

118TH CONGRESS
2D SESSION

S. 4569

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tools to Address
3 Known Exploitation by Immobilizing Technological
4 Deepfakes on Websites and Networks Act” or the “TAKE
5 IT DOWN Act”.

6 **SEC. 2. CRIMINAL PROHIBITION ON INTENTIONAL DISCLO-**
7 **SURE OF NONCONSENSUAL INTIMATE VISUAL**
8 **DEPICTIONS.**

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

11 (1) by redesignating subsection (h) as sub-
12 section (i); and

13 (2) by inserting after subsection (g) the fol-
14 lowing:

15 “(h) INTENTIONAL DISCLOSURE OF NONCONSEN-
16 SUAL INTIMATE VISUAL DEPICTIONS.—

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

18 “(A) CONSENT.—The term ‘consent’
19 means an affirmative, conscious, and voluntary
20 authorization made by an individual free from
21 force, fraud, duress, misrepresentation, or coer-
22 cion.

23 “(B) DIGITAL FORGERY.—The term ‘dig-
24 ital forgery’ means any intimate visual depic-
25 tion of an identifiable individual created
26 through the use of software, machine learning,

1 artificial intelligence, or any other computer-
2 generated or technological means, including by
3 adapting, modifying, manipulating, or altering
4 an authentic visual depiction, that, when viewed
5 as a whole by a reasonable person, is indistin-
6 guishable from an authentic visual depiction of
7 the individual.

8 “(C) IDENTIFIABLE INDIVIDUAL.—The
9 term ‘identifiable individual’ means an indi-
10 vidual—

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

13 “(ii) whose face, likeness, or other dis-
14 tinguishing characteristic (including a
15 unique birthmark or other recognizable
16 feature) is displayed in connection with
17 such intimate visual depiction.

18 “(D) INTERACTIVE COMPUTER SERVICE.—
19 The term ‘interactive computer service’ has the
20 meaning given the term in section 230.

21 “(E) INTIMATE VISUAL DEPICTION.—The
22 term ‘intimate visual depiction’ has the mean-
23 ing given such term in section 1309 of the Con-
24 solidated Appropriations Act, 2022 (15 U.S.C.
25 6851).

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

3 “(2) OFFENSE INVOLVING AUTHENTIC INTI-
4 MATE VISUAL DEPICTIONS.—

5 “(A) INVOLVING ADULTS.—Except as pro-
6 vided in subparagraph (C), it shall be unlawful
7 for any person, in interstate or foreign com-
8 merce, to use an interactive computer service to
9 knowingly publish an intimate visual depiction
10 of an identifiable individual who is not a minor
11 if—

12 “(i) the intimate visual depiction was
13 obtained or created under circumstances in
14 which the person knew or reasonably
15 should have known the identifiable indi-
16 vidual had a reasonable expectation of pri-
17 vacy;

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

21 “(iii) what is depicted is not a matter
22 of public concern; and

23 “(iv) publication of the intimate visual
24 depiction—

1 “(I) is intended to cause harm;

2 or

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

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

13 “(i) abuse, humiliate, harass, or de-
14 grade the minor; or

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

17 “(C) EXCEPTIONS.—Subparagraphs (A)
18 and (B) shall not apply to—

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

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

24 “(II) an intelligence agency of
25 the United States;

1 “(ii) a disclosure made reasonably and
2 in good faith—

3 “(I) to a law enforcement officer
4 or agency;

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

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

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

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

20 “(iii) a disclosure reasonably intended
21 to assist the identifiable individual; or

22 “(iv) a person who possesses or pub-
23 lishes an intimate visual depiction of him-
24 self or herself engaged in nudity or sexu-
25 ally explicit conduct (as that term is de-

1 fined in section 2256(2)(A) of title 18,
2 United States Code).

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

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

11 “(i) the digital forgery was published
12 without the consent of the identifiable indi-
13 vidual;

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

17 “(iii) what is depicted is not a matter
18 of public concern; and

19 “(iv) publication of the digital for-
20 gery—

21 “(I) is intended to cause harm;

22 or

23 “(II) causes harm, including psy-
24 chological, financial, or reputational
25 harm, to the identifiable individual.

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 a digital forgery of an identi-
6 fiable individual who is a minor with intent
7 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; or

18 “(iv) a person who possesses or pub-
19 lishes a digital forgery of himself or herself
20 engaged in nudity or sexually explicit con-
21 duct (as that term is defined in section
22 2256(2)(A) of title 18, United States
23 Code).

24 “(4) PENALTIES.—

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

6 “(B) OFFENSES INVOLVING MINORS.—Any
7 person who violates paragraph (2)(B) or (3)(B)
8 shall be fined under title 18, United States
9 Code, imprisoned not more than 3 years, or
10 both.

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

13 “(A) the fact that the identifiable indi-
14 vidual provided consent for the creation of the
15 intimate visual depiction shall not establish that
16 the individual provided consent for the publica-
17 tion of the intimate visual depiction; and

18 “(B) the fact that the identifiable indi-
19 vidual disclosed the intimate visual depiction to
20 another individual shall not establish that the
21 identifiable individual provided consent for the
22 publication of the intimate visual depiction by
23 the person alleged to have violated paragraph
24 (2) or (3), respectively.

25 “(6) THREATS.—

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

8 “(B) THREATS INVOLVING DIGITAL FOR-
9 GERIES.—

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

18 “(ii) THREATS INVOLVING MINORS.—
19 Any person who intentionally threatens to
20 commit an offense under paragraph (3)(B)
21 for the purpose of intimidation, coercion,
22 extortion, or to create mental distress shall
23 be fined under title 18, United States
24 Code, imprisoned not more than 30
25 months, or both.

1 “(7) FORFEITURE.—

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

8 “(i) any material distributed in viola-
9 tion of that paragraph;

10 “(ii) the person’s interest in property,
11 real or personal, constituting or derived
12 from any gross proceeds of the violation, or
13 any property traceable to such property,
14 obtained or retained directly or indirectly
15 as a result of the violation; and

16 “(iii) any personal property of the
17 person used, or intended to be used, in any
18 manner or part, to commit or to facilitate
19 the commission of the violation.

20 “(B) PROCEDURES.—Section 413 of the
21 Controlled Substances Act (21 U.S.C. 853),
22 with the exception of subsections (a) and (d),
23 shall apply to the criminal forfeiture of property
24 under subparagraph (A).

1 thorized person acting on behalf of such indi-
2 vidual) may—

3 (i) notify the covered platform of an
4 intimate visual depiction published on the
5 covered platform that—

6 (I) includes a depiction of the
7 identifiable individual; and

8 (II) was published without the
9 consent of the identifiable individual;
10 and

11 (ii) submit a request for the covered
12 platform to remove such intimate visual
13 depiction.

14 (B) REQUIREMENTS.—A notification and
15 request for removal of an intimate visual depic-
16 tion submitted under the process established
17 under subparagraph (A) shall include, in writ-
18 ing—

19 (i) a physical or electronic signature
20 of the identifiable individual (or an author-
21 ized person acting on behalf of such indi-
22 vidual);

23 (ii) an identification of, and informa-
24 tion reasonably sufficient for the covered

1 platform to locate, the intimate visual de-
2 piction of the identifiable individual;

3 (iii) a brief statement that the identi-
4 fiable individual has a good faith belief
5 that any intimate visual depiction identi-
6 fied under clause (ii) is not consensual, in-
7 cluding any relevant information for the
8 covered platform to determine the intimate
9 visual depiction was published without the
10 consent of the identifiable individual; and

11 (iv) information sufficient to enable
12 the covered platform to contact the identi-
13 fiable individual (or an authorized person
14 acting on behalf of such individual).

15 (2) NOTICE OF PROCESS.—A covered platform
16 shall provide on the platform a clear and con-
17 spicuous notice, which may be provided through a
18 clear and conspicuous link to another web page or
19 disclosure, of the notice and removal process estab-
20 lished under paragraph (1)(A) that—

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

22 and

23 (B) provides information regarding the re-
24 sponsibilities of the covered platform under this
25 section, including a description of how an indi-

1 vidual can submit a notification and request for
2 removal.

3 (3) REMOVAL OF NONCONSENSUAL INTIMATE
4 VISUAL DEPICTIONS.—Upon receiving a valid re-
5 moval request from an identifiable individual (or an
6 authorized person acting on behalf of such indi-
7 vidual) using the process described in paragraph
8 (1)(A)(ii), a covered platform shall, as soon as pos-
9 sible, but not later than 48 hours after receiving
10 such request—

11 (A) remove the intimate visual depiction;
12 and

13 (B) make reasonable efforts to identify and
14 remove any known identical copies of such de-
15 piction.

16 (4) LIMITATION ON LIABILITY.—A covered plat-
17 form shall not be liable for any claim based on the
18 covered platform’s good faith disabling of access to,
19 or removal of, material claimed to be a nonconsen-
20 sual intimate visual depiction based on facts or cir-
21 cumstances from which the unlawful publishing of
22 an intimate visual depiction is apparent, regardless
23 of whether the intimate visual depiction is ultimately
24 determined to be unlawful or not.

25 (b) ENFORCEMENT BY THE COMMISSION.—

1 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
2 TICES.—A failure to reasonably comply with the no-
3 tice and takedown obligations under subsection (a)
4 shall be treated as a violation of a rule defining an
5 unfair or a deceptive act or practice under section
6 18(a)(1)(B) of the Federal Trade Commission Act
7 (15 U.S.C. 57a(a)(1)(B)).

8 (2) POWERS OF THE COMMISSION.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (D), the Commission shall en-
11 force this section in the same manner, by the
12 same means, and with the same jurisdiction,
13 powers, and duties as though all applicable
14 terms and provisions of the Federal Trade
15 Commission Act (15 U.S.C. 41 et seq.) were in-
16 corporated into and made a part of this section.

17 (B) PRIVILEGES AND IMMUNITIES.—Any
18 person who violates this section shall be subject
19 to the penalties and entitled to the privileges
20 and immunities provided in the Federal Trade
21 Commission Act (15 U.S.C. 41 et seq.).

22 (C) AUTHORITY PRESERVED.—Nothing in
23 this Act shall be construed to limit the author-
24 ity of the Federal Trade Commission under any
25 other provision of law.

1 (D) SCOPE OF JURISDICTION.—Notwith-
2 standing sections 4, 5(a)(2), or 6 of the Federal
3 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
4 46), or any jurisdictional limitation of the Com-
5 mission, the Commission shall also enforce this
6 section in the same manner provided in sub-
7 paragraph (A), with respect to organizations
8 that are not organized to carry on business for
9 their own profit or that of their members.

10 **SEC. 4. DEFINITIONS.**

11 In this Act:

12 (1) COMMISSION.—The term “Commission”
13 means the Federal Trade Commission.

14 (2) CONSENT; DIGITAL FORGERY; IDENTIFI-
15 ABLE INDIVIDUAL; INTIMATE VISUAL DEPICTION.—
16 The terms “consent”, “digital forgery”, “identifiable
17 individual”, “intimate visual depiction”, and
18 “minor” have the meaning given such terms in sec-
19 tion 223(h) of the Communications Act of 1934 (47
20 U.S.C. 223), as added by section 2.

21 (3) COVERED PLATFORM.—

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

25 (i) that serves the public; and

1 (ii)(I) that primarily provides a forum
2 for user-generated content, including mes-
3 sages, videos, images, games, and audio
4 files; or

5 (II) for which it is in the regular
6 course of trade or business of the website,
7 online service, online application, or mobile
8 application to publish, curate, host, or
9 make available content of nonconsensual
10 intimate visual depictions.

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

13 (i) A provider of broadband internet
14 access service (as described in section
15 8.1(b) of title 47, Code of Federal Regula-
16 tions, or successor regulation).

17 (ii) Electronic mail.

18 (iii) Except as provided in subpara-
19 graph (A)(ii)(II), an online service, appli-
20 cation, or website—

21 (I) that consists primarily of con-
22 tent that is not user generated but is
23 preselected by the provider of such on-
24 line service, application, or website;
25 and

1 (II) for which any chat, com-
2 ment, or interactive functionality is
3 incidental to, directly related to, or
4 dependent on the provision of the con-
5 tent described in subclause (I).

6 **SEC. 5. SEVERABILITY.**

7 If any provision of this Act, or an amendment made
8 by this Act, is determined to be unenforceable or invalid,
9 the remaining provisions of this Act and the amendments
10 made by this Act shall not be affected.

Passed the Senate December 3, 2024.

Attest:

Secretary.

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