

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.**

**S. 1418**

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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Online collection, use, disclosure, and deletion of personal information  
of children and teens.

Sec. 3. Study and reports of mobile and online application oversight and en-  
forcement.

Sec. 4. GAO study.

Sec. 5. Severability.

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

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

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

9 “(2) OPERATOR.—The term ‘operator’—

10 “(A) means any person—

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

16 “(ii) who—

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

22 “(II) allows another person to  
23 collect personal information directly  
24 from users of that website, service, or  
25 application (in which case, the oper-

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

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

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

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 where the personal infor-  
18                  mation is provided to a person other than an  
19                  operator 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 to  
25                  children or teens; and

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

4                   (B) in subparagraph (B)—

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

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

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

15                  (3) by striking paragraph (8) and inserting the  
16                  following:

17                  “(8) PERSONAL INFORMATION.—

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

22                         “(i) a first and last name;

23                         “(ii) a home or other physical address  
24                         including street name and name of a city  
25                         or town;

1 “(iii) an e-mail address;

2 “(iv) a telephone number;

3 “(v) a Social Security number;

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

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

21 “(viii) a photograph, video, or audio  
22 file where such file contains a specific  
23 child’s or teen’s image or voice;

24 “(ix) geolocation information;

1                   “(x) information generated from the  
2                   measurement or technological processing of  
3                   an individual’s biological, physical, or phys-  
4                   iological characteristics that is used to  
5                   identify an individual, including—

6                                 “(I) fingerprints;

7                                 “(II) voice prints;

8                                 “(III) iris or retina imagery  
9                   scans;

10                                “(IV) facial templates;

11                               “(V) deoxyribonucleic acid  
12                   (DNA) information; or

13                               “(VI) gait; or

14                               “(xi) information linked or reasonably  
15                   linkable to a child or teen or the parents  
16                   of that child or teen (including any unique  
17                   identifier) that an operator collects online  
18                   from the child or teen and combines with  
19                   an identifier described in this subpara-  
20                   graph.

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

1           “(i) does not request information via  
2 voice that would otherwise be considered  
3 personal information under this paragraph;

4           “(ii) provides clear notice of its collec-  
5 tion and use of the audio file and its dele-  
6 tion policy in its privacy policy;

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

14           “(iv) only maintains the audio file  
15 long enough to complete the stated purpose  
16 and then immediately deletes the audio file  
17 and does not make any other use of the  
18 audio file prior to deletion.

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)(vii), the term ‘support  
24 for the internal operations of a website, on-  
25 line service, online application, or mobile

1 application’ means those activities nec-  
2 essary to—

3 “(I) maintain or analyze the  
4 functioning of the website, online serv-  
5 ice, online application, or mobile appli-  
6 cation;

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

9 “(III) authenticate users of, or  
10 personalize the content on, the  
11 website, online service, online applica-  
12 tion, or mobile application;

13 “(IV) cap the frequency of adver-  
14 tising;

15 “(V) protect the security or in-  
16 tegrity of the user, website, online  
17 service, online application, or mobile  
18 application;

19 “(VI) ensure legal or regulatory  
20 compliance, or

21 “(VII) fulfill a request of a child  
22 or teen as permitted by subpara-  
23 graphs (A) through (C) of section  
24 1303(b)(2).

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

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), includ-  
17                  ing a request for authorization for future collection,  
18                  use, and disclosure described in the notice, to ensure  
19                  that, in the case of a child, a parent of the child,  
20                  or, in the case of a teen, the teen—

21                  “(A) receives direct notice of the personal  
22                  information collection, use, and disclosure prac-  
23                  tices of the operator; 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, and disclosure,  
5 as applicable, of that personal information;  
6 and

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

9 (5) in paragraph (10)—

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

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

19           (C) by adding at the end the following new  
20 subparagraph:

21                   “(C) RULE OF CONSTRUCTION.—In con-  
22 sidering whether a website, online service, on-  
23 line application, or mobile application, or por-  
24 tion thereof, is directed to children, the Com-  
25 mission shall apply a totality of circumstances

1 test and will also consider competent and reli-  
2 able empirical evidence regarding audience com-  
3 position and evidence regarding the intended  
4 audience of the website, online service, online  
5 application, or mobile application.”; and

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

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

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

13 “(A) means an internet-connected software  
14 program; and

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

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

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

21 “(i) a cellular telephone;

22 “(ii) a tablet computer; or

23 “(iii) a similar portable computing de-  
24 vice that transmits data over a wireless  
25 connection; and



1                   “(ii) profiling of a child or teen or  
2                   group of children or teens; or

3                   “(iii) a unique identifier of the con-  
4                   nected device.

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

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

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

21                  “(iii) processing personal information  
22                  solely for measuring or reporting adver-  
23                  tising or content performance, reach, or  
24                  frequency, including independent measure-  
25                  ment.

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

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

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

20           (2) in subsection (a)—

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

23           “(1) **IN GENERAL.**—It is unlawful for an oper-  
24           ator of a website, online service, online application,  
25           or mobile application directed to children or for any

1 operator of a website, online service, online applica-  
2 tion, or mobile application with actual knowledge or  
3 knowledge fairly implied on the basis of objective cir-  
4 cumstances that a user is a child or teen—

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

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

16 “(C) to collect the personal information of  
17 a child or teen except when the collection of the  
18 personal information is—

19 “(i) consistent with the context of a  
20 particular or service or the relationship of  
21 the child or teen with the operator, includ-  
22 ing collection necessary to fulfill a trans-  
23 action or provide a product or service re-  
24 quested by the child or teen; or

1                   “(ii) required or specifically author-  
2                   ized by Federal or State law; or

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

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

17                  (B) in paragraph (2)—

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

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

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

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

6 (3) in subsection (b)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A)—

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

18 (II) in clause (i)—

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

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

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

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

16 (III) in clause (ii)—

17 (aa) by striking “parental”;

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

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

23 (IV) by inserting after clause (ii)

24 the following new clause:

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

9           (ii) in subparagraph (B)—

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

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

20           (III) in clause (ii)—

21           (aa) by inserting “to delete  
22           personal information collected  
23           from the child or content or in-  
24           formation submitted by the child  
25           to a website, online service, on-

1 line application, or mobile appli-  
2 cation and” after “the oppor-  
3 tunity at any time”; and

4 (bb) by striking “; and” and  
5 inserting a semicolon;

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

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

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

20 (iii) by redesignating subparagraphs  
21 (C) and (D) as subparagraphs (D) and  
22 (E), respectively;

23 (iv) by inserting after subparagraph  
24 (B) the following new subparagraph:

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

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

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

22                   “(iii) the opportunity to challenge the  
23                   accuracy of the personal information and,  
24                   if the teen establishes the inaccuracy of the

1 personal information, to have the inac-  
2 curate personal information corrected; and

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

9 (v) in subparagraph (D), as so redes-  
10 ignated—

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

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

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

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

24 (B) in paragraph (2)—

## 23

- 1 (i) in the matter preceding subpara-  
2 graph (A), by striking “verifiable parental  
3 consent” and inserting “verifiable con-  
4 sent”;
- 5 (ii) in subparagraph (A)—
- 6 (I) by inserting “or teen” after  
7 “collected from a child”;
- 8 (II) by inserting “or teen” after  
9 “request from the child”; and
- 10 (III) by inserting “or teen or to  
11 contact another child or teen” after  
12 “to recontact the child”;
- 13 (iii) in subparagraph (B)—
- 14 (I) by striking “parent or child”  
15 and inserting “parent or teen”; and
- 16 (II) by striking “parental con-  
17 sent” each place the term appears and  
18 inserting “verifiable consent”;
- 19 (iv) in subparagraph (C)—
- 20 (I) in the matter preceding clause  
21 (i), by inserting “or teen” after  
22 “child” each place the term appears;
- 23 (II) in clause (i)—

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

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

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

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

15 (v) in subparagraph (D)—

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

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

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

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

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

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

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

17 “(A) operator to—

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

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

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

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

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

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

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

3 “(C) educational agency or institution to—

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(C) to prohibit an operator from—

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

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

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

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

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

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

14                  “(A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

16          “(d) PUBLICATION.—

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

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

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

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

10 (1) in subsection (a)(1)—

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

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

17 (2) in subsection (d)—

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

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

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

25 (1) in subsection (b)—

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

9 (B) by striking paragraph (2) and redesign-  
10 ating paragraphs (3) through (6) as para-  
11 graphs (2) through (5), respectively;  
12 (2) in subsection (d)—

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

15 (B) by striking “such rule” and inserting  
16 “section 1303(a)(1) or a rule of the Commis-  
17 sion under section 1303”; and

18 (3) by adding at the end the following new sub-  
19 sections:

20 “(f) DETERMINATION OF WHETHER AN OPERATOR  
21 HAS KNOWLEDGE FAIRLY IMPLIED ON THE BASIS OF  
22 OBJECTIVE CIRCUMSTANCES.—

23 “(1) RULE OF CONSTRUCTION.—For purposes  
24 of enforcing this title or a regulation promulgated  
25 under this title, in making a determination as to

1       whether an operator has knowledge fairly implied on  
2       the basis of objective circumstances that a specific  
3       user is a child or teen, the Commission or State at-  
4       torneys general shall rely on competent and reliable  
5       evidence, taking into account the totality of the cir-  
6       cumstances, including whether a reasonable and pru-  
7       dent person under the circumstances would have  
8       known that the user is a child or teen. Nothing in  
9       this title, including a determination described in the  
10      preceding sentence, shall be construed to require an  
11      operator to—

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

16               “(B) implement an age gating or age  
17               verification functionality.

18               “(2) COMMISSION GUIDANCE.—

19               “(A) IN GENERAL.—Within 180 days of  
20               enactment, the Commission shall issue guidance  
21               to provide information, including best practices  
22               and examples for operators to understand the  
23               Commission’s determination of whether an op-  
24               erator has knowledge fairly implied on the basis

1 of objective circumstances that a user is a child  
2 or teen.

3 “(B) LIMITATION.—No guidance issued by  
4 the Commission with respect to this title shall  
5 confer any rights on any person, State, or local-  
6 ity, nor shall operate to bind the Commission or  
7 any person to the approach recommended in  
8 such guidance. In any enforcement action  
9 brought pursuant to this title, the Commission  
10 or State attorney general, as applicable, shall  
11 allege a specific violation of a provision of this  
12 title. The Commission or State attorney gen-  
13 eral, as applicable, may not base an enforce-  
14 ment action on, or execute a consent order  
15 based on, practices that are alleged to be incon-  
16 sistent with any such guidance, unless the prac-  
17 tices allegedly violate this title.

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

1 **SEC. 3. STUDY AND REPORTS OF MOBILE AND ONLINE AP-**  
2 **PLICATION OVERSIGHT AND ENFORCEMENT.**

3 (a) OVERSIGHT REPORT.—Not later than 3 years  
4 after the date of enactment of this Act, the Federal Trade  
5 Commission shall submit to the Committee on Commerce,  
6 Science, and Transportation of the Senate and the Com-  
7 mittee on Energy and Commerce of the House of Rep-  
8 resentatives a report on the processes of platforms that  
9 offer mobile and online applications for ensuring that, of  
10 those applications that are websites, online services, online  
11 applications, or mobile applications directed to children,  
12 the applications operate in accordance with—

13 (1) this Act, the amendments made by this Act,  
14 and rules promulgated under this Act; and

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

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

1           (1) the number of actions brought by the Com-  
2           mission during the reporting year to enforce the  
3           Children’s Online Privacy Protection Act of 1998  
4           (15 U.S.C. 6501) (referred to in this subsection as  
5           the “Act”) and the outcome of each such action;

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

9           (3) the total number of open investigations or  
10          inquiries into potential violations of the Act as of the  
11          time the report is submitted;

12          (4) the number and nature of complaints re-  
13          ceived by the Commission relating to an allegation  
14          of a violation of the Act during the reporting year;  
15          and

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

18 **SEC. 4. GAO STUDY.**

19          (a) **STUDY.**—The Comptroller General of the United  
20          States (in this section referred to as the “Comptroller  
21          General”) shall conduct a study on the privacy of teens  
22          who use financial technology products. Such study shall—

23               (1) identify the type of financial technology  
24               products that teens are using;

1           (2) identify the potential risks to teens' privacy  
2           from using such financial technology products; and

3           (3) determine whether existing laws are suffi-  
4           cient to address such risks to teens' privacy.

5           (b) REPORT.—Not later than 1 year after the date  
6 of enactment of this section, the Comptroller General shall  
7 submit to Congress a report containing the results of the  
8 study conducted under subsection (a), together with rec-  
9 ommendations for such legislation and administrative ac-  
10 tion as the Comptroller General determines appropriate.

11 **SEC. 5. SEVERABILITY.**

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