

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prevent the distribution of intimate visual depictions without consent.

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IN THE SENATE OF THE UNITED STATES

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Mr. LEE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To prevent the distribution of intimate visual depictions  
without consent.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Preventing Rampant Online Technological Exploitation  
6 and Criminal Trafficking Act of 2022” or the “PRO-  
7 TECT Act”.

8 (b) TABLE OF CONTENTS.—The table of contents for  
9 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Severability clause.

TITLE I—REGULATING THE UPLOADING OF PORNOGRAPHIC  
IMAGES TO ONLINE PLATFORMS

- Sec. 101. Verification obligations of covered platform operators.  
Sec. 102. Removal of images distributed without consent.  
Sec. 103. Obligations of users.

TITLE II—ENFORCEMENT

- Sec. 201. Civil enforcement.  
Sec. 202. Criminal prohibition on nonconsensual distribution of intimate visual depictions.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In the United States, reports of child sexual  
4 abuse material (referred to in this section as  
5 “CSAM”) have grown exponentially in recent years,  
6 from 3,000 reports in 1998 to more than 1,000,000  
7 in 2014 and 18,400,000 in 2018. The New York  
8 Times called it an “almost unfathomable” increase  
9 in criminal behavior.

10 (2) The National Center for Missing and Ex-  
11 ploited Children (referred to in this section as  
12 “NCMEC”), which is based in the United States, re-  
13 corded more than 29,300,000 reports of suspected  
14 CSAM to its CyberTipline in 2021, the highest num-  
15 ber of reports ever received in a single year and a  
16 35 percent increase from 2020. Those reports in-  
17 cluded 85,000,000 images, videos, and other files of  
18 suspected CSAM and incident-related content.

1           (3) Recent trends reported by NCMEC include  
2 increasingly graphic and violent sexual abuse im-  
3 ages, and videos of infants and young children.

4           (4) The Daily, a podcast hosted by the New  
5 York Times, reported in 2019 that CSAM had so  
6 overwhelmed law enforcement agencies in the United  
7 States that the Federal Bureau of Investigation, for  
8 example, had prioritized investigating material de-  
9 picting infants and toddlers, not older children.

10          (5) The COVID–19 pandemic has resulted in a  
11 surge in the online distribution of CSAM, which was  
12 remarkably high even before the pandemic. During  
13 the pandemic, NCMEC reported a 106 percent in-  
14 crease in the sharing of CSAM globally. The in-  
15 creased number of offenders exchanging CSAM dur-  
16 ing lockdowns may continue to stimulate demand for  
17 CSAM beyond the lockdowns as well.

18          (6) Project Arachnid is a web platform adminis-  
19 tered by the Canadian Centre for Child Protection  
20 (referred to in this section as “C3P”) that is de-  
21 signed to detect known images of CSAM and issue  
22 removal notices to electronic service providers when  
23 possible. C3P has reported, “It is a common mis-  
24 conception that CSAM and harmful-abusive content  
25 are relegated solely to the dark web.”. In fact, 97

1 percent of the illegal media detected by Project  
2 Arachnid hides in plain sight on the clear web on  
3 image or file hosting services, forums, content deliv-  
4 ery networks, and both mainstream adult pornog-  
5 raphy sites, such as Pornhub, XVideos, OnlyFans,  
6 and YouPorn, and fringe adult pornography sites.

7 (7) In 2021, NCMEC reported that a majority  
8 of CSAM reports, more than 29,157,083 out of  
9 29,397,681, came from electronic service providers.

10 (8) An alarming and increasing number of  
11 adults are being depicted in online pornography  
12 without their knowledge or consent. These individ-  
13 uals are often victims of sexual abuse, sex traf-  
14 ficking, rape, sexual exploitation, sextortion, and  
15 forms of image-based sexual abuse such as non-  
16 consensual distribution of sexually explicit material.

17 (9) Most pornography websites do not effec-  
18 tively verify the age of the users who upload content  
19 to their platforms. Nor do these websites make an  
20 effort to effectively verify the age, consent, or iden-  
21 tity of all individuals who are depicted in the porno-  
22 graphic content.

23 (10) Pornography websites attract hundreds of  
24 millions of visitors daily. The leading pornography  
25 website in 2020, for example, reported attracting

1 more than 3,500,000,000 monthly users, which ex-  
2 ceeds the traffic of Netflix, Twitter, Instagram,  
3 Pinterest, or LinkedIn.

4 (11) Pornography websites profit from the con-  
5 tent uploaded to their platforms, including content  
6 that depicts or involves rape, child exploitation and  
7 abuse, and sex trafficking. In 2019, 6 high-level in-  
8 dividuals employed by an online pornographic dis-  
9 tributor were convicted of sex trafficking. Over an  
10 11-year period, that platform generated more than  
11 \$17,000,000 in revenue.

12 (12) The ongoing exploitation of underage or  
13 nonconsenting individuals by highly-visited pornog-  
14 raphy websites is evidenced by a recent series of suc-  
15 cessful lawsuits. One case, involving 22 victims of  
16 sex trafficking and fraud, concluded in a nearly  
17 \$13,000,000 verdict against a pornography content  
18 producer who coerced women and children into pro-  
19 ducing sexual content. Another 34 women, some of  
20 whom are victims of child sex trafficking, filed a  
21 lawsuit against a pornographic website for failing to  
22 take proper precautions to verify the content  
23 uploaded to its platform and monetizing the illegal  
24 content.

1           (13) The internet has revolutionized the por-  
2           nography industry, making pornographic content in-  
3           comparably more available, accessible, affordable,  
4           and anonymous than at any previous time in the his-  
5           tory of the United States. Today, substantial majori-  
6           ties of teenagers have viewed pornography. A United  
7           States population-based probability study found that  
8           84 percent of males and 57 percent of females be-  
9           tween the ages of 14 and 18 have viewed pornog-  
10          raphy, belying the industry’s faux status as so-called  
11          “adult entertainment”. Moreover, pornography has  
12          contributed to the normalization of sexual violence  
13          among the youth of the United States. Numerous  
14          studies have demonstrated that viewing pornography  
15          harms youth, as it contributes to sexually violent at-  
16          titudes and conduct towards children and adults and  
17          creates unrealistic expectations for intimate relation-  
18          ships. Additionally, research has demonstrated that  
19          the demand for online pornography has fueled an in-  
20          crease in purchasing sex from prostituted or sex  
21          trafficked individuals.

22           (14) The online pornography industry has re-  
23           mained unchecked and generally immune from regu-  
24           lations. Online creators and distributors of porno-  
25           graphic content should be held to standards that re-

1       quire informed and thorough consent as well as age-  
2       verification. Currently, no substantive laws govern  
3       consent in pornography, which has permitted ramp-  
4       ant abuses to occur.

5               (15) Companies should not profit from the sex-  
6       ual exploitation of children and adults. Requiring  
7       pornographic websites to verify the age, consent, and  
8       identity of individuals appearing in pornographic  
9       content on their platforms would substantially curb  
10      the rampant exploitation of all children and adults  
11      online.

12              (16) The harms to victims of CSAM and image-  
13      based sexual abuse are deep and enduring. Every  
14      time an image or video of their exploitation is  
15      shared, their abuse is repeated and amplified.

16 **SEC. 3. DEFINITIONS.**

17       (a) IN GENERAL.—In this Act:

18              (1) COERCED CONSENT.—The term “coerced  
19      consent” means purported consent obtained from a  
20      person—

21                  (A) through fraud, duress, misrepresenta-  
22                  tion, undue influence, or nondisclosure;

23                  (B) who lacks capacity; or

24                  (C) though exploiting or leveraging the  
25                  person’s—

1 (i) immigration status;

2 (ii) pregnancy;

3 (iii) disability;

4 (iv) addiction;

5 (v) juvenile status; or

6 (vi) economic circumstances.

7 (2) CONSENT.—The term “consent”—

8 (A) means an agreement that is informed  
9 and thorough; and

10 (B) does not include coerced consent.

11 (3) COVERED PLATFORM.—

12 (A) IN GENERAL.—The term “covered  
13 platform” means an interactive computer serv-  
14 ice that hosts or makes available to the general  
15 public pornographic images.

16 (B) AVAILABILITY TO PUBLIC.—For pur-  
17 poses of subparagraph (A), the availability of  
18 pornographic images to a group of subscribers  
19 shall be considered availability to the general  
20 public if any member of the general public (sub-  
21 ject to reasonable limitations) can obtain a sub-  
22 scription.

23 (4) COVERED PLATFORM OPERATOR.—The  
24 term “covered platform operator” means a provider  
25 of a covered platform.



1           (5) INTERACTIVE COMPUTER SERVICE.—The  
2 term “interactive computer service” has the meaning  
3 given the term in section 230(f) of the Communica-  
4 tions Act of 1934 (47 U.S.C. 230(f)).

5           (6) INTIMATE VISUAL DEPICTION.—The term  
6 “intimate visual depiction” means any visual depic-  
7 tion—

8           (A) of an individual who is reasonably  
9 identifiable from the visual depiction itself or  
10 information displayed in connection with the  
11 visual depiction, including through—

12                   (i) facial recognition;

13                   (ii) an identifying marking on the in-  
14 dividual, including a birthmark or piercing;

15                   (iii) an identifying feature of the  
16 background of the visual depiction;

17                   (iv) voice matching; or

18                   (v) written confirmation from an indi-  
19 vidual who is responsible, in whole or in  
20 part, for the creation or development of the  
21 visual depiction; and

22           (B) in which—

23                   (i) the individual depicted is engaging  
24 in sexually explicit conduct; or

1 (ii) the naked genitals, anus, pubic  
2 area, or post-pubescent female nipple of  
3 the individual depicted are visible.

4 (7) PORNOGRAPHIC IMAGE.—The term “porno-  
5 graphic image” means—

6 (A) any visual depiction of actual or  
7 feigned sexually explicit conduct; or

8 (B) any intimate visual depiction.

9 (8) USER.—The term “user”—

10 (A) means an individual who is an infor-  
11 mation content provider (as defined in section  
12 230(f) of the Communications Act of 1934 (47  
13 U.S.C. 230(f))); and

14 (B) with respect to a covered platform,  
15 means an individual described in subparagraph  
16 (A) who is responsible, in whole or in part, for  
17 the creation or development of pornographic im-  
18 ages hosted or made available by the covered  
19 platform.

20 (b) TERMS DEFINED IN SECTION 2256 OF TITLE 18,  
21 UNITED STATES CODE.—For purposes of subsection

22 (a)—

23 (1) the term “computer” has the meaning given  
24 the term in section 2256 of title 18, United States  
25 Code; and

1           (2) the term “sexually explicit conduct” has the  
2 meaning given the term in section 2256(2)(A) of  
3 title 18, United States Code; and

4           (3) the term “visual depiction” means a photo-  
5 graph, film, video, or modified photograph, film, or  
6 video, whether made or produced by electronic, me-  
7 chanical, or other means.

8 **SEC. 4. SEVERABILITY CLAUSE.**

9           If any provision of this Act or an amendment made  
10 by this Act, or the application of such a provision or  
11 amendment to any person or circumstance, is held to be  
12 unconstitutional, the remaining provisions of this Act and  
13 amendments made by this Act, and the application of such  
14 provisions and amendments to any other person or cir-  
15 cumstance, shall not be affected thereby.

16 **TITLE I—REGULATING THE**  
17 **UPLOADING OF PORNO-**  
18 **GRAPHIC IMAGES TO ONLINE**  
19 **PLATFORMS**

20 **SEC. 101. VERIFICATION OBLIGATIONS OF COVERED PLAT-**  
21 **FORM OPERATORS.**

22 (a) VERIFICATION OF USERS.—

23           (1) IN GENERAL.—A covered platform operator  
24 may not upload or allow a user to upload a porno-  
25 graphic image to the covered platform unless the op-

1 erator has verified, in accordance with paragraph  
2 (2)—

3 (A) the identity of the user; and

4 (B) that the user is not less than 18 years  
5 old.

6 (2) MEANS OF COMPLIANCE.—In carrying out  
7 paragraph (1), a covered platform operator shall  
8 verify the identity and age of a user by—

9 (A) requiring use of an adult access code  
10 or adult personal identification number;

11 (B) accepting a digital certificate that  
12 verifies age; or

13 (C) using any other reasonable measure of  
14 age verification that the Attorney General has  
15 determined to be feasible with available tech-  
16 nology.

17 (3) INSUFFICIENT USER CONFIRMATION.—  
18 Merely requiring a user to confirm that the user is  
19 not less than 18 years of age, without independent  
20 means of verification, shall not satisfy the require-  
21 ment under paragraph (1).

22 (b) VERIFICATION OF PARTICIPANTS.—

23 (1) IN GENERAL.—A covered platform operator  
24 may not upload or allow a user to upload a porno-  
25 graphic image to the covered platform unless the op-

1 erator has verified, in accordance with paragraph  
2 (2), that each individual appearing in the porno-  
3 graphic image—

4 (A) was not less than 18 years of age when  
5 the pornographic image was created;

6 (B) has provided explicit written evidence  
7 of consent for each sex act in which the indi-  
8 vidual engaged during the creation of the por-  
9 nographic image; and

10 (C) has provided explicit written consent  
11 for the distribution of the specific pornographic  
12 image.

13 (2) SEPARATE CONSENT FOR SEX ACT AND FOR  
14 DISTRIBUTION OF IMAGE.—

15 (A) CONSENT FOR SEX ACT.—Consent de-  
16 scribed in subparagraph (B) of paragraph (1)  
17 does not imply or constitute evidence of consent  
18 described in subparagraph (C) of that para-  
19 graph.

20 (B) CONSENT FOR DISTRIBUTION OF  
21 IMAGE.—Consent described in subparagraph  
22 (C) of paragraph (1) does not imply or con-  
23 stitute evidence of consent described in sub-  
24 paragraph (B) of that paragraph.

1           (3) MEANS OF COMPLIANCE.—In carrying out  
2 paragraph (1), a covered platform operator shall ob-  
3 tain, either from the user seeking to upload the por-  
4 nographic image or through other means—

5           (A) a consent form created or approved by  
6 the Attorney General under paragraph (4) from  
7 each individual appearing in the pornographic  
8 image that includes—

9           (i) the name, date of birth, and signa-  
10 ture of the individual;

11           (ii) a statement that the individual is  
12 not less than 18 years of age, unless no  
13 reasonable person could conclude that the  
14 individual is less than 30 years of age;

15           (iii) a statement that the consent is  
16 for distribution of the specific porno-  
17 graphic image;

18           (iv) the geographic area and medium,  
19 meaning online, print, or other distribution  
20 method, for which the individual provides  
21 consent to distribution of the pornographic  
22 image;

23           (v) the duration of time for which the  
24 individual provides consent to distribution  
25 of the pornographic image;

1 (vi) a list of the specific sex acts that  
2 the person agrees to engage in for the por-  
3 nographic image; and

4 (vii) a statement that explains coerced  
5 consent and that the individual has the  
6 right to withdraw the individual's consent  
7 at any time; and

8 (B) not less than 1 form of valid identi-  
9 fication for each individual appearing in the  
10 pornographic image—

11 (i) that—

12 (I) was issued by an agency of  
13 the Federal Government or of a State,  
14 local, or foreign government; and

15 (II) contains the name, date of  
16 birth, signature, and photograph of  
17 the individual; and

18 (ii) on which the name, date of birth,  
19 and signature of the individual match the  
20 name, date of birth, and signature of the  
21 individual on the consent form required  
22 under subparagraph (A).

23 (4) CREATION AND APPROVAL OF CONSENT  
24 FORMS BY ATTORNEY GENERAL.—

1 (A) ATTORNEY GENERAL CONSENT  
2 FORM.—

3 (i) IN GENERAL.—Not later than 60  
4 days after the date of enactment of this  
5 Act, the Attorney General shall create and  
6 make available to the public a consent  
7 form for purposes of paragraph (3)(A).

8 (ii) AVAILABILITY.—On and after the  
9 date that is 90 days after the date of en-  
10 actment of this Act, a covered platform op-  
11 erator shall make the consent form created  
12 under clause (i) available to users in both  
13 written and electronic format.

14 (B) APPROVAL OF ALTERNATIVE CONSENT  
15 FORMS.—For purposes of paragraph (3)(A), a  
16 user may submit to a covered platform an alter-  
17 native consent form created by a user or cov-  
18 ered platform operator if the alternative consent  
19 form has been approved by the Attorney Gen-  
20 eral.

21 (c) EFFECTIVE DATE; APPLICABILITY.—This section  
22 shall—

23 (1) take effect on the date that is 90 days after  
24 the date of enactment of this Act; and



1           (2) apply to any pornographic image uploaded  
2           to a covered platform before, on, or after that effective  
3           date.

4           (d) RULES OF CONSTRUCTION.—

5           (1) OBLIGATIONS AND CRIMINAL LIABILITY  
6           UNDER OTHER LAWS.—Nothing in this section shall  
7           be construed to—

8                   (A) affect any obligation of a covered plat-  
9                   form under any other provision of Federal or  
10                  State law; or

11                   (B) impact or otherwise limit the criminal  
12                  liability of a user or other individual under a  
13                  Federal or State obscenity law.

14           (2) FIRST AMENDMENT-PROTECTED SPEECH.—  
15           Nothing in this section shall be construed to prohibit  
16           or impose a prior restraint on speech that is pro-  
17           tected by the First Amendment to the Constitution  
18           of the United States.

19 **SEC. 102. REMOVAL OF IMAGES DISTRIBUTED WITHOUT**  
20 **CONSENT.**

21           (a) DEFINITIONS.—In this section:

22                   (1) AUTHORIZED REPRESENTATIVE.—The term  
23                  “authorized representative”, with respect to an indi-  
24                  vidual, means—

1 (A) a person authorized in writing under  
2 State or other applicable law by the individual  
3 to act on behalf of the individual with regard to  
4 the matter in question; or

5 (B) in the case of an individual under the  
6 age of 18, a parent or legal guardian of the in-  
7 dividual.

8 (2) ELIGIBLE PERSON.—The term “eligible per-  
9 son”, with respect to a pornographic image uploaded  
10 to a covered platform, means—

11 (A) an individual who appears in the por-  
12 nographic image and has not provided consent  
13 to, or has withdrawn consent in compliance  
14 with the laws of the applicable jurisdiction for,  
15 the distribution of the pornographic image;

16 (B) an authorized representative of an in-  
17 dividual described in subparagraph (A); or

18 (C) a Federal, State, Tribal, or local law  
19 enforcement officer acting pursuant to a valid  
20 court order.

21 (b) MECHANISM FOR REMOVAL.—A covered platform  
22 operator shall—

23 (1) establish a procedure for removing a porno-  
24 graphic image from the covered platform at the re-  
25 quest of a person; and

1           (2) designate 1 or more employees of the oper-  
2           ator to be responsible for handling requests for re-  
3           moval of pornographic images.

4           (c) NOTICE.—A covered platform operator shall dis-  
5           play a prominently visible notice on the website or mobile  
6           application of the covered platform that provides instruc-  
7           tions on how a person can request the removal of a porno-  
8           graphic image.

9           (d) RESPONSE TO REQUESTS FOR REMOVAL.—

10           (1) REQUESTS FROM ELIGIBLE PERSONS.—If a  
11           covered platform operator receives a request from an  
12           eligible person, through any request mechanism of-  
13           fered by the operator under subsection (b), to re-  
14           move a pornographic image that is being hosted by  
15           the covered platform without the consent of an indi-  
16           vidual who appears in the pornographic image, the  
17           operator shall remove the pornographic image as  
18           quickly as possible, and in any event not later than  
19           72 hours after receiving the request.

20           (2) REQUESTS FROM PERSONS OTHER THAN  
21           ELIGIBLE PERSONS.—If a covered platform operator  
22           receives a request from a person other than an eligi-  
23           ble person, through any request mechanism offered  
24           by the operator under subsection (b), to remove a  
25           pornographic image that is being hosted by the cov-

1       ered platform without the consent of an individual  
2       who appears in the pornographic image, not later  
3       than 72 hours after receiving the request—

4               (A) the operator shall review the records of  
5       the operator with respect to the pornographic  
6       image to determine whether the pornographic  
7       image was uploaded to the platform in accord-  
8       ance with the verification requirements under  
9       subsections (a) and (b) of section 101; and

10              (B) if the operator determines under sub-  
11       paragraph (A) that the pornographic image was  
12       not uploaded to the platform in accordance with  
13       the verification requirements under subsections  
14       (a) and (b) of section 101, the operator shall  
15       remove the pornographic image.

16       (e) BLOCKING RE-UPLOADS.—In the case of a porno-  
17       graphic image that has been removed from a covered plat-  
18       form in accordance with this section, the covered platform  
19       operator shall block the pornographic image, and any al-  
20       tered or edited version of the pornographic image, from  
21       being uploaded to the covered platform again.

22       (f) EFFECTIVE DATE; APPLICABILITY.—

23              (1) IN GENERAL.—This section shall—

1 (A) except as provided in paragraph (2),  
2 take effect on the date that is 90 days after the  
3 date of enactment of this Act; and

4 (B) apply to any pornographic image  
5 uploaded to a covered platform before, on, or  
6 after that effective date.

7 (2) BLOCKING RE-UPLOADS.—Subsection (e)  
8 shall take effect on the date that is 180 days after  
9 the date of enactment of this Act.

10 **SEC. 103. OBLIGATIONS OF USERS.**

11 (a) CONSENT REQUIREMENT.—A user of a covered  
12 platform may not upload a pornographic image of an indi-  
13 vidual to the covered platform without the consent of the  
14 individual.

15 (b) DETERMINATION OF CONSENT.—For purposes of  
16 subsection (a), whether an individual has provided consent  
17 to the uploading of an image shall be determined in ac-  
18 cordance with this Act and applicable State law.

19 **TITLE II—ENFORCEMENT**

20 **SEC. 201. CIVIL ENFORCEMENT.**

21 (a) VERIFICATION OBLIGATIONS OF COVERED PLAT-  
22 FORM OPERATORS.—

23 (1) CIVIL PENALTY FOR FAILURE TO VERIFY  
24 USERS.—

1 (A) IN GENERAL.—The Attorney General  
2 may impose a civil penalty on any covered plat-  
3 form operator that violates section 101(a) in an  
4 amount of not more than \$10,000 for each day  
5 during which a pornographic image remains on  
6 the covered platform in violation of that section,  
7 beginning 24 hours after the Attorney General  
8 provides notice of the violation to the operator.

9 (B) PER-DAY AND PER-IMAGE BASIS.—A  
10 civil penalty under subparagraph (A) shall ac-  
11 crue on a per-day and per-image basis.

12 (C) USE OF PROCEEDS.—Notwithstanding  
13 section 3302 of title 31, United States Code,  
14 the Attorney General may use the proceeds  
15 from a civil penalty collected under subpara-  
16 graph (A) to carry out enforcement under this  
17 section.

18 (2) CIVIL LIABILITY FOR FAILURE TO VERIFY  
19 PARTICIPANTS.—If a covered platform operator vio-  
20 lates section 101(b) with respect to a pornographic  
21 image, any person aggrieved by the violation may  
22 bring a civil action against the covered platform op-  
23 erator in an appropriate district court of the United  
24 States for damages in an amount equal to the great-  
25 er of—

1 (A) \$10,000 for each day during which a  
2 pornographic image remains on the covered  
3 platform in violation of that section, calculated  
4 on a per-day and per-image basis; or

5 (B) actual damages.

6 (b) REMOVAL OF IMAGES DISTRIBUTED WITHOUT  
7 CONSENT.—

8 (1) CIVIL PENALTY FOR FAILURE TO ESTAB-  
9 LISH MECHANISM FOR REMOVAL.—

10 (A) IN GENERAL.—The Attorney General  
11 may impose a civil penalty on any covered plat-  
12 form operator that violates section 102(b) in an  
13 amount of not more than \$10,000 for each day  
14 during which the covered platform remains in  
15 violation of that section, beginning 24 hours  
16 after the Attorney General provides notice of  
17 the violation to the operator.

18 (B) USE OF PROCEEDS.—Notwithstanding  
19 section 3302 of title 31, United States Code,  
20 the Attorney General may use the proceeds  
21 from a civil penalty collected under subpara-  
22 graph (A) to carry out enforcement under this  
23 section.

24 (2) CIVIL PENALTY FOR FAILURE TO DISPLAY  
25 NOTICE OF MECHANISM FOR REMOVAL.—The Attor-

1       ney General may impose a civil penalty on any cov-  
2       ered platform operator that violates section 102(c)  
3       in an amount of not more than \$5,000 for each day  
4       during which the covered platform remains in viola-  
5       tion of that section, beginning 24 hours after the At-  
6       torney General provides notice of the violation to the  
7       operator.

8               (3) CIVIL LIABILITY FOR FAILURE TO MAKE  
9       TIMELY REMOVAL.—

10               (A) IN GENERAL.—If a covered platform  
11       operator violates section 102(d) with respect to  
12       a pornographic image, any person aggrieved by  
13       the violation may bring a civil action against  
14       the covered platform operator in an appropriate  
15       district court of the United States for damages  
16       in an amount equal to the greater of—

17               (i) \$10,000 for each day during which  
18       the pornographic image remains on the  
19       covered platform in violation of that sec-  
20       tion, calculated on a per-day and per-image  
21       basis; or

22               (ii) actual damages.

23               (B) GOOD FAITH EXCEPTION.—

24               (i) IN GENERAL.—A covered platform  
25       operator shall not be liable under subpara-



1 graph (A) for a violation of section 102(d)  
2 if, in allowing the upload of a pornographic  
3 image to the covered platform, the oper-  
4 ator reasonably relied on verification mate-  
5 rials, in accordance with section 101(b)(3),  
6 that were later found to be fraudulent,  
7 provided that the operator removes the  
8 pornographic image not later than 24  
9 hours after discovering that the verification  
10 materials are fraudulent.

11 (ii) FAILURE TO REMOVE.—If a cov-  
12 ered platform operator fails to remove a  
13 pornographic image within 24 hours of dis-  
14 covering that the verification materials are  
15 fraudulent, as described in clause (i), dam-  
16 ages under subparagraph (A)(i) shall be  
17 calculated with respect to each day on or  
18 after the date on which that 24-hour pe-  
19 riod expires.

20 (4) CIVIL LIABILITY FOR FAILURE TO BLOCK  
21 RE-UPLOADS.—If a covered platform operator vio-  
22 lates section 102(e) with respect to a pornographic  
23 image, any person aggrieved by the violation may  
24 bring a civil action against the covered platform op-  
25 erator in an appropriate district court of the United

1 States for damages in an amount equal to the great-  
2 er of—

3 (A) \$10,000 for each day during which the  
4 pornographic image remains on the covered  
5 platform in violation of that section; or

6 (B) actual damages.

7 (c) CIVIL LIABILITY FOR VIOLATION OF USER OBLI-  
8 GATIONS.—If a user of a covered platform violates section  
9 103 with respect to a pornographic image, any person ag-  
10 grieved by the violation may bring a civil action against  
11 the user in an appropriate district court of the United  
12 States for damages in an amount equal to the greater of—

13 (1) \$10,000 for each day during which the por-  
14 nographic image remains on the covered platform in  
15 violation of that section, calculated on a per-day and  
16 per-image basis; or

17 (2) actual damages.

18 (d) RELATION TO COMMUNICATIONS DECENCY  
19 ACT.—Nothing in this section shall be construed to affect  
20 section 230 of the Communications Act of 1934 (47  
21 U.S.C. 230).

1 **SEC. 202. CRIMINAL PROHIBITION ON NONCONSENSUAL**  
2 **DISTRIBUTION OF INTIMATE VISUAL DEPIC-**  
3 **TIONS.**

4 (a) IN GENERAL.—Chapter 88 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 1802. Nonconsensual distribution of intimate vis-**  
8 **ual depictions**

9 “(a) DEFINITIONS.—In this section:

10 “(1) INFORMATION CONTENT PROVIDER.—The  
11 term ‘information content provider’ has the meaning  
12 given the term in section 230(f) of the Communica-  
13 tions Act of 1934 (47 U.S.C. 230(f)).

14 “(2) INTERACTIVE COMPUTER SERVICE.—The  
15 term ‘interactive computer service’ has the meaning  
16 given the term in section 230(f) of the Communica-  
17 tions Act of 1934 (47 U.S.C. 230(f)).

18 “(3) INTIMATE VISUAL DEPICTION.—The term  
19 ‘intimate visual depiction’ means any visual depic-  
20 tion—

21 “(A) of an individual who is reasonably  
22 identifiable from the visual depiction itself or  
23 information displayed in connection with the  
24 visual depiction, including through—

25 “(i) facial recognition;

1 “(ii) an identifying marking on the in-  
2 dividual, including a birthmark or piercing;

3 “(iii) an identifying feature of the  
4 background of the visual depiction;

5 “(iv) voice matching; or

6 “(v) written confirmation from an in-  
7 dividual who is responsible, in whole or in  
8 part, for the creation or development of the  
9 visual depiction; and

10 “(B) in which—

11 “(i) the individual depicted is engag-  
12 ing in sexually explicit conduct; or

13 “(ii) the naked genitals, anus, pubic  
14 area, or post-pubescent female nipple of  
15 the individual depicted are visible and are  
16 depicted with the objective intent to  
17 arouse, titillate, or gratify the sexual de-  
18 sires of a person.

19 “(4) SEXUALLY EXPLICIT CONDUCT.—The term  
20 ‘sexually explicit conduct’ has the meaning given  
21 that term in section 2256(2)(A).

22 “(5) VISUAL DEPICTION.—The term ‘visual de-  
23 piction’ means a photograph, film, video, or modified  
24 photograph, film, or video, whether made or pro-  
25 duced by electronic, mechanical, or other means.

1       “(b) OFFENSE.—Except as provided in subsection  
2 (d), it shall be unlawful for any information content pro-  
3 vider to knowingly use any interactive computer service  
4 to publish an intimate visual depiction of an individual  
5 with knowledge of or reckless disregard for—

6               “(1) the lack of consent of the individual to the  
7 publication; and

8               “(2) the reasonable expectation of the indi-  
9 vidual that the depiction would not be published  
10 through an interactive computer service without the  
11 individual’s consent.

12       “(c) PENALTY.—Any person who violates subsection  
13 (b) shall be fined under this title, imprisoned for not more  
14 than 5 years, or both.

15       “(d) EXCEPTIONS.—

16               “(1) LAW ENFORCEMENT, LAWFUL REPORTING,  
17 AND OTHER LEGAL PROCEEDINGS.—Subsection  
18 (b)—

19                       “(A) does not prohibit any lawful law en-  
20 forcement, correctional, or intelligence activity;

21                       “(B) shall not apply to an individual acting  
22 in good faith to report unlawful activity or in  
23 pursuance of a legal or other lawful obligation;  
24 and

1           “(C) shall not apply to a document produc-  
2           tion or filing associated with a legal proceeding.

3           “(2) RULE OF CONSTRUCTION.—Nothing in  
4           this subsection shall affect the liability protection  
5           provided under section 230 of the Communications  
6           Act of 1934 (47 U.S.C. 230).

7           “(e) VENUE AND EXTRATERRITORIALITY.—

8           “(1) VENUE.—A prosecution under this section  
9           may be brought in a district in which—

10           “(A) the defendant or the depicted indi-  
11           vidual resides; or

12           “(B) the intimate visual depiction is dis-  
13           tributed or made available.

14           “(2) EXTRATERRITORIALITY.—There is  
15           extraterritorial Federal jurisdiction over an offense  
16           under this section if the defendant or the depicted  
17           individual is a citizen or permanent resident of the  
18           United States.”.

19           (b) CLERICAL AMENDMENT.—The table of sections  
20           for chapter 88 of title 18, United States Code, is amended  
21           by adding at the end the following:

“1802. Nonconsensual distribution of intimate visual depictions.”.