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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. WALBERG introduced the following bill; which was referred to the Committee on _____

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. Amendments to Children’s Online Privacy Protection Act of 1998.
Sec. 3. Reports.
Sec. 4. Severability.

1 **SEC. 2. AMENDMENTS TO CHILDREN’S ONLINE PRIVACY**
2 **PROTECTION ACT OF 1998.**

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

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

8 “(2) OPERATOR.—The term ‘operator’—

9 “(A) means any person—

10 “(i) who, for commercial purposes, op-
11 erates or provides a website, an online
12 service, an online application, or a mobile
13 application; and

14 “(ii) who—

15 “(I) collects or maintains, either
16 directly or through a service provider,
17 personal information of users of the
18 website, service, or application;

19 “(II) allows another person to
20 collect personal information directly
21 from users of the website, service, or
22 application (in which case, the oper-

1 ator is deemed to have collected the
2 information); or

3 “(III) allows users of the website,
4 service, or application to publicly dis-
5 close personal information (in which
6 case, the operator is deemed to have
7 collected the information); and

8 “(B) does not include any organization de-
9 scribed in section 501(c)(3) of the Internal Rev-
10 enue Code of 1986 and exempt from taxation
11 under section 501(a) of such Code.”;

12 (2) in paragraph (4)—

13 (A) by amending subparagraph (A) to read
14 as follows:

15 “(A) the release of personal information
16 collected from a child or teen by an operator for
17 any purpose, except if the personal information
18 is provided to a person other than an operator
19 who—

20 “(i) provides support for the internal
21 operations of the website, online service,
22 online application, or mobile application of
23 the operator, excluding any activity relat-
24 ing to individual-specific advertising pro-
25 vided to children or teens; and

1 “(ii) does not disclose or use the per-
2 sonal information for any other purpose;
3 and”; and

4 (B) in subparagraph (B)—

5 (i) in the matter preceding clause
6 (i)—

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

9 (II) by striking “website or on-
10 line service” and inserting “website,
11 online service, online application, or
12 mobile application”; and

13 (III) by striking “actual knowl-
14 edge” and inserting “knowledge”; and

15 (ii) in clause (i), by striking “a
16 website” and inserting “such a website,
17 service, or application”;

18 (3) by amending paragraph (8) to read as fol-
19 lows:

20 “(8) PERSONAL INFORMATION.—

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

25 “(i) a first and last name;

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

4 “(iii) an e-mail address;

5 “(iv) a telephone number;

6 “(v) a Social Security number;

7 “(vi) a persistent identifier that can
8 be used to recognize a specific child or teen
9 over time and across different websites, on-
10 line services, online applications, or mobile
11 applications, that—

12 “(I) includes—

13 “(aa) a customer number
14 held in a cookie;

15 “(bb) an Internet Protocol
16 (IP) address;

17 “(cc) a processor or device
18 serial number; and

19 “(dd) a unique device identi-
20 fier; and

21 “(II) excludes an identifier that
22 is used by an operator solely for pro-
23 viding support for the internal oper-
24 ations of a website, online service, on-

1 line application, or mobile application
2 of the operator;

3 “(vii) a photograph, video, or audio
4 file that contains the image or voice of a
5 child or teen;

6 “(viii) geolocation information;

7 “(ix) information generated from the
8 measurement or technological processing of
9 the biological, physical, or physiological
10 characteristics of an individual, includ-
11 ing—

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; and

19 “(VI) gait;

20 “(x) information linked or reasonably
21 linkable to a child or teen or a parent of
22 a child or teen (including any unique iden-
23 tifier) that an operator collects online from
24 the child or teen and combines with an

1 identifier described in this subparagraph;
2 and

3 “(xi) any other identifier that the
4 Commission determines permits the phys-
5 ical or online contacting of an individual.

6 “(B) EXCLUSION.—The term ‘personal in-
7 formation’ does not include an audio file that
8 contains the voice of a child or teen if the oper-
9 ator—

10 “(i) does not request information via
11 voice that would otherwise be considered
12 personal information under this paragraph;

13 “(ii) provides clear notice in the pri-
14 vacy policy of a website, online service, on-
15 line application, or mobile application of
16 the operator regarding—

17 “(I) the collection and use of
18 such an audio file; and

19 “(II) the deletion policy relating
20 to such an audio file;

21 “(iii) only uses the voice contained in
22 the audio file as a replacement for written
23 words to perform a task or otherwise en-
24 gage with such website, service, or applica-

1 tion, including by conducting a search or
2 fulfilling a verbal instruction or request;

3 “(iv) only maintains the audio file
4 during the period necessary to complete
5 the relevant task or engagement;

6 “(v) does not make any other use of
7 the audio file during such period; and

8 “(vi) deletes the audio file at the end
9 of such period.

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

13 “(i) IN GENERAL.—For purposes of
14 subparagraph (A)(vi)(II), the term ‘sup-
15 port for the internal operations of a
16 website, online service, online application,
17 or mobile application’ means the activities
18 necessary to such website, service, or appli-
19 cation to—

20 “(I) maintain or analyze func-
21 tioning;

22 “(II) perform network commu-
23 nications;

24 “(III) authenticate users;

25 “(IV) personalize content;

1 “(V) serve contextual advertising
2 to users (if any persistent identifier is
3 only used as necessary for technical
4 purposes to serve the contextual ad-
5 vertisement or cap the frequency of
6 contextual advertising);

7 “(VI) protect—

8 “(aa) the integrity of the
9 website, service, or application; or

10 “(bb) the personal informa-
11 tion or security of users;

12 “(VII) ensure compliance with
13 Federal or State law; and

14 “(VIII) fulfill a request of a child
15 or teen under subparagraph (A), (B),
16 or (C) of section 1303(b)(2).

17 “(ii) CONDITION.—Except as per-
18 mitted under clause (i), information col-
19 lected through the activities described in
20 clause (i) may not be used or disclosed to
21 contact an individual (including through
22 individual-specific advertising provided to
23 children or teens), to amass a profile on an
24 individual, in connection with processes
25 that encourage or prompt use of a website

1 or online service, or for any other pur-
2 pose.”;

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

5 “(9) VERIFIABLE CONSENT.—The term
6 ‘verifiable consent’ means any reasonable effort (tak-
7 ing into consideration available technology) by an
8 operator, including a request for authorization for
9 future collection, use, and disclosure of personal in-
10 formation, to ensure that a parent of a child (in the
11 case of a child) or a teen (in the case of a teen)—

12 “(A) receives direct notice of the collection,
13 use, and disclosure practices of the operator
14 with respect to personal information; and

15 “(B) before the personal information of the
16 child or teen is collected, freely and unambig-
17 uously authorizes—

18 “(i) the collection, use, and disclosure,
19 as applicable, of the personal information;
20 and

21 “(ii) any subsequent use of the per-
22 sonal information.”;

23 (5) in paragraph (10)—

24 (A) in the heading, by striking “WEBSITE
25 OR ONLINE SERVICE DIRECTED TO CHILDREN”

1 and inserting “WEBSITE, ONLINE SERVICE, ON-
2 LINE APPLICATION, OR MOBILE APPLICATION
3 DIRECTED TO CHILDREN”;

4 (B) by striking “website or online service
5 directed to children” each place it appears and
6 inserting “website, online service, online appli-
7 cation, or mobile application directed to chil-
8 dren”;

9 (C) by striking “commercial website or on-
10 line service” each place it appears and inserting
11 “website, online service, online application, or
12 mobile application”; and

13 (D) by adding at the end the following new
14 subparagraph:

15 “(C) RULE OF CONSTRUCTION.—In con-
16 sidering whether a website, online service, on-
17 line application, or mobile application, or a por-
18 tion thereof, is directed to children, the Com-
19 mission shall apply a totality of circumstances
20 test considering competent and reliable evidence
21 regarding the intended audience of the website,
22 service, or application.”; and

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

1 “(13) ONLINE APPLICATION.—The term ‘online
2 application’ means an internet-connected software
3 program.

4 “(14) MOBILE APPLICATION.—The term ‘mo-
5 bile application’ means a software program that
6 runs on the operating system of—

7 “(A) a cellular telephone;

8 “(B) a tablet computer; or

9 “(C) a similar portable computing device
10 that transmits data over a wireless connection.

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

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

17 “(17) HIGH-IMPACT SOCIAL MEDIA COMPANY.—
18 The term ‘high-impact social media company’ means
19 a website, online service, online application, or mo-
20 bile application of an operator that—

21 “(A) generates \$3,000,000,000 or more in
22 annual revenue, including any revenue gen-
23 erated by any affiliate of such operator;

24 “(B) has 300,000,000 or more monthly ac-
25 tive users for not fewer than 3 of the preceding

1 12 months on the website, online service, online
2 application, or mobile application of such oper-
3 ator; and

4 “(C) constitutes an online product or serv-
5 ice that is primarily used by users to access or
6 share user-generated content.

7 “(18) KNOWLEDGE.—The term ‘knowledge’
8 means—

9 “(A) with respect to a high-impact social
10 media company, the operator has actual knowl-
11 edge, or willfully disregarded information that
12 would lead a reasonable and prudent person to
13 determine, that a user is a child or teen; and

14 “(B) with respect to an operator that does
15 not meet the requirements of subparagraph (A),
16 actual knowledge.

17 “(19) 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 child or
23 teen based on—

24 “(i) personal information of—

25 “(I) the child or teen; or

1 “(II) a group of children or teens
2 who are similar in sex, age, household
3 income level, race, or ethnicity to the
4 child or teen to whom the product or
5 service is marketed; or

6 “(ii) profiling of such child or teen or
7 group of children or teens.

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

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

16 “(ii) contextual advertising, including
17 if an advertisement is displayed based on
18 the content of the website, online service,
19 online application, or mobile application on
20 which the advertisement appears and does
21 not vary based on personal information of
22 an individual who views the advertisement;

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

1 frequency, including through independent
2 measurement; or

3 “(iv) advertising or marketing di-
4 rected to a device used by both adult and
5 child or teen members of a household, if
6 such advertising or marketing is directed
7 only to services accessible through an adult
8 user profile.

9 “(C) RULE OF CONSTRUCTION.—Nothing
10 in subparagraph (A) may be construed to pro-
11 hibit an operator with knowledge that a user is
12 a child or teen from delivering advertising or
13 marketing that is age-appropriate and intended
14 for a child or teen audience, if the operator
15 does not use any personal information other
16 than whether the user is a child or teen.

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

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

1 “(B) an elementary school or secondary
2 school (as such terms are defined in section
3 8101 of the Elementary and Secondary Edu-
4 cation Act of 1965 (20 U.S.C. 7801)).”.

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

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

14 (2) in subsection (a)—

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

17 “(1) IN GENERAL.—It is unlawful for an oper-
18 ator of a website, online service, online application,
19 or mobile application directed to children or for any
20 operator of a website, online service, online applica-
21 tion, or mobile application with knowledge that a
22 user of such website, service, or application is a child
23 or teen—

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

4 “(B) to collect, use, disclose to third par-
5 ties, or maintain personal information of a child
6 or teen for the purpose of providing individual-
7 specific advertising to children or teens (or to
8 allow another person to collect, use, disclose, or
9 maintain such information for such purpose);

10 “(C) to collect personal information of a
11 child or teen, except if the collection of the per-
12 sonal information is—

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

19 “(ii) authorized or required by Fed-
20 eral or State law;

21 “(D) to retain the personal information of
22 a child or teen for longer than is reasonably
23 necessary to fulfill a transaction or provide a
24 service requested by the child or teen, except as

1 authorized or required by Federal or State law;
2 or

3 “(E) with respect to the personal informa-
4 tion of a child or teen—

5 “(i) to store such information in a
6 covered nation (as defined in section
7 4872(f) of title 10, United States Code),
8 unless notice of such storage is provided to
9 the parent of such child or to such teen, as
10 the case may be;

11 “(ii) to transfer such information to
12 such a nation, unless notice of such trans-
13 fer is provided to the parent of such child
14 or to such teen, as the case may be; or

15 “(iii) to provide such a nation with ac-
16 cess to such information, unless notice of
17 such access is provided to the parent of
18 such child or to such teen, as the case may
19 be.”; and

20 (B) in paragraph (2)—

21 (i) in the heading, by striking “PAR-
22 ENT” and inserting “PARENT OR TEEN”;

23 (ii) by striking “an operator of such a
24 website or online service nor the operator’s
25 agent” and inserting “an operator of such

1 a website, service, or application nor an
2 agent of such an operator”; and

3 (iii) by striking “subsection
4 (b)(1)(B)(iii) to the parent of a child” and
5 inserting “subsection (b)(1)(B)(iv) to a
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) in the matter preceding clause
12 (i), by striking “the operator of any
13 website” and all that follows through
14 “from a child” and inserting “an op-
15 erator of a website, online service, on-
16 line application, or mobile application
17 directed to children or that has knowl-
18 edge that a user is a child or teen”;

19 (II) in clause (i)—

20 (aa) by striking “notice on
21 the website” and inserting “clear
22 and conspicuous notice on the
23 website, service, or application”;

24 (bb) by inserting “or teens”
25 after “children”;

- 1 (cc) by striking “, and the
2 operator’s disclosure practices”
3 and inserting “, the disclosure
4 practices of the operator”; and
5 (dd) by striking “; and” and
6 inserting “, the rights and oppor-
7 tunities available to a parent of a
8 child or teen and a teen under
9 subparagraphs (B) and (C), and
10 the procedures or mechanisms
11 the operator uses to ensure that
12 personal information is not col-
13 lected from children or teens (ex-
14 cept as permitted by the regula-
15 tions promulgated under this
16 subsection);”;
17 (III) in clause (ii)—
18 (aa) by striking “parental”;
19 (bb) by inserting “or teens”
20 after “children”; and
21 (cc) by striking the semi-
22 colon at the end and inserting “;
23 and”; and
24 (IV) by inserting after clause (ii)
25 the following new clause:

- 1 “(iii) to obtain verifiable consent from
2 a parent of a child (in the case of a child)
3 or from a teen (in the case of a teen) be-
4 fore using or disclosing personal informa-
5 tion of the child or teen for any purpose
6 that is a material change from how the op-
7 erator uses such information or from the
8 disclosure practices specified to the parent
9 of the child or the teen under clause (i);”;
- 10 (ii) in subparagraph (B)—
- 11 (I) in the matter preceding clause
12 (i), by striking “that website or online
13 service” and inserting “the operator”;
- 14 (II) in clause (i), by striking
15 “that operator” and inserting “the
16 operator, the method by which the op-
17 erator obtains 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 of the operator and” after
5 “the opportunity at any time”;
6 and

7 (bb) by striking “from that
8 child; and” and inserting “of the
9 child;”;

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

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

19 (V) in clause (iv), as so redesign-
20 nated, by striking “from that child;”
21 and inserting “of the child, if such in-
22 formation is available to the operator
23 at the time the parent makes the re-
24 quest;”;

1 (iii) by redesignating subparagraphs
2 (C) and (D) as subparagraphs (D) and
3 (E), respectively;

4 (iv) by inserting after subparagraph
5 (B) the following new subparagraph:

6 “(C) require the operator, upon the re-
7 quest of a teen (or a parent of the teen) who
8 has provided personal information to the oper-
9 ator, to provide to the teen or parent (upon au-
10 thentication of the teen or parent through rea-
11 sonable means)—

12 “(i) a description of the specific types
13 of personal information collected from the
14 teen by the operator, the method by which
15 the operator obtains the personal informa-
16 tion, and the purposes for which the oper-
17 ator collects, uses, discloses, and retains
18 the personal information;

19 “(ii) the opportunity at any time to
20 delete personal information collected from
21 the teen or content or information sub-
22 mitted by the teen to a website, online
23 service, online application, or mobile appli-
24 cation of the operator;

1 “(iii) the ability to refuse to permit
2 the operator any further use or mainte-
3 nance, in retrievable form or online collec-
4 tion, of personal information of the teen;

5 “(iv) the opportunity to challenge the
6 accuracy of the personal information and,
7 if the teen or parent establishes the inaccu-
8 racy of the personal information, to have
9 such inaccurate personal information cor-
10 rected; and

11 “(v) notwithstanding any other provi-
12 sion of law, a means that is reasonable
13 under the circumstances for the teen or
14 parent to obtain any personal information
15 collected from the teen, if such information
16 is available to the operator at the time the
17 teen or parent makes the request;”;

18 (v) in subparagraph (D), as so redes-
19 ignated—

20 (I) by striking “a child’s partici-
21 pation” and inserting “the participa-
22 tion of a child or teen”; and

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

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

3 “(E) require the operator—

4 “(i) to establish, implement, and
5 maintain reasonable security practices to
6 protect the confidentiality, integrity, and
7 accessibility of personal information of
8 children or teens collected by the operator;
9 and

10 “(ii) to protect such personal informa-
11 tion against unauthorized access.”;

12 (B) in paragraph (2)—

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

17 (ii) in subparagraph (A)—

18 (I) by inserting “or teen” after
19 “collected from a child”;

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

22 (III) by inserting “or teen or to
23 contact another child or teen” after
24 “to recontact the child”;

25 (iii) in subparagraph (B)—

1 (I) by striking “parent or child”
2 and inserting “parent or teen”; and

3 (II) by striking “parental con-
4 sent” each place the term appears and
5 inserting “verifiable consent”;

6 (iv) in subparagraph (C)—

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

10 (II) in clause (i)—

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

14 (bb) by inserting “or teen,
15 as applicable,” after “parent”
16 each place the term appears; and
17 (III) in clause (ii)—

18 (aa) by inserting “or teen,
19 as applicable,” after “parent”;
20 and

21 (bb) by inserting “or teen”
22 after “child” each place the term
23 appears;

24 (v) in subparagraph (D)—

1 (I) in the matter preceding clause

2 (i)—

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

6 (bb) by striking “participant
7 on the site” and inserting “who
8 is a user of a website, online
9 service, online application, or mo-
10 bile application”;

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

13 (III) in clause (iii), by striking
14 “site” and inserting “website, service,
15 or application”; and

16 (IV) in the flush text following
17 clause (iii)—

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

21 (bb) by inserting “or teen”
22 after “child”; and

23 (vi) in subparagraph (E)—

24 (I) in the matter preceding clause

25 (i), by striking “website or online

1 service” and insert “website, service,
2 or application”; and

3 (II) in clause (i), by striking “its
4 website” and inserting “the website,
5 service, or application”;

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

9 “(3) APPLICATION TO OPERATORS ACTING
10 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES
11 OR INSTITUTIONS.—The regulations promulgated
12 under this subsection may provide that verifiable
13 consent under paragraph (1)(A)(ii) is not required
14 for an operator that acts under a written agreement
15 with an educational agency or institution that re-
16 quires—

17 “(A) the operator to—

18 “(i) limit the collection, use, and dis-
19 closure by the operator of the personal in-
20 formation of a child or teen who is a stu-
21 dent served by the educational agency or
22 institution to solely educational purposes
23 and for no other commercial purposes;

24 “(ii) provide notice to the educational
25 agency or institution regarding the specific

1 types of personal information the operator
2 collects from such a child or teen, the
3 method by which the operator obtains the
4 personal information, and the purposes for
5 which the operator collects, uses, discloses,
6 and retains the personal information;

7 “(iii) provide to the educational agen-
8 cy or institution a link regarding the dis-
9 closure practices of the operator described
10 in subsection (b)(1)(A)(i); and

11 “(iv) upon request by the educational
12 agency or institution—

13 “(I) provide the educational
14 agency or institution with a means to
15 review the personal information col-
16 lected from such a child or teen;

17 “(II) prevent any further use,
18 maintenance, or collection of personal
19 information of such a child or teen;
20 and

21 “(III) delete personal information
22 collected from such a child or teen or
23 content or information submitted by
24 such a child or teen to the website,

1 online service, online application, or
2 mobile application of the operator;

3 “(B) a representative of the educational
4 agency or institution to provide—

5 “(i) the name of the representative;

6 “(ii) the title of the representative at
7 the educational agency or institution; and

8 “(iii) an acknowledgment that the
9 representative has authority to permit the
10 collection, use, and disclosure of personal
11 information of children or teens who are
12 students served by the educational agency
13 or institution on behalf of the educational
14 agency or institution; and

15 “(C) the educational agency or institution
16 to—

17 “(i) provide on a publicly available
18 website of the educational agency or insti-
19 tution a notice that—

20 “(I) identifies the operator with
21 which the educational agency or insti-
22 tution has entered into a written
23 agreement under this paragraph; and

24 “(II) includes the link described
25 in subparagraph (A)(iii);

1 “(ii) upon request, provide the notice
2 described in subparagraph (A)(ii) to a par-
3 ent (in the case of a child who is a student
4 served by the educational agency or insti-
5 tution) or a parent or teen (in the case of
6 a teen who is a student served by the edu-
7 cational agency or institution); and

8 “(iii) upon the request of a parent (in
9 the case of such a child) or a parent or
10 teen (in the case of such a teen), request
11 the operator provide a means to review the
12 personal information of such child or teen
13 and provide such parent or teen a means
14 to review the personal information.”;

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

17 “(4) TERMINATION OF SERVICE.—The regula-
18 tions promulgated under this subsection shall permit
19 an operator to terminate service provided to a child
20 for whom a parent has refused or a teen who has
21 refused (under the regulations promulgated under
22 paragraphs (1)(B)(ii) and (1)(C)(ii), respectively) to
23 permit the operator any further use or maintenance,
24 in retrievable form or online collection, of personal
25 information of the child or teen.”; and

1 (E) by adding at the end the following new
2 paragraphs:

3 “(5) CONTINUATION OF SERVICE.—The regula-
4 tions promulgated under this subsection shall pro-
5 hibit an operator from discontinuing service provided
6 to a child or teen on the basis of a request by a par-
7 ent of the child or by the teen (under the regulations
8 promulgated under paragraphs (1)(B)(ii) and
9 (1)(C)(ii), respectively) to delete personal informa-
10 tion collected from the child or teen, to the extent
11 that the operator is capable of providing such service
12 without such information.

13 “(6) RULE OF CONSTRUCTION.—A request to
14 delete or correct personal information of a child or
15 teen (under the regulations promulgated under para-
16 graphs (1)(B) or (1)(C), respectively) may not be
17 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 to delete or
24 correct information that—

1 “(i) the operator is required to main-
2 tain under any other provision of Federal
3 or State law; 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 has requested that
8 the content or information be deleted or
9 corrected, including content or information
10 submitted by the user that was republished
11 or resubmitted by another person; or

12 “(C) to prohibit an operator from—

13 “(i) retaining a record of the request
14 for deletion or correction and the informa-
15 tion necessary to comply with a request
16 made under the regulations promulgated
17 under paragraphs (1)(B) or (1)(C);

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

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

1 “(iv) ensuring that the personal infor-
2 mation of the child or teen remains de-
3 leted.

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

6 “(A) IN GENERAL.—

7 “(i) FEASIBILITY OF MECHANISM.—
8 The Commission, with notice and public
9 comment, shall assess the feasibility of al-
10 lowing an operator to use a common
11 verifiable consent mechanism that meets
12 the requirements of this title.

13 “(ii) REQUIREMENTS.—The feasibility
14 assessment required by clause (i) shall con-
15 sider whether a single operator could use a
16 common verifiable consent mechanism to
17 obtain verifiable consent from a parent of
18 a child or from a teen on behalf of mul-
19 tiple, listed operators that provide a joint
20 or related service.

21 “(B) REPORT.—Not later than 1 year
22 after the date of the enactment of this para-
23 graph, the Commission shall submit 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 a report detailing the results of the
3 feasibility assessment required by subparagraph
4 (A)(i).

5 “(C) REGULATIONS.—If the Commission
6 determines in the feasibility assessment re-
7 quired by subparagraph (A)(i) that the use of
8 a common verifiable consent mechanism is fea-
9 sible and meets the requirements of this title,
10 the Commission shall promulgate regulations to
11 permit the use of such a common verifiable con-
12 sent mechanism in accordance with such deter-
13 mination.”;

14 (4) in subsection (c), by striking “a regulation
15 prescribed under subsection (a)” and inserting “sub-
16 section (a)(1) or a regulation promulgated under
17 subsection (b)”;

18 (5) by amending subsection (d) to read as fol-
19 lows:

20 “(d) PREEMPTION.—No State, or political subdivi-
21 sion of a State, may maintain, enforce, prescribe, or con-
22 tinue in effect any law, rule, regulation, requirement,
23 standard, or other provision having the force and effect
24 of law that relates to the provisions of this Act.”.

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.—Except as provided in para-
9 graph (2), the Commission shall publish on the
10 website of the Commission any report or documenta-
11 tion required under this title to be submitted to the
12 Commission.

13 “(2) RESTRICTIONS ON PUBLICATION.—Not-
14 withstanding the publication requirement described
15 in paragraph (1), the restrictions described in sec-
16 tions 6(f) and 21 of the Federal Trade Commission
17 Act (15 U.S.C. 46(f); 57b–2) applicable to the dis-
18 closure of information obtained by the Commission
19 shall apply in the same manner to any publication
20 under paragraph (1).”.

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

24 (1) in subsection (a)(1)—

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

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

7 (2) in subsection (d)—

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

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

12 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

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

15 (1) in subsection (d)—

16 (A) by striking “a rule of the Commission
17 under section 1303” and inserting “section
18 1303(a)(1) or a regulation promulgated under
19 section 1303(b)”; and

20 (B) by striking “such rule” and inserting
21 “such section or such regulation”; and

22 (2) by adding at the end the following new sub-
23 section:

24 “(f) ADDITIONAL REQUIREMENT.—Any regulation
25 promulgated under this title shall include a description

1 and analysis of the impact of proposed and final rules on
2 small entities per the Regulatory Flexibility Act of 1980
3 (5 U.S.C. 601 et seq.).”.

4 **SEC. 3. REPORTS.**

5 (a) OVERSIGHT REPORT.—Not later than 3 years
6 after the date of the enactment of this Act, the Federal
7 Trade Commission shall submit to the Committee on Com-
8 merce, Science, and Transportation of the Senate and the
9 Committee on Energy and Commerce of the House of
10 Representatives a report detailing the processes of high-
11 impact social media companies to ensure that, for such
12 companies that are websites, online services, online appli-
13 cations, or mobile applications directed to children, such
14 websites, services, or applications operate in accordance
15 with this Act, including the amendments made by this Act
16 and the regulations promulgated under this Act.

17 (b) ENFORCEMENT REPORT.—Not later than 1 year
18 after the date of the enactment of this Act, and annually
19 thereafter, the Federal Trade Commission shall submit to
20 the Committee on Commerce, Science, and Transportation
21 of the Senate and the Committee on Energy and Com-
22 merce of the House of Representatives a report that de-
23 tails the following:

24 (1) The number of actions brought by the Com-
25 mission during the reporting year to enforce the

1 Children’s Online Privacy Protection Act of 1998
2 (15 U.S.C. 6501) (referred to in this subsection as
3 the “Act”) and the outcome of each such action.

4 (2) The number of investigations or inquiries
5 into potential violations of the Act during the report-
6 ing year.

7 (3) The number of open investigations or in-
8 quires into potential violations of the Act as of the
9 date on which the report is submitted.

10 (4) The number and nature of complaints re-
11 ceived by the Commission relating to an allegation
12 of a violation of the Act during the reporting year.

13 **SEC. 4. SEVERABILITY.**

14 If any provision of this Act or the application of this
15 Act to any person or circumstance is held invalid, the re-
16 maining provisions of this Act and the application of this
17 Act to other persons or circumstances shall not be af-
18 fected.