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2D SESSION

S. 4831

To prohibit, or require disclosure of, the surveillance, monitoring, and collection of certain worker data by employers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2026

Mr. MARKEY (for himself, Mr. SCHATZ, Mr. SANDERS, Ms. BALDWIN, Ms. WARREN, Mr. BLUMENTHAL, Mr. FETTERMAN, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To prohibit, or require disclosure of, the surveillance, monitoring, and collection of certain worker data by employers, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Spying Bosses
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Worker Pro-

tection and Technology Division established under
section 6.

(2) AGGREGATED DATA.—The term “aggregated data” means data with respect to covered individuals of an employer that the employer has combined or collected together in a summary or other form that prevents the identification of any specific individual.

(3) APPLICANT.—The term “applicant”, with respect to an employer, means an individual who applies, or applied, to be employed by, or otherwise perform work for remuneration for, the employer.

(4) AUTOMATED DECISION SYSTEM.—

(A) IN GENERAL.—The term “automated decision system” means any system, software, or process (including such a system, software, or process derived from machine learning, statistics, or other data processing or artificial intelligence techniques) that—

(i) uses computation to produce a prediction, score, ranking, recommendation, decision, evaluation, metric, conclusion, inference, or profile; and

(ii) is not passive computing infrastructure.

(B) PASSIVE COMPUTING INFRASTRUCTURE.—For purposes of this paragraph, the term “passive computing infrastructure” means any intermediary technology that does not influence or determine the outcome of a decision, make or aid in a decision (including through evaluations, metrics, or scoring), inform policy implementation, or collect data or observations, including web hosting, domain registration, networking, caching, data storage, or cybersecurity.

(5) BIOMETRIC INFORMATION.—

(A) IN GENERAL.—The term “biometric information” means any information generated from the technological processing of an individual’s unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including—

- (i) fingerprints;
- (ii) voice prints;
- (iii) iris or retina scans;
- (iv) facial or hand mapping, geometry, or templates; or
- (v) gait or personally identifying physical movements.

1 (B) EXCLUSION.—The term “biometric in-
2 formation” does not include—

- 3 (i) a digital or physical photograph;
4 (ii) an audio or video recording; or
5 (iii) information generated from a dig-
6 ital or physical photograph, or an audio or
7 video recording, that cannot be used to
8 identify an individual.

9 (6) COLLECT.—The term “collect” means, with
10 respect to employee data, to buy, rent, gather, ob-
11 tain, receive, access, or otherwise acquire employee
12 data by any means.

13 (7) COVERED INDIVIDUAL.—The term “covered
14 individual”, with respect to an employer, means an
15 individual—

16 (A) who is employed by, or otherwise per-
17 forming work for remuneration for the em-
18 ployer, including such an individual who is—

- 19 (i) any individual performing work for
20 remuneration for an employer described in
21 clauses (i)(I) and (ii) of paragraph (9)(A);
22 (ii) any individual performing work
23 for remuneration for an entity described in
24 clauses (i)(II) and (ii) of paragraph (9)(A);

1 (iii) any individual performing work
 2 for remuneration for an employing office
 3 described in clauses (i)(III) and (ii) of
 4 paragraph (9)(A);

5 (iv) any individual performing work
 6 for remuneration for an employing office
 7 described in clauses (i)(IV) and (ii) of
 8 paragraph (9)(A); or

9 (v) any individual performing work for
 10 remuneration for an employing agency de-
 11 scribed in clauses (i)(V) and (ii) of para-
 12 graph (9)(A) who is not covered under
 13 clause (iv); or

14 (B) who is an applicant to the employer.

15 (8) EMPLOY.—The term “employ” has the
 16 meaning given such term in section 3 of the Fair
 17 Labor Standards Act of 1938 (29 U.S.C. 203).

18 (9) EMPLOYER.—

19 (A) IN GENERAL.—The term “employer”
 20 means any person who is—

21 (i)(I) a covered employer who is not
 22 described in any other subclause of this
 23 clause;

24 (II) an entity employing a State em-
 25 ployee described in section 304(a) of the

Government Employee Rights Act of 1991
(42 U.S.C. 2000e–16c(a));

(III) an employing office, as defined
in section 101 of the Congressional Ac-
countability Act of 1995 (2 U.S.C. 1301);

(IV) an employing office, as defined in
section 411(c) of title 3, United States
Code; or

(V) an employing agency covered
under subchapter V of chapter 63 of title
5, United States Code; and

(ii) engaged in commerce (including
government), or an industry or activity af-
fecting commerce (including government).

(B) COVERED EMPLOYER.—In subpara-
graph (A), the term “covered employer”—

(i) means any person engaged in com-
merce or in any industry or activity affect-
ing commerce who employs or otherwise
engages for the performance of work for
remuneration, 11 or more covered individ-
uals;

(ii) includes—

(I) any person who acts, directly
or indirectly, in the interest of a cov-

1 ered employer in relation to any indi-
 2 vidual performing work for remunera-
 3 tion for such covered employer;

4 (II) any successor in interest of a
 5 covered employer;

6 (III) any public agency; and

7 (IV) the Government Account-
 8 ability Office and the Library of Con-
 9 gress; and

10 (iii) does not include any labor organi-
 11 zation (other than when acting as an em-
 12 ployer) or anyone acting in the capacity of
 13 officer or agent of such labor organization.

14 (C) PUBLIC AGENCY.—For purposes of
 15 this paragraph, a public agency shall be consid-
 16 ered to be a person engaged in commerce or in
 17 an industry or activity affecting commerce.

18 (D) DEFINITIONS.—For purposes of this
 19 paragraph, the terms “commerce”, “person”,
 20 and “public agency” have the meanings given
 21 the terms in section 3 of the Fair Labor Stand-
 22 ards Act of 1938 (29 U.S.C. 203).

23 (10) EMPLOYEE DATA.—The term “employee
 24 data”, with respect to a covered individual, means
 25 any information that identifies, relates to, describes,

1 is reasonably capable of being associated with, or
2 could reasonably be linked, directly or indirectly,
3 with the covered individual, regardless of how the in-
4 formation is collected, inferred, or obtained, includ-
5 ing—

6 (A) personally identifiable information with
7 respect to the covered individual, including any
8 name, contact information, government-issued
9 identification number, financial information,
10 criminal background, location information, pho-
11 tographs, biometric information, or employment
12 history associated with the covered individual;
13 and

14 (B) any information related to the work-
15 place activities with respect to the covered indi-
16 vidual, including—

17 (i) human resources information, in-
18 cluding the contents of a personnel file or
19 performance evaluation;

20 (ii) work process information, such as
21 productivity and efficiency information and
22 information on breaks;

23 (iii) information that captures work-
24 place communications and interactions, in-
25 cluding emails, texts, internal message

1 boards, and customer interaction and rat-
2 ings;

3 (iv) device usage and information, in-
4 cluding calls placed or precise geolocation
5 information;

6 (v) audio-video information and other
7 information collected from sensors, includ-
8 ing movement tracking, images, videos,
9 and thermal-sensor information;

10 (vi) biometric information;

11 (vii) information from a personality
12 test taken by a covered individual, includ-
13 ing such a test given electronically at the
14 beginning of or during a work shift;

15 (viii) inputs for an automated decision
16 system or any automated decision system
17 output;

18 (ix) information that is collected or
19 generated to mitigate the spread of infec-
20 tious diseases, including COVID–19, or to
21 comply with any public health measure;
22 and

23 (x) online information, including a
24 covered individual’s internet protocol ad-
25 dress, private social media activity, or

1 other digital sources or unique identifiers
2 associated with a covered individual.

3 (11) GOVERNMENT ENTITY.—The term “gov-
4 ernment entity” means—

5 (A) a Federal agency (as such term is de-
6 fined in section 3371 of title 5, United States
7 Code);

8 (B) a State or political subdivision thereof;

9 (C) any agency, authority, or instrumen-
10 tality of a State or political subdivision thereof;
11 or

12 (D) a Tribal government or political sub-
13 division thereof.

14 (12) INDIAN TRIBE.—The term “Indian Tribe”
15 means any Indian or Alaska Native tribe, band, na-
16 tion, pueblo, village, community, component band, or
17 component reservation individually identified (includ-
18 ing parenthetically) in the list published most re-
19 cently as of the date of enactment of this Act pursu-
20 ant to section 104 of the Federally Recognized In-
21 dian Tribe List Act of 1994 (25 U.S.C. 5131).

22 (13) LABOR ORGANIZATION.—The term “labor
23 organization” has the meaning given the term in
24 section 2(5) of the National Labor Relations Act (29

1 U.S.C. 152(5)), except that such term shall also in-
2 clude—

3 (A) any organization composed of labor or-
4 ganizations, such as a labor union federation or
5 a State or municipal labor body; and

6 (B) any organization which would be in-
7 cluded in the definition for such term under
8 such section 2(5) but for the fact that the orga-
9 nization represents—

10 (i) individuals employed by the United
11 States, any wholly owned Government cor-
12 poration, any Federal Reserve Bank, or
13 any State or political subdivision thereof;

14 (ii) individuals employed by persons
15 subject to the Railway Labor Act (45
16 U.S.C. 151 et seq.); or

17 (iii) individuals employed as agricul-
18 tural laborers.

19 (14) PERIODIC ASSESSMENT OF WORKER PER-
20 FORMANCE.—The term “periodic assessment of
21 worker performance” means assessing worker per-
22 formance over the course of units of time equal to
23 or greater than one calendar day.

24 (15) PRECISE GEOLOCATION INFORMATION.—

1 (A) IN GENERAL.—The term “precise
 2 geolocation information” means information
 3 that is derived from a device or technology that
 4 reveals the past or present physical location of
 5 an individual or a device that identifies or is
 6 linked or reasonably linkable to 1 or more indi-
 7 viduals, with sufficient precision to identify
 8 street level location information of the indi-
 9 vidual or device or the location of the individual
 10 or device within a range of 1,850 feet or less.

11 (B) EXCLUSION.—The term “precise
 12 geolocation information” does not include infor-
 13 mation described in subparagraph (A) identifi-
 14 able or derived solely from the visual content of
 15 a legally obtained image, including the location
 16 of the device that captured such image.

17 (16) PREDISPUTE ARBITRATION AGREEMENT.—
 18 The term “predispute arbitration agreement” means
 19 any agreement to arbitrate a dispute that has not
 20 yet arisen at the time of the making of the agree-
 21 ment.

22 (17) PREDISPUTE JOINT-ACTION WAIVER.—The
 23 term “predispute joint-action waiver” means an
 24 agreement, whether or not part of a predispute arbi-
 25 tration agreement, that would prohibit, or waive the

1 right of, one of the parties to the agreement to par-
2 ticipate in a joint, class, or collective action in a ju-
3 dicial, arbitral, administrative, or other forum, con-
4 cerning a dispute that has not yet arisen at the time
5 of the making of the agreement.

6 (18) SECRETARY.—The term “Secretary”
7 means the Secretary of Labor.

8 (19) SELL.—The term “sell”, with respect to
9 employee data, means the transfer of such employee
10 data for monetary consideration or for a thing of
11 value.

12 (20) SERVICE PROVIDER.—The term “service
13 provider”, with respect to an employer, means a per-
14 son that—

15 (A) collects, processes, conveys, or main-
16 tains employee data with respect to such em-
17 ployer only at the direction of, in accordance
18 with the direction of, and pursuant to a written
19 contract with the employer (including any terms
20 of service or service agreements);

21 (B) does not earn revenue from such col-
22 lection, processing, conveyance, or maintenance
23 of such employee data, except from the em-
24 ployer by providing contracted services to the
25 employer with regard to such collection, proc-

1 essing, conveyance, or maintenance of such em-
2 ployee data; and

3 (C) does not combine or link data associ-
4 ated with such employer with data associated
5 with another employer.

6 (21) STATE.—The term “State” means each of
7 the several States of the United States, the District
8 of Columbia, or any territory or possession of the
9 United States.

10 (22) STATE ATTORNEY GENERAL.—The term
11 “State attorney general” means—

12 (A) with respect to a State, the attorney
13 general or chief law enforcement officer of the
14 State, or another official or agency designated
15 by the State to bring civil actions on behalf of
16 the State or the residents of the State; and

17 (B) with respect to a Tribal government,
18 the attorney general or chief law enforcement
19 officer of the Tribal government, or another of-
20 ficial or agency designated by the Tribal gov-
21 ernment to bring civil actions on behalf of the
22 Tribal government or the Indian Tribe of the
23 Tribal government.

24 (23) STATE PRIVACY REGULATOR.—The term
25 “State privacy regulator” means—

1 (A) the chief consumer protection officer of
2 a State; or

3 (B) a State consumer protection agency
4 with expertise in data protection, including the
5 California Privacy Protection Agency.

6 (24) TECHNOLOGIST.—The term “technologist”
7 means an individual with experience in fields related
8 to computational technology, or the technology in-
9 dustry that produces computational technology, such
10 as advertising technology, application development,
11 artificial intelligence, computer science, cybersecu-
12 rity, data science, digital forensics, human-centered
13 design, product management, prototyping, service
14 design, socio-technical systems, software engineering,
15 user experience, or privacy rights, civil liberties, or
16 civil rights related to technology.

17 (25) THIRD PARTY.—The term “third party”,
18 with respect to an employer, means a person or enti-
19 ty that is not—

20 (A) such employer;

21 (B) a service provider of such employer
22 with respect to the employee data being trans-
23 ferred; or

24 (C) a government entity.

1 (26) TRANSFER.—The term “transfer”, with
2 respect to employee data, means releasing, sharing,
3 leasing, disseminating, disclosing, making available,
4 or otherwise causing to be communicated such em-
5 ployee data.

6 (27) TRIBAL GOVERNMENT.—The term “Tribal
7 government” means the recognized governing body
8 of an Indian Tribe.

9 (28) WORK-RELATED DECISION.—The term
10 “work-related decision” includes a decision by an
11 employer with regard to—

12 (A) hiring or engaging a covered individual
13 (including any decision with regard to recruit-
14 ing, screening, interviewing, reviewing, or se-
15 lecting an applicant);

16 (B) firing, retaining, taking a disciplinary
17 action against, demoting, deactivating, or reas-
18 signing duties of a covered individual; or

19 (C) any other term, condition, or privilege
20 of employment or other work of the covered in-
21 dividual, such as relating to wages, wage set-
22 ting, work hours, scheduling, attendance re-
23 quirements, workload, performance standards,
24 assignment of work, access to work and train-
25 ing opportunities, productivity requirements,

1 promotion, workplace health and safety, health
2 care or long-term care coverage, or other bene-
3 fits.

4 **SEC. 3. EMPLOYEE DATA MINIMIZATION.**

5 (a) EMPLOYEE DATA COLLECTION AND USAGE PRO-
6 HIBITIONS.—

7 (1) IN GENERAL.—Except as otherwise required
8 by law, an employer or, as applicable, a service pro-
9 vider of the employer may not collect or use em-
10 ployee data—

11 (A) to identify any covered individual to
12 determine if they have or intend to form, join,
13 assist, or seek to form, join, or assist, a labor
14 organization;

15 (B) to monitor the activities of any covered
16 individual concerning or related to a labor orga-
17 nization or with respect to engaging in pro-
18 tected concerted activity;

19 (C) to ascertain any political opinion or ac-
20 tivity, religious view, or other identity marker of
21 the covered individual, that is unrelated to the
22 performance of the job duties of the covered in-
23 dividual for the employer;

24 (D) to identify the health status, any
25 health condition, or disability status of a cov-

1 ered individual that is unrelated to the perform-
2 ance of the job duties of the covered individual
3 for the employer;

4 (E) to ascertain the immigration status of
5 a covered individual;

6 (F) to monitor the activities of any covered
7 individual concerning or related to reporting the
8 employer, or a third party or service provider of
9 the employer, for a violation of any other law,
10 including monitoring for purposes of identifying
11 a covered individual who has reported or in-
12 tends to report the employer or such a third
13 party or service provider;

14 (G) to predict any behavior, emotion, or
15 belief of a covered individual that is unrelated
16 to the work of the covered individual for the
17 employer; or

18 (H) to threaten the mental or physical
19 health of the covered individual.

20 (2) OFF DUTY EMPLOYEE DATA COLLECTION.—

21 An employer or, as applicable, a service provider of
22 the employer may not collect employee data regard-
23 ing a covered individual while the covered individual
24 is off-duty, including when the covered individual is
25 off-duty in—

1 (A) a break room or in a sensitive area,
 2 such as a restroom or locker room;

3 (B) a location provided for the covered in-
 4 dividual to express breast milk;

5 (C) a location provided for the covered in-
 6 dividual to pray or participate in a religious ac-
 7 tivity; or

8 (D) the home of the covered individual or
 9 an alternative location where work is performed
 10 that is not the worksite of the employer.

11 (b) PERMISSIBLE EMPLOYEE DATA COLLECTION.—

12 An employer or, as applicable, a service provider of the
 13 employer may collect employee data with respect to a cov-
 14 ered individual only if—

15 (1) the collection of employee data is not other-
 16 wise prohibited by subsection (a);

17 (2) the employee data is primarily used—

18 (A) to allow the covered individual to ac-
 19 complish an essential job function;

20 (B) to ensure the quality of goods and
 21 services;

22 (C) to conduct a periodic assessment of
 23 worker performance;

24 (D) to ensure compliance with employ-
 25 ment, labor, or other relevant laws;

1 (E) to protect the health, safety, or secu-
2 rity of a covered individual or the security of a
3 facility or computer network of the employer; or

4 (F) to administer wages or benefits to a
5 covered individual;

6 (3) the employee data is collected and used
7 solely for a purpose disclosed by the employer in ac-
8 cordance with section 4(a)(1)(G);

9 (4) the collection of employee data is strictly
10 necessary to accomplish such a purpose, exclusively
11 used to accomplish the purpose, and is the least
12 invasive means to the covered individual that could
13 be used to accomplish the purpose;

14 (5) the collection of employee data is limited to
15 the fewest covered individuals needed for such collec-
16 tion;

17 (6) the least amount of employee data is col-
18 lected;

19 (7) employee data is collected no more fre-
20 quently than is necessary to accomplish the purpose;
21 and

22 (8) the employee data is only retained by the
23 employer or, as applicable, the service provider for
24 only as long as it is reasonably necessary for the
25 purpose and, except as otherwise required to be re-

1 tained by law, is deleted by the employer on the date
2 that is 3 years after the date of—

3 (A) the separation of the covered indi-
4 vidual from employment by or engagement for
5 work with the employer; or

6 (B) in the case of a covered individual who
7 is an applicant that was not employed by or
8 otherwise engaged for work for remuneration by
9 the employer, the discontinuation of the appli-
10 cation process of the covered individual.

11 (c) TRANSFER OF EMPLOYEE DATA.—

12 (1) PROHIBITION ON SELLING.—An employer
13 or, as applicable, a service provider of the employer
14 may not sell or license employee data on a covered
15 individual to any person (including a service provider
16 of the employer).

17 (2) TRANSFER RESTRICTIONS TO A SERVICE
18 PROVIDER.—Except as otherwise required by law, an
19 employer or, as applicable, a service provider of the
20 employer may not transfer employee data on a cov-
21 ered individual to any service provider of the em-
22 ployer unless, for each instance of a transfer—

23 (A) the employer or the service provider
24 making the transfer—

1 (i) discloses the transfer to the cov-
 2 ered individual; and

3 (ii) provides cybersecurity protections
 4 and encryption for the employee data; and

5 (B) the covered individual opts in to the
 6 instance of the transfer.

7 (3) TRANSFER PROHIBITION TO A THIRD
 8 PARTY.—An employer or, as applicable, a service
 9 provider of the employer may not transfer employee
 10 data on a covered individual to a third party, except
 11 as otherwise required by law.

12 (d) EMPLOYER CONTRACTS WITH SERVICE PRO-
 13 VIDERS THAT COLLECT EMPLOYEE DATA.—A service
 14 provider of an employer that collects or uses employee
 15 data regarding covered individuals of the employer shall
 16 include in any contract between the employer and service
 17 provider entered into after the effective date of this section
 18 an agreement to comply with the requirements of this sec-
 19 tion.

20 (e) EFFECTIVE DATE.—This section shall take effect
 21 on the date that is 60 days after the date of enactment
 22 of this Act.

23 **SEC. 4. DISCLOSURE OF EMPLOYEE DATA COLLECTED.**

24 (a) IN GENERAL.—An employer shall disclose, in ac-
 25 cordance with subsections (b) and (c), to each covered in-

1 individual and publish in a manner that is conspicuous, free-
2 ly accessible, and readily available for viewing by any such
3 covered individual of the employer (including on the inter-
4 net in a manner that is freely accessible and machine read-
5 able (in a form prescribed by the Secretary))—

6 (1) any employee data collected on the covered
7 individual by the employer, including—

8 (A) what employee data are being col-
9 lected;

10 (B) how the employee data are being col-
11 lected;

12 (C) where and when the employee data are
13 being collected;

14 (D) the frequency of the employee data
15 collection;

16 (E) where the employee data is stored;

17 (F) who has access to the employee data;

18 (G) the purposes for which the employee
19 data are being collected and used; and

20 (H) as applicable, the identity of any third
21 party or service provider—

22 (i) used for such employee data collec-
23 tion;

24 (ii) to which employee data is trans-
25 ferred; and

1 (iii) from which employee data of the
 2 covered individual is or may be purchased
 3 or acquired; and

4 (2) how such employee data affects work-re-
 5 lated decisions by the employer, including with re-
 6 gard to the assessment of the performance and pro-
 7 ductivity of the covered individual.

8 (b) TIMING OF DISCLOSURE.—

9 (1) INITIAL DISCLOSURE.—An employer shall
 10 provide the disclosure required under subsection (a)
 11 as follows:

12 (A) COVERED INDIVIDUALS OTHER THAN
 13 APPLICANTS.—With respect to covered individ-
 14 uals other than applicants, in the case of—

15 (i) such a covered individual hired by
 16 the employer on or after the effective date
 17 of this section, to the covered individual
 18 upon hiring the covered individual; or

19 (ii) such a covered individual who is
 20 employed by, or otherwise performing work
 21 for remuneration for, the employer on such
 22 effective date but was hired before such ef-
 23 fective date, to the covered individual not
 24 later than 30 days after such effective
 25 date.

1 (B) APPLICANTS.—With respect to a cov-
2 ered individual who is an applicant on or after
3 the effective date of this section, to such an ap-
4 plicant before the employer accepts an applica-
5 tion by the applicant to be employed by, or oth-
6 erwise perform work for remuneration for, the
7 employer.

8 (2) UPDATED DISCLOSURES.—With respect to a
9 covered individual who received a disclosure under
10 paragraph (1)(A) by an employer or a covered indi-
11 vidual who received a disclosure under paragraph
12 (1)(B) by an employer and is still in the applicant
13 process, the employer shall provide an updated dis-
14 closure to the covered individual—

15 (A) not less than 7 days before imple-
16 menting changes to practices disclosed in the
17 disclosure; or

18 (B) immediately upon any new information
19 required to be provided in such a disclosure be-
20 coming available.

21 (c) PROCEDURES FOR DISCLOSURE.—An employer
22 shall provide the disclosure required under subsection (a)
23 in a manner required by the Administrator that is—

24 (1) accessible to people with disabilities;

1 (2) in plain language and in the primary lan-
2 guage of the covered individual provided the disclo-
3 sure;

4 (3) in writing and available electronically;

5 (4) tailored to the purpose of the disclosure;

6 (5) tailored to the job functions of the covered
7 individual; and

8 (6) tailored to the level of risk.

9 (d) EFFECTIVE DATE.—This section shall take effect
10 on the date that is 60 days after the date of enactment
11 of this Act.

12 **SEC. 5. EMPLOYEE DATA ACCESS AND ACCURACY.**

13 (a) EMPLOYEE DATA ACCESS AND CORRECTION.—

14 (1) IN GENERAL.—An employer shall enable a
15 covered individual (in a manner that verifies and
16 protects the identity of the covered individual), upon
17 request by the covered individual or as provided in
18 subsection (b), to—

19 (A) not later than 30 days after such re-
20 quest or as provided in such subsection, obtain
21 any employee data collected by the employer on
22 the covered individual; and

23 (B) in accordance with procedures estab-
24 lished by the Administrator, have any such em-

1 employee data that is incomplete or erroneous up-
2 dated or corrected at any time.

3 (2) RULE OF INTERPRETATION.—The failure of
4 a covered individual to make a request under para-
5 graph (1) shall not be interpreted to provide a de-
6 fense for the employer of the covered individual with
7 respect to any allegation of a violation of any re-
8 quirement under this Act by the employer.

9 (b) WORK-RELATED DECISIONS.—An employer that
10 makes a work-related decision with regard to a covered
11 individual using employee data—

12 (1) shall, upon alerting the covered individual
13 about such work-related decision, disclose to the cov-
14 ered individual the categories of employee data used
15 to make the work-related decision; and

16 (2) shall, for not less than 7 days after such
17 disclosure, enable the covered individual to—

18 (A) review such employee data of the cov-
19 ered individual and related aggregated data for
20 other similarly situated covered individuals of
21 the employer;

22 (B) in accordance with the procedures de-
23 scribed in subsection (a)(1)(B), have any em-
24 ployee data described in paragraph (1) that is

1 incomplete or erroneous updated or corrected;
 2 and

3 (C) request that the employer reconsider
 4 the work-related decision based on the updated
 5 or corrected employee data.

6 (c) EFFECTIVE DATE.—This section shall take effect
 7 on the date that is 60 days after the date of enactment
 8 of this Act.

9 **SEC. 6. ESTABLISHMENT OF WORKER PROTECTION AND**
 10 **TECHNOLOGY DIVISION.**

11 (a) IN GENERAL.—There is established in the De-
 12 partment of Labor the Worker Protection and Technology
 13 Division.

14 (b) ADMINISTRATOR OF THE WORKER PROTECTION
 15 AND TECHNOLOGY DIVISION.—The President shall ap-
 16 point an Administrator of the Worker Protection and
 17 Technology Division to head the Privacy and Technology
 18 Division.

19 (c) EMPLOYEES AND ADVISORY BOARDS OF THE DI-
 20 VISION.—

21 (1) IN GENERAL.—The Administrator—

22 (A) may select, appoint, and employ, with-
 23 out regard to the provisions of sections 3309
 24 through 3318 of title 5, United States Code, in-
 25 dividuals, including technologists, directly to po-

1 sitions in the competitive service, as defined in
2 section 2102 of such title, to carry out the du-
3 ties of the Administrator under this Act; and

4 (B) may fix the compensation of the indi-
5 viduals described in subparagraph (A) without
6 regard to chapter 51 and subchapter III of
7 chapter 53 of title 5, United States Code, relat-
8 ing to classification of positions and General
9 Schedule pay rates, except that the rate of pay
10 for such individuals may not exceed the rate
11 payable for level V of the Executive Schedule
12 under section 5316 of that title.

13 (2) ADVISORY BOARDS.—

14 (A) ESTABLISHMENT.—The Administrator
15 shall establish advisory boards to advise and
16 consult with in the exercise of the functions of
17 the Administrator under this Act and to provide
18 information on emerging practices relating to
19 the treatment of employee data by employers
20 that are the following:

21 (i) The User Advisory Board, which
22 shall be composed of experts in consumer
23 protection, privacy, civil rights, disability
24 law, labor organizations, and ethics.

1 (ii) The Research Advisory Board,
2 which shall be composed of individuals
3 with academic and research expertise in
4 privacy, cybersecurity, computer science,
5 innovation, design, ethics, economics, law,
6 disability law, labor organizations and pub-
7 lic policy and representatives of labor orga-
8 nizations.

9 (iii) The Product Advisory Board,
10 which shall be composed of technologists,
11 computer scientists, designers, product
12 managers, attorneys, representatives of
13 labor organizations, workplace technology
14 experts, and other representatives of em-
15 ployers and employees.

16 (iv) The Labor Advisory Board, which
17 shall be composed of representatives of
18 labor organizations and representatives of
19 workers.

20 (B) APPOINTMENTS.—The Administrator
21 shall appoint members to the advisory boards
22 established under subparagraph (A) without re-
23 gard to party affiliation.

24 (C) MEETINGS.—Each advisory board es-
25 tablished under subparagraph (A) shall meet—

- 1 (i) at the call of the Administrator;
2 and
3 (ii) not less than 2 times annually.

4 (D) COMPENSATION AND TRAVEL EX-
5 PENSES.—A member of an advisory board es-
6 tablished under subparagraph (A) who is not an
7 officer or employee of the Federal Government
8 shall—

9 (i) be entitled to receive compensation
10 at a rate fixed by the Administrator while
11 attending meetings of the advisory board,
12 including travel time; and

13 (ii) receive travel expenses, including
14 per diem in lieu of subsistence, in accord-
15 ance with applicable provisions under sub-
16 chapter I of chapter 57 of title 5, United
17 States Code.

18 (E) EXEMPTION FROM THE FEDERAL AD-
19 VISORY COMMITTEE ACT.—Each advisory board
20 established under subparagraph (A) shall be ex-
21 empt from chapter 10 of title 5, United States
22 Code (commonly known as the “Federal Advi-
23 sory Committee Act”).

1 (3) USE OF VOLUNTARY SERVICES.—The Ad-
 2 ministrator may, as may from time to time be need-
 3 ed, use any voluntary or uncompensated services.

4 (4) ATTORNEYS.—Attorneys appointed under
 5 this subsection may appear for and represent the
 6 Administrator in any litigation.

7 (d) OFFICES.—

8 (1) IN GENERAL.—The principal office of the
 9 Worker Protection and Technology Division shall be
 10 in the District of Columbia.

11 (2) REGIONAL, LOCAL, AND OTHER OFFICES.—
 12 The Administrator may establish regional, local, or
 13 other offices, including an office in the city of San
 14 Francisco, California, or the San Francisco Bay
 15 area in California.

16 (e) ORDERS AND GUIDANCE.—

17 (1) IN GENERAL.—The Secretary, acting
 18 through the Administrator and the Administrator of
 19 the Wage and Hour Division, may issue orders and
 20 guidance, as may be necessary or appropriate to en-
 21 able the Secretary to carry out the purposes and ob-
 22 jectives of this Act, and to prevent evasions thereof.

23 (2) CONSULTATION.—In issuing orders and
 24 guidance authorized under this subsection, the Sec-
 25 retary, acting through the Administrator and the

1 Administrator of the Wage and Hour Division, may
2 consult with Federal agencies that have jurisdiction
3 over Federal privacy laws or expertise in privacy, in-
4 cluding the Federal Trade Commission, and Federal
5 agencies that have jurisdiction over labor and em-
6 ployment issues, including the Equal Employment
7 Opportunity Commission, the National Labor Rela-
8 tions Board, the National Mediation Board, and the
9 Merit Systems Protection Board.

10 **SEC. 7. REGULATIONS.**

11 (a) IN GENERAL.—

12 (1) AUTHORITY.—

13 (A) IN GENERAL.—Except as provided in
14 paragraph (2), the Secretary, acting through
15 the Administrator in consultation with the Ad-
16 ministrator of the Wage and Hour Division,
17 may prescribe such regulations as may be nec-
18 essary to carry out this Act with respect to cov-
19 ered individuals described in section 2(7)(A)
20 (other than covered individuals described in
21 clauses (iii) through (v) of such section) and
22 other individuals affected by employers de-
23 scribed in subclause (I) or (II) of section
24 2(9)(A)(i), including individuals who are cov-

1 ered individuals described in section 2(7)(B)
2 with respect to such employers.

3 (B) CONSULTATION.—In prescribing any
4 regulations authorized under this paragraph,
5 the Secretary, acting through the Adminis-
6 trator, may consult with Federal agencies that
7 have jurisdiction over Federal privacy laws or
8 expertise in privacy, including the Federal
9 Trade Commission, and Federal agencies that
10 have jurisdiction over labor and employment
11 issues, including the Equal Employment Oppor-
12 tunity Commission and the National Labor Re-
13 lations Board.

14 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
15 BRARY OF CONGRESS.—The Comptroller General of
16 the United States and the Librarian of Congress
17 shall prescribe any regulations described in para-
18 graph (1)(A) with respect to covered individuals of
19 the Government Accountability Office and the Li-
20 brary of Congress, respectively, and other individuals
21 affected by the Comptroller General of the United
22 States and the Librarian of Congress, respectively.

23 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
24 COUNTABILITY ACT OF 1995.—

1 (1) AUTHORITY.—Not later than 45 days after
2 the Secretary prescribes any regulation under sub-
3 section (a)(1)(A), the Board of Directors of the Of-
4 fice of Compliance shall prescribe (in accordance
5 with section 304 of the Congressional Accountability
6 Act of 1995 (2 U.S.C. 1384)) such regulations as
7 may be necessary to carry out this Act with respect
8 to covered individuals described in section
9 2(7)(A)(iii) and other individuals affected by em-
10 ployers described in section 2(9)(A)(i)(III), including
11 individuals who are covered individuals described in
12 section 2(7)(B) with respect to such employers.

13 (2) AGENCY REGULATIONS.—The regulations
14 prescribed under paragraph (1) shall be the same as
15 substantive regulations promulgated by the Sec-
16 retary under subsection (a)(1)(A) except insofar as
17 the Board may determine, for good cause shown and
18 stated together with the regulations prescribed
19 under paragraph (1), that a modification of such
20 regulations would be more effective for the imple-
21 mentation of the rights and protections involved
22 under this section.

23 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
24 3, UNITED STATES CODE.—

1 (1) AUTHORITY.—Not later than 45 days after
 2 the Secretary prescribes any regulation under sub-
 3 section (a)(1)(A), the President (or the designee of
 4 the President) shall prescribe such regulations as
 5 may be necessary to carry out this Act with respect
 6 to covered individuals described in section
 7 2(7)(A)(iv) and other individuals affected by employ-
 8 ers described in section 2(9)(A)(i)(IV), including in-
 9 dividuals who are covered individuals described in
 10 section 2(7)(B) with respect to such employers.

11 (2) AGENCY REGULATIONS.—The regulations
 12 prescribed under paragraph (1) shall be the same as
 13 substantive regulations promulgated by the Sec-
 14 retary under subsection (a)(1)(A) except insofar as
 15 the President (or designee) may determine, for good
 16 cause shown and stated together with the regula-
 17 tions prescribed under paragraph (1), that a modi-
 18 fication of such regulations would be more effective
 19 for the implementation of the rights and protections
 20 involved under this section.

21 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
 22 5, UNITED STATES CODE.—

23 (1) AUTHORITY.—Not later than 45 days after
 24 the Secretary prescribes any regulation under sub-
 25 section (a)(1)(A), the Director of the Office of Per-

1 sonnel Management shall prescribe such regulations
 2 as may be necessary to carry out this Act with re-
 3 spect to covered individuals described in section
 4 2(7)(A)(v) and other individuals affected by employ-
 5 ers described in section 2(9)(A)(i)(V), including indi-
 6 viduals who are covered individuals described in sec-
 7 tion 2(7)(B) with respect to such employers.

8 (2) AGENCY REGULATIONS.—The regulations
 9 prescribed under paragraph (1) shall be the same as
 10 substantive regulations promulgated by the Sec-
 11 retary under subsection (a)(1)(A) except insofar as
 12 the Director may determine, for good cause shown
 13 and stated together with the regulations prescribed
 14 under paragraph (1), that a modification of such
 15 regulations would be more effective for the imple-
 16 mentation of the rights and protections involved
 17 under this section.

18 **SEC. 8. WHISTLEBLOWER PROTECTIONS.**

19 (a) IN GENERAL.—An employer may not discrimi-
 20 nate or retaliate (including through intimidation, threats,
 21 coercion, or harassment) against any covered individual of
 22 the employer—

23 (1) for exercising, or attempting to exercise,
 24 any right provided under this Act; or

1 (2) because the covered individual (or another
2 individual acting at the request of the covered indi-
3 vidual) has—

4 (A) made a written or oral complaint to
5 the employer or a Federal, State, or local gov-
6 ernment entity of a violation of section 3, 4, or
7 5;

8 (B) sought assistance or intervention with
9 respect to a worker privacy-related concern
10 from the employer, a Federal, State, or local
11 government, or a worker representative;

12 (C) instituted, caused to be instituted, or
13 otherwise participated in any inquiry or pro-
14 ceeding under or related to this Act;

15 (D) given, or is about to give, any informa-
16 tion in connection with any inquiry or pro-
17 ceeding relating to any right provided under
18 this Act; or

19 (E) testified, or is about to testify, in any
20 inquiry or proceeding relating to any right pro-
21 vided under this Act.

22 (b) NOTICE.—Each employer shall provide notice of
23 the protections under subsection (a) to all covered individ-
24 uals of the employer in a manner that is accessible and
25 in plain language.

1 **SEC. 9. ENFORCEMENT.**

2 (a) IN GENERAL.—

3 (1) DEFINITION.—For purposes of this sub-
4 section:

5 (A) COVERED INDIVIDUAL.—The term
6 “covered individual” means a covered indi-
7 vidual—

8 (i) described in section 2(7)(A) (other
9 than covered individuals described in
10 clauses (iii) through (v) of such section); or

11 (ii) described in section 2(7)(B) with
12 respect to an employer.

13 (B) EMPLOYER.—The term “employer”
14 means an employer described in subclause (I)
15 or (II) of section 2(9)(A)(i).

16 (2) ENFORCEMENT BY THE WORKER PROTEC-
17 TION AND TECHNOLOGY DIVISION.—

18 (A) INVESTIGATION.—

19 (i) IN GENERAL.—To ensure compli-
20 ance with the provisions of this Act, or any
21 regulation or order issued under this Act,
22 the Secretary, acting through the Adminis-
23 trator—

24 (I) shall have the investigative
25 authority provided under section 11(a)
26 of the Fair Labor Standards Act of

1 1938 (29 U.S.C. 211(a)), with respect
2 to employers, covered individuals, and
3 third parties and service providers
4 with respect to employers; and

5 (II) may require, by general or
6 special orders, an employer or third
7 party or service provider with respect
8 to the employer, to file with the Sec-
9 retary, in such form as the Secretary
10 may prescribe, annual or special re-
11 ports or answers in writing to specific
12 questions, furnishing to the Secretary
13 such information or records as the
14 Secretary may require as to the orga-
15 nization, business, conduct, practices,
16 management, and relation to other
17 corporations, partnerships, and indi-
18 viduals, of the employer.

19 (ii) REPORTS AND ANSWERS.—An em-
20 ployer or third party or service provider
21 with respect to the employer shall file the
22 reports and answers (including information
23 and records) required under clause (i)(II)
24 in such manner, including under oath or

1 otherwise, and within such reasonable time
2 period as the Secretary may require.

3 (iii) JOINT INVESTIGATIONS.—The
4 Secretary, acting through the Adminis-
5 trator, may conduct investigations and
6 make requests for information, as author-
7 ized under this Act, on a joint basis with
8 another Federal agency, a State attorney
9 general, or a State agency.

10 (iv) OBLIGATION TO KEEP, PRESERVE,
11 AND MAKE AVAILABLE RECORDS.—An em-
12 ployer or third party or service provider
13 with respect to the employer shall make,
14 keep, preserve, and make available to the
15 Secretary records pertaining to compliance
16 with this Act in accordance with section
17 11(c) of the Fair Labor Standards Act of
18 1938 (29 U.S.C. 211(c)) and in accord-
19 ance with any regulation or order issued by
20 the Secretary.

21 (B) ENFORCEMENT.—With respect to em-
22 ployers, covered individuals, and third parties
23 and service providers with respect to employers,
24 the Secretary, acting through the Adminis-
25 trator, shall receive, investigate, and attempt to

1 resolve complaints of violations of section 3, 4,
2 5, or 8 in the same manner that the Secretary
3 receives, investigates, and attempts to resolve
4 complaints of violations of sections 6 and 7 of
5 the Fair Labor Standards Act of 1938 (29
6 U.S.C. 206 and 207).

7 (C) PRIORITY.—For purposes of subpara-
8 graphs (A) and (B), the Secretary shall
9 prioritize industries with high rates of employee
10 data collection and at high risk of workplace-
11 surveillance-related health impacts.

12 (D) REFERRAL FOR CRIMINAL PRO-
13 CEEDINGS.—If the Secretary, in the course of
14 the performance of any act or duty under this
15 Act, obtains evidence that any employer has en-
16 gaged in conduct that may constitute a viola-
17 tion of Federal criminal law, the Secretary shall
18 refer the matter to the Attorney General for
19 prosecution under any applicable law. Nothing
20 in this paragraph shall affect any other author-
21 ity of the Secretary to disclose information.

22 (E) LITIGATION.—The Solicitor of Labor
23 may appear for and represent the Secretary on
24 any litigation brought under this subsection.

25 (3) PRIVATE RIGHT OF ACTION.—

1 (A) IN GENERAL.—

2 (i) COVERED INDIVIDUAL.—Notwith-
3 standing any action by the Secretary under
4 paragraph (2)(B), any covered individual
5 adversely affected by an alleged violation of
6 section 3, 4, 5, or 8, may commence a civil
7 action against any person that violates
8 such section in any Federal court of com-
9 petent jurisdiction.

10 (ii) LABOR ORGANIZATION.—Notwith-
11 standing any action by the Secretary under
12 paragraph (2)(B), any labor organization
13 adversely affected by an alleged violation of
14 5 or 8 may commence a civil action against
15 any person that violates such section in
16 any Federal court of competent jurisdic-
17 tion.

18 (B) RELIEF.—

19 (i) IN GENERAL.—In a civil action
20 brought under subparagraph (A) in which
21 the covered individual or labor organization
22 prevails, the court shall award the covered
23 individual or labor organization—

24 (I) damages of not less than an
25 amount equal to twice the sum of any

1 actual damages sustained by the cov-
 2 ered individual;

3 (II) statutory damages described
 4 in clause (iv);

5 (III) injunctive relief; and

6 (IV) equitable relief.

7 (ii) ATTORNEY'S FEES.—In a civil ac-
 8 tion brought under subparagraph (A) in
 9 which the covered individual or labor orga-
 10 nization prevails, the court shall award the
 11 covered individual or labor organization
 12 reasonable attorney's fees and litigation
 13 costs.

14 (iii) TEMPORARY RELIEF FOR WHIS-
 15 TLEBLOWERS.—In a civil action brought
 16 under subparagraph (A) regarding a viola-
 17 tion of section 8, the court may award the
 18 covered individual or labor organization
 19 temporary relief while the case is pending,
 20 including reinstatement.

21 (iv) STATUTORY DAMAGES.—The
 22 court may, in accordance with clause (v),
 23 award statutory damages under clause
 24 (i)(II) against a person in the following
 25 amounts:

1 (I) FAILURE TO COMPLY WITH
2 DISCLOSURE REQUIREMENTS.—For a
3 violation of section 4 and section 8(b),
4 the court may award—

5 (aa) for the first such viola-
6 tion, damages of an amount not
7 more than \$500 for each covered
8 individual impacted; and

9 (bb) for any subsequent vio-
10 lation, damages for each covered
11 individual impacted in an amount
12 of not more than \$500 more than
13 the amount of the damages
14 awarded per covered individual
15 for the violation immediately pre-
16 ceding such subsequent violation.

17 (II) VIOLATION OF EMPLOYEE
18 DATA MINIMIZATION REQUIREMENTS
19 OR EMPLOYEE DATA ACCESSIBILITY
20 REQUIREMENTS.—For each violation
21 of section 3 or 5, the court may
22 award—

23 (aa) damages of an amount
24 not less than \$5,000 and not
25 more than \$20,000; or

1 (bb) for any willful or re-
2 peated violation, damages of an
3 amount not less than \$10,000
4 and not more than \$40,000.

5 (III) RETALIATION ON WHISTLE-
6 BLOWERS.—For each violation of sec-
7 tion 8(a), the court may award—

8 (aa) damages of an amount
9 not less than \$5,000 and not
10 more than \$50,000; or

11 (bb) for any willful or re-
12 peated violation, damages of an
13 amount not less than \$10,000
14 and not more than \$100,000.

15 (v) CONSIDERATIONS FOR STATUTORY
16 DAMAGES.—In determining the amount of
17 statutory damages assessed under clause
18 (iv), the court shall consider any relevant
19 circumstances presented by the parties to
20 the action, including—

21 (I) the nature and seriousness of
22 the violation;
23 (II) the number of violations;
24 (III) the persistence of the mis-
25 conduct;

1 (IV) the length of time over
2 which the misconduct occurred;

3 (V) the willfulness of the mis-
4 conduct of person; and

5 (VI) the assets, liabilities, and
6 net worth of the person.

7 (C) REMEDIES FOR STATE EMPLOYEES.—

8 (i) WAIVER OF SOVEREIGN IMMUN-
9 NITY.—A State's receipt or use of Federal
10 financial assistance for any program or ac-
11 tivity of a State shall constitute a waiver
12 of sovereign immunity, under the 11th
13 Amendment to the Constitution of the
14 United States or otherwise, to a suit
15 brought by a covered individual of that
16 program or activity, or a labor organiza-
17 tion representing such a covered individual,
18 under this paragraph for equitable, legal,
19 or other relief authorized under this para-
20 graph.

21 (ii) OFFICIAL CAPACITY.—An official
22 of a State may be sued in the official ca-
23 pacity of the official by any covered indi-
24 vidual or such a labor organization who
25 has complied with the procedures under

1 this paragraph, for injunctive relief that is
 2 authorized under this paragraph. In such a
 3 suit the court may award to the prevailing
 4 party those costs authorized by section 722
 5 of the Revised Statutes (42 U.S.C. 1988).

6 (iii) APPLICABILITY.—With respect to
 7 a particular program or activity, clause (i)
 8 applies to conduct that occurs—

9 (I) after the date of enactment of
 10 this Act; and

11 (II) on or after the day on which
 12 a State first receives or uses Federal
 13 financial assistance for that program
 14 or activity.

15 (iv) DEFINITION OF PROGRAM OR AC-
 16 TIVITY.—In this subparagraph, the term
 17 “program or activity” has the meaning
 18 given the term in section 606 of the Civil
 19 Rights Act of 1964 (42 U.S.C. 2000d–4a).

20 (D) REMEDIES FOR TRIBAL GOVERNMENT
 21 EMPLOYEES.—

22 (i) WAIVER OF SOVEREIGN IMMUN-
 23 NITY.—A Tribal government’s receipt or
 24 use of Federal financial assistance for any
 25 program or activity of the Tribal govern-

1 ment shall constitute a waiver of sovereign
2 immunity to a suit brought by a covered
3 individual of that program or activity, or a
4 labor organization representing such a cov-
5 ered individual, under this paragraph for
6 equitable, legal, or other relief authorized
7 under this paragraph.

8 (ii) OFFICIAL CAPACITY.—An official
9 of a Tribal government may be sued in the
10 official capacity of the official by any cov-
11 ered individual or such a labor organiza-
12 tion who has complied with the procedures
13 under this paragraph for injunctive relief
14 that is authorized under this paragraph. In
15 such a suit the court may award to the
16 prevailing party those costs authorized by
17 section 722 of the Revised Statutes (42
18 U.S.C. 1988).

19 (iii) APPLICABILITY.—With respect to
20 a particular program or activity, clause (i)
21 applies to conduct that occurs—

22 (I) after the date of enactment of
23 this Act; and

24 (II) on or after the day on which
25 a Tribal government first receives or

1 uses Federal financial assistance for
2 that program or activity.

3 (iv) DEFINITION OF PROGRAM OR AC-
4 TIVITY.—In this subparagraph, the term
5 “program or activity” has the meaning
6 given the term in section 606 of the Civil
7 Rights Act of 1964 (42 U.S.C. 2000d–4a).

8 (4) ENFORCEMENT BY THE GOVERNMENT AC-
9 COUNTABILITY OFFICE AND LIBRARY OF CON-
10 GRESS.—Notwithstanding any other provision of this
11 subsection, in the case of the Government Account-
12 ability Office and the Library of Congress, the au-
13 thority of the Secretary under this subsection shall
14 be exercised respectively by the Comptroller General
15 of the United States and the Librarian of Congress,
16 respectively.

17 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
18 COUNTABILITY ACT OF 1995.—The powers, remedies, and
19 procedures provided in the Congressional Accountability
20 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
21 fined in section 101 of that Act (2 U.S.C. 1301)), or any
22 person, alleging a violation of section 202(a)(1) of that
23 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
24 and procedures this Act provides to that Board, or any
25 person, with regard to an allegation of a violation of sec-

tion 3, 4, 5, or 8 against a covered individual described in section 2(7)(A)(iii) or described in section 2(7)(B) with respect to an employer described in section 2(9)(A)(i)(III).

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this Act provides to the President, that Board, or any person, respectively, with regard to an allegation of a violation of section 3, 4, 5, or 8 against a covered individual described in section 2(7)(A)(iv) or described in section 2(7)(B) with respect to an employer described in section 2(9)(A)(i)(IV).

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this Act provides to that agency, that Board, or any person, respectively, with regard to an allegation of a violation of section 3, 4, 5, or 8 against a covered individual

1 described in section 2(7)(A)(v) or described in section
 2 2(7)(B) with respect to an employer described in section
 3 2(9)(A)(i)(V).

4 (e) ENFORCEMENT BY STATES.—

5 (1) IN GENERAL.—In any case in which a State
 6 attorney general or a State privacy regulator has
 7 reason to believe that an interest of the residents of
 8 a State has been or is adversely affected by any per-
 9 son who violates any provision of section 3, 4, 5, or
 10 8, including a regulation or order prescribed under
 11 this Act, the State attorney general or State privacy
 12 regulator, as *parens patriae*, may bring a civil action
 13 on behalf of the residents of the State in an appro-
 14 priate State court or an appropriate district court of
 15 the United States to—

16 (A) enjoin further violation of such provi-
 17 sion by the person;

18 (B) compel compliance with such provision;

19 (C) obtain damages, civil penalties, restituti-
 20 on, or other compensation on behalf of the
 21 residents of the State; or

22 (D) obtain reasonable attorney's fees and
 23 other litigation costs reasonably incurred.

24 (2) RIGHTS OF AGENCY.—Before initiating a
 25 civil action under paragraph (1), the State attorney

1 general or State privacy regulator, as the case may
2 be, shall notify the Secretary in writing of such civil
3 action. Upon receiving such notice, the Secretary
4 may—

5 (A) intervene in such action; and

6 (B) upon intervening—

7 (i) be heard on all matters arising in
8 such civil action; and

9 (ii) file petitions for appeal of a deci-
10 sion in such action.

11 (3) PREEMPTIVE ACTION BY AGENCY.—In any
12 case in which a civil action is instituted by or on be-
13 half of the Secretary for violation of this Act or a
14 regulation promulgated under this Act, a State at-
15 torney general or State privacy regulator may not,
16 during the pendency of such action, institute a civil
17 action against any defendant named in the com-
18 plaint in the action instituted by or on behalf of the
19 Secretary for a violation that is alleged in such com-
20 plaint. In a case brought by the Secretary that af-
21 fects the interests of a State, the State attorney gen-
22 eral or State privacy regulator may intervene as of
23 right pursuant to the Federal Rules of Civil Proce-
24 dure.

1 (4) PRESERVATION OF STATE POWERS.—Ex-
 2 cept as provided in paragraph (3), no provision of
 3 this subsection shall be construed as altering, lim-
 4 iting, or affecting the authority of a State attorney
 5 general or State privacy regulator to—

6 (A) bring an action or other regulatory
 7 proceeding arising solely under the laws in ef-
 8 fect in that State; or

9 (B) exercise the powers conferred on the
 10 State attorney general or State privacy regu-
 11 lator by the laws of the State, including the
 12 ability to conduct investigations, administer
 13 oaths or affirmations, or compel the attendance
 14 of witnesses or the production of documentary
 15 or other evidence.

16 (f) LIABILITY OF AN EMPLOYER FOR A VIOLATION
 17 BY A SERVICE PROVIDER THAT COLLECT EMPLOYEE
 18 DATA.—A violation of section 3 by a service provider that
 19 collects employee data shall be considered a violation of
 20 such section by the employer if the employer knew or
 21 should have known about such violation.

22 (g) ARBITRATION AND CLASS ACTION.—Notwith-
 23 standing any other provision of law, no predispute arbitra-
 24 tion agreement or predispute joint-action waiver shall be

1 valid or enforceable with respect to any alleged violation
2 of section 3, 4, 5, or 8.

3 **SEC. 10. REPORT TO CONGRESS ON WORKPLACE SURVEIL-**
4 **LANCE.**

5 The Secretary, acting through the Administrator,
6 shall—

7 (1) using technologists and subject matter ex-
8 perts, conduct a study on workplace surveillance and
9 the collection of employee data about covered indi-
10 viduals by employers, including such workplace sur-
11 veillance through technological means; and

12 (2) not later than 1 year after the date of en-
13 actment of this Act, and annually thereafter, submit
14 to Congress, and make publicly available, a report
15 on the findings of the study under paragraph (1),
16 including any recommendations for the President
17 and Congress targeted at reducing harms related to
18 workplace surveillance and the collection of employee
19 data about covered individuals.

20 **SEC. 11. COORDINATION.**

21 In carrying out this Act, the Secretary, acting
22 through the Administrator, shall coordinate with any ap-
23 propriate Federal agency or State regulator to promote
24 consistent regulatory treatment of employee data.

1 **SEC. 12. RELATION TO OTHER LAWS.**

2 Except as explicitly provided otherwise, nothing in
3 this Act shall be construed to preempt, modify, limit, or
4 supersede—

5 (1) any provision of Federal or State law; or

6 (2) the authority of the Federal Trade Commis-
7 sion, Equal Employment Opportunity Commission,
8 National Labor Relations Board, or any other Fed-
9 eral agency.

10 **SEC. 13. SEVERABILITY.**

11 If any provision of this Act or the application of such
12 provision to any person or circumstance is held to be un-
13 constitutional, the remainder of this Act and the applica-
14 tion of the provisions of such to all other persons or cir-
15 cumstances shall not be affected thereby.

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