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(Original Signature of Member)

H. R. 11

IN THE HOUSE OF REPRESENTATIVES

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A BILL

To direct the Secretary of Health and Human Services to conduct a study to assess the unintended impacts on the health and safety of people engaged in consensual, transactional sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164) and the loss of interactive computer services that host information related to consensual sexual exchange, and for other purposes.

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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 “SESTA/FOSTA Ex-
5 amination of Secondary Effects for Sex Workers Study
6 Act” or the “SAFE SEX Workers Study Act”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds the following:

9 (1) People who engage in consensual, trans-
10 actional sex utilize online platforms to protect their

11 health, safety, and independence. This use includes
12 building community connections, distribution of
13 harm reduction information and techniques, identi-
14 fication and screening of potential clients, and nego-
15 tiating the terms of consensual, transactional sex
16 services, including condom use and other harm re-
17 duction strategies.

18 (2) Widespread discrimination against popu-
19 lations, including LGBTQI+ individuals, particu-
20 larly transgender women of color, prevents many
21 from accessing formal employment resources and
22 educational opportunities.

23 (3) In the 2015 United States Transgender
24 Survey conducted by the National Center for
25 Transgender Equality, 19 percent of respondents re-

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1 ported having exchanged sex for resources, such as
2 for money, food, or a place to sleep. Transgender
3 women of color, including Black (42 percent), Amer-
4 ican Indian (28 percent), multiracial (27 percent),

5

6 Latina (23 percent), and Asian (22 percent) re-
7 spondents were more likely to have participated in
8 sex work than the overall sample.

9 (4) In the 2015 United States Transgender
10 Survey, respondents who experienced homelessness
11 in the past year (17 percent) were more than three
12 times as likely to have participated in sex work dur-
13 ing that year compared to the overall sample.

14 (5) On a broader scale, internet platforms fos-
15 ter connections between people and play an integral
16 part in American society. Meaningful regulation of
17 internet platforms must take into account the role
18 they play in the health, safety, and privacy of all
19 people's lives.

20 (6) While policymakers, representatives of inter-
21 net platforms, and some advocates have discussed
22 ways to mitigate the use of internet platforms to de-
23 crease exploitation, people who consensually trade
24 sex are rarely involved in the drafting of legislation
25 or policies, or in assessing their impact, despite
being amongst the populations who are impacted by

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1 legislation and policies related to the regulation of
2 these internet platforms.

3 (7) On February 27, 2018, the House of Rep-
4 resentatives passed the Allow States to Fight Online
5 Sex Trafficking Act, known as SESTA/FOSTA.
6 While SESTA/FOSTA was intended to hold websites
7 liable for user-generated content that facilitates sex
8 trafficking, it also impacted online platforms where
9 users discuss consensual sex work and related topics.

10 (8) Contemporaneously with the passage of
11 SESTA/FOSTA in the Senate on March 21, 2018,
12 websites preemptively shut down, some directly cit-
13 ing the law's passage as the rationale for closure.

14 (9) One week before President Donald Trump
15 signed SESTA/FOSTA into law (PL 115–164), the
16 Department of Justice seized Backpage.com and ar-
17 rested Backpage employees, citing promotion of
18 prostitution and money laundering charges, similar
19 to the Department of Homeland Security's seizure of
20 Rentboy.com only a few years prior.

21 (10) While these websites and individual ac-
22 counts have been closing down, there has been no
23 national investigation rigorously examining the im-
24 pact of losing access to these platforms on the health

25 and safety of people in consensual, transactional sex

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1 work. Regional and anecdotal information from
2 health and safety service providers and sex workers
3 has pointed to significant impacts on the health and
4 safety of people who engage in consensual, trans-
5 actional sex.

6 (11) Community organizations have reported
7 increased homelessness of sex workers, including of
8 sex workers who are caretakers for their families
9 and have lost the economic stability provided by ac-
10 cess to online platforms.

11 (12) Sex workers have reported a reduced abil-
12 ity to screen potential clients for safety, and nego-
13 tiate for boundaries such as condom use, resulting in
14 reports of physical and sexual violence.

15 (13) Many sex workers have turned to street-
16 based work, which has historically involved higher
17 rates of violence than other forms of transactional
18 sex. Street-based sex workers have frequently noted
19 practices which harm their health and safety, such

20 as the confiscation of condoms by police, or use of
21 condoms as evidence of arrest for prostitution.

22 (14) With this new level of precarity, isolation,
23 and vulnerability, there is substantial anecdotal evi-
24 dence that members of the sex work community are
25 more frequently being contacted by third parties

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1 seeking to engage in management activities. This in-
2 cludes both sex workers who had always worked
3 independently, as well as those who have previously
4 experienced violence and exploitation by a third
5 party.

6 (15) The United States Government has long
7 discussed the importance of assessing collateral con-
8 sequences when looking at other industries. A com-
9 prehensive study is essential to evaluate the impact
10 on the health and safety of those involved in consen-
11 sual, transactional sex, who are increasingly losing
12 access to digital platforms, which have been used for
13 harm reduction information and techniques, and to
14 screen clients. Informed government policies begin

15 with seeking out relevant information to better guide
16 our actions moving forward.

17 **SEC. 3. STUDY ON UNINTENDED IMPACTS ON HEALTH AND**
18 **SAFETY OF PEOPLE ENGAGED IN CONSEN-**
19 **SUAL, TRANSACTIONAL SEX AS A RESULT OF**
20 **THE LOSS OF CERTAIN ONLINE RESOURCES.**

21 (a) **STUDY.**—The Secretary of Health and Human
22 Services (in this section referred to as the “Secretary”)
23 in consultation as appropriate with the Director of the
24 Centers for Disease Control and Prevention, the Director
25 of the National Institutes of Health, and the Assistant

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1 Secretary for Mental Health and Substance Use shall
2 study the impacts on the health and safety of people en-
3 gaged in consensual, transactional sex resulting from the
4 loss of access to interactive computer services (as defined
5 in section 230(f) of the Communications Act of 1934 (47
6 U.S.C. 230(f))) in connection with the closure of websites
7 (including Backpage.com) that host information related to
8 consensual sexual exchange, on or after February 27,

9 2018, in anticipation of, or in response to, the enactment
10 of the Allow States and Victims to Fight Online Sex Traf-
11 ficking Act of 2017 (Public Law 115–164).

12 (b) INTERVIEWS AND SURVEYS.—The study under
13 subsection (a) shall include interviews with, and surveys
14 conducted by, nonprofit and community-based organiza-
15 tions that provide direct services to people engaged in con-
16 sensual, transactional sex.

17 (c) TOPICS.—The study under subsection (a) shall in-
18 clude assessment of the following impacts on people en-
19 gaged in consensual, transactional sex:

20 (1) Changes in access to technology-related
21 harm reduction services.

22 (2) Changes in ability to negotiate terms with
23 potential clients.

24 (3) Changes in experiences of violence from cli-
25 ents.

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1 (4) Changes in interactions with law enforce-
2 ment officials, including changes in police surveil-
3 lance, stops, and arrests.

- 4 (5) Changes in contact from third parties.
- 5 (6) Changes in relationship to and reliance on
- 6 third parties.
- 7 (7) Changes in experiences of exploitation.
- 8 (8) Impacts on access to economic resources.
- 9 (9) Impacts on homelessness and housing sta-
- 10 bility.
- 11 (10) Impacts on mental health.
- 12 (11) Impacts on vulnerability to the trans-
- 13 mission of HIV and other sexually transmitted infec-
- 14 tions.
- 15 (12) Changes in participation in other
- 16 criminalized behavior.
- 17 (13) Disparities in these effects on key popu-
- 18 lations typically underserved by service providers,
- 19 specifically LGBTQI+ individuals, people living in
- 20 rural areas, racial and ethnic minorities, Tribal com-
- 21 munities, and undocumented and documented for-
- 22 eign nationals.
- 23 (14) Any other impacts on people engaged in
- 24 consensual, transactional sex, as determined appro-
- 25 priate by the Secretary for inclusion in the study.

1 (d) REPORT.—Not later than one year after the date
2 of enactment of this Act, the Secretary shall submit to
3 the Congress a report on the results of the study under
4 subsection (a) and make such report available to the pub-
5 lic.

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