulations  
7 promulgated under this para-  
8 graph;”;

9 (III) in clause (ii)—

10 (aa) by striking “parental”;

11 (bb) by inserting “or teens”  
12 after “children”;

13 (cc) by striking the semi-  
14 colon at the end and inserting “;  
15 and”; and

16 (IV) by inserting after clause (ii)  
17 the following new clause:

18 “(iii) to obtain verifiable consent from  
19 a parent of a child or from a teen before  
20 using or disclosing personal information of  
21 the child or teen for any purpose that is a  
22 material change from the original purposes  
23 and disclosure practices specified to the  
24 parent of the child or the teen under  
25 clause (i);”;

1 (ii) in subparagraph (B)—

2 (I) in the matter preceding clause  
3 (i), by striking “website or online  
4 service” and inserting “operator”;

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

12 (III) in clause (ii)—

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

21 (bb) by striking “; and” and  
22 inserting a semicolon;

23 (IV) by redesignating clause (iii)  
24 as clause (iv) and inserting after  
25 clause (ii) the following new clause:

1                   “(iii) the opportunity to challenge the  
2 accuracy of the personal information and,  
3 if the parent of the child establishes the in-  
4 accuracy of the personal information, to  
5 have the inaccurate personal information  
6 corrected;” and

7                   (V) in clause (iv), as so redesign-  
8 nated, by inserting “, if such informa-  
9 tion is available to the operator at the  
10 time the parent makes the request”  
11 before the semicolon;

12                   (iii) by redesignating subparagraphs  
13 (C) and (D) as subparagraphs (D) and  
14 (E), respectively;

15                   (iv) by inserting after subparagraph  
16 (B) the following new subparagraph:

17                   “(C) require the operator to provide, upon  
18 the request of a teen under this subparagraph  
19 who has provided personal information to the  
20 operator, upon proper identification of that  
21 teen—

22                   “(i) a description of the specific types  
23 of personal information collected from the  
24 teen by the operator, the method by which  
25 the operator obtained the personal infor-

1           mation, and the purposes for which the op-  
2           erator collects, uses, discloses, and retains  
3           the personal information;

4           “(ii) the opportunity at any time to  
5           delete personal information collected from  
6           the teen or content or information sub-  
7           mitted by the teen to a website, online  
8           service, online application, or mobile appli-  
9           cation and to refuse to permit the opera-  
10          tor’s further use or maintenance in retriev-  
11          able form, or online collection, of personal  
12          information from the teen;

13          “(iii) the opportunity to challenge the  
14          accuracy of the personal information and,  
15          if the teen establishes the inaccuracy of the  
16          personal information, to have the inac-  
17          curate personal information corrected; and

18          “(iv) a means that is reasonable  
19          under the circumstances for the teen to ob-  
20          tain any personal information collected  
21          from the teen, if such information is avail-  
22          able to the operator at the time the teen  
23          makes the request;”;

24          (v) in subparagraph (D), as so redes-  
25          ignated—

1 (I) by striking “a child’s” and in-  
2 sserting “a child’s or teen’s”; and

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

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

7 “(E) require the operator to establish, im-  
8 plement, and maintain reasonable security prac-  
9 tices to protect the confidentiality, integrity,  
10 and accessibility of personal information of chil-  
11 dren or teens collected by the operator, and to  
12 protect such personal information against unau-  
13 thorized access.”;

14 (B) in paragraph (2)—

15 (i) in the matter preceding subpara-  
16 graph (A), by striking “verifiable parental  
17 consent” and inserting “verifiable con-  
18 sent”;

19 (ii) in subparagraph (A)—

20 (I) by inserting “or teen” after  
21 “collected from a child”;

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

1 (III) by inserting “or teen or to  
2 contact another child or teen” after  
3 “to recontact the child”;  
4 (iii) in subparagraph (B)—  
5 (I) by striking “parent or child”  
6 and inserting “parent or teen”; and  
7 (II) by striking “parental con-  
8 sent” each place the term appears and  
9 inserting “verifiable consent”;  
10 (iv) in subparagraph (C)—  
11 (I) in the matter preceding clause  
12 (i), by inserting “or teen” after  
13 “child” each place the term appears;  
14 (II) in clause (i)—  
15 (aa) by inserting “or teen”  
16 after “child” each place the term  
17 appears; and  
18 (bb) by inserting “or teen,  
19 as applicable,” after “parent”  
20 each place the term appears; and  
21 (III) in clause (ii)—  
22 (aa) by striking “without  
23 notice to the parent” and insert-  
24 ing “without notice to the parent  
25 or teen, as applicable,”; and



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

4 (v) in subparagraph (D)—

5 (I) in the matter preceding clause  
6 (i), by inserting “or teen” after  
7 “child” each place the term appears;

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

10 (III) in the flush text following  
11 clause (iii)—

12 (aa) by inserting “or teen,  
13 as applicable,” after “parent”  
14 each place the term appears; and

15 (bb) by inserting “or teen”  
16 after “child”;

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

20 “(3) APPLICATION TO OPERATORS ACTING  
21 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES  
22 OR INSTITUTIONS.—The regulations may provide  
23 that verifiable consent under paragraph (1)(A)(ii) is  
24 not required for an operator that is acting under a

1 written agreement with an educational agency or in-  
2 stitution that, at a minimum, requires the—

3 “(A) operator to—

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

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

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

20 “(iv) provide the educational agency  
21 or institution, upon request, with a means  
22 to review the personal information collected  
23 from a child or teen, to prevent further use  
24 or maintenance or future collection of per-  
25 sonal information from a child or teen, and

1 to delete personal information collected  
2 from a child or teen or content or informa-  
3 tion submitted by a child or teen to the op-  
4 erator’s website, online service, online ap-  
5 plication, or mobile application;

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

14 “(C) educational agency or institution to—

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

22 “(ii) provide the operator’s notice re-  
23 garding its information practices, as re-  
24 quired under subparagraph (A)(ii), upon  
25 request, to a parent, in the case of a child,

1 or a parent or teen, in the case of a teen;

2 and

3 “(iii) upon the request of a parent, in  
4 the case of a child, or a parent or teen, in  
5 the case of a teen, request the operator  
6 provide a means to review the personal in-  
7 formation from the child or teen and pro-  
8 vide the parent, in the case of a child, or  
9 parent or teen, in the case of the teen, a  
10 means to review the personal informa-  
11 tion.”;

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

14 “(4) TERMINATION OF SERVICE.—The regula-  
15 tions shall permit the operator of a website, online  
16 service, online application, or mobile application to  
17 terminate service provided to a child whose parent  
18 has refused, or a teen who has refused, under the  
19 regulations prescribed under paragraphs (1)(B)(ii)  
20 and (1)(C)(ii), to permit the operator’s further use  
21 or maintenance in retrievable form, or future online  
22 collection of, personal information from that child or  
23 teen.”; and

24 (E) by adding at the end the following new  
25 paragraphs:

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

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

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

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

21                           “(i) any other provision of Federal or  
22                           State law requires the operator or third  
23                           party to maintain; or

24                           “(ii) was submitted to the website, on-  
25                           line service, online application, or mobile

1 application of the operator by any person  
2 other than the user who is attempting to  
3 erase or otherwise eliminate the content or  
4 information, including content or informa-  
5 tion submitted by the user that was repub-  
6 lished or resubmitted by another person; or  
7 “(C) to prohibit an operator from—

8 “(i) retaining a record of the deletion  
9 request and the minimum information nec-  
10 essary for the purposes of ensuring compli-  
11 ance with a request made pursuant to sub-  
12 paragraph (B) or (C);

13 “(ii) preventing, detecting, protecting  
14 against, or responding to security inci-  
15 dents, identity theft, or fraud, or reporting  
16 those responsible for such actions;

17 “(iii) protecting the integrity or secu-  
18 rity of a website, online service, online ap-  
19 plication or mobile application; or

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

22 “(7) COMMON VERIFIABLE CONSENT MECHA-  
23 NISM.—

24 “(A) IN GENERAL.—

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

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

16                  “(B) REPORT.—Not later than 1 year  
17                  after the date of enactment of this paragraph,  
18                  the Commission shall submit a report to the  
19                  Committee on Commerce, Science, and Trans-  
20                  portation of the Senate and the Committee on  
21                  Energy and Commerce of the House of Rep-  
22                  resentatives with the findings of the assessment  
23                  required by subparagraph (A).

24                  “(C) REGULATIONS.—If the Commission  
25                  finds that the use of a common verifiable con-

1           sent mechanism is feasible and would meet the  
2           requirements of this title, the Commission shall  
3           issue regulations to permit the use of a common  
4           verifiable consent mechanism in accordance  
5           with the findings outlined in such report.”;

6           (4) in subsection (c), by striking “a regulation  
7           prescribed under subsection (a)” and inserting “sub-  
8           paragraph (B), (C), (D), or (E) of subsection (a)(1),  
9           or of a regulation prescribed under subsection (b),”;  
10          and

11          (5) by striking subsection (d) and inserting the  
12          following:

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

20          (c) **SAFE HARBORS.**—Section 1304 of the Children’s  
21 Online Privacy Protection Act of 1998 (15 U.S.C. 6503)  
22 is amended—

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

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



1 “(d) PUBLICATION.—

2 “(1) IN GENERAL.—Subject to the restrictions  
3 described in paragraph (2), the Commission shall  
4 publish on the internet website of the Commission  
5 any report or documentation required by regulation  
6 to be submitted to the Commission to carry out this  
7 section.

8 “(2) RESTRICTIONS ON PUBLICATION.—The re-  
9 strictions described in section 6(f) and section 21 of  
10 the Federal Trade Commission Act (15 U.S.C.  
11 46(f), 57b–2) applicable to the disclosure of infor-  
12 mation obtained by the Commission shall apply in  
13 same manner to the disclosure under this subsection  
14 of information obtained by the Commission from a  
15 report or documentation described in paragraph  
16 (1).”.

17 (d) ACTIONS BY STATES.—Section 1305 of the Chil-  
18 dren’s Online Privacy Protection Act of 1998 (15 U.S.C.  
19 6504) is amended—

20 (1) in subsection (a)(1)—

21 (A) in the matter preceding subparagraph  
22 (A), by inserting “section 1303(a)(1) or” before  
23 “any regulation”; and

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

4 (2) in subsection (d)—

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

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

9 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

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

12 (1) in subsection (b)—

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

21 (B) by striking paragraph (2) and redesign-  
22 ating paragraphs (3) through (6) as para-  
23 graphs (2) through (5), respectively;

24 (2) 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 (3) 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            eral, as applicable, may not base an enforce-  
2            ment action on, or execute a consent order  
3            based on, practices that are alleged to be incon-  
4            sistent with any such guidance, unless the prac-  
5            tices allegedly violate this title. For purposes of  
6            enforcing this title or a regulation promulgated  
7            under this title, State attorneys general shall  
8            take into account any guidance issued by the  
9            Commission under subparagraph (A).

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

15          **SEC. 3. STUDY AND REPORTS OF MOBILE AND ONLINE AP-**  
16          **PLICATION OVERSIGHT AND ENFORCEMENT.**

17          (a) OVERSIGHT REPORT.—Not later than 3 years  
18          after the date of enactment of this Act, the Federal Trade  
19          Commission shall submit to the Committee on Commerce,  
20          Science, and Transportation of the Senate and the Com-  
21          mittee on Energy and Commerce of the House of Rep-  
22          resentatives a report on the processes of platforms that  
23          offer mobile and online applications for ensuring that, of  
24          those applications that are websites, online services, online

1 applications, or mobile applications directed to children,  
2 the applications operate in accordance with—

3 (1) this Act, the amendments made by this Act,  
4 and rules promulgated under this Act; and

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

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

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

21 (2) the total number of investigations or inquir-  
22 ies into potential violations of the Act; during the re-  
23 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.