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115TH CONGRESS **H. R. 4472**

1ST SESSION

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 28, 2017

Ms. SPEIER (for herself, Mr. COSTELLO of Pennsylvania, Mr. GOWDY, Mr. MEEHAN, Ms. CLARK of Massachusetts, Mr. MEEKS, Mr. THOMAS J. ROONEY of Florida, and Mr. JONES) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute a private, visual depiction of an individual's intimate parts or of an individual engaging in sexually explicit conduct, with reckless disregard for the individual's lack of consent to the distribution, 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,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ending Nonconsensual Online User Graphic Harassment Act of 2017'' or the ''ENOUGH Act''.

SEC. 2. CERTAIN ACTIVITIES RELATING TO INTIMATE VISUAL DEPICTIONS.

(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 intimate visual depictions

''(a) DEFINITIONS.—In this section:

''(1) COMMUNICATIONS SERVICE.—The term 'communications service' means—

''(A) a service provided by a person that is a common carrier, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153), insofar as the person is acting as a common carrier;

''(B) an electronic communication service, as that term is defined in section 2510;

''(C) an information service, as that term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153); and

''(D) an interactive computer service, as that term is defined in section 230(f) of the

Communications Act of 1934 (47 U.S.C.

2 230(f)).

3 "(2) DISTRIBUTE.—The term 'distribute' in-
4 cludes enabling access, such as by sharing a private
5 reference.

6 "(3) INFORMATION CONTENT PROVIDER.—The
7 term 'information content provider' has the meaning
8 given that term in section 230(f) of the Communica-
9 tions Act of 1934 (47 U.S.C. 230(f)).

10 "(4) INTIMATE VISUAL DEPICTION.—The term
11 'intimate visual depiction' means any visual depic-
12 tion (as that term is defined in section 2256(5))—

13 "(A) of an individual who is reasonably
14 identifiable from the visual depiction itself or
15 information displayed in connection with the
16 visual depiction;

17 "(B) in which—

18 "(i) the individual is engaging in sex-
19 ually explicit conduct; or

20 "(ii) the naked genitals or post-pubes-
21 cent female nipple of the individual are
22 visible;

23 "(C) in which the content described in sub-
24 paragraph (B) is not simulated; and

1 "(D) in original or modified format, such
2 as with a filter or text overlay.

3 "(5) SEXUALLY EXPLICIT CONDUCT.—The term

4 ‘sexually explicit conduct’ has the meaning given
5 that term in section 2256(2)(A).
6 “(b) OFFENSE.—Except as provided in subsection
7 (d), it shall be unlawful to knowingly use any means or
8 facility of interstate or foreign commerce to distribute an
9 intimate visual depiction of an individual—
10 “(1) with knowledge of or reckless disregard
11 for—
12 “(A) the lack of consent of the individual
13 to the distribution;
14 “(B) the reasonable expectation of the in-
15 dividual that the depiction would remain pri-
16 vate; and
17 “(C) harm that the distribution could
18 cause to the individual; and
19 “(2) without an objectively reasonable belief
20 that such distribution touches upon a matter of pub-
21 lic concern.
22 “(c) PENALTY.—Any person who violates subsection
23 (b) shall be fined under this title, imprisoned not more
24 than 5 years, or both.
25 “(d) EXCEPTIONS.—

1 in a district where the intimate visual depictions are dis-
2 tributed or made available. There is extraterritorial Fed-
3 eral jurisdiction over an offense under this section if the
4 defendant or the depicted individual is a citizen or perma-
5 nent resident of the United States.''.
6 (b) CLERICAL AMENDMENT.—The table of sections
7 of chapter 88 of title 18, United States Code, is amended
8 by inserting after the item relating to section 1801 the
9 following:

''1802. Certain activities relating to intimate visual depictions.''.

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