

119TH CONGRESS  
2D SESSION

# S. 836

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## 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

1 any purpose, except where the personal infor-  
2 mation is provided to a person other than an  
3 operator who—

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

10 “(ii) does not disclose or use that per-  
11 sonal information for any other purpose;  
12 and”; and

13 (B) in subparagraph (B)—

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

16 (ii) by striking “website or online  
17 service” and inserting “website, online  
18 service, online application, or mobile appli-  
19 cation”; and

20 (iii) by striking “actual knowledge”  
21 and inserting “actual knowledge or knowl-  
22 edge fairly implied on the basis of objective  
23 circumstances”;

24 (3) by striking paragraph (8) and inserting the  
25 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-

1 ing into consideration available technology), includ-  
2 ing a request for authorization for future collection,  
3 use, and disclosure described in the notice, to ensure  
4 that, in the case of a child, a parent of the child,  
5 or, in the case of a teen, the teen—

6 “(A) receives direct notice of the personal  
7 information collection, use, and disclosure prac-  
8 tices of the operator; and

9 “(B) before the personal information of the  
10 child or teen is collected, freely and unambig-  
11 uously authorizes—

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

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

17 (5) in paragraph (10)—

18 (A) in the paragraph header, by striking  
19 “WEBSITE OR ONLINE SERVICE DIRECTED TO  
20 CHILDREN” and inserting “WEBSITE, ONLINE  
21 SERVICE, ONLINE APPLICATION, OR MOBILE AP-  
22 PPLICATION DIRECTED TO CHILDREN”;

23 (B) by striking “website or online service”  
24 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.

1           “(19) EDUCATIONAL AGENCY OR INSTITU-  
2           TION.—The term ‘educational agency or institution’  
3           means—

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

9                   “(B) an institutional day or residential  
10                  school, including a public school (including a  
11                  charter school) or private school, that provides  
12                  elementary or secondary education, as deter-  
13                  mined under State law.”.

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

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

23                   (2) in subsection (a)—

24                           (A) by amending paragraph (1) to read as  
25                           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-

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

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

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

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

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

22 (iii) by redesignating subparagraphs  
23 (C) and (D) as subparagraphs (D) and  
24 (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;

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

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

16          “(B) representative of the educational  
17          agency or institution to acknowledge and agree  
18          that they have authority to authorize the collec-  
19          tion, use, and disclosure of personal information  
20          from children or teens on behalf of the edu-  
21          cational agency or institution, along with such  
22          authorization, their name, and title at the edu-  
23          cational agency or institution; and

24          “(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:

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

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

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

22           “(6) RULE OF CONSTRUCTION.—A request  
23           made pursuant to subparagraph (B) or (C) of para-  
24           graph (1) to delete or correct personal information  
25           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);

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

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

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

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

12                   “(A) IN GENERAL.—

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

19                   “(ii) REQUIREMENTS.—The feasibility  
20                   assessment described in clause (i) shall  
21                   consider whether a single operator could  
22                   use a common verifiable consent mecha-  
23                   nism to obtain verifiable consent, as re-  
24                   quired under this title, from a parent of a  
25                   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 (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 and mental  
22 health of teens who use financial technology products.  
23 Such study shall—

24 (1) identify the type of financial technology  
25 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.*



119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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# **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.