

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6291
OFFERED BY MS. LEE OF FLORIDA**

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

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

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

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

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

14 “(A) means any person—

15 “(i) who, for commercial purposes, op-
16 erates or provides a website, an online

1 service, an online application, or a mobile
2 application; and

3 “(ii) who—

4 “(I) collects or maintains, either
5 directly or through a service provider,
6 personal information of users of the
7 website, service, or application;

8 “(II) allows another person to
9 collect personal information directly
10 from users of the website, service, or
11 application (in which case, the oper-
12 ator is deemed to have collected the
13 information); or

14 “(III) allows users of the website,
15 service, or application to publicly dis-
16 close personal information (in which
17 case, the operator is deemed to have
18 collected the information); and

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

23 (2) in paragraph (4)—

24 (A) by amending subparagraph (A) to read
25 as follows:

1 “(A) the release of personal information
2 collected from a child or teen by an operator for
3 any purpose, except if the personal information
4 is provided to a person other than an operator
5 who—

6 “(i) provides support for the internal
7 operations of the website, online service,
8 online application, or mobile application of
9 the operator, excluding any activity relat-
10 ing to individual-specific advertising pro-
11 vided to children or teens; and

12 “(ii) does not disclose or use the per-
13 sonal information for any other purpose;
14 and”; and

15 (B) in subparagraph (B)—

16 (i) in the matter preceding clause
17 (i)—

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

20 (II) by striking “website or on-
21 line service” and inserting “website,
22 online service, online application, or
23 mobile application”; and

24 (III) by striking “actual knowl-
25 edge” and inserting “knowledge”; and

1 (ii) in clause (i), by striking “a
2 website” and inserting “such a website,
3 service, or application”;

4 (3) by amending paragraph (8) to read as fol-
5 lows:

6 “(8) PERSONAL INFORMATION.—

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

11 “(i) a first and last name;

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

15 “(iii) an e-mail address;

16 “(iv) a telephone number;

17 “(v) a Social Security number;

18 “(vi) a persistent identifier that can
19 be used to recognize a specific child or teen
20 over time and across different websites, on-
21 line services, online applications, or mobile
22 applications, that—

23 “(I) includes—

24 “(aa) a customer number
25 held in a cookie;

1 “(bb) an Internet Protocol
2 (IP) address;

3 “(cc) a processor or device
4 serial number; and

5 “(dd) a unique device identi-
6 fier; and

7 “(II) excludes an identifier that
8 is used by an operator solely for pro-
9 viding support for the internal oper-
10 ations of a website, online service, on-
11 line application, or mobile application
12 of the operator;

13 “(vii) a photograph, video, or audio
14 file that contains the image or voice of a
15 child or teen;

16 “(viii) geolocation information;

17 “(ix) information generated from the
18 measurement or technological processing of
19 the biological, physical, or physiological
20 characteristics of an individual, includ-
21 ing—

22 “(I) fingerprints;

23 “(II) voice prints;

24 “(III) iris or retina imagery
25 scans;

1 “(IV) facial templates;

2 “(V) deoxyribonucleic acid
3 (DNA) information; and

4 “(VI) gait;

5 “(x) information linked or reasonably
6 linkable to a child or teen or a parent of
7 a child or teen (including any unique iden-
8 tifier) that an operator collects online from
9 the child or teen and combines with an
10 identifier described in this subparagraph;
11 and

12 “(xi) any other identifier that the
13 Commission determines permits the phys-
14 ical or online contacting of an individual.

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

19 “(i) does not request information via
20 voice that would otherwise be considered
21 personal information under this paragraph;

22 “(ii) provides clear and conspicuous
23 notice on a website, online service, online
24 application, or mobile application of the
25 operator regarding—

1 “(I) the collection, use, and
2 maintenance of such an audio file;
3 and

4 “(II) the deletion policy relating
5 to such an audio file;

6 “(iii) only uses the voice contained in
7 the audio file as a replacement for written
8 words to perform a task or otherwise en-
9 gage with such website, service, or applica-
10 tion, including by conducting a search or
11 fulfilling a verbal instruction or request;

12 “(iv) only maintains the audio file
13 during the period necessary to complete
14 the relevant task or engagement;

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

17 “(vi) deletes the audio file at the end
18 of such period.

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

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A)(vi)(II), the term ‘sup-
24 port for the internal operations of a
25 website, online service, online application,

1 or mobile application’ means the activities
2 necessary to such website, service, or appli-
3 cation to—

4 “(I) maintain or analyze func-
5 tioning;

6 “(II) perform network commu-
7 nications;

8 “(III) authenticate users;

9 “(IV) personalize content;

10 “(V) serve contextual advertising
11 to users (if any persistent identifier is
12 only used as necessary for technical
13 purposes to serve the contextual ad-
14 vertisement or cap the frequency of
15 contextual advertising);

16 “(VI) protect—

17 “(aa) the integrity of the
18 website, service, or application; or

19 “(bb) the personal informa-
20 tion or security of users;

21 “(VII) ensure compliance with
22 Federal or State law; and

23 “(VIII) fulfill a request of a child
24 or teen under subparagraph (A), (B),
25 or (C) of section 1303(b)(2).

1 “(ii) CONDITION.—Except as per-
2 mitted under clause (i), information col-
3 lected through the activities described in
4 clause (i) may not be used or disclosed to
5 contact an individual (including through
6 individual-specific advertising provided to
7 children or teens), to amass a profile on an
8 individual, in connection with processes
9 that encourage or prompt use of a website
10 or online service, or for any other pur-
11 pose.”;

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

14 “(9) VERIFIABLE CONSENT.—The term
15 ‘verifiable consent’ means any reasonable effort (tak-
16 ing into consideration available technology) by an
17 operator, including a request for authorization for
18 future collection, use, maintenance, and disclosure of
19 personal information, to ensure that a parent of a
20 child or teen—

21 “(A) receives direct notice of the collection,
22 use, maintenance, and disclosure practices of
23 the operator with respect to personal informa-
24 tion; and

1 “(B) before the personal information of the
2 child or teen is collected, freely and unambig-
3 uously authorizes—

4 “(i) the collection, use, maintenance,
5 and disclosure, as applicable, of the per-
6 sonal information; and

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

9 (5) in paragraph (10)—

10 (A) in the heading, by striking “WEBSITE
11 OR ONLINE SERVICE DIRECTED TO CHILDREN”
12 and inserting “WEBSITE, ONLINE SERVICE, ON-
13 LINE APPLICATION, OR MOBILE APPLICATION
14 DIRECTED TO CHILDREN”;

15 (B) by striking “website or online service
16 directed to children” each place it appears and
17 inserting “website, online service, online appli-
18 cation, or mobile application directed to chil-
19 dren”;

20 (C) by striking “commercial website or on-
21 line service” each place it appears and inserting
22 “website, online service, online application, or
23 mobile application”; and

24 (D) by adding at the end the following new
25 subparagraph:

1 “(C) RULE OF CONSTRUCTION.—In con-
2 sidering whether a website, online service, on-
3 line application, or mobile application, or a por-
4 tion thereof, is directed to children, the Com-
5 mission shall apply a totality of circumstances
6 test and consider competent and reliable empir-
7 ical evidence regarding audience composition
8 and the intended audience of the website, serv-
9 ice, or application.”; and

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

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

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

17 “(A) a cellular telephone;

18 “(B) a tablet computer; or

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

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

1 “(16) TEEN.—The term ‘teen’ means an indi-
2 vidual who is over the age of 13 and under the age
3 of 17.

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

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

11 “(B) has 300,000,000 or more monthly ac-
12 tive users for not fewer than 3 of the preceding
13 12 months on the website, online service, online
14 application, or mobile application of such oper-
15 ator; and

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

19 “(18) KNOWLEDGE.—The term ‘knowledge’
20 means—

21 “(A) with respect to a high-impact social
22 media company, the operator has actual knowl-
23 edge, or willfully disregarded information that
24 would lead a reasonable and prudent person to
25 determine, that a user is a child or teen; and

1 “(B) with respect to an operator that does
2 not meet the requirements of subparagraph (A),
3 actual knowledge.

4 “(19) INDIVIDUAL-SPECIFIC ADVERTISING TO
5 CHILDREN OR TEENS.—

6 “(A) IN GENERAL.—The term ‘individual-
7 specific advertising to children or teens’ means
8 advertising or any other effort to market a
9 product or service that is directed to a specific
10 child or teen based on—

11 “(i) personal information of—

12 “(I) the child or teen; or

13 “(II) a group of children or teens
14 who are similar in sex, age, household
15 income level, race, or ethnicity to the
16 child or teen to whom the product or
17 service is marketed; or

18 “(ii) profiling of such child or teen or
19 group of children or teens.

20 “(B) EXCLUSIONS.—The term ‘individual-
21 specific advertising to children or teens’ does
22 not include—

23 “(i) advertising or marketing to an in-
24 dividual or to a device of an individual in
25 response to a request by the individual for

1 information or feedback, such as a search
2 query by a child or teen;

3 “(ii) contextual advertising, including
4 if an advertisement is displayed based on
5 the content of the website, online service,
6 online application, or mobile application on
7 which the advertisement appears and does
8 not vary based on personal information of
9 an individual who views the advertisement;

10 “(iii) processing personal information
11 solely for measuring or reporting adver-
12 tising or content performance, reach, or
13 frequency, including through independent
14 measurement; or

15 “(iv) advertising or marketing di-
16 rected to a device used by both adult and
17 child or teen members of a household, if
18 such advertising or marketing is directed
19 only to services accessible through an adult
20 user profile.

21 “(C) RULE OF CONSTRUCTION.—Nothing
22 in subparagraph (A) may be construed to pro-
23 hibit an operator with knowledge that a user is
24 a child or teen from delivering advertising or
25 marketing that is age-appropriate and intended

1 for a child or teen audience, if the operator
2 does not use any personal information other
3 than whether the user is a child or teen.

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

7 “(A) a State educational agency or a local
8 educational agency (as such terms are defined
9 in section 8101 of the Elementary and Sec-
10 ondary Education Act of 1965 (20 U.S.C.
11 7801)); and

12 “(B) an elementary school or secondary
13 school (as such terms are defined in section
14 8101 of the Elementary and Secondary Edu-
15 cation Act of 1965 (20 U.S.C. 7801)).”.

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

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

25 (2) in subsection (a)—

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

3 “(1) IN GENERAL.—It is unlawful for an oper-
4 ator of a website, online service, online application,
5 or mobile application directed to children or for any
6 operator of a website, online service, online applica-
7 tion, or mobile application with knowledge that a
8 user of such website, service, or application is a child
9 or teen—

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

13 “(B) to collect, use, disclose to third par-
14 ties, or maintain personal information of a child
15 or teen for the purpose of providing individual-
16 specific advertising to children or teens (or to
17 allow another person to collect, use, disclose, or
18 maintain such information for such purpose);

19 “(C) to otherwise collect personal informa-
20 tion from a child or teen, except if the collection
21 of the personal information is—

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

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

3 “(ii) authorized or required by Fed-
4 eral law (including a regulation promul-
5 gated under subsection (b)) or State law;
6 or

7 “(iii) for purposes of disclosure to the
8 National Center for Missing and Exploited
9 Children;

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

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

18 “(i) to store such information in a
19 covered nation (as defined in section
20 4872(f) of title 10, United States Code),
21 unless notice of such storage is provided to
22 the parent of such child or teen;

23 “(ii) to transfer such information to
24 such a nation, unless notice of such trans-

1 fer is provided to the parent of such child
2 or teen; or

3 “(iii) to provide such a nation with ac-
4 cess to such information, unless notice of
5 such access is provided to the parent of
6 such child or teen.”; and

7 (B) in paragraph (2)—

8 (i) by striking “an operator of such a
9 website or online service nor the operator’s
10 agent” and inserting “an operator of such
11 a website, service, or application nor an
12 agent of such an operator”; and

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

18 (3) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) in subparagraph (A)—

21 (I) in the matter preceding clause
22 (i), by striking “the operator of any
23 website” and all that follows through
24 “from a child” and inserting “an op-
25 erator of a website, online service, on-

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

- 1 (III) in clause (ii)—
- 2 (aa) by striking “parental”;
- 3 (bb) by inserting “mainte-
- 4 nance,” after “use,”;
- 5 (cc) by inserting “or teens”
- 6 after “children”; and
- 7 (dd) by striking the semi-
- 8 colon at the end and inserting “;
- 9 and”; and
- 10 (IV) by inserting after clause (ii)
- 11 the following new clause:
- 12 “(iii) to obtain verifiable consent from
- 13 a parent of a child or teen before using,
- 14 maintaining, or disclosing personal infor-
- 15 mation of the child or teen for any purpose
- 16 that is a material change from how the op-
- 17 erator uses or maintains such information
- 18 or from the disclosure practices specified to
- 19 the parent of the child or teen under
- 20 clause (i);”;
- 21 (ii) in subparagraph (B)—
- 22 (I) in the matter preceding clause
- 23 (i), by striking “that website or online
- 24 service” and inserting “the operator”;

1 (II) in clause (i), by striking
2 “that operator” and inserting “the
3 operator, the method by which the op-
4 erator obtains the personal informa-
5 tion, and the purposes for which the
6 operator collects, uses, maintains, and
7 discloses the personal information”
8 before the semicolon;

9 (III) in clause (ii)—

10 (aa) by inserting “to delete
11 personal information collected
12 from the child or content or in-
13 formation submitted by the child
14 to a website, online service, on-
15 line application, or mobile appli-
16 cation of the operator and” after
17 “the opportunity at any time”;

18 (bb) by striking “use or
19 maintenance” and inserting “use,
20 maintenance, or disclosure”; and

21 (cc) by striking “from that
22 child”;

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 striking “from that child;”
9 and inserting “from the child, if such
10 information is available to the oper-
11 ator at the time the parent makes the
12 request;”;

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

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

18 “(C) require the operator, upon the re-
19 quest of a parent of a teen who has provided
20 personal information to the operator, to provide
21 to the parent (upon authentication of the par-
22 ent through reasonable means)—

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

1 the operator obtains the personal informa-
2 tion, and the purposes for which the oper-
3 ator collects, uses, maintains, and discloses
4 the personal information;

5 “(ii) the opportunity at any time to
6 delete personal information collected from
7 the teen or content or information sub-
8 mitted by the teen to a website, online
9 service, online application, or mobile appli-
10 cation of the operator;

11 “(iii) the ability to refuse to permit
12 the operator any further use, maintenance,
13 or disclosure, in retrievable form or online
14 collection, of personal information of the
15 teen;

16 “(iv) the opportunity to challenge the
17 accuracy of the personal information and,
18 if the parent establishes the inaccuracy of
19 the personal information, to have such in-
20 accurate personal information corrected;
21 and

22 “(v) notwithstanding any other provi-
23 sion of law, a means that is reasonable
24 under the circumstances for the parent to
25 obtain any personal information collected

1 from the teen, if such information is avail-
2 able to the operator at the time the parent
3 makes the request;”;

4 (v) in subparagraph (D), as so redesi-
5 gnated—

6 (I) by striking “a child’s partici-
7 pation” and inserting “the participa-
8 tion of a child or teen”; and

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

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

13 “(E) require the operator—

14 “(i) to establish, implement, and
15 maintain reasonable security practices to
16 protect the confidentiality, integrity, and
17 accessibility of personal information of
18 children or teens collected by the operator;
19 and

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

22 (B) in paragraph (2)—

23 (i) in the matter preceding subpara-
24 graph (A), by striking “verifiable parental

1 consent” and inserting “verifiable con-
2 sent”;

3 (ii) in subparagraph (A)—

4 (I) by inserting “or teen” after
5 “collected from a child”;

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

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

11 (iii) in subparagraph (B)—

12 (I) by striking “parent or child”
13 and inserting “parent”; and

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

17 (iv) in subparagraph (C), by inserting
18 “or teen” after “child” each place the term
19 appears;

20 (v) in subparagraph (D)—

21 (I) in the matter preceding clause

22 (i)—

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

1 (bb) by striking “participant
2 on the site” and inserting “who
3 is a user of a website, online
4 service, online application, or mo-
5 bile application”;

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

8 (III) in clause (iii), by striking
9 “site” and inserting “website, service,
10 or application”; and

11 (IV) in the flush text following
12 clause (iii)—

13 (aa) by inserting “or teen”
14 after “child”; and

15 (bb) by striking “; or” and
16 inserting a semicolon at the end;
17 (vi) in subparagraph (E)—

18 (I) in the matter preceding clause
19 (i), by striking “collection, use, or dis-
20 semination” and inserting “collection,
21 use, maintenance, or disclosure”;

22 (II) in the matter preceding
23 clause (i), by striking “website or on-
24 line service” and insert “website, serv-
25 ice, or application”;

1 (III) in clause (i), by striking
2 “its website” and inserting “the
3 website, service, or application”; and

4 (IV) in clause (iv), by striking
5 the period at the end and inserting “;
6 or”; and

7 (vii) by adding at the end the fol-
8 lowing new subparagraph:

9 “(F) personal information collected from a
10 user for the purpose of determining whether
11 such user is a child or teen, if—

12 “(i) the operator collects, uses, and
13 maintains such personal information for
14 the sole purpose of determining the age of
15 the user;

16 “(ii) the operator does not retain such
17 personal information longer than the pe-
18 riod necessary to determine the age of the
19 user and deletes such personal information
20 promptly upon determining the age of the
21 user;

22 “(iii) prior to collecting any personal
23 information for the purpose of determining
24 the age of the user, the operator provides
25 the user with clear and conspicuous notice

1 that such personal information is collected,
2 used, and maintained for determining the
3 age of the user;

4 “(iv) the operator employs reasonable
5 administrative, technical, and physical data
6 security practices to protect the confiden-
7 tiality, integrity, and accessibility of per-
8 sonal information collected, used, or main-
9 tained for determining the age of the user
10 and such security practices are appropriate
11 to the volume, sensitivity, and nature of
12 such personal information;

13 “(v) the operator reasonably deter-
14 mines that any product, service, method,
15 or third party used for determining the age
16 of the user is likely to provide reasonably
17 accurate results as to the age of the user;
18 and

19 “(vi) in the case that the operator dis-
20 closes such personal information to a third
21 party to determine the age of the user, the
22 operator takes reasonable steps to deter-
23 mine the third party is capable of main-
24 taining the confidentiality, integrity, and
25 accessibility of such personal information,

1 including by obtaining written assurances
2 that such third party will employ reason-
3 able administrative, technical, and physical
4 data security practices to do so, will not
5 use or disclose such personal information
6 for any purpose other than determining
7 the age of the user, and will delete the per-
8 sonal information promptly after deter-
9 mining the age of the user.”;

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

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

21 “(A) the operator to—

22 “(i) limit the collection, use, mainte-
23 nance, and disclosure by the operator of
24 the personal information of a child or teen
25 who is a student served by the educational

1 agency or institution to solely educational
2 purposes and for no other commercial pur-
3 poses;

4 “(ii) provide notice to the educational
5 agency or institution regarding the specific
6 types of personal information the operator
7 collects from such a child or teen, the
8 method by which the operator obtains the
9 personal information, and the purposes for
10 which the operator collects, uses, main-
11 tains, and discloses personal information;

12 “(iii) provide to the educational agen-
13 cy or institution a link regarding the dis-
14 closure practices of the operator described
15 in subsection (b)(1)(A)(i); and

16 “(iv) upon request by the educational
17 agency or institution—

18 “(I) provide the educational
19 agency or institution with a means to
20 review the personal information col-
21 lected from such a child or teen;

22 “(II) prevent any further use,
23 maintenance, or collection of personal
24 information from such a child or teen;
25 and

1 “(III) delete personal information
2 collected from such a child or teen or
3 content or information submitted by
4 such a child or teen to the website,
5 online service, online application, or
6 mobile application of the operator;

7 “(B) a representative of the educational
8 agency or institution to provide—

9 “(i) the name of the representative;

10 “(ii) the title of the representative at
11 the educational agency or institution; and

12 “(iii) an acknowledgment that the
13 representative has authority to permit the
14 collection, use, maintenance, and disclosure
15 of personal information from children or
16 teens who are students served by the edu-
17 cational agency or institution on behalf of
18 the educational agency or institution; and

19 “(C) the educational agency or institution
20 to—

21 “(i) provide on a publicly available
22 website of the educational agency or insti-
23 tution a notice that—

24 “(I) identifies the operator with
25 which the educational agency or insti-

1 tution has entered into a written
2 agreement under this paragraph; and

3 “**(II)** includes the link described
4 in subparagraph (A)(iii);

5 “(ii) upon request, provide the notice
6 described in subparagraph (A)(ii) to a par-
7 ent of a child or teen who is a student
8 served by the educational agency or insti-
9 tution?; and

10 “(iii) upon the request of such a par-
11 ent, request the operator provide a means
12 to review the personal information of such
13 a child or teen and provide the parent a
14 means to review the personal informa-
15 tion.”;

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

18 “(4) **TERMINATION OF SERVICE.**—The regula-
19 tions promulgated under this subsection shall permit
20 an operator to terminate service provided to a child
21 or teen for whom a parent has refused (under the
22 regulations promulgated under paragraphs (1)(B)(ii)
23 and (1)(C)(ii), respectively) to permit the operator
24 any further use, maintenance, or disclosure, in re-

1 trievable form or online collection, of personal infor-
2 mation from the child or teen.”; and

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

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

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

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

1 “(B) to require an operator to delete or
2 correct information that—

3 “(i) the operator is required to main-
4 tain under any other provision of Federal
5 or State law; or

6 “(ii) was submitted to the website, on-
7 line service, online application, or mobile
8 application of the operator by any person
9 other than the user who has requested that
10 the content or information be deleted or
11 corrected, including content or information
12 submitted by the user that was republished
13 or resubmitted by another person; or

14 “(C) to prohibit an operator from—

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

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

24 “(iii) protecting the integrity or secu-
25 rity of a website, online service, online ap-

1 application, or mobile application of the oper-
2 ator; or

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

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

8 “(A) IN GENERAL.—

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

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

23 “(B) REPORT.—Not later than 1 year
24 after the date of the enactment of this para-
25 graph, the Commission shall submit to the

1 Committee on Commerce, Science, and Trans-
2 portation of the Senate and the Committee on
3 Energy and Commerce of the House of Rep-
4 resentatives a report detailing the results of the
5 feasibility assessment required by subparagraph
6 (A)(i).

7 “(C) REGULATIONS.—If the Commission
8 determines in the feasibility assessment re-
9 quired by subparagraph (A)(i) that the use of
10 a common verifiable consent mechanism is fea-
11 sible and meets the requirements of this title,
12 the Commission shall promulgate, under section
13 553 of title 5, United States Code, regulations
14 to permit the use of such a common verifiable
15 consent mechanism in accordance with such de-
16 termination.”; and

17 (4) in subsection (c), by striking “a regulation
18 prescribed under subsection (a)” and inserting “sub-
19 section (a)(1) or a regulation promulgated under
20 subsection (b)”.

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

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

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

2 “(d) PUBLICATION.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), the Commission shall publish on the
5 website of the Commission any report or documenta-
6 tion required under this title to be submitted to the
7 Commission.

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

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

19 (1) in subsection (a)(1)—

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

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

1 (2) in subsection (d)—

2 (A) by inserting “section 1303(a)(1) or”

3 before “any regulation”; and

4 (B) by inserting “section 1303(a)(1) or”

5 before “that regulation”.

6 (e) ADMINISTRATION AND APPLICABILITY OF ACT.—

7 Section 1306 of the Children’s Online Privacy Protection

8 Act of 1998 (15 U.S.C. 6505) is amended in subsection

9 (d)—

10 (1) by striking “a rule of the Commission under

11 section 1303” and inserting “section 1303(a)(1) or

12 a regulation promulgated under section 1303(b)”;

13 and

14 (2) by striking “such rule” and inserting “such

15 section or such regulation”.

16 **SEC. 3. REPORTS.**

17 (a) OVERSIGHT REPORT.—Not later than 3 years

18 after the date of the enactment of this Act, the Federal

19 Trade Commission shall submit to the Committee on Com-

20 merce, Science, and Transportation of the Senate and the

21 Committee on Energy and Commerce of the House of

22 Representatives a report detailing the processes of high-

23 impact social media companies to ensure that, for such

24 companies that are websites, online services, online appli-

25 cations, or mobile applications directed to children, such

1 websites, services, or applications operate in accordance
2 with this Act, including the amendments made by this Act
3 and the regulations promulgated under this Act.

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

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

16 (2) The number of investigations or inquiries
17 into potential violations of the Act during the report-
18 ing year.

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

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

1 **SEC. 4. SEVERABILITY.**

2 If any provision of this Act or the application of this
3 Act to any person or circumstance is held invalid, the re-
4 maining provisions of this Act and the application of this
5 Act to other persons or circumstances shall not be af-
6 fected.

