



(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. DELUZIO introduced the following bill; which was referred to the Committee on _____

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:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Worker Pro-
3 tection and Technology Division established under
4 section 6.

5 (2) AGGREGATED DATA.—The term “aggre-
6 gated data” means data with respect to covered indi-
7 viduals of an employer that the employer has com-
8 bined or collected together in a summary or other
9 form that prevents the identification of any specific
10 individual.

11 (3) APPLICANT.—The term “applicant”, with
12 respect to an employer, means an individual who ap-
13 plies, or applied, to be employed by, or otherwise
14 perform work for remuneration for, the employer.

15 (4) AUTOMATED DECISION SYSTEM.—

16 (A) IN GENERAL.—The term “automated
17 decision system” means any system, software,
18 or process (including such a system, software,
19 or process derived from machine learning, sta-
20 tistics, or other data processing or artificial in-
21 telligence techniques) that—

22 (i) uses computation to produce a pre-
23 diction, score, ranking, recommendation,
24 decision, evaluation, metric, conclusion, in-
25 ference, or profile; and

1 (ii) is not passive computing infra-
2 structure.

3 (B) PASSIVE COMPUTING INFRASTRUC-
4 TURE.—For purposes of this paragraph, the
5 term “passive computing infrastructure” means
6 any intermediary technology that does not influ-
7 ence or determine the outcome of a decision,
8 make or aid in a decision (including through
9 evaluations, metrics, or scoring), inform policy
10 implementation, or collect data or observations,
11 including web hosting, domain registration, net-
12 working, caching, data storage, or cybersecu-
13 rity.

14 (5) BIOMETRIC INFORMATION.—

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

- 21 (i) fingerprints;
22 (ii) voice prints;
23 (iii) iris or retina scans;
24 (iv) facial or hand mapping, geometry,
25 or templates; or

1 (v) gait or personally identifying phys-
2 ical movements.

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

5 (i) a digital or physical photograph;

6 (ii) an audio or video recording; or

7 (iii) information generated from a dig-
8 ital or physical photograph, or an audio or
9 video recording, that cannot be used to
10 identify an individual.

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

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

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

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

1 (ii) any individual performing work
2 for remuneration for an entity described in
3 clauses (i)(II) and (ii) of paragraph (9)(A);

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

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

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

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

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

21 (9) EMPLOYER.—

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

1 (i)(I) a covered employer who is not
2 described in any other subclause of this
3 clause;

4 (II) an entity employing a State em-
5 ployee described in section 304(a) of the
6 Government Employee Rights Act of 1991
7 (42 U.S.C. 2000e–16c(a));

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

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

14 (V) an employing agency covered
15 under subchapter V of chapter 63 of title
16 5, United States Code; and

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

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

22 (i) means any person engaged in com-
23 merce or in any industry or activity affect-
24 ing commerce who employs or otherwise
25 engages for the performance of work for

1 remuneration, 11 or more covered individ-
2 uals;

3 (ii) includes—

4 (I) any person who acts, directly
5 or indirectly, in the interest of a cov-
6 ered employer in relation to any indi-
7 vidual performing work for remunera-
8 tion for such covered employer;

9 (II) any successor in interest of a
10 covered employer;

11 (III) any public agency; and

12 (IV) the Government Account-
13 ability Office and the Library of Con-
14 gress; and

15 (iii) does not include any labor organi-
16 zation (other than when acting as an em-
17 ployer) or anyone acting in the capacity of
18 officer or agent of such labor organization.

19 (C) PUBLIC AGENCY.—For purposes of
20 this paragraph, a public agency shall be consid-
21 ered to be a person engaged in commerce or in
22 an industry or activity affecting commerce.

23 (D) DEFINITIONS.—For purposes of this
24 paragraph, the terms “commerce”, “person”,
25 and “public agency” have the meanings given

1 the terms in section 3 of the Fair Labor Stand-
2 ards Act of 1938 (29 U.S.C. 203).

3 (10) EMPLOYEE DATA.—The term “employee
4 data”, with respect to a covered individual, means
5 any information that identifies, relates to, describes,
6 is reasonably capable of being associated with, or
7 could reasonably be linked, directly or indirectly,
8 with the covered individual, regardless of how the in-
9 formation is collected, inferred, or obtained, includ-
10 ing—

11 (A) personally identifiable information with
12 respect to the covered individual, including any
13 name, contact information, government-issued
14 identification number, financial information,
15 criminal background, location information, pho-
16 tographs, biometric information, or employment
17 history associated with the covered individual;
18 and

19 (B) any information related to the work-
20 place activities with respect to the covered indi-
21 vidual, including—

22 (i) human resources information, in-
23 cluding the contents of a personnel file or
24 performance evaluation;

1 (ii) work process information, such as
2 productivity and efficiency information and
3 information on breaks;

4 (iii) information that captures work-
5 place communications and interactions, in-
6 cluding emails, texts, internal message
7 boards, and customer interaction and rat-
8 ings;

9 (iv) device usage and information, in-
10 cluding calls placed or precise geolocation
11 information;

12 (v) audio-video information and other
13 information collected from sensors, includ-
14 ing movement tracking, images, videos,
15 and thermal-sensor information;

16 (vi) biometric information;

17 (vii) information from a personality
18 test taken by a covered individual, includ-
19 ing such a test given electronically at the
20 beginning of or during a work shift;

21 (viii) inputs for an automated decision
22 system or any automated decision system
23 output;

24 (ix) information that is collected or
25 generated to mitigate the spread of infec-

1 tious diseases, including COVID–19, or to
2 comply with any public health measure;
3 and

4 (x) online information, including a
5 covered individual’s internet protocol ad-
6 dress, private social media activity, or
7 other digital sources or unique identifiers
8 associated with a covered individual.

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

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

14 (B) a State or political subdivision thereof;

15 (C) any agency, authority, or instrumen-
16 tality of a State or political subdivision thereof;
17 or

18 (D) a Tribal government or political sub-
19 division thereof.

20 (12) INDIAN TRIBE.—The term “Indian Tribe”
21 means any Indian or Alaska Native tribe, band, na-
22 tion, pueblo, village, community, component band, or
23 component reservation individually identified (includ-
24 ing parenthetically) in the list published most re-
25 cently as of the date of enactment of this Act pursu-

1 ant to section 104 of the Federally Recognized In-
2 dian Tribe List Act of 1994 (25 U.S.C. 5131).

3 (13) LABOR ORGANIZATION.—The term “labor
4 organization” has the meaning given the term in
5 section 2(5) of the National Labor Relations Act (29
6 U.S.C. 152(5)), except that such term shall also in-
7 clude—

8 (A) any organization composed of labor or-
9 ganizations, such as a labor union federation or
10 a State or municipal labor body; and

11 (B) any organization which would be in-
12 cluded in the definition for such term under
13 such section 2(5) but for the fact that the orga-
14 nization represents—

15 (i) individuals employed by the United
16 States, any wholly owned Government cor-
17 poration, any Federal Reserve Bank, or
18 any State or political subdivision thereof;

19 (ii) individuals employed by persons
20 subject to the Railway Labor Act (45
21 U.S.C. 151 et seq.); or

22 (iii) individuals employed as agricul-
23 tural laborers.

24 (14) PERIODIC ASSESSMENT OF WORKER PER-
25 FORMANCE.—The term “periodic assessment of

1 worker performance” means assessing worker per-
2 formance over the course of units of time equal to
3 or greater than one calendar day.

4 (15) PRECISE GEOLOCATION INFORMATION.—

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

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

21 (16) PREDISPUTE ARBITRATION AGREEMENT.—

22 The term “predispute arbitration agreement” means
23 any agreement to arbitrate a dispute that has not
24 yet arisen at the time of the making of the agree-
25 ment.

1 (17) PREDISPUTE JOINT-ACTION WAIVER.—The
2 term “predispute joint-action waiver” means an
3 agreement, whether or not part of a predispute arbi-
4 tration agreement, that would prohibit, or waive the
5 right of, one of the parties to the agreement to par-
6 ticipate in a joint, class, or collective action in a ju-
7 dicial, arbitral, administrative, or other forum, con-
8 cerning a dispute that has not yet arisen at the time
9 of the making of the agreement.

10 (18) SECRETARY.—The term “Secretary”
11 means the Secretary of Labor.

12 (19) SELL.—The term “sell”, with respect to
13 employee data, means the transfer of such employee
14 data for monetary consideration or for a thing of
15 value.

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

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

1 (B) does not earn revenue from such col-
2 lection, processing, conveyance, or maintenance
3 of such employee data, except from the em-
4 ployer by providing contracted services to the
5 employer with regard to such collection, proc-
6 essing, conveyance, or maintenance of such em-
7 ployee data; and

8 (C) does not combine or link data associ-
9 ated with such employer with data associated
10 with another employer.

11 (21) STATE.—The term “State” means each of
12 the several States of the United States, the District
13 of Columbia, or any territory or possession of the
14 United States.

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

17 (A) with respect to a State, the attorney
18 general or chief law enforcement officer of the
19 State, or another official or agency designated
20 by the State to bring civil actions on behalf of
21 the State or the residents of the State; and

22 (B) with respect to a Tribal government,
23 the attorney general or chief law enforcement
24 officer of the Tribal government, or another of-
25 ficial or agency designated by the Tribal gov-

1 ernment to bring civil actions on behalf of the
2 Tribal government or the Indian Tribe of the
3 Tribal government.

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

6 (A) the chief consumer protection officer of
7 a State; or

8 (B) a State consumer protection agency
9 with expertise in data protection, including the
10 California Privacy Protection Agency.

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

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

25 (A) such employer;

1 (B) a service provider of such employer
2 with respect to the employee data being trans-
3 ferred; or

4 (C) a government entity.

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

10 (27) TRIBAL GOVERNMENT.—The term “Tribal
11 government” means the recognized governing body
12 of an Indian Tribe.

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

16 (A) hiring or engaging a covered individual
17 (including any decision with regard to recruit-
18 ing, screening, interviewing, reviewing, or se-
19 lecting an applicant);

20 (B) firing, retaining, taking a disciplinary
21 action against, demoting, deactivating, or reas-
22 signing duties of a covered individual; or

23 (C) any other term, condition, or privilege
24 of employment or other work of the covered in-
25 dividual, such as relating to wages, wage set-

1 ting, work hours, scheduling, attendance re-
2 quirements, workload, performance standards,
3 assignment of work, access to work and train-
4 ing opportunities, productivity requirements,
5 promotion, workplace health and safety, health
6 care or long-term care coverage, or other bene-
7 fits.

8 **SEC. 3. EMPLOYEE DATA MINIMIZATION.**

9 (a) EMPLOYEE DATA COLLECTION AND USAGE PRO-
10 HIBITIONS.—

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

15 (A) to identify any covered individual to
16 determine if they have or intend to form, join,
17 assist, or seek to form, join, or assist, a labor
18 organization;

19 (B) to monitor the activities of any covered
20 individual concerning or related to a labor orga-
21 nization or with respect to engaging in pro-
22 tected concerted activity;

23 (C) to ascertain any political opinion or ac-
24 tivity, religious view, or other identity marker of
25 the covered individual, that is unrelated to the

1 performance of the job duties of the covered in-
2 dividual for the employer;

3 (D) to identify the health status, any
4 health condition, or disability status of a cov-
5 ered individual that is unrelated to the perform-
6 ance of the job duties of the covered individual
7 for the employer;

8 (E) to ascertain the immigration status of
9 a covered individual;

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

18 (G) to predict any behavior, emotion, or
19 belief of a covered individual that is unrelated
20 to the work of the covered individual for the
21 employer; or

22 (H) to threaten the mental or physical
23 health of the covered individual.

24 (2) OFF DUTY EMPLOYEE DATA COLLECTION.—

25 An employer or, as applicable, a service provider of

1 the employer may not collect employee data regard-
2 ing a covered individual while the covered individual
3 is off-duty, including when the covered individual is
4 off-duty in—

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

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

9 (C) a location provided for the covered in-
10 dividual to pray or participate in a religious ac-
11 tivity; or

12 (D) the home of the covered individual or
13 an alternative location where work is performed
14 that is not the worksite of employer.

15 (b) PERMISSIBLE EMPLOYEE DATA COLLECTION.—

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

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

21 (2) the employee data is primarily used—

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

24 (B) to ensure the quality of goods and
25 services;

1 (C) to conduct a periodic assessment of
2 worker performance;

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

5 (E) to protect the health, safety, or secu-
6 rity of a covered individual or the security of
7 the a facility or computer network of the em-
8 ployer; or

9 (F) to administer wages or benefits to a
10 covered individual;

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

14 (4) the collection of employee data is strictly
15 necessary to accomplish such a purpose, exclusively
16 used to accomplish the purpose, and is the least
17 invasive means to the covered individual that could
18 be used to accomplish the purpose;

19 (5) the collection of employee data is limited to
20 the fewest covered individuals needed for such collec-
21 tion;

22 (6) the least amount of employee data is col-
23 lected;

1 (7) employee data is collected no more fre-
2 quently than is necessary to accomplish the purpose;
3 and

4 (8) the employee data is only retained by the
5 employer or, as applicable, the service provider for
6 only as long as it is reasonably necessary for the
7 purpose and, except as otherwise required to be re-
8 tained by law, is deleted by the employer on the date
9 that is 3 years after the date of—

10 (A) the separation of the covered indi-
11 vidual from employment by or engagement for
12 work with the employer; or

13 (B) in the case of a covered individual who
14 is an applicant that was not employed by or
15 otherwise engaged for work for remuneration by
16 the employer, the discontinuation of the appli-
17 cation process of the covered individual.

18 (c) TRANSFER OF EMPLOYEE DATA.—

19 (1) PROHIBITION ON SELLING.—An employer
20 or, as applicable, a service provider of the employer
21 may not sell or license employee data on a covered
22 individual to any person (including a service provider
23 of the employer).

24 (2) TRANSFER RESTRICTIONS TO A SERVICE
25 PROVIDER.—Except as otherwise required by law, an

1 employer or, as applicable, a service provider of the
2 employer may not transfer employee data on a cov-
3 ered individual to any service provider of the em-
4 ployer unless, for each instance of a transfer—

5 (A) the employer or the service provider
6 making the transfer—

7 (i) discloses the transfer to the cov-
8 ered individual; and

9 (ii) provides cybersecurity protections
10 and encryption for the employee data; and

11 (B) the covered individual opts in to the
12 instance of the transfer.

13 (3) TRANSFER PROHIBITION TO A THIRD
14 PARTY.—An employer or, as applicable, a service
15 provider of the employer may not transfer employee
16 data on a covered individual to a third party, except
17 as otherwise required by law.

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

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

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

5 (a) IN GENERAL.—An employer shall disclose, in ac-
6 cordance with subsections (b) and (c), to each covered in-
7 dividual and publish in a manner that is conspicuous, free-
8 ly accessible, and readily available for viewing by any such
9 covered individual of the employer (including on the inter-
10 net in a manner that is freely accessible and machine read-
11 able (in a form prescribed by the Secretary))—

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

14 (A) what employee data are being col-
15 lected;

16 (B) how the employee data are being col-
17 lected;

18 (C) where and when the employee data are
19 being collected;

20 (D) the frequency of the employee data
21 collection;

22 (E) where the employee data is stored;

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

24 (G) the purposes for which the employee
25 data are being collected and used; and

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

3 (i) used for such employee data collec-
4 tion;

5 (ii) to which employee data is trans-
6 ferred; and

7 (iii) from which employee data of the
8 covered individual is or may be purchased
9 or acquired; and

10 (2) how such employee data affects work-re-
11 lated decisions by the employer, including with re-
12 gard to the assessment of the performance and pro-
13 ductivity of the covered individual.

14 (b) TIMING OF DISCLOSURE.—

15 (1) INITIAL DISCLOSURE.—An employer shall
16 provide the disclosure required under subsection (a)
17 as follows:

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

21 (i) such a covered individual hired by
22 the employer on or after the effective date
23 of this section, to the covered individual
24 upon hiring the covered individual; or

1 (ii) such a covered individual who is
2 employed by, or otherwise performing work
3 for remuneration for, the employer on such
4 effective date but was hired before such ef-
5 fective date, to the covered individual not
6 later than 30 days after such effective
7 date.

8 (B) APPLICANTS.—With respect to a cov-
9 ered individual who is an applicant on or after
10 the effective date of this section, to such an ap-
11 plicant before the employer accepts an applica-
12 tion by the applicant to be employed by, or oth-
13 erwise perform work for remuneration for, the
14 employer.

15 (2) UPDATED DISCLOSURES.—With respect to a
16 covered individual who received a disclosure under
17 paragraph (1)(A) by an employer or a covered indi-
18 vidual who received a disclosure under paragraph
19 (1)(B) by an employer and is still in the applicant
20 process, the employer shall provide an updated dis-
21 closure to the covered individual—

22 (A) not less than 7 days before imple-
23 menting changes to practices disclosed in the
24 disclosure; or

1 (B) immediately upon any new information
2 required to be provided in such a disclosure be-
3 coming available.

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

7 (1) accessible to people with disabilities;

8 (2) in plain language and in the primary lan-
9 guage of the covered individual provided the disclo-
10 sure;

11 (3) in writing and available electronically;

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

13 (5) tailored to the job functions of the covered
14 individual; and

15 (6) tailored to the level of risk.

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

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

20 (a) EMPLOYEE DATA ACCESS AND CORRECTION.—

21 (1) IN GENERAL.—An employer shall enable a
22 covered individual (in a manner that verifies and
23 protects the identity of the covered individual), upon
24 request by the covered individual or as provided in
25 subsection (b), to—

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

5 (B) in accordance with procedures estab-
6 lished by the Administrator, have any such em-
7 ployee data that is incomplete or erroneous up-
8 dated or corrected at any time.

9 (2) RULE OF INTERPRETATION.—The failure of
10 a covered individual to make a request under para-
11 graph (1) shall not be interpreted to provide a de-
12 fense for the employer of the covered individual with
13 respect to any allegation of a violation of any re-
14 quirement under this Act by the employer.

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

18 (1) shall, upon alerting the covered individual
19 about such work-related decision, disclose to the cov-
20 ered individual the categories of employee data used
21 to make the work-related decision; and

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

24 (A) review such employee data of the cov-
25 ered individual and related aggregated data for

1 other similarly situated covered individuals of
2 the employer;

3 (B) in accordance with the procedures de-
4 scribed in subsection (a)(1)(B), have any em-
5 ployee data described in paragraph (1) that is
6 incomplete or erroneous updated or corrected;
7 and

8 (C) request that the employer reconsider
9 the work-related decision based on the updated
10 or corrected employee data.

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

14 **SEC. 6. ESTABLISHMENT OF WORKER PROTECTION AND**
15 **TECHNOLOGY DIVISION.**

16 (a) IN GENERAL.—There is established in the De-
17 partment of Labor the Worker Protection and Technology
18 Division.

19 (b) ADMINISTRATOR OF THE WORKER PROTECTION
20 AND TECHNOLOGY DIVISION.—The President shall ap-
21 point an Administrator of the Worker Protection and
22 Technology Division to head the Privacy and Technology
23 Division.

24 (c) EMPLOYEES AND ADVISORY BOARDS OF THE DI-
25 VISION.—

1 (1) IN GENERAL.—The Administrator—

2 (A) may select, appoint, and employ, with-
3 out regard to the provisions of sections 3309
4 through 3318 of title 5, United States Code, in-
5 dividuals, including technologists, directly to po-
6 sitions in the competitive service, as defined in
7 section 2102 of such title, to carry out the du-
8 ties of the Administrator under this Act; and

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

18 (2) ADVISORY BOARDS.—

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

1 (i) The User Advisory Board, which
2 shall be composed of experts in consumer
3 protection, privacy, civil rights, disability
4 law, labor organizations, and ethics.

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

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

20 (iv) The Labor Advisory Board, which
21 shall be composed of representatives of
22 labor organizations and representatives of
23 workers.

24 (B) APPOINTMENTS.—The Administrator
25 shall appoint members to the advisory boards

1 established under subparagraph (A) without re-
2 gard to party affiliation.

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

5 (i) at the call of the Administrator;

6 and

7 (ii) not less than 2 times annually.

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

13 (i) be entitled to receive compensation
14 at a rate fixed by the Administrator while
15 attending meetings of the advisory board,
16 including travel time; and

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

22 (E) EXEMPTION FROM THE FEDERAL AD-
23 VISORY COMMITTEE ACT.—Each advisory board
24 established under subparagraph (A) shall be ex-
25 empt from chapter 10 of title 5, United States

1 Code (commonly known as the “Federal Advi-
2 sory Committee Act”).

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

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

9 (d) OFFICES.—

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

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

18 (e) ORDERS AND GUIDANCE.—

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

1 (2) CONSULTATION.—In issuing orders and
2 guidance authorized under this subsection, the Sec-
3 retary, acting through the Administrator and the
4 Administrator of the Wage and Hour Division, may
5 consult with Federal agencies that have jurisdiction
6 over Federal privacy laws or expertise in privacy, in-
7 cluding the Federal Trade Commission, and Federal
8 agencies that have jurisdiction over labor and em-
9 ployment issues, including the Equal Employment
10 Opportunity Commission, the National Labor Rela-
11 tions Board, the National Mediation Board, and the
12 Merit Systems Protection Board.

13 **SEC. 7. REGULATIONS.**

14 (a) IN GENERAL.—

15 (1) AUTHORITY.—

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

1 scribed in subclause (I) or (II) of section
2 2(9)(A)(i), including individuals who are cov-
3 ered individuals described in section 2(7)(B)
4 with respect to such employers.

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

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

1 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
2 COUNTABILITY ACT OF 1995.—

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

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

1 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
2 3, UNITED STATES CODE.—

3 (1) AUTHORITY.—Not later than 45 days after
4 the Secretary prescribes any regulation under sub-
5 section (a)(1)(A), the President (or the designee of
6 the President) shall prescribe 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)(iv) and other individuals affected by employ-
10 ers described in section 2(9)(A)(i)(IV), including in-
11 dividuals 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 President (or designee) may determine, for good
18 cause shown and stated together with the regula-
19 tions prescribed under paragraph (1), that a modi-
20 fication of such regulations would be more effective
21 for the implementation of the rights and protections
22 involved under this section.

23 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
24 5, 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 Director of the Office of Per-
4 sonnel Management shall prescribe such regulations
5 as may be necessary to carry out this Act with re-
6 spect to covered individuals described in section
7 2(7)(A)(v) and other individuals affected by employ-
8 ers described in section 2(9)(A)(i)(V), including indi-
9 viduals who are covered individuals described in sec-
10 tion 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 Director may determine, for good cause shown
16 and stated together with the regulations prescribed
17 under paragraph (1), that a modification of such
18 regulations would be more effective for the imple-
19 mentation of the rights and protections involved
20 under this section.

21 **SEC. 8. WHISTLEBLOWER PROTECTIONS.**

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

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

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

6 (A) made a written or oral complaint to
7 the employer or a Federal, State, or local gov-
8 ernment entity of a violation of section 3, 4, or
9 5;

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

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

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

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

24 (b) NOTICE.—Each employer shall provide notice of
25 the protections under subsection (a) to all covered individ-

1 uals of the employer in a manner that is accessible and
2 in plain language.

3 **SEC. 9. ENFORCEMENT.**

4 (a) IN GENERAL.—

5 (1) DEFINITION.—For purposes of this sub-
6 section:

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

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

13 (ii) described in section 2(7)(B) with
14 respect to an employer.

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

18 (2) ENFORCEMENT BY THE WORKER PROTEC-
19 TION AND TECHNOLOGY DIVISION.—

20 (A) INVESTIGATION.—

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

1 (I) shall have the investigative
2 authority provided under section 11(a)
3 of the Fair Labor Standards Act of
4 1938 (29 U.S.C. 211(a)), with respect
5 to employers, covered individuals, and
6 third parties and service providers
7 with respect to employers; and

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

22 (ii) REPORTS AND ANSWERS.—An em-
23 ployer or third party or service provider
24 with respect to the employer shall file the
25 reports and answers (including information

1 and records) required under clause (i)(II)
2 in such manner, including under oath or
3 otherwise, and within such reasonable time
4 period as the Secretary may require.

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

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

23 (B) ENFORCEMENT.—With respect to em-
24 ployers, covered individuals, and third parties
25 and service providers with respect to employers,

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

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

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

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

4 (3) PRIVATE RIGHT OF ACTION.—

5 (A) IN GENERAL.—

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

14 (ii) LABOR ORGANIZATION.—Notwith-
15 standing any action by the Secretary under
16 paragraph (2)(B), any labor organization
17 adversely affected by an alleged violation of
18 5 or 8 may commence a civil action against
19 any person that violates such section in
20 any Federal court of competent jurisdic-
21 tion.

22 (B) RELIEF.—

23 (i) IN GENERAL.—In a civil action
24 brought under subparagraph (A) in which
25 the covered individual or labor organization

1 prevails, the court shall award the covered
2 individual or labor organization—

3 (I) damages of not less than an
4 amount equal to twice the sum of any
5 actual damages sustained by the cov-
6 ered individual;

7 (II) statutory damages described
8 in clause (iv);

9 (III) injunctive relief; and

10 (IV) equitable relief.

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

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

1 (iv) STATUTORY DAMAGES.—The
2 court may, in accordance with clause (v),
3 award statutory damages under clause
4 (i)(II) against a person in the following
5 amounts:

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

10 (aa) for the first such viola-
11 tion, damages of an amount not
12 more than \$500 for each covered
13 individual impacted; and

14 (bb) for any subsequent vio-
15 lation, damages for each covered
16 individual impacted in an amount
17 of not more than \$500 more than
18 the amount of the damages
19 awarded per covered individual
20 for the violation immediately pre-
21 ceding such subsequent violation.

22 (II) VIOLATION OF EMPLOYEE
23 DATA MINIMIZATION REQUIREMENTS
24 OR EMPLOYEE DATA ACCESSIBILITY
25 REQUIREMENTS.—For each violation

1 of section 3 or 5, the court may
2 award—

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

6 (bb) for any willful or re-
7 peated violation, damages of an
8 amount not less than \$10,000
9 and not more than \$40,000.

10 (III) RETALIATION ON WHISTLE-
11 BLOWERS.—For each violation of sec-
12 tion 8(a), the court may award—

13 (aa) damages of an amount
14 not less than \$5,000 and not
15 more than \$50,000; or

16 (bb) for any willful or re-
17 peated violation, damages of an
18 amount not less than \$10,000
19 and not more than \$100,000.

20 (v) CONSIDERATIONS FOR STATUTORY
21 DAMAGES.—In determining the amount of
22 statutory damages assessed under clause
23 (iv), the court shall consider any relevant
24 circumstances presented by the parties to
25 the action, including—

- 1 (I) the nature and seriousness of
- 2 the violation;
- 3 (II) the number of violations;
- 4 (III) the persistence of the mis-
- 5 conduct;
- 6 (IV) the length of time over
- 7 which the misconduct occurred;
- 8 (V) the willfulness of the mis-
- 9 conduct of person; and
- 10 (VI) the assets, liabilities, and
- 11 net worth of the person.

12 (C) REMEDIES FOR STATE EMPLOYEES.—

13 (i) WAIVER OF SOVEREIGN IMMUN-

14 NITY.—A State’s receipt or use of Federal

15 financial assistance for any program or ac-

16 tivity of a State shall constitute a waiver

17 of sovereign immunity, under the 11th

18 Amendment to the Constitution of the

19 United States or otherwise, to a suit

20 brought by a covered individual of that

21 program or activity, or a labor organiza-

22 tion representing such a covered individual,

23 under this paragraph for equitable, legal,

24 or other relief authorized under this para-

25 graph.

1 (ii) OFFICIAL CAPACITY.—An official
2 of a State may be sued in the official ca-
3 pacity of the official by any covered indi-
4 vidual or such a labor organization who
5 has complied with the procedures under
6 this paragraph, for injunctive relief that is
7 authorized under this paragraph. In such a
8 suit the court may award to the prevailing
9 party those costs authorized by section 722
10 of the Revised Statutes (42 U.S.C. 1988).

11 (iii) APPLICABILITY.—With respect to
12 a particular program or activity, clause (i)
13 applies to conduct that occurs—

14 (I) after the date of enactment of
15 this Act; and

16 (II) on or after the day on which
17 a State first receives or uses Federal
18 financial assistance for that program
19 or activity.

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

1 (D) REMEDIES FOR TRIBAL GOVERNMENT
2 EMPLOYEES.—

3 (i) WAIVER OF SOVEREIGN IMMUN-
4 NITY.—A Tribal government's receipt or
5 use of Federal financial assistance for any
6 program or activity of the Tribal govern-
7 ment shall constitute a waiver of sovereign
8 immunity to a suit brought by a covered
9 individual of that program or activity, or a
10 labor organization representing such a cov-
11 ered individual, under this paragraph for
12 equitable, legal, or other relief authorized
13 under this paragraph.

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

1 (iii) APPLICABILITY.—With respect to
2 a particular program or activity, clause (i)
3 applies to conduct that occurs—

4 (I) after the date of enactment of
5 this Act; and

6 (II) on or after the day on which
7 a Tribal government first receives or
8 uses Federal financial assistance for
9 that program or activity.

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

15 (4) ENFORCEMENT BY THE GOVERNMENT AC-
16 COUNTABILITY OFFICE AND LIBRARY OF CON-
17 GRESS.—Notwithstanding any other provision of this
18 subsection, in the case of the Government Account-
19 ability Office and the Library of Congress, the au-
20 thority of the Secretary under this subsection shall
21 be exercised respectively by the Comptroller General
22 of the United States and the Librarian of Congress,
23 respectively.

24 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
25 COUNTABILITY ACT OF 1995.—The powers, remedies, and

1 procedures provided in the Congressional Accountability
2 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-
3 fined in section 101 of that Act (2 U.S.C. 1301)), or any
4 person, alleging a violation of section 202(a)(1) of that
5 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
6 and procedures this Act provides to that Board, or any
7 person, with regard to an allegation of a violation of sec-
8 tion 3, 4, 5, or 8 against a covered individual described
9 in section 2(7)(A)(iii) or described in section 2(7)(B) with
10 respect to an employer described in section 2(9)(A)(i)(III).

11 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
12 3, UNITED STATES CODE.—The powers, remedies, and
13 procedures provided in chapter 5 of title 3, United States
14 Code, to the President, the Merit Systems Protection
15 Board, or any person, alleging a violation of section
16 412(a)(1) of that title, shall be the powers, remedies, and
17 procedures this Act provides to the President, that Board,
18 or any person, respectively, with regard to an allegation
19 of a violation of section 3, 4, 5, or 8 against a covered
20 individual described in section 2(7)(A)(iv) or described in
21 section 2(7)(B) with respect to an employer described in
22 section 2(9)(A)(i)(IV).

23 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
24 5, UNITED STATES CODE.—The powers, remedies, and
25 procedures provided in title 5, United States Code, to an

1 employing agency, provided in chapter 12 of that title to
2 the Merit Systems Protection Board, or provided in that
3 title to any person, alleging a violation of chapter 63 of
4 that title, shall be the powers, remedies, and procedures
5 this Act provides to that agency, that Board, or any per-
6 son, respectively, with regard to an allegation of a viola-
7 tion of section 3, 4, 5, or 8 against a covered individual
8 described in section 2(7)(A)(v) or described in section
9 2(7)(B) with respect to an employer described in section
10 2(9)(A)(i)(V).

11 (e) ENFORCEMENT BY STATES.—

12 (1) IN GENERAL.—In any case in which a State
13 attorney general or a State privacy regulator has
14 reason to believe that an interest of the residents of
15 a State has been or is adversely affected by any per-
16 son who violates any provision of section 3, 4, 5, or
17 8, including a regulation or order prescribed under
18 this Act, the State attorney general or State privacy
19 regulator, as *parens patriae*, may bring a civil action
20 on behalf of the residents of the State in an appro-
21 priate State court or an appropriate district court of
22 the United States to—

23 (A) enjoin further violation of such provi-
24 sion by the person;

25 (B) compel compliance with such provision;

1 (C) obtain damages, civil penalties, restitu-
2 tion, or other compensation on behalf of the
3 residents of the State; or

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

6 (2) RIGHTS OF AGENCY.—Before initiating a
7 civil action under paragraph (1), the State attorney
8 general or State privacy regulator, as the case may
9 be, shall notify the Secretary in writing of such civil
10 action. Upon receiving such notice, the Secretary
11 may—

12 (A) intervene in such action; and

13 (B) upon intervening—

14 (i) be heard on all matters arising in
15 such civil action; and

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

18 (3) PREEMPTIVE ACTION BY AGENCY.—In any
19 case in which a civil action is instituted by or on be-
20 half of the Secretary for violation of this Act or a
21 regulation promulgated under this Act, a State at-
22 torney general or State privacy regulator may not,
23 during the pendency of such action, institute a civil
24 action against any defendant named in the com-
25 plaint in the action instituted by or on behalf of the

1 Secretary for a violation that is alleged in such com-
2 plaint. In a case brought by the Secretary that af-
3 fects the interests of a State, the State attorney gen-
4 eral or State privacy regulator may intervene as of
5 right pursuant to the Federal Rules of Civil Proce-
6 dure.

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

12 (A) bring an action or other regulatory
13 proceeding arising solely under the laws in ef-
14 fect in that State; or

15 (B) exercise the powers conferred on the
16 State attorney general or State privacy regu-
17 lator by the laws of the State, including the
18 ability to conduct investigations, administer
19 oaths or affirmations, or compel the attendance
20 of witnesses or the production of documentary
21 or other evidence.

22 (f) LIABILITY OF AN EMPLOYER FOR A VIOLATION
23 BY A SERVICE PROVIDER THAT COLLECT EMPLOYEE
24 DATA.—A violation of section 3 by a service provider that
25 collects employee data shall be considered a violation of

1 such section by the employer if the employer knew or
2 should have known about such violation.

3 (g) ARBITRATION AND CLASS ACTION.—Notwith-
4 standing any other provision of law, no predispute arbitra-
5 tion agreement or predispute joint-action waiver shall be
6 valid or enforceable with respect to any alleged violation
7 of section 3, 4, 5, or 8.

8 **SEC. 10. REPORT TO CONGRESS ON WORKPLACE SURVEIL-**
9 **LANCE.**

10 The Secretary, acting through the Administrator,
11 shall—

12 (1) using technologists and subject matter ex-
13 perts, conduct a study on workplace surveillance and
14 the collection of employee data about covered indi-
15 viduals by employers, including such workplace sur-
16 veillance through technological means; and

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

1 **SEC. 11. COORDINATION.**

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

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

7 Except as explicitly provided otherwise, nothing in
8 this Act shall be construed to preempt, modify, limit, or
9 supersede—

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

11 (2) the authority of the Federal Trade Commis-
12 sion, Equal Employment Opportunity Commission,
13 National Labor Relations Board, or any other Fed-
14 eral agency.

15 **SEC. 13. SEVERABILITY.**

16 If any provision of this Act or the application of such
17 provision to any person or circumstance is held to be un-
18 constitutional, the remainder of this Act and the applica-
19 tion of the provisions of such to all other persons or cir-
20 cumstances shall not be affected thereby.