

118TH CONGRESS
1ST SESSION

S. 474

To amend title 18, United States Code, to strengthen reporting to the CyberTipline related to online sexual exploitation of children, to modernize liabilities for such reports, to preserve the contents of such reports for 1 year, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mrs. BLACKBURN (for herself and Mr. OSSOFF) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to strengthen reporting to the CyberTipline related to online sexual exploitation of children, to modernize liabilities for such reports, to preserve the contents of such reports for 1 year, 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 “Revising Existing Pro-
5 cedures On Reporting via Technology Act” or the “RE-
6 PORT Act”.

1 **SEC. 2. LIMITED LIABILITY MODERNIZATION.**

2 (a) AMENDMENTS.—Section 2258B of title 18,
3 United States Code, is amended—

4 (1) in the section heading, by striking “**pro-**
5 **viders or domain name registrars**” and in-
6 sserting “**the reporting, storage, and han-**
7 **dling of certain visual depictions of ap-**
8 **parent child pornography to the National**
9 **Center for Missing and Exploited Chil-**
10 **dren**”;

11 (2) in subsection (b)—

12 (A) in the matter preceding paragraph (1),
13 by inserting “or charge” after “a claim”; and

14 (B) in paragraph (2)(C), by striking “this
15 section,”; and

16 (3) by adding at the end the following:

17 “(d) LIMITED LIABILITY FOR NCMEC-CONTRACTED
18 VENDORS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), a civil claim or criminal charge may not
21 be brought in any Federal or State court against a
22 vendor contractually retained and designated by
23 NCMEC to support the clearinghouse role of
24 NCMEC, as set forth in section 404(b) of the Juve-
25 nile Justice and Delinquency Prevention Act of 1974
26 (34 U.S.C. 11293(b)).

1 “(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
2 CONDUCT.—Paragraph (1) shall not apply to a claim
3 or charge if the vendor—

4 “(A) engaged in—

5 “(i) intentional misconduct;

6 “(ii) negligent conduct; or

7 “(iii) conduct not authorized under
8 the contract of the vendor with NCMEC to
9 support the clearinghouse role of NCMEC,
10 as set forth in section 404(b) of the Juve-
11 nile Justice and Delinquency Prevention
12 Act of 1974 (34 U.S.C. 11293(b)); or

13 “(B) acted, or failed to act—

14 “(i) with actual malice;

15 “(ii) with reckless disregard to a sub-
16 stantial risk of causing physical injury
17 without legal justification; or

18 “(iii) for a purpose unrelated to the
19 performance of any responsibility or func-
20 tion—

21 “(I) set forth in paragraph (1);

22 or

23 “(II) under sections 2258A,
24 2258C, 2702, or 2703.

1 “(3) MINIMIZING ACCESS BY VENDOR.—With
2 respect to any visual depiction of child pornography
3 stored or transferred by a vendor contractually re-
4 tained and designated by NCMEC to support the
5 clearing house role of NCMEC, as set forth in sec-
6 tion 404(b) of the Juvenile Justice and Delinquency
7 Prevention Act of 1974 (34 U.S.C. 11293(b)), a
8 vendor shall minimize the number of employees that
9 may be able to obtain access to such visual depic-
10 tion.

11 “(e) LIMITED LIABILITY FOR MINORS, AND PERSONS
12 ACTING ON BEHALF OF A MINOR, REPORTING VISUAL
13 DEPICTIONS OF APPARENT CHILD PORNOGRAPHY IN
14 WHICH THE MINOR IS DEPICTED.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), a civil claim or criminal charge may not
17 be brought in any Federal or State court against a
18 minor, or a person acting on behalf of a minor, aris-
19 ing from a report to the CyberTipline of NCMEC by
20 the minor or the person acting on behalf of a minor
21 of information that relates to a visual depiction of
22 apparent child pornography in which the minor is
23 depicted, including a copy of the visual depiction of
24 the minor.

1 “(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
2 CONDUCT.—Paragraph (1) shall not apply to a claim
3 or charge if the minor, or person acting on behalf
4 of the minor—

5 “(A) engaged in—

6 “(i) intentional misconduct in submit-
7 ting the report to the CyberTipline of
8 NCMEC of information that relates to a
9 visual depiction of apparent child pornog-
10 raphy in which the minor is depicted, in-
11 cluding a copy of the visual depiction of
12 the minor; or

13 “(ii) negligent conduct; or

14 “(B) acted, or failed to act—

15 “(i) with actual malice; or

16 “(ii) with reckless disregard to a sub-
17 stantial risk of causing physical injury
18 without legal justification.

19 “(3) MINIMIZING ACCESS.—With respect to any
20 visual depiction of child pornography reported to the
21 CyberTipline of NCMEC by a minor, or a person
22 acting on behalf of a minor, in which the minor is
23 depicted, NCMEC shall minimize access to the vis-
24 ual depiction and ensure the appropriate deletion of
25 the visual depiction, as set forth in section 2258D.”.

1 (b) APPLICABILITY.—The amendment made by sub-
 2 section (a) shall apply with respect to a civil claim or
 3 criminal charge that is filed on or after the date of enact-
 4 ment of this Act.

5 (c) TABLE OF SECTIONS AMENDMENT.—The table of
 6 sections for chapter 110 of title 18, United States Code,
 7 is amended by striking the item relating to section 2258B
 8 and inserting the following:

“2258B. Limited liability for the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing and Exploited Children.”.

9 **SEC. 3. PRESERVATION OF REPORTS TO CYBERTIPLINE RE-**
 10 **LATED TO ONLINE SEXUAL EXPLOITATION OF**
 11 **CHILDREN.**

12 Section 2258A(h) of title 18, United States Code, is
 13 amended—

14 (1) in paragraph (1), by striking “90 days” and
 15 inserting “1 year”; and

16 (2) by adding at the end the following:

17 “(5) EXTENSION OF PRESERVATION.—A pro-
 18 vider of a report to the CyberTipline under sub-
 19 section (a)(1) may voluntarily preserve the contents
 20 provided in the report (including any comingled con-
 21 tent described in paragraph (2)) for longer than 1
 22 year after the submission to the CyberTipline for the
 23 purpose of reducing the proliferation of online child

1 sexual exploitation or preventing the online sexual
2 exploitation of children.

3 “(6) METHOD OF PRESERVATION.—Not later
4 than 1 year after the date of enactment of this para-
5 graph, a provider of a report to the CyberTipline
6 under subsection (a)(1) shall preserve materials
7 under this subsection in a manner that is consistent
8 with the most recent version of the Cybersecurity
9 Framework developed by the National Institute of
10 Standards and Technology, or any successor there-
11 to.”.

12 **SEC. 4. STRENGTHENING OF DUTY TO REPORT APPARENT**
13 **VIOLATIONS TO CYBERTIPLINE RELATED TO**
14 **ONLINE EXPLOITATION OF CHILDREN.**

15 (a) AMENDMENTS.—Section 2258A of title 18,
16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1)(A)—

19 (i) in the matter preceding clause (i),
20 by inserting “shall” after “provider”;

21 (ii) in clause (i), by striking “shall,”;

22 and

23 (iii) in clause (ii), by striking “may,”;

24 and

1 (B) in paragraph (2)(A), by inserting “, of
2 section 1591 (if the violation involves a minor),
3 or of 2422(b)” after “child pornography”; and
4 (2) in subsection (e)—

5 (A) in paragraph (1), by striking
6 “\$150,000” and inserting “\$850,000 in the
7 case of a provider with not less than
8 100,000,000 monthly active users or \$600,000
9 in the case of a provider with less than
10 100,000,000 monthly active users”; and

11 (B) in paragraph (2), by striking
12 “\$300,000” and inserting “\$1,000,000 in the
13 case of a provider with not less than
14 100,000,000 monthly active users or \$850,000
15 in the case of a provider with less than
16 100,000,000 monthly active users”.

17 (b) GUIDANCE.—Not later than 180 days after the
18 date of enactment of this Act, the National Center for
19 Missing & Exploited Children shall issue guidance to pro-
20 viders required to take actions described in section
21 2258A(a)(1)(B) of title 18, United States Code, on the
22 facts or circumstances that constitute an apparent viola-
23 tion of section 1591 of that title and of section 2422(b)
24 of that title.

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