

119TH CONGRESS
1ST SESSION

S. 146

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,

artificial intelligence, or any other computer-generated or technological means, including by adapting, modifying, manipulating, or altering an authentic visual depiction, that, when viewed as a whole by a reasonable person, is indistinguishable from an authentic visual depiction of the individual.

“(C) IDENTIFIABLE INDIVIDUAL.—The term ‘identifiable individual’ means an individual—

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

“(ii) whose face, likeness, or other distinguishing characteristic (including a unique birthmark or other recognizable feature) is displayed in connection with such intimate visual depiction.

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

“(E) INTIMATE VISUAL DEPICTION.—The term ‘intimate visual depiction’ has the meaning given such term in section 1309 of the Consolidated Appropriations Act, 2022 (15 U.S.C. 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;

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); or

3 “(v) the publication of an intimate
4 visual depiction that constitutes—

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

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

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

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

21 “(i) the digital forgery was published
22 without the consent of the identifiable indi-
23 vidual;

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

4 “(iii) what is depicted is not a matter
 5 of public concern; and

6 “(iv) publication of the digital for-
 7 gery—

8 “(I) is intended to cause harm;
 9 or

10 “(II) causes harm, including psy-
 11 chological, financial, or reputational
 12 harm, to the identifiable individual.

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

20 “(i) abuse, humiliate, harass, or de-
 21 grade the minor; or

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

24 “(C) EXCEPTIONS.—Subparagraphs (A)
 25 and (B) shall not apply to—

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

3 “(I) a law enforcement agency of
 4 the United States, a State, or a polit-
 5 ical subdivision of a State; or

6 “(II) an intelligence agency of
 7 the United States;

8 “(ii) a disclosure made reasonably and
 9 in good faith—

10 “(I) to a law enforcement officer
 11 or agency;

12 “(II) as part of a document pro-
 13 duction or filing associated with a
 14 legal proceeding;

15 “(III) as part of medical edu-
 16 cation, diagnosis, or treatment or for
 17 a legitimate medical, scientific, or
 18 education purpose;

19 “(IV) in the reporting of unlaw-
 20 ful content or unsolicited or unwel-
 21 come conduct or in pursuance of a
 22 legal, professional, or other lawful ob-
 23 ligation; or

1 “(V) to seek support or help with
2 respect to the receipt of an unsolicited
3 intimate visual depiction;

4 “(iii) a disclosure reasonably intended
5 to assist the identifiable individual;

6 “(iv) a person who possesses or pub-
7 lishes a digital forgery of himself or herself
8 engaged in nudity or sexually explicit con-
9 duct (as that term is defined in section
10 2256(2)(A) of title 18, United States
11 Code); or

12 “(v) the publication of an intimate
13 visual depiction that constitutes—

14 “(I) child pornography (as that
15 term is defined in section 2256 of title
16 18, United States Code); or

17 “(II) a visual depiction described
18 in subsection (a) or (b) of section
19 1466A of title 18, United States Code
20 (relating to obscene visual representa-
21 tions of the sexual abuse of children).

22 “(4) PENALTIES.—

23 “(A) OFFENSES INVOLVING ADULTS.—Any
24 person who violates paragraph (2)(A) or (3)(A)
25 shall be fined under title 18, United States

1 Code, imprisoned not more than 2 years, or
2 both.

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

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

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

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

22 “(6) THREATS.—

23 “(A) THREATS INVOLVING AUTHENTIC IN-
24 TIMATE VISUAL DEPICTIONS.—Any person who
25 intentionally threatens to commit an offense

under paragraph (2) for the purpose of intimidation, coercion, extortion, or to create mental distress shall be punished as provided in paragraph (4).

“(B) THREATS INVOLVING DIGITAL FORGERIES.—

“(i) THREATS INVOLVING ADULTS.—

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

“(ii) THREATS INVOLVING MINORS.—

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

“(7) FORFEITURE.—

“(A) IN GENERAL.—The court, in imposing a sentence on any person convicted of a vio-

1 lation of paragraph (2) or (3), shall order, in
 2 addition to any other sentence imposed and ir-
 3 respective of any provision of State law, that
 4 the person forfeit to the United States—

5 “(i) any material distributed in viola-
 6 tion of that paragraph;

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

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

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

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

1 “(9) RULE OF CONSTRUCTION.—Nothing in
 2 this subsection shall be construed to limit the appli-
 3 cation of any other relevant law, including section
 4 2252 of title 18, United States Code.”.

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

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

13 **SEC. 3. NOTICE AND REMOVAL OF NONCONSENSUAL INTI-**
 14 **MATE VISUAL DEPICTIONS.**

15 (a) IN GENERAL.—

16 (1) NOTICE AND REMOVAL PROCESS.—

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

23 (i) notify the covered platform of an
 24 intimate visual depiction published on the
 25 covered platform that—

1 (I) includes a depiction of the
2 identifiable individual; and

3 (II) was published without the
4 consent of the identifiable individual;
5 and

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

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

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

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

22 (iii) a brief statement that the identi-
23 fiable individual has a good faith belief
24 that any intimate visual depiction identi-
25 fied under clause (ii) is not consensual, in-

cluding any relevant information for the covered platform to determine the intimate visual depiction was published without the consent of the identifiable individual; and

(iv) information sufficient to enable the covered platform to contact the identifiable individual (or an authorized person acting on behalf of such individual).

(2) NOTICE OF PROCESS.—A covered platform shall provide on the platform a clear and conspicuous notice, which may be provided through a clear and conspicuous link to another web page or disclosure, of the notice and removal process established under paragraph (1)(A) that—

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

and

(B) provides information regarding the responsibilities of the covered platform under this section, including a description of how an individual can submit a notification and request for removal.

(3) REMOVAL OF NONCONSENSUAL INTIMATE VISUAL DEPICTIONS.—Upon receiving a valid removal request from an identifiable individual (or an authorized person acting on behalf of such indi-

vidual) using the process described in paragraph (1)(A)(ii), a covered platform shall, as soon as possible, but not later than 48 hours after receiving such request—

(A) remove the intimate visual depiction;

and

(B) make reasonable efforts to identify and remove any known identical copies of such depiction.

(4) LIMITATION ON LIABILITY.—A covered platform shall not be liable for any claim based on the covered platform’s good faith disabling of access to, or removal of, material claimed to be a nonconsensual intimate visual depiction based on facts or circumstances from which the unlawful publishing of an intimate visual depiction is apparent, regardless of whether the intimate visual depiction is ultimately determined to be unlawful or not.

(b) ENFORCEMENT BY THE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A failure to reasonably comply with the notice and takedown obligations under subsection (a) shall be treated as a violation of a rule defining an unfair or a deceptive act or practice under section

1 18(a)(1)(B) of the Federal Trade Commission Act
2 (15 U.S.C. 57a(a)(1)(B)).

3 (2) POWERS OF THE COMMISSION.—

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

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

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

21 (D) SCOPE OF JURISDICTION.—Notwith-
22 standing sections 4, 5(a)(2), or 6 of the Federal
23 Trade Commission Act (15 U.S.C. 44, 45(a)(2),
24 46), or any jurisdictional limitation of the Com-
25 mission, the Commission shall also enforce this

1 section in the same manner provided in sub-
 2 paragraph (A), with respect to organizations
 3 that are not organized to carry on business for
 4 their own profit or that of their members.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) COMMISSION.—The term “Commission”
 8 means the Federal Trade Commission.

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

16 (3) COVERED PLATFORM.—

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

20 (i) that serves the public; and

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

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

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

9 (i) A provider of broadband internet
 10 access service (as described in section
 11 8.1(b) of title 47, Code of Federal Regula-
 12 tions, or successor regulation).

13 (ii) Electronic mail.

14 (iii) Except as provided in subpara-
 15 graph (A)(ii)(II), an online service, appli-
 16 cation, or website—

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

22 (II) for which any chat, com-
 23 ment, or interactive functionality is
 24 incidental to, directly related to, or

1 dependent on the provision of the con-
2 tent described in subclause (I).

3 **SEC. 5. SEVERABILITY.**

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

Passed the Senate February 13, 2025.

Attest:

Secretary.

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