

119TH CONGRESS
2D SESSION

S. 836

AN ACT

To amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and teens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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. GAO study.

Sec. 5. 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—

16 “(i) who, for commercial purposes, in
17 interstate or foreign commerce operates or
18 provides a website on the internet, an on-
19 line service, an online application, or a mo-
20 bile application; and

21 “(ii) who—

1 “(I) collects or maintains, either
2 directly or through a service provider,
3 personal information from or about
4 the users of that website, service, or
5 application;

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

12 “(III) allows users of that
13 website, service, or application to pub-
14 licly disclose personal information (in
15 which case, the operator is deemed to
16 have collected the information); and

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

21 (2) in paragraph (4)—

22 (A) by amending subparagraph (A) to read
23 as follows:

24 “(A) the release of personal information
25 collected from a child or teen by an operator for

any purpose, except where the personal information is provided to a person other than an operator who—

“(i) provides support for the internal operations of the website, online service, online application, or mobile application of the operator, excluding any activity relating to individual-specific advertising to children or teens; and

“(ii) does not disclose or use that personal information for any other purpose; and”;

(B) in subparagraph (B)—

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

(ii) by striking “website or online service” and inserting “website, online service, online application, or mobile application”; and

(iii) by striking “actual knowledge” and inserting “actual knowledge or knowledge fairly implied on the basis of objective circumstances”;

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

1 “(8) PERSONAL INFORMATION.—

2 “(A) IN GENERAL.—The term ‘personal in-
3 formation’ means individually identifiable infor-
4 mation about an individual collected online, in-
5 cluding—

6 “(i) a first and last name;

7 “(ii) a home or other physical address
8 including street name and name of a city
9 or town;

10 “(iii) an e-mail address;

11 “(iv) a telephone number;

12 “(v) a Social Security number;

13 “(vi) any other identifier that the
14 Commission determines permits the phys-
15 ical or online contacting of a specific indi-
16 vidual;

17 “(vii) a persistent identifier that can
18 be used to recognize a specific child or teen
19 over time and across different websites, on-
20 line services, online applications, or mobile
21 applications, including but not limited to a
22 customer number held in a cookie, an
23 Internet Protocol (IP) address, a processor
24 or device serial number, or unique device
25 identifier, but excluding an identifier that

1 is used by an operator solely for providing
2 support for the internal operations of the
3 website, online service, online application,
4 or mobile application;

5 “(viii) a photograph, video, or audio
6 file where such file contains a specific
7 child’s or teen’s image or voice;

8 “(ix) geolocation information;

9 “(x) information generated from the
10 measurement or technological processing of
11 an individual’s biological, physical, or phys-
12 iological characteristics that is used to
13 identify an individual, including—

14 “(I) fingerprints;

15 “(II) voice prints;

16 “(III) iris or retina imagery
17 scans;

18 “(IV) facial templates;

19 “(V) deoxyribonucleic acid
20 (DNA) information; or

21 “(VI) gait; or

22 “(xi) information linked or reasonably
23 linkable to a child or teen or the parents
24 of that child or teen (including any unique
25 identifier) that an operator collects online

1 from the child or teen and combines with
2 an identifier described in this subpara-
3 graph.

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

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

11 “(ii) provides clear notice of its collec-
12 tion and use of the audio file and its dele-
13 tion policy in its privacy policy;

14 “(iii) only uses the voice within the
15 audio file solely as a replacement for writ-
16 ten words, to perform a task, or engage
17 with a website, online service, online appli-
18 cation, or mobile application, such as to
19 perform a search or fulfill a verbal instruc-
20 tion or request; and

21 “(iv) only maintains the audio file
22 long enough to complete the stated purpose
23 and then immediately deletes the audio file
24 and does not make any other use of the
25 audio file prior to deletion.

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

4 “(i) IN GENERAL.—For purposes of
5 subparagraph (A)(vii), the term ‘support
6 for the internal operations of a website, on-
7 line service, online application, or mobile
8 application’ means those activities nec-
9 essary to—

10 “(I) maintain or analyze the
11 functioning of the website, online serv-
12 ice, online application, or mobile appli-
13 cation;

14 “(II) perform network commu-
15 nications;

16 “(III) authenticate users of, or
17 personalize the content on, the
18 website, online service, online applica-
19 tion, or mobile application;

20 “(IV) serve contextual adver-
21 tising, provided that any persistent
22 identifier is only used as necessary for
23 technical purposes to serve the contex-
24 tual advertisement, or cap the fre-
25 quency of advertising;

1 “(V) protect the security or in-
 2 tegrity of the user, website, online
 3 service, online application, or mobile
 4 application;

5 “(VI) ensure legal or regulatory
 6 compliance, or

7 “(VII) fulfill a request of a child
 8 or teen as permitted by subpara-
 9 graphs (A) through (C) of section
 10 1303(b)(2).

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

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

24 “(9) VERIFIABLE CONSENT.—The term
 25 ‘verifiable consent’ means any reasonable effort (tak-

ing into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that, in the case of a child, a parent of the child, or, in the case of a teen, the teen—

“(A) receives direct notice of the personal information collection, use, and disclosure practices of the operator; and

“(B) before the personal information of the child or teen is collected, freely and unambiguously authorizes—

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

“(ii) any subsequent use of that personal information.”;

(5) in paragraph (10)—

(A) in the paragraph header, by striking “WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN” and inserting “WEBSITE, ONLINE SERVICE, ONLINE APPLICATION, OR MOBILE APPLICATION DIRECTED TO CHILDREN”;

(B) by striking “website or online service” each place it appears and inserting “website,

1 online service, online application, or mobile ap-
2 plication”; and

3 (C) by adding at the end the following new
4 subparagraph:

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

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

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

20 “(14) ONLINE APPLICATION.—The term ‘online
21 application’—

22 “(A) means an internet-connected software
23 program; and

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

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

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

5 “(i) a cellular telephone;

6 “(ii) a tablet computer; or

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

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

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

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

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

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

1 linked or reasonably linkable to a child or teen
2 based on—

3 “(i) the personal information from—

4 “(I) the child or teen; or

5 “(II) a group of children or teens
6 who are similar in sex, age, household
7 income level, race, or ethnicity to the
8 specific child or teen to whom the
9 product or service is marketed;

10 “(ii) profiling of a child or teen or
11 group of children or teens; or

12 “(iii) a unique identifier of the con-
13 nected device.

14 “(B) EXCLUSIONS.—The term ‘individual-
15 specific advertising to children or teens’ shall
16 not include—

17 “(i) advertising or marketing to an in-
18 dividual or the device of an individual in
19 response to the individual’s specific request
20 for information or feedback, such as a
21 child’s or teen’s current search query;

22 “(ii) contextual advertising, such as
23 when an advertisement is displayed based
24 on the content of the website, online serv-
25 ice, online application, mobile application,

1 or connected device in which the advertise-
2 ment appears and does not vary based on
3 personal information related to the viewer;

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

9 “(iv) advertising or marketing di-
10 rected to a connected device used by both
11 adult and child or teen members of a
12 household where such advertising or mar-
13 keting is directed to the profile of the adult
14 user.

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

“(19) EDUCATIONAL AGENCY OR INSTITUTION.—The term ‘educational agency or institution’ means—

“(A) a State educational agency or local educational agency, as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); or

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

(b) ONLINE COLLECTION, USE, DISCLOSURE, AND DELETION OF PERSONAL INFORMATION OF CHILDREN AND TEENS.—Section 1303 of the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6502) is amended—

(1) by striking the heading and inserting the following: “**ONLINE COLLECTION, USE, DISCLOSURE, AND DELETION OF PERSONAL INFORMATION OF CHILDREN AND TEENS.**”;

(2) in subsection (a)—

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

1 “(1) IN GENERAL.—It is unlawful for an oper-
2 ator of a website, online service, online application,
3 or mobile application directed to children or for any
4 operator of a website, online service, online applica-
5 tion, or mobile application with actual knowledge or
6 knowledge fairly implied on the basis of objective cir-
7 cumstances that a user is a child or teen—

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

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

19 “(C) to collect the personal information of
20 a child or teen except when the collection of the
21 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 collection necessary to

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

3 “(ii) required or specifically author-
 4 ized by Federal or State law; or

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

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

19 (B) in paragraph (2)—

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

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

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

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

8 (3) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in subparagraph (A)—

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

20 (II) in clause (i)—

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

1 (bb) by inserting “or teens”
2 after “children”;

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

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

18 (III) in clause (ii)—

19 (aa) by striking “parental”;

20 (bb) by inserting “or teens”
21 after “children”;

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

1 (IV) by inserting after clause (ii)
2 the following new clause:

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

11 (ii) in subparagraph (B)—

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

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

22 (III) in clause (ii)—

23 (aa) by inserting “to delete
24 personal information collected
25 from the child or content or in-

formation submitted by the child
to a website, online service, on-
line application, or mobile appli-
cation and” after “the oppor-
tunity at any time”; and

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

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

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

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

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

1 (iv) by inserting after subparagraph
2 (B) the following new subparagraph:

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

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

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

24 “(iii) the opportunity to challenge the
25 accuracy of the personal information and,

1 if the teen establishes the inaccuracy of the
2 personal information, to have the inac-
3 curate personal information corrected; and

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

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

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

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

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

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

25 (B) in paragraph (2)—

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 that, at a minimum, requires the—

13 “(A) operator to—

14 “(i) limit its collection, use, and dis-
15 closure of the personal information from a
16 child or teen to solely educational purposes
17 and for no other commercial purposes;

18 “(ii) provide the educational agency or
19 institution with a notice of the specific
20 types of personal information the operator
21 will collect from the child or teen, the
22 method by which the operator will obtain
23 the personal information, and the purposes
24 for which the operator will collect, use, dis-
25 close, and retain the personal information;

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

“(iv) provide the educational agency or institution, upon request, with a means to review the personal information collected from a child or teen, to prevent further use or maintenance or future collection of personal information from a child or teen, and to delete personal information collected from a child or teen or content or information submitted by a child or teen to the operator’s website, online service, online application, or mobile application;

“(B) representative of the educational agency or institution to acknowledge and agree that they have authority to authorize the collection, use, and disclosure of personal information from children or teens on behalf of the educational agency or institution, along with such authorization, their name, and title at the educational agency or institution; and

“(C) educational agency or institution to—

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

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

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

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

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

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

“(5) CONTINUATION OF SERVICE.—The regulations shall prohibit an operator from discontinuing service provided to a child or teen on the basis of a request by the parent of the child or by the teen, under the regulations prescribed under subparagraph (B) or (C) of paragraph (1), respectively, to delete personal information collected from the child or teen, to the extent that the operator is capable of providing such service without such information.

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

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

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

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

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

19 “(C) to prohibit an operator from—

20 “(i) retaining a record of the deletion
21 request and the minimum information nec-
22 essary for the purposes of ensuring compli-
23 ance with a request made pursuant to sub-
24 paragraph (B) or (C);

“(ii) preventing, detecting, protecting against, or responding to security incidents, identity theft, or fraud, or reporting those responsible for such actions;

“(iii) protecting the integrity or security of a website, online service, online application or mobile application; or

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

“(7) COMMON VERIFIABLE CONSENT MECHANISM.—

“(A) IN GENERAL.—

“(i) FEASIBILITY OF MECHANISM.—
The Commission shall assess the feasibility, with notice and public comment, of allowing operators the option to use a common verifiable consent mechanism that fully meets the requirements of this title.

“(ii) REQUIREMENTS.—The feasibility assessment described in clause (i) shall consider whether a single operator could use a common verifiable consent mechanism to obtain verifiable consent, as required under this title, from a parent of a child or from a teen on behalf of multiple,

1 listed operators that provide a joint or re-
2 lated service.

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

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

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

23 (5) by striking subsection (d) and inserting the
24 following:

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

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

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

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

14 “(d) PUBLICATION.—

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

21 “(2) RESTRICTIONS ON PUBLICATION.—The re-
 22 strictions described in section 6(f) and section 21 of
 23 the Federal Trade Commission Act (15 U.S.C.
 24 46(f), 57b–2) applicable to the disclosure of infor-
 25 mation obtained by the Commission shall apply in

1 same manner to the disclosure under this subsection
2 of information obtained by the Commission from a
3 report or documentation described in paragraph
4 (1).”.

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

8 (1) in subsection (a)(1)—

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

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

15 (2) in subsection (d)—

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

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

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

23 (1) in subsection (b)—

24 (A) in paragraph (1), by striking “, in the
25 case of” and all that follows through “the

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

7 (B) by striking paragraph (2) and redesignig-
 8 nating paragraphs (3) through (6) as para-
 9 graphs (2) through (5), respectively;

10 (2) in subsection (d)—

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

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

16 (3) by adding at the end the following new sub-
 17 sections:

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

21 “(1) RULE OF CONSTRUCTION.—For purposes
 22 of enforcing this title or a regulation promulgated
 23 under this title, in making a determination as to
 24 whether an operator has knowledge fairly implied on
 25 the basis of objective circumstances that a specific

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

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

14 “(B) implement an age gating or age
15 verification functionality.

16 “(2) COMMISSION GUIDANCE.—

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

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

20 “(g) ADDITIONAL REQUIREMENT.—Any regulations
21 issued under this title shall include a description and anal-
22 ysis of the impact of proposed and final Rules on small
23 entities per the Regulatory Flexibility Act of 1980 (5
24 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) the number of actions brought by the Commission during the reporting year to enforce the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501) (referred to in this subsection as the “Act”) and the outcome of each such action;

(2) the total number of investigations or inquiries into potential violations of the Act; during the reporting year;

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

(4) the number and nature of complaints received by the Commission relating to an allegation of a violation of the Act during the reporting year; and

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

SEC. 4. GAO STUDY.

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

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

1 (2) identify the potential risks to teens' privacy
2 and mental health from using such financial tech-
3 nology products; and

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

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

13 **SEC. 5. 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.

 Passed the Senate March 5, 2026.

 Attest:

Secretary.

119TH CONGRESS
2D SESSION

S. 836

AN ACT

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.