

115TH CONGRESS
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H. R. 6917

To protect victims of nonconsensual online distribution of sexually intimate images by providing for the expeditious removal of nonconsensual sexually intimate imagery on the Internet, to encourage responsible practices by online service providers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2018

Mr. MESSER introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To protect victims of nonconsensual online distribution of sexually intimate images by providing for the expeditious removal of nonconsensual sexually intimate imagery on the Internet, to encourage responsible practices by online service providers, 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 “Remove Explicit Mate-
5 rial Offensive to Victims Expeditiously Act of 2018” or
6 the “REMOVE Act”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 Congress finds the following:

3 (1) The Internet and other communications
4 technologies have generated tremendous benefits for
5 consumers and businesses across all sectors of soci-
6 ety. The United States is a world leader in har-
7 nassing these benefits to advance the social and eco-
8 nomic well-being of its citizens. It is vital that U.S.
9 law and policy support these advances and do not
10 unduly restrict innovation or inhibit beneficial uses
11 of these technologies.

12 (2) Like all technologies, the Internet and other
13 communications technologies can be misused by ma-
14 licious actors. These actors often target those in so-
15 ciety who are most vulnerable, including children,
16 the elderly, and those whose circumstances make
17 them particularly susceptible to fraud, harassment,
18 or abuse.

19 (3) In recent years, there has been a dramatic
20 increase in the nonconsensual online distribution of
21 images depicting the exposure of adult individuals'
22 intimate body parts or depicting adult individuals
23 engaged in sexually explicit conduct. In many cases,
24 these adult individuals either did not consent to the
25 creation of this imagery, or had a reasonable expect-
26 ation that such material would remain private.

1 (4) The nonconsensual distribution of sexually
2 intimate imagery constitutes a gross violation of per-
3 sonal privacy and human dignity. This distribution
4 can have devastating impacts on individuals depicted
5 in such imagery, including on their professional
6 lives, personal relationships, personal safety, and
7 emotional well-being. Persons who intentionally dis-
8 tribute private, sexually intimate imagery often do so
9 to humiliate, degrade, harass, threaten, or extort the
10 individuals depicted.

11 (5) In some cases, the nonconsensual distribu-
12 tion of sexually intimate imagery may violate Fed-
13 eral or State civil or criminal law. In this regard,
14 Congress notes efforts by the Federal Trade Com-
15 mission to address the nonconsensual distribution of
16 sexually explicit images through its powers under the
17 Federal Trade Commission Act.

18 (6) Those who perpetrate the nonconsensual
19 distribution of sexually intimate images often rely on
20 interactive computer services to facilitate such dis-
21 tribution. This conduct may violate the terms of
22 service or other terms imposed by providers of these
23 services. Many providers have adopted policies,
24 standards and procedures pursuant to which they

1 will remove or block access to nonconsensual sexu-
2 ally intimate images upon notice.

3 (7) It is in the public interest to incentivize pro-
4 viders of interactive computer services to adopt and
5 enforce policies that are reasonably calculated to re-
6 move or block access through their services to sexu-
7 ally intimate imagery that has been distributed with-
8 out the consent of one or more individuals depicted
9 in that imagery.

10 **SEC. 3. REQUIREMENT TO REMOVE NONCONSENSUAL SEX-**
11 **UALLY INTIMATE IMAGERY.**

12 (a) **RULES REQUIRED.**—Not later than 1 year after
13 the date of the enactment of this Act, the Commission
14 shall prescribe rules in accordance with section 553 of title
15 5, United States Code, that require the following:

16 (1) **PUBLICATION OF REGISTRATIONS.**—The
17 Commission to create and maintain a dedicated web
18 page or other online resource, located within or ac-
19 cessible through the public-facing website of the
20 Commission, through which individuals may obtain
21 the information submitted by registered providers in
22 accordance with paragraph (2).

23 (2) **PROVIDER REGISTRATION REQUIRE-**
24 **MENTS.**—A provider to submit a registration with
25 the Commission by providing the following:

1 (A) Current and accurate contact details of
2 a single agent, designated to receive the take-
3 down request form described in subsection (b),
4 who is authorized to act on the provider's be-
5 half, including the employment title or division,
6 email address or other online contact informa-
7 tion, and telephone number of the agent.

8 (B) The URL of the location at which an
9 individual may obtain access to and submit to
10 the designated agent of a provider a takedown
11 request form that meets the requirements of
12 subsection (b).

13 (3) REGISTRATION BY COMMISSION.—Not later
14 than 7 calendar days after the date on which the
15 Commission receives a registration that meets the
16 requirements of paragraph (2), the Commission to
17 register the provider by publishing the registration
18 in accordance with paragraph (1).

19 (4) REMOVAL OF NONCONSENSUAL SEXUALLY
20 INTIMATE IMAGERY.—A designated agent of a pro-
21 vider to expeditiously review and remove sexually in-
22 timate imagery if requested by an individual identifi-
23 able in the imagery if—

1 (A) a takedown request form that meets
2 the requirements of subsection (b) is submitted
3 to the designated agent of the provider;

4 (B) the designated agent of the provider
5 can identify the imagery with reasonable cer-
6 tainty; and

7 (C) the imagery was produced in a location
8 with a reasonable expectation of privacy.

9 (5) STANDARDIZED SEXUALLY INTIMATE TAKE-
10 DOWN REQUEST FORM.—The Commission to provide
11 on its public-facing web page or online resource as
12 required under paragraph (1) access to a standard-
13 ized sexually intimate takedown request form that
14 meets the requirements of subsection (b).

15 (6) GENERAL GUIDANCE.—The Commission to
16 develop and implement a comprehensive awareness
17 and educational campaign designed to—

18 (A) provide guidance for providers that
19 lack a process to expeditiously remove sexually
20 intimate imagery from their services; and

21 (B) inform Internet users about the re-
22 sources made available to them by providers to
23 request removal of a sexually intimate images
24 that have been distributed without the consent

1 of one or more individuals depicted in such im-
2 ages.

3 (7) PENALTY FOR NONCOMPLIANCE.—Penalties
4 for a violation of this Act or any rule prescribed
5 under this Act—

6 (A) that are commensurate with the cir-
7 cumstance of the offense taking into account
8 the totality of the circumstances;

9 (B) that are greater for repeat offenders;
10 and

11 (C) that are greater if the provider solie-
12 ited the nonconsensual sexually intimate im-
13 agery or profited from the posting of such im-
14 agery.

15 (b) REQUIREMENTS OF SEXUALLY INTIMATE TAKE-
16 DOWN REQUEST FORM.—A sexually intimate takedown
17 request form satisfies the requirements of this subsection
18 if the form requires an individual seeking removal of sexu-
19 ally intimate imagery distributed without consent of the
20 submitter that is available or accessible through a pro-
21 vider’s service to submit the following information in writ-
22 ing to the designated agent of the provider as described
23 under subsection (a)(2)(A):

1 (1) A URL for each location where a sexually
2 intimate image depicting the submitter appears on
3 the provider's service.

4 (2) An affirmation that the submitter had a
5 reasonable expectation of privacy in the location in
6 which each image was taken or recorded.

7 (3) A description of any other private informa-
8 tion that appears in the images.

9 (4) An affirmation that the submitter did not
10 consent to the distribution of the images on the pro-
11 vider's service.

12 (5) A statement about whether the submitter
13 has sought one or more protective measures in con-
14 nection with any individual who took or recorded the
15 images, any other individual who appears in the im-
16 ages, or any individual responsible for the distribu-
17 tion of the images.

18 (6) An attestation that the submitter appears
19 in the images and that all information provided in
20 the takedown request form is true and accurate to
21 the best of the submitter's knowledge.

22 (c) INCENTIVES FOR RESPONSIBLE PROVIDER AC-
23 TION.—

24 (1) IN GENERAL.—No cause of action shall lie
25 in any court against any provider (including any of-

1 ficer, employee, or agent) if the provider meets the
2 registration requirements under subsection (a)(2)—

3 (A) for any decision about whether to re-
4 move sexually intimate images that the provider
5 makes in a good-faith response to the submis-
6 sion of a takedown request form that meets the
7 requirements of subsection (b); and

8 (B) based on any knowledge obtained in
9 the course of the provider’s good-faith proc-
10 essing of an individual’s takedown request form
11 if—

12 (i) the Commission has registered the
13 provider under subsection (a)(3); and

14 (ii) the provider adheres to a publicly
15 accessible policy reasonably calculated to
16 remove or disable access through the serv-
17 ices of the provider to the sexually intimate
18 images that have been distributed without
19 the consent of one or more individuals who
20 appear in the images.

21 (2) POLICY DEFINED.—In this subsection, the
22 term “policy” means a publicly accessible document
23 that describes how an individual may submit a take-
24 down request for sexually intimate imagery, which

1 may be included in the terms of service, a statement
2 of community standards, or other document.

3 (3) RULE OF CONSTRUCTION.—Paragraph (1)
4 shall not be construed to—

5 (A) impair the enforcement of any Federal
6 criminal statute;

7 (B) limit or expand any law pertaining to
8 intellectual property;

9 (C) limit or expand section 230(c)(1) of
10 the Communications Act of 1934 (47 U.S.C.
11 230(c)(1)); or

12 (D) subject a provider that meets the re-
13 quirements under subsection (a)(2) to civil li-
14 ability under State law for not removing sexu-
15 ally intimate imagery.

16 **SEC. 4. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**
17 **SION.**

18 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—
19 A violation of a rule prescribed under section 3(a) shall
20 be treated as a violation of a rule prescribed under section
21 18(a)(1)(B) of the Federal Trade Commission Act (15
22 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts
23 or practices.

24 (b) POWERS OF COMMISSION.—The Commission
25 shall enforce the rules prescribed under section 3(a) in the

1 same manner, by the same means, and with the same ju-
2 risdiction, powers, and duties as though all applicable
3 terms and provisions of the Federal Trade Commission
4 Act (15 U.S.C. 41 et seq.) were incorporated into and
5 made a part of this Act. Any violation of such a rule shall
6 be subject to the penalties and entitled to the privileges
7 and immunities provided in the Federal Trade Commis-
8 sion Act.

9 **SEC. 5. STUDY BY THE COMMISSION.**

10 (a) EVALUATION.—Not later than 5 years after the
11 date of the enactment of this Act, the Commission shall
12 conduct a study and submit to Congress a report that—

13 (1) provides a detailed analysis of the effective-
14 ness of the takedown request policies and procedures
15 of providers that have registered with the Commis-
16 sion under section 3;

17 (2) evaluates whether these policies and proce-
18 dures have had a material impact in diminishing the
19 public availability of, and access to, sexually intimate
20 images distributed without the consent of one or
21 more individuals appearing in such images; and

22 (3) makes recommendations to Congress, as ap-
23 propriate, on ways in which the provisions of this
24 Act should be updated to take account of new tech-

1 nologies or new avenues through which such sexually
2 intimate images are distributed.

3 (b) **STAKEHOLDER INPUT.**—The Commission shall
4 prepare the study required under subsection (a) by work-
5 ing with industry, victim and victim support groups, and
6 other stakeholders.

7 **SEC. 6. DEFINITIONS.**

8 In this Act:

9 (1) **COMMISSION.**—The term “Commission”
10 means the Federal Trade Commission.

11 (2) **IMAGE; IMAGERY.**—The term “image” or
12 “imagery” means a photograph, film, video, or other
13 reprographic representation of an individual, wheth-
14 er recorded or live.

15 (3) **INTERACTIVE COMPUTER SERVICE.**—The
16 term “interactive computer service” has the meaning
17 given that term in section 230(f) of the Communica-
18 tions Act of 1934 (47 U.S.C. 230(f)).

19 (4) **PROTECTIVE MEASURE.**—The term “protec-
20 tive measure” means a restraining order, court
21 order, police report, contact with an appropriate vic-
22 tim’s advocacy organization, or other measure or
23 conduct reasonably intended to protect the individual
24 seeking the measure against another individual re-
25 sponsible for or associated with a sexually intimate

1 image that is the subject of a takedown request
2 form.

3 (5) PROVIDER.—The term “provider” means a
4 provider of an interactive computer service.

5 (6) SEXUALLY EXPLICIT CONDUCT.—The term
6 “sexually explicit conduct” has the meaning given
7 that term in section 2256(2)(A) of title 18, United
8 States Code.

9 (7) SINGLE AGENT.—The term “single agent”
10 means one individual or entity authorized by a pro-
11 vider pursuant to section 3(a)(2)(A), which may in-
12 clude an individual, a specific position or title held
13 by an individual, a specific department within the
14 provider’s organization, or a third-party entity.

15 (8) SEXUALLY INTIMATE IMAGE; SEXUALLY IN-
16 TIMATE IMAGERY.—The terms “sexually intimate
17 image” and “sexually intimate imagery” mean an
18 image of a individual that depicts—

19 (A) a nude intimate body part; or

20 (B) sexually explicit conduct.

21 (9) SUBMITTER.—The term “submitter” means
22 the individual who submits a sexually intimate image
23 takedown request form to a provider.

24 (10) TAKEDOWN REQUEST.—The term “take-
25 down request” means a request to remove or block

1 access to a sexually intimate image that depicts the
2 individual submitting the request but was distributed
3 without the explicit consent of the individual to pub-
4 lic distribution.

5 (11) URL.—The term “URL” means the ad-
6 dress of an Internet web page or an item generally
7 available on the Internet, such as a file.

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