

119TH CONGRESS
1ST SESSION

S. _____

To require covered platforms to remove nonconsensual intimate visual depictions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CRUZ (for himself, Ms. KLOBUCHAR, Mrs. CAPITO, Mr. BLUMENTHAL, Mr. CASSIDY, Mr. BOOKER, Mr. BARRASSO, Ms. ROSEN, Ms. LUMMIS, Mr. HICKENLOOPER, Mr. BUDD, Mrs. BLACKBURN, Mr. WICKER, Mr. YOUNG, Mr. CURTIS, Mr. SHEEHY, Mr. WARNOCK, Mr. HEINRICH, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require covered platforms to remove nonconsensual intimate visual depictions, 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 “Tools to Address
5 Known Exploitation by Immobilizing Technological
6 Deepfakes on Websites and Networks Act” or the “TAKE
7 IT DOWN Act”.

1 **SEC. 2. CRIMINAL PROHIBITION ON INTENTIONAL DISCLO-**
2 **SURE OF NONCONSENSUAL INTIMATE VISUAL**
3 **DEPICTIONS.**

4 (a) IN GENERAL.—Section 223 of the Communica-
5 tions Act of 1934 (47 U.S.C. 223) is amended—

6 (1) by redesignating subsection (h) as sub-
7 section (i); and

8 (2) by inserting after subsection (g) the fol-
9 lowing:

10 “(h) INTENTIONAL DISCLOSURE OF NONCONSEN-
11 SUAL INTIMATE VISUAL DEPICTIONS.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) CONSENT.—The term ‘consent’
14 means an affirmative, conscious, and voluntary
15 authorization made by an individual free from
16 force, fraud, duress, misrepresentation, or coer-
17 cion.

18 “(B) DIGITAL FORGERY.—The term ‘dig-
19 ital forgery’ means any intimate visual depic-
20 tion of an identifiable individual created
21 through the use of software, machine learning,
22 artificial intelligence, or any other computer-
23 generated or technological means, including by
24 adapting, modifying, manipulating, or altering
25 an authentic visual depiction, that, when viewed
26 as a whole by a reasonable person, is indistin-

1 guishable from an authentic visual depiction of
2 the individual.

3 “(C) IDENTIFIABLE INDIVIDUAL.—The
4 term ‘identifiable individual’ means an indi-
5 vidual—

6 “(i) who appears in whole or in part
7 in an intimate visual depiction; and

8 “(ii) whose face, likeness, or other dis-
9 tinguishing characteristic (including a
10 unique birthmark or other recognizable
11 feature) is displayed in connection with
12 such intimate visual depiction.

13 “(D) INTERACTIVE COMPUTER SERVICE.—
14 The term ‘interactive computer service’ has the
15 meaning given the term in section 230.

16 “(E) INTIMATE VISUAL DEPICTION.—The
17 term ‘intimate visual depiction’ has the mean-
18 ing given such term in section 1309 of the Con-
19 solidated Appropriations Act, 2022 (15 U.S.C.
20 6851).

21 “(F) MINOR.—The term ‘minor’ means
22 any individual under the age of 18 years.

23 “(2) OFFENSE INVOLVING AUTHENTIC INTI-
24 MATE VISUAL DEPICTIONS.—

1 “(B) INVOLVING MINORS.—Except as pro-
2 vided in subparagraph (C), it shall be unlawful
3 for any person, in interstate or foreign com-
4 merce, to use an interactive computer service to
5 knowingly publish an intimate visual depiction
6 of an identifiable individual who is a minor with
7 intent to—

8 “(i) abuse, humiliate, harass, or de-
9 grade the minor; or

10 “(ii) arouse or gratify the sexual de-
11 sire of any person.

12 “(C) EXCEPTIONS.—Subparagraphs (A)
13 and (B) shall not apply to—

14 “(i) a lawfully authorized investiga-
15 tive, protective, or intelligence activity of—

16 “(I) a law enforcement agency of
17 the United States, a State, or a polit-
18 ical subdivision of a State; or

19 “(II) an intelligence agency of
20 the United States;

21 “(ii) a disclosure made reasonably and
22 in good faith—

23 “(I) to a law enforcement officer
24 or agency;

1 “(II) as part of a document pro-
2 duction or filing associated with a
3 legal proceeding;

4 “(III) as part of medical edu-
5 cation, diagnosis, or treatment or for
6 a legitimate medical, scientific, or
7 education purpose;

8 “(IV) in the reporting of unlaw-
9 ful content or unsolicited or unwel-
10 come conduct or in pursuance of a
11 legal, professional, or other lawful ob-
12 ligation; or

13 “(V) to seek support or help with
14 respect to the receipt of an unsolicited
15 intimate visual depiction;

16 “(iii) a disclosure reasonably intended
17 to assist the identifiable individual;

18 “(iv) a person who possesses or pub-
19 lishes an intimate visual depiction of him-
20 self or herself engaged in nudity or sexu-
21 ally explicit conduct (as that term is de-
22 fined in section 2256(2)(A) of title 18,
23 United States Code); or

24 “(v) the publication of an intimate
25 visual depiction that constitutes—

1 “(I) child pornography (as that
2 term is defined in section 2256 of title
3 18, United States Code); or

4 “(II) a visual depiction described
5 in subsection (a) or (b) of section
6 1466A of title 18, United States Code
7 (relating to obscene visual representa-
8 tions of the sexual abuse of children).

9 “(3) OFFENSE INVOLVING DIGITAL FOR-
10 GERIES.—

11 “(A) INVOLVING ADULTS.—Except as pro-
12 vided in subparagraph (C), it shall be unlawful
13 for any person, in interstate or foreign com-
14 merce, to use an interactive computer service to
15 knowingly publish a digital forgery of an identi-
16 fiable individual who is not a minor if—

17 “(i) the digital forgery was published
18 without the consent of the identifiable indi-
19 vidual;

20 “(ii) what is depicted was not volun-
21 tarily exposed by the identifiable individual
22 in a public or commercial setting;

23 “(iii) what is depicted is not a matter
24 of public concern; and

1 “(iv) publication of the digital for-
2 gery—

3 “(I) is intended to cause harm;

4 or

5 “(II) causes harm, including psy-
6 chological, financial, or reputational
7 harm, to the identifiable individual.

8 “(B) INVOLVING MINORS.—Except as pro-
9 vided in subparagraph (C), it shall be unlawful
10 for any person, in interstate or foreign com-
11 merce, to use an interactive computer service to
12 knowingly publish a digital forgery of an identi-
13 fiable individual who is a minor with intent
14 to—

15 “(i) abuse, humiliate, harass, or de-
16 grade the minor; or

17 “(ii) arouse or gratify the sexual de-
18 sire of any person.

19 “(C) EXCEPTIONS.—Subparagraphs (A)
20 and (B) shall not apply to—

21 “(i) a lawfully authorized investiga-
22 tive, protective, or intelligence activity of—

23 “(I) a law enforcement agency of
24 the United States, a State, or a polit-
25 ical subdivision of a State; or

1 “(II) an intelligence agency of
2 the United States;

3 “(ii) a disclosure made reasonably and
4 in good faith—

5 “(I) to a law enforcement officer
6 or agency;

7 “(II) as part of a document pro-
8 duction or filing associated with a
9 legal proceeding;

10 “(III) as part of medical edu-
11 cation, diagnosis, or treatment or for
12 a legitimate medical, scientific, or
13 education purpose;

14 “(IV) in the reporting of unlaw-
15 ful content or unsolicited or unwel-
16 come conduct or in pursuance of a
17 legal, professional, or other lawful ob-
18 ligation; or

19 “(V) to seek support or help with
20 respect to the receipt of an unsolicited
21 intimate visual depiction;

22 “(iii) a disclosure reasonably intended
23 to assist the identifiable individual;

24 “(iv) a person who possesses or pub-
25 lishes a digital forgery of himself or herself

1 engaged in nudity or sexually explicit con-
2 duct (as that term is defined in section
3 2256(2)(A) of title 18, United States
4 Code); or

5 “(v) the publication of an intimate
6 visual depiction that constitutes—

7 “(I) child pornography (as that
8 term is defined in section 2256 of title
9 18, United States Code); or

10 “(II) a visual depiction described
11 in subsection (a) or (b) of section
12 1466A of title 18, United States Code
13 (relating to obscene visual representa-
14 tions of the sexual abuse of children).

15 “(4) PENALTIES.—

16 “(A) OFFENSES INVOLVING ADULTS.—Any
17 person who violates paragraph (2)(A) or (3)(A)
18 shall be fined under title 18, United States
19 Code, imprisoned not more than 2 years, or
20 both.

21 “(B) OFFENSES INVOLVING MINORS.—Any
22 person who violates paragraph (2)(B) or (3)(B)
23 shall be fined under title 18, United States
24 Code, imprisoned not more than 3 years, or
25 both.

1 “(5) RULES OF CONSTRUCTION.—For purposes
2 of paragraphs (2) and (3)—

3 “(A) the fact that the identifiable indi-
4 vidual provided consent for the creation of the
5 intimate visual depiction shall not establish that
6 the individual provided consent for the publica-
7 tion of the intimate visual depiction; and

8 “(B) the fact that the identifiable indi-
9 vidual disclosed the intimate visual depiction to
10 another individual shall not establish that the
11 identifiable individual provided consent for the
12 publication of the intimate visual depiction by
13 the person alleged to have violated paragraph
14 (2) or (3), respectively.

15 “(6) THREATS.—

16 “(A) THREATS INVOLVING AUTHENTIC IN-
17 TIMATE VISUAL DEPICTIONS.—Any person who
18 intentionally threatens to commit an offense
19 under paragraph (2) for the purpose of intimi-
20 dation, coercion, extortion, or to create mental
21 distress shall be punished as provided in para-
22 graph (4).

23 “(B) THREATS INVOLVING DIGITAL FOR-
24 GERIES.—

1 “(i) THREATS INVOLVING ADULTS.—

2 Any person who intentionally threatens to
3 commit an offense under paragraph (3)(A)
4 for the purpose of intimidation, coercion,
5 extortion, or to create mental distress shall
6 be fined under title 18, United States
7 Code, imprisoned not more than 18
8 months, or both.

9 “(ii) THREATS INVOLVING MINORS.—

10 Any person who intentionally threatens to
11 commit an offense under paragraph (3)(B)
12 for the purpose of intimidation, coercion,
13 extortion, or to create mental distress shall
14 be fined under title 18, United States
15 Code, imprisoned not more than 30
16 months, or both.

17 “(7) FORFEITURE.—

18 “(A) IN GENERAL.—The court, in impos-
19 ing a sentence on any person convicted of a vio-
20 lation of paragraph (2) or (3), shall order, in
21 addition to any other sentence imposed and ir-
22 respective of any provision of State law, that
23 the person forfeit to the United States—

24 “(i) any material distributed in viola-
25 tion of that paragraph;

1 “(ii) the person’s interest in property,
2 real or personal, constituting or derived
3 from any gross proceeds of the violation, or
4 any property traceable to such property,
5 obtained or retained directly or indirectly
6 as a result of the violation; and

7 “(iii) any personal property of the
8 person used, or intended to be used, in any
9 manner or part, to commit or to facilitate
10 the commission of the violation.

11 “(B) PROCEDURES.—Section 413 of the
12 Controlled Substances Act (21 U.S.C. 853),
13 with the exception of subsections (a) and (d),
14 shall apply to the criminal forfeiture of property
15 under subparagraph (A).

16 “(8) RESTITUTION.—The court shall order res-
17 titution for an offense under paragraph (2) or (3) in
18 the same manner as under section 2264 of title 18,
19 United States Code.

20 “(9) RULE OF CONSTRUCTION.—Nothing in
21 this subsection shall be construed to limit the appli-
22 cation of any other relevant law, including section
23 2252 of title 18, United States Code.”.

1 (b) DEFENSES.—Section 223(e)(1) of the Commu-
2 nications Act of 1934 (47 U.S.C. 223(e)(1)) is amended
3 by striking “or (d)” and inserting “, (d), or (h)”.

4 (c) TECHNICAL AND CONFORMING AMENDMENT.—
5 Subsection (i) of section 223 of the Communications Act
6 of 1934 (47 U.S.C. 223), as so redesignated by subsection
7 (a), is amended by inserting “DEFINITIONS.—” before
8 “For purposes of this section”.

9 **SEC. 3. NOTICE AND REMOVAL OF NONCONSENSUAL INTI-**
10 **MATE VISUAL DEPICTIONS.**

11 (a) IN GENERAL.—

12 (1) NOTICE AND REMOVAL PROCESS.—

13 (A) ESTABLISHMENT.—Not later than 1
14 year after the date of enactment of this Act, a
15 covered platform shall establish a process
16 whereby an identifiable individual (or an au-
17 thorized person acting on behalf of such indi-
18 vidual) may—

19 (i) notify the covered platform of an
20 intimate visual depiction published on the
21 covered platform that—

22 (I) includes a depiction of the
23 identifiable individual; and

1 (II) was published without the
2 consent of the identifiable individual;
3 and

4 (ii) submit a request for the covered
5 platform to remove such intimate visual
6 depiction.

7 (B) REQUIREMENTS.—A notification and
8 request for removal of an intimate visual depic-
9 tion submitted under the process established
10 under subparagraph (A) shall include, in writ-
11 ing—

12 (i) a physical or electronic signature
13 of the identifiable individual (or an author-
14 ized person acting on behalf of such indi-
15 vidual);

16 (ii) an identification of, and informa-
17 tion reasonably sufficient for the covered
18 platform to locate, the intimate visual de-
19 pication of the identifiable individual;

20 (iii) a brief statement that the identi-
21 fiable individual has a good faith belief
22 that any intimate visual depiction identi-
23 fied under clause (ii) is not consensual, in-
24 cluding any relevant information for the
25 covered platform to determine the intimate

1 visual depiction was published without the
2 consent of the identifiable individual; and

3 (iv) information sufficient to enable
4 the covered platform to contact the identi-
5 fiable individual (or an authorized person
6 acting on behalf of such individual).

7 (2) NOTICE OF PROCESS.—A covered platform
8 shall provide on the platform a clear and con-
9 spicuous notice, which may be provided through a
10 clear and conspicuous link to another web page or
11 disclosure, of the notice and removal process estab-
12 lished under paragraph (1)(A) that—

13 (A) is easy to read and in plain language;
14 and

15 (B) provides information regarding the re-
16 sponsibilities of the covered platform under this
17 section, including a description of how an indi-
18 vidual can submit a notification and request for
19 removal.

20 (3) REMOVAL OF NONCONSENSUAL INTIMATE
21 VISUAL DEPICTIONS.—Upon receiving a valid re-
22 moval request from an identifiable individual (or an
23 authorized person acting on behalf of such indi-
24 vidual) using the process described in paragraph
25 (1)(A)(ii), a covered platform shall, as soon as pos-

1 sible, but not later than 48 hours after receiving
2 such request—

3 (A) remove the intimate visual depiction;
4 and

5 (B) make reasonable efforts to identify and
6 remove any known identical copies of such de-
7 piction.

8 (4) LIMITATION ON LIABILITY.—A covered plat-
9 form shall not be liable for any claim based on the
10 covered platform’s good faith disabling of access to,
11 or removal of, material claimed to be a nonconsen-
12 sual intimate visual depiction based on facts or cir-
13 cumstances from which the unlawful publishing of
14 an intimate visual depiction is apparent, regardless
15 of whether the intimate visual depiction is ultimately
16 determined to be unlawful or not.

17 (b) ENFORCEMENT BY THE COMMISSION.—

18 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
19 TICES.—A failure to reasonably comply with the no-
20 tice and takedown obligations under subsection (a)
21 shall be treated as a violation of a rule defining an
22 unfair or a deceptive act or practice under section
23 18(a)(1)(B) of the Federal Trade Commission Act
24 (15 U.S.C. 57a(a)(1)(B)).

25 (2) POWERS OF THE COMMISSION.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (D), the Commission shall en-
3 force this section in the same manner, by the
4 same means, and with the same jurisdiction,
5 powers, and duties as though all applicable
6 terms and provisions of the Federal Trade
7 Commission Act (15 U.S.C. 41 et seq.) were in-
8 corporated into and made a part of this section.

9 (B) PRIVILEGES AND IMMUNITIES.—Any
10 person who violates this section shall be subject
11 to the penalties and entitled to the privileges
12 and immunities provided in the Federal Trade
13 Commission Act (15 U.S.C. 41 et seq.).

14 (C) AUTHORITY PRESERVED.—Nothing in
15 this Act shall be construed to limit the author-
16 ity of the Federal Trade Commission under any
17 other provision of law.

18 (D) SCOPE OF JURISDICTION.—Notwith-
19 standing sections 4, 5(a)(2), or 6 of the Federal
20 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
21 46), or any jurisdictional limitation of the Com-
22 mission, the Commission shall also enforce this
23 section in the same manner provided in sub-
24 paragraph (A), with respect to organizations

1 that are not organized to carry on business for
2 their own profit or that of their members.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) COMMISSION.—The term “Commission”
6 means the Federal Trade Commission.

7 (2) CONSENT; DIGITAL FORGERY; IDENTIFI-
8 ABLE INDIVIDUAL; INTIMATE VISUAL DEPICTION.—
9 The terms “consent”, “digital forgery”, “identifiable
10 individual”, “intimate visual depiction”, and
11 “minor” have the meaning given such terms in sec-
12 tion 223(h) of the Communications Act of 1934 (47
13 U.S.C. 223), as added by section 2.

14 (3) COVERED PLATFORM.—

15 (A) IN GENERAL.—The term “covered
16 platform” means a website, online service, on-
17 line application, or mobile application—

18 (i) that serves the public; and

19 (ii)(I) that primarily provides a forum
20 for user-generated content, including mes-
21 sages, videos, images, games, and audio
22 files; or

23 (II) for which it is in the regular
24 course of trade or business of the website,
25 online service, online application, or mobile

1 application to publish, curate, host, or
2 make available content of nonconsensual
3 intimate visual depictions.

4 (B) EXCLUSIONS.—The term “covered
5 platform” shall not include the following:

6 (i) A provider of broadband internet
7 access service (as described in section
8 8.1(b) of title 47, Code of Federal Regula-
9 tions, or successor regulation).

10 (ii) Electronic mail.

11 (iii) Except as provided in subpara-
12 graph (A)(ii)(II), an online service, appli-
13 cation, or website—

14 (I) that consists primarily of con-
15 tent that is not user generated but is
16 preselected by the provider of such on-
17 line service, application, or website;
18 and

19 (II) for which any chat, com-
20 ment, or interactive functionality is
21 incidental to, directly related to, or
22 dependent on the provision of the con-
23 tent described in subclause (I).

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act, or an amendment made
3 by this Act, is determined to be unenforceable or invalid,
4 the remaining provisions of this Act and the amendments
5 made by this Act shall not be affected.