To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute a private, visual depiction of a person’s intimate parts or of a person engaging in sexually explicit conduct, with reckless disregard for the person’s lack of consent to the distribution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Intimate Privacy Protection Act of 2016”.

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SEC. 2. CERTAIN ACTIVITIES RELATING TO VISUAL DEPICTIONS OF THE INTIMATE PARTS OF AN INDIVIDUAL OR OF AN INDIVIDUAL ENGAGED IN SEXUALLY EXPLICIT CONDUCT.

(a) In General.—Chapter 88 of title 18, United States Code, is amended by adding at the end the following:

“§ 1802. Certain activities relating to visual depictions of the intimate parts of an individual or of an individual engaged in sexually explicit conduct

“(a) In General.—Whoever knowingly uses the mail, any interactive computer service or electronic communication service or electronic communication system of interstate commerce, or any other facility of interstate or foreign commerce to distribute a visual depiction of a person who is identifiable from the image itself or information displayed in connection with the image and who is engaging in sexually explicit conduct, or of the naked genitals or post-pubescent female nipple of the person, with reckless disregard for the person’s lack of consent to the distribution, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) Exceptions.—

“(1) Law enforcement and other legal proceedings.—This section—
“(A) does not prohibit any lawful law enforcement, correctional, or intelligence activity;

“(B) shall not apply in the case of an individual reporting unlawful activity; and

“(C) shall not apply to a subpoena or court order for use in a legal proceeding.

“(2) VOLUNTARY PUBLIC OR COMMERCIAL EXPOSURE.—This section does not apply to a visual depiction of a voluntary exposure of an individual’s own naked genitals or post-pubescent female nipple or an individual’s voluntary engagement in sexually explicit conduct if such exposure takes place in public or in a lawful commercial setting.

“(3) CERTAIN CATEGORIES OF VISUAL DEPICTIONS EXCEPTED.—This section shall not apply in the case of a visual depiction, the disclosure of which is in the bona fide public interest.

“(4) TELECOMMUNICATIONS AND INTERNET SERVICE PROVIDERS.—This section shall not apply to any provider of an interactive computer service as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230 (f)(2)) with regard to content provided by another information content provider, as defined in section 230(f)(3) of the Communications Act of 1934 (47 U.S.C. 230(f)(3)) un-
less such provider of an interactive computer service
intentionally promotes or solicits content that it
knows to be in violation of this section.

“(c) DEFINITIONS.—In this section:

“(1) Except as otherwise provided, any term
used in this section has the meaning given that term
in section 1801.

“(2) The term ‘visual depiction’ means any pho-
tograph, film, or video, whether produced by elec-
tronic, mechanical, or other means.

“(3) The term ‘sexually explicit conduct’ has
the meaning given that term in section
2256(2)(A).”.

(b) CLERICAL AMENDMENT.—The table of sections
of chapter 88 of title 18, United States Code, is amended
by inserting after the item relating to section 1801 the
following:

“1802. Certain activities relating to visual depictions of the intimate parts of
an individual or of an individual engaged in sexually explicit
conduct.”.

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