

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 7890
OFFERED BY MR. WALBERG OF MICHIGAN**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 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 en-
forcement.

Sec. 4. Severability.

**6 SEC. 2. ONLINE COLLECTION, USE, DISCLOSURE, AND DE-
7 LETION OF PERSONAL INFORMATION OF
8 CHILDREN AND TEENS.**

9 (a) **DEFINITIONS.**—Section 1302 of the Children’s
10 Online Privacy Protection Act of 1998 (15 U.S.C. 6501)
11 is amended—

12 (1) by amending paragraph (2) to read as fol-
13 lows:

14 “(2) **OPERATOR.**—The term ‘operator’—
15 “(A) means any person—

1 “(i) who, for commercial purposes, in
2 interstate or foreign commerce operates or
3 provides a website on the internet, an on-
4 line service, an online application, or a mo-
5 bile application; and

6 “(ii) who—

7 “(I) collects or maintains, either
8 directly or through a service provider,
9 personal information from or about
10 the users of that website, service, or
11 application;

12 “(II) allows another person to
13 collect personal information directly
14 from users of that website, service, or
15 application (in which case, the oper-
16 ator is deemed to have collected the
17 information); or

18 “(III) allows users of that
19 website, service, or application to pub-
20 licly disclose personal information (in
21 which case, the operator is deemed to
22 have collected the information); and

23 “(B) does not include any nonprofit entity
24 that would otherwise be exempt from coverage

1 under section 5 of the Federal Trade Commis-
2 sion Act (15 U.S.C. 45).”;

3 (2) in paragraph (4)—

4 (A) by amending subparagraph (A) to read
5 as follows:

6 “(A) the release of personal information
7 collected from a child or teen by an operator for
8 any purpose, except where the personal infor-
9 mation is provided to a person other than an
10 operator who—

11 “(i) provides support for the internal
12 operations of the website, online service,
13 online application, or mobile application of
14 the operator, excluding any activity relat-
15 ing to individual-specific advertising to
16 children or teens; and

17 “(ii) does not disclose or use that per-
18 sonal information for any other purpose;
19 and”; and

20 (B) in subparagraph (B)—

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

23 (ii) by striking “website or online
24 service” and inserting “website, online

1 service, online application, or mobile appli-
2 cation”; and

3 (iii) by striking “actual knowledge”
4 and inserting “knowledge”;

5 (3) by striking paragraph (8) and inserting the
6 following:

7 “(8) PERSONAL INFORMATION.—

8 “(A) IN GENERAL.—The term ‘personal in-
9 formation’ means individually identifiable infor-
10 mation about an individual collected online, in-
11 cluding—

12 “(i) a first and last name;

13 “(ii) a home or other physical address,
14 including street name and name of a city
15 or town;

16 “(iii) an e-mail address;

17 “(iv) a telephone number;

18 “(v) a Social Security number;

19 “(vi) any other identifier that the
20 Commission determines permits the phys-
21 ical or online contacting of a specific indi-
22 vidual;

23 “(vii) a persistent identifier that can
24 be used to recognize a specific child or teen
25 over time and across different websites, on-

1 line services, online applications, or mobile
2 applications, including but not limited to a
3 customer number held in a cookie, an
4 Internet Protocol (IP) address, a processor
5 or device serial number, or unique device
6 identifier, but excluding an identifier that
7 is used by an operator solely for providing
8 support for the internal operations of the
9 website, online service, online application,
10 or mobile application;

11 “(viii) a photograph, video, or audio
12 file, where such file contains a specific
13 child’s or teen’s image or voice;

14 “(ix) geolocation information;

15 “(x) information generated from the
16 measurement or technological processing of
17 an individual’s biological, physical, or phys-
18 iological characteristics that is used to
19 identify an individual, including—

20 “(I) fingerprints;

21 “(II) voice prints;

22 “(III) iris or retina imagery
23 scans;

24 “(IV) facial templates;

1 “(V) deoxyribonucleic acid
2 (DNA) information; or

3 “(VI) gait; or

4 “(xi) information linked or reasonably
5 linkable to a child or teen or the parents
6 of a child or teen (including any unique
7 identifier) that an operator collects online
8 from the child or teen and combines with
9 an identifier described in this subpara-
10 graph.

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

15 “(i) does not request information via
16 voice that would otherwise be considered
17 personal information under this paragraph;

18 “(ii) provides clear notice of its collec-
19 tion and use of the audio file and its dele-
20 tion policy in its privacy policy;

21 “(iii) only uses the voice within the
22 audio file solely as a replacement for writ-
23 ten words, to perform a task, or engage
24 with a website, online service, online appli-
25 cation, or mobile application, such as to

1 perform a search or fulfill a verbal instruc-
2 tion or request; and

3 “(iv) only maintains the audio file
4 long enough to complete the stated purpose
5 and then immediately deletes the audio file
6 and does not make any other use of the
7 audio file prior to deletion.

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

11 “(i) IN GENERAL.—For purposes of
12 subparagraph (A)(vii), the term ‘support
13 for the internal operations of a website, on-
14 line service, online application, or mobile
15 application’ means those activities nec-
16 essary to—

17 “(I) maintain or analyze the
18 functioning of the website, online serv-
19 ice, online application, or mobile appli-
20 cation;

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

23 “(III) authenticate users of, or
24 personalize the content on, the

1 website, online service, online applica-
2 tion, or mobile application;

3 “(IV) serve contextual adver-
4 tising, if any persistent identifier is
5 only used as necessary for technical
6 purposes to serve the contextual ad-
7 vertisement or cap the frequency of
8 advertising;

9 “(V) protect the security or in-
10 tegrity of the user, website, online
11 service, online application, or mobile
12 application;

13 “(VI) ensure legal or regulatory
14 compliance, or

15 “(VII) fulfill a request of a child
16 or teen as permitted by subpara-
17 graphs (A) through (C) of section
18 1303(b)(2).

19 “(ii) CONDITION.—Except as specifi-
20 cally permitted under clause (i), informa-
21 tion collected for the activities listed in
22 clause (i) cannot be used or disclosed to
23 contact a specific individual, including
24 through individual-specific advertising to
25 children or teens, to amass a profile on a

1 specific individual, in connection with proc-
2 esses that encourage or prompt use of a
3 website or online service, or for any other
4 purpose.”;

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

7 “(9) VERIFIABLE CONSENT.—The term
8 ‘verifiable consent’ means any reasonable effort (tak-
9 ing into consideration available technology), includ-
10 ing a request for authorization for future collection,
11 use, and disclosure described in the notice, to ensure
12 that, in the case of a child, a parent of the child,
13 or, in the case of a teen, the teen—

14 “(A) receives direct notice of the personal
15 information collection, use, and disclosure prac-
16 tices of the operator; and

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

20 “(i) the collection, use, and disclosure,
21 as applicable, of that personal information;
22 and

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

25 (5) in paragraph (10)—

1 (A) in the heading, by striking “WEBSITE
2 OR ONLINE SERVICE DIRECTED TO CHILDREN”
3 and inserting “WEBSITE, ONLINE SERVICE, ON-
4 LINE APPLICATION, OR MOBILE APPLICATION
5 DIRECTED TO CHILDREN”;

6 (B) by striking “website or online service”
7 each place it appears and inserting “website,
8 online service, online application, or mobile ap-
9 plication”; and

10 (C) by adding at the end the following new
11 subparagraph:

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

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

23 “(13) CONNECTED DEVICE.—The term ‘con-
24 nected device’ means a device that is capable of con-

1 necting to the internet, directly or indirectly, or to
2 another connected device.

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

5 “(A) means an internet-connected software
6 program; and

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

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

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

13 “(i) a cellular telephone;

14 “(ii) a tablet computer; or

15 “(iii) a similar portable computing de-
16 vice that transmits data over a wireless
17 connection; and

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

20 “(16) GEOLOCATION INFORMATION.—The term
21 ‘geolocation information’ means information suffi-
22 cient to identify a street name and name of a city
23 or town.

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

1 “(18) COVERED HIGH-IMPACT SOCIAL MEDIA
2 COMPANY.—The term ‘covered high-impact social
3 media company’ means an operator that—

4 “(A) generates \$3,00,000,000 or more in
5 global annual revenue, including the revenue
6 generated by any affiliate of such operator;

7 “(B) has 300,000,000 or more global
8 monthly active users for not fewer than 3 of the
9 preceding 12 months on the website, online
10 service, online application, or mobile application
11 of such operator; and

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

15 “(19) KNOWLEDGE.—The term ‘knowledge’
16 means—

17 “(A) with respect to a high-impact social
18 media company, the operator knew or should
19 have known that a user is a child or teen;

20 “(B) with respect to an operator that had
21 an annual gross revenue of \$200,000,000 or
22 more, collects the personal information of
23 200,000 individuals or more, and does not meet
24 the qualifications of subparagraph (A), the op-

1 erator knew or acted in willful disregard of the
2 fact that the individual is a child or teen; and

3 “(C) with respect to an operator that does
4 not meet the requirements of subparagraph (A)
5 or (B), actual knowledge.

6 “(20) INDIVIDUAL-SPECIFIC ADVERTISING TO
7 CHILDREN OR TEENS.—

8 “(A) IN GENERAL.—The term ‘individual-
9 specific advertising to children or teens’ means
10 advertising or any other effort to market a
11 product or service that is directed to a specific
12 child or teen or a connected device that is
13 linked or reasonably linkable to a child or teen
14 based on—

15 “(i) the personal information from—

16 “(I) the child or teen; or

17 “(II) a group of children or teens
18 who are similar in sex, age, household
19 income level, race, or ethnicity to the
20 specific child or teen to whom the
21 product or service is marketed;

22 “(ii) profiling of a child or teen or
23 group of children or teens; or

24 “(iii) a unique identifier of the con-
25 nected device.

1 “(B) EXCLUSIONS.—The term ‘individual-
2 specific advertising to children or teens’ shall
3 not include—

4 “(i) advertising or marketing to an in-
5 dividual or the device of an individual in
6 response to the individual’s specific request
7 for information or feedback, such as a
8 child’s or teen’s current search query;

9 “(ii) contextual advertising, such as
10 when an advertisement is displayed based
11 on the content of the website, online serv-
12 ice, online application, mobile application,
13 or connected device in which the advertise-
14 ment appears and does not vary based on
15 personal information related to the viewer;

16 “(iii) processing personal information
17 solely for measuring or reporting adver-
18 tising or content performance, reach, or
19 frequency, including independent measure-
20 ment; or

21 “(iv) advertising or marketing di-
22 rected to a device used by both adult and
23 child or teen members of a household
24 where such advertising or marketing is di-

1 rected only to services accessible through
2 an adult user profile.

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

12 “(21) EDUCATIONAL AGENCY OR INSTITU-
13 TION.—The term ‘educational agency or institution’
14 means—

15 “(A) a State educational agency or a local
16 educational agency (as such terms are defined
17 in section 8101 of the Elementary and Sec-
18 ondary Education Act of 1965 (20 U.S.C.
19 7801)); and

20 “(B) an institutional day or residential
21 school, including a public school, charter school,
22 or private school, that provides elementary or
23 secondary education, as determined under State
24 law.”.

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

6 (1) by striking the heading and inserting the
7 following: “**ONLINE COLLECTION, USE, DISCLO-**
8 **SURE, AND DELETION OF PERSONAL INFORMA-**
9 **TION OF CHILDREN AND TEENS.**”;

10 (2) in subsection (a)—

11 (A) by amending paragraph (1) to read as
12 follows:

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

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

22 “(B) except as provided in subparagraphs
23 (B) and (C) of section 1302(18), to collect, use,
24 disclose to third parties, or maintain personal
25 information of a child or teen for purposes of

1 individual-specific advertising to children or
2 teens (or to allow another person to collect, use,
3 disclose, or maintain such information for such
4 purpose);

5 “(C) to collect the personal information of
6 a child or teen, except when the collection of
7 the personal information is—

8 “(i) consistent with the context of a
9 particular transaction or service or the re-
10 lationship of the child or teen with the op-
11 erator, including collection necessary to
12 fulfill a transaction or provide a product or
13 service requested by the child or teen; or

14 “(ii) required or specifically author-
15 ized by Federal or State law;

16 “(D) to store or transfer the personal in-
17 formation of a child or teen outside of the
18 United States unless the operator provides di-
19 rect notice to the parent of the child, in the
20 case of a child, or to the teen, in the case of
21 a teen, that the child’s or teen’s personal infor-
22 mation is being stored or transferred outside of
23 the United States; or

24 “(E) to retain the personal information of
25 a child or teen for longer than is reasonably

1 necessary to fulfill a transaction or provide a
2 service requested by the child or teen, except as
3 required or specifically authorized by Federal or
4 State law.”; and

5 (B) in paragraph (2)—

6 (i) in the heading, by striking “PAR-
7 ENT” and inserting “‘PARENT OR TEEN’”;

8 (ii) by striking “Notwithstanding
9 paragraph (1)” and inserting “Notwith-
10 standing paragraph (1)(A)”;

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

13 (iv) by striking “subsection
14 (b)(1)(B)(iii) to the parent of a child” and
15 inserting “subsection (b)(1)(B)(iv) to the
16 parent of a child or under subsection
17 (b)(1)(C)(iv) to a teen”;

18 (3) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) in subparagraph (A)—

21 (I) by striking “operator of any
22 website” and all that follows through
23 “from a child” and inserting “oper-
24 ator of a website, online service, on-
25 line application, or mobile application

1 directed to children or that has knowl-
2 edge that a user is a child or teen”;
3 (II) in clause (i)—
4 (aa) by striking “notice on
5 the website” and inserting “clear
6 and conspicuous notice on the
7 website”;
8 (bb) by inserting “or teens”
9 after “children”;
10 (cc) by striking “, and the
11 operator’s” and inserting “, the
12 operator’s”; and
13 (dd) by striking “; and” and
14 inserting “, the rights and oppor-
15 tunities available to the parent of
16 the child or teen under subpara-
17 graphs (B) and (C), and the pro-
18 cedures or mechanisms the oper-
19 ator uses to ensure that personal
20 information is not collected from
21 children or teens except in ac-
22 cordance with the regulations
23 promulgated under this para-
24 graph;”;
25 (III) in clause (ii)—

- 1 (aa) by striking “parental”;
- 2 (bb) by inserting “or teens”
- 3 after “children”; and
- 4 (cc) by striking the semi-
- 5 colon at the end and inserting “;
- 6 and”; and
- 7 (IV) by inserting after clause (ii)
- 8 the following new clause:
- 9 “(iii) to obtain verifiable consent from
- 10 a parent of a child or from a teen before
- 11 using or disclosing personal information of
- 12 the child or teen for any purpose that is a
- 13 material change from the original purposes
- 14 and disclosure practices specified to the
- 15 parent of the child or the teen under
- 16 clause (i);”;
- 17 (ii) in subparagraph (B)—
- 18 (I) in the matter preceding clause
- 19 (i), by striking “website or online
- 20 service” and inserting “operator”;
- 21 (II) in clause (i), by inserting
- 22 “and the method by which the oper-
- 23 ator obtained the personal informa-
- 24 tion, and the purposes for which the
- 25 operator collects, uses, discloses, and

1 retains the personal information” be-
2 fore the semicolon;

3 (III) in clause (ii)—

4 (aa) by inserting “to delete
5 personal information collected
6 from the child or content or in-
7 formation submitted by the child
8 to a website, online service, on-
9 line application, or mobile appli-
10 cation and” after “the oppor-
11 tunity at any time”; and

12 (bb) by striking “; and” and
13 inserting a semicolon;

14 (IV) by redesignating clause (iii)
15 as clause (iv) and inserting after
16 clause (ii) the following new clause:

17 “(iii) the opportunity to challenge the
18 accuracy of the personal information and,
19 if the parent of the child establishes the in-
20 accuracy of the personal information, to
21 have the inaccurate personal information
22 corrected;” and

23 (V) in clause (iv), as so redesi-
24 gnated, by inserting “, if such informa-
25 tion is available to the operator at the

1 time the parent makes the request”
2 before the semicolon;

3 (iii) by redesignating subparagraphs
4 (C) and (D) as subparagraphs (D) and
5 (E), respectively;

6 (iv) by inserting after subparagraph
7 (B) the following new subparagraph:

8 “(C) require the operator to provide, upon
9 the request of a parent of a teen or a teen
10 under this subparagraph who has provided per-
11 sonal information to the operator, upon proper
12 identification of that parent or that teen—

13 “(i) a description of the specific types
14 of personal information collected from the
15 teen by the operator, the method by which
16 the operator obtained the personal infor-
17 mation, and the purposes for which the op-
18 erator collects, uses, discloses, and retains
19 the personal information;

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

1 tor’s further use or maintenance in retriev-
2 able form, or online collection, of personal
3 information from the teen;

4 “(iii) the opportunity to challenge the
5 accuracy of the personal information and,
6 if the parent or the teen establishes the in-
7 accuracy of the personal information, to
8 have the inaccurate personal information
9 corrected; and

10 “(iv) a means that is reasonable
11 under the circumstances for the parent or
12 the teen to obtain any personal informa-
13 tion collected from the teen, if such infor-
14 mation is available to the operator at the
15 time the parent or the teen makes the re-
16 quest;”;

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

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

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

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

1 “(E) require the operator to establish, im-
2 plement, and maintain reasonable security prac-
3 tices to protect the confidentiality, integrity,
4 and accessibility of personal information of chil-
5 dren or teens collected by the operator, and to
6 protect such personal information against unau-
7 thorized access.”;

8 (B) in paragraph (2)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “verifiable parental
11 consent” and inserting “verifiable con-
12 sent”;

13 (ii) in subparagraph (A)—

14 (I) by inserting “or teen” after
15 “collected from a child”;

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

18 (III) by inserting “or teen or to
19 contact another child or teen” after
20 “to recontact the child”;

21 (iii) in subparagraph (B)—

22 (I) by striking “parent or child”
23 and inserting “parent or teen”; and

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

4 (iv) in subparagraph (C)—

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 (i)—

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

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

15 (III) in clause (ii)—

16 (aa) by striking “without
17 notice to the parent” and insert-
18 ing “without notice to the parent
19 or teen, as applicable,”; and

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

23 (v) in subparagraph (D)—

1 (I) in the matter preceding clause
2 (i), by inserting “or teen” after
3 “child” each place the term appears;

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

6 (III) in the flush text following
7 clause (iii)—

8 (aa) by inserting “or teen,
9 as applicable,” after “parent”
10 each place the term appears; and

11 (bb) by inserting “or teen”
12 after “child”;

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

16 “(3) APPLICATION TO OPERATORS ACTING
17 UNDER AGREEMENTS WITH EDUCATIONAL AGENCIES
18 OR INSTITUTIONS.—The regulations may provide
19 that verifiable consent under paragraph (1)(A)(ii) is
20 not required for an operator that is acting under a
21 written agreement with an educational agency or in-
22 stitution that, at a minimum, requires the—

23 “(A) operator to—

24 “(i) limit its collection, use, and dis-
25 closure of the personal information from a

1 child or teen to solely educational purposes
2 and for no other commercial purposes;

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

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

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

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

9 “(C) educational agency or institution to—

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

17 “(ii) provide the operator’s notice re-
18 garding its information practices, as re-
19 quired under subparagraph (A)(ii), upon
20 request, to a parent, in the case of a child,
21 or a parent or teen, in the case of a teen;
22 and

23 “(iii) upon the request of a parent, in
24 the case of a child, or a parent or teen, in
25 the case of a teen, request the operator

1 provide a means to review the personal in-
2 formation from the child or teen and pro-
3 vide the parent, in the case of a child, or
4 parent or teen, in the case of the teen, a
5 means to review the personal informa-
6 tion.”;

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

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

19 (E) by adding at the end the following new
20 paragraphs:

21 “(5) CONTINUATION OF SERVICE.—The regula-
22 tions shall prohibit an operator from discontinuing
23 service provided to a child or teen on the basis of
24 a request by the parent of the child or by the teen,
25 under the regulations prescribed under subpara-

1 graph (B) or (C) of paragraph (1), respectively, to
2 delete personal information collected from the child
3 or teen, to the extent that the operator is capable of
4 providing such service without such information.

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

9 “(A) to limit the authority of a law en-
10 forcement agency to obtain any content or in-
11 formation from an operator pursuant to a law-
12 fully executed warrant or an order of a court of
13 competent jurisdiction;

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

16 “(i) any other provision of Federal or
17 State law requires the operator or third
18 party to maintain; or

19 “(ii) was submitted to the website, on-
20 line service, online application, or mobile
21 application of the operator by any person
22 other than the user who is attempting to
23 erase or otherwise eliminate the content or
24 information, including content or informa-

1 tion submitted by the user that was repub-
2 lished or resubmitted by another person; or
3 “(C) to prohibit an operator from—

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

9 “(ii) preventing, detecting, protecting
10 against, or responding to security inci-
11 dents, identity theft, or fraud, or reporting
12 those responsible for such actions;

13 “(iii) protecting the integrity or secu-
14 rity of a website, online service, online ap-
15 plication or mobile application; or

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

18 “(7) COMMON VERIFIABLE CONSENT MECHA-
19 NISM.—

20 “(A) IN GENERAL.—

21 “(i) FEASIBILITY OF MECHANISM.—
22 The Commission shall assess the feasi-
23 bility, with notice and public comment, of
24 allowing operators the option to use a com-

1 mon verifiable consent mechanism that
2 fully meets the requirements of this title.

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

12 “(B) REPORT.—Not later than 1 year
13 after the date of the enactment of this para-
14 graph, the Commission shall submit a report to
15 the Committee on Commerce, Science, and
16 Transportation of the Senate and the Com-
17 mittee on Energy and Commerce of the House
18 of Representatives with the findings of the as-
19 sessment required by subparagraph (A).

20 “(C) REGULATIONS.—If the Commission
21 finds that the use of a common verifiable con-
22 sent mechanism is feasible and would meet the
23 requirements of this title, the Commission shall
24 issue regulations to permit the use of a common

1 verifiable consent mechanism in accordance
2 with the findings outlined in such report.”;

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

8 (5) by striking subsection (d) and inserting the
9 following:

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

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

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

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

23 “(d) PUBLICATION.—

24 “(1) IN GENERAL.—Subject to the restrictions
25 described in paragraph (2), the Commission shall

1 publish on the internet website of the Commission
2 any report or documentation required by regulation
3 to be submitted to the Commission to carry out this
4 section.

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

14 (d) ACTIONS BY STATES.—Section 1305 of the Chil-
15 dren’s Online Privacy Protection Act of 1998 (15 U.S.C.
16 6504) is amended—

17 (1) in subsection (a)(1)—

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

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

24 (2) in subsection (d)—

- 1 (A) by inserting “section 1303(a)(1) or”
2 before “any regulation”; and
3 (B) by inserting “section 1303(a)(1) or”
4 before “that regulation”.

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

8 (1) in subsection (d)—

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

11 (B) by striking “such rule” and inserting
12 “section 1303(a)(1) or a rule of the Commis-
13 sion under section 1303”; and

14 (2) by adding at the end the following new sub-
15 section:

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

21 **SEC. 3. STUDY AND REPORTS OF MOBILE AND ONLINE AP-**
22 **PLICATION OVERSIGHT AND ENFORCEMENT.**

23 (a) OVERSIGHT REPORT.—Not later than 3 years
24 after the date of the enactment of this Act, the Federal
25 Trade Commission shall submit to the Committee on Com-

1 merce, Science, and Transportation of the Senate and the
2 Committee on Energy and Commerce of the House of
3 Representatives a report on the processes of platforms
4 that offer mobile and online applications for ensuring that,
5 of those applications that are websites, online services, on-
6 line applications, or mobile applications directed to chil-
7 dren, the applications operate in accordance with—

8 (1) this Act, the amendments made by this Act,
9 and the regulations promulgated under this Act; and

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

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

21 (1) the number of actions brought by the Com-
22 mission during the reporting year to enforce the
23 Children’s Online Privacy Protection Act of 1998
24 (15 U.S.C. 6501) (referred to in this subsection as
25 the “Act”) and the outcome of each such action;

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

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

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

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

13 **SEC. 4. SEVERABILITY.**

14 If any provision of this Act, or an amendment made
15 by this Act, is determined to be unenforceable or invalid,
16 the remaining provisions of this Act and the amendments
17 made by this Act shall not be affected.

