

Calendar No. 292

115TH CONGRESS
2^D SESSION

S. 1693

[Report No. 115–199]

To amend the Communications Act of 1934 to clarify that section 230 of that Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sex trafficking.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2017

Mr. PORTMAN (for himself, Mr. BLUMENTHAL, Mr. MCCAIN, Mrs. MCCASKILL, Mr. CORNYN, Ms. HEITKAMP, Mr. BLUNT, Mrs. CAPITO, Mr. CASEY, Ms. COLLINS, Mr. CORKER, Mr. CRUZ, Mr. FLAKE, Mr. GRAHAM, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. LANKFORD, Mr. LEE, Mr. NELSON, Mr. RUBIO, Mr. BROWN, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. HOEVEN, Mr. COCHRAN, Mr. SULLIVAN, Mr. KENNEDY, Mr. SASSE, Ms. HASSAN, Ms. DUCKWORTH, Mrs. FISCHER, Mr. BURR, Mr. DURBIN, Mr. SCOTT, Mr. COTTON, Mr. CASSIDY, Mr. TILLIS, Ms. CORTEZ MASTO, Mrs. FEINSTEIN, Ms. HARRIS, Mr. SCHATZ, Mr. BOOKER, Mr. BARRASSO, Mr. GRASSLEY, Mr. HATCH, Mr. VAN HOLLEN, Mr. TOOMEY, Mr. GARDNER, Mr. THUNE, Mr. COONS, Mr. MANCHIN, Mr. WHITEHOUSE, Mrs. ERNST, Mr. TESTER, Mrs. GILLIBRAND, Mr. ENZI, Mr. MENENDEZ, Mr. SHELBY, Mr. ROUNDS, Mr. ROBERTS, Mr. BOOZMAN, Mr. YOUNG, Mr. WICKER, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JANUARY 10, 2018

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to clarify that section 230 of that Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sex trafficking.

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 “~~Stop Enabling Sex~~
5 ~~Traffickers Act of 2017~~”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) ~~Section 230 of the Communications Act of~~
9 ~~1934 (47 U.S.C. 230) (as added by title V of the~~
10 ~~Telecommunications Act of 1996 (Public Law 104-~~
11 ~~104; 110 Stat. 133) (commonly known as the “Com-~~
12 ~~munications Decency Act of 1996”)) was never in-~~
13 ~~tended to provide legal protection to websites that~~
14 ~~facilitate traffickers in advertising the sale of unlaw-~~
15 ~~ful sex acts with sex trafficking victims.~~

1 (2) Clarification of section 230 of the Commu-
2 nications Act of 1934 is warranted to ensure that
3 that section does not provide such protection to such
4 websites.

5 **SEC. 3. ENSURING ABILITY TO ENFORCE FEDERAL AND**
6 **STATE CRIMINAL AND CIVIL LAW RELATING**
7 **TO SEX TRAFFICKING.**

8 (a) IN GENERAL.—Section 230 of the Communica-
9 tions Act of 1934 (47 U.S.C. 230) is amended—

10 (1) in subsection (b)—

11 (A) in paragraph (4), by striking “and” at
12 the end;

13 (B) in paragraph (5), by striking the pe-
14 riod at the end and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(6) to ensure vigorous enforcement of Federal
17 criminal and civil law relating to sex trafficking.”;
18 and

19 (2) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) by inserting “section 1591 (relat-
22 ing to sex trafficking) of that title,” after
23 “title 18, United States Code,”;

1 (ii) by striking “impair the enforce-
2 ment” and inserting the following: “im-
3 pair—

4 “(A) the enforcement”; and

5 (iii) by striking “statute.” and insert-
6 ing the following: “statute; or

7 “(B) any State criminal prosecution or
8 civil enforcement action targeting conduct that
9 violates a Federal criminal law prohibiting—

10 “(i) sex trafficking of children; or

11 “(ii) sex trafficking by force, threats
12 of force, fraud, or coercion.”; and

13 (B) by adding at the end the following:

14 “(5) NO EFFECT ON CIVIL LAW RELATING TO
15 SEX TRAFFICKING.—Nothing in this section shall be
16 construed to impair the enforcement or limit the ap-
17 plication of section 1595 of title 18, United States
18 Code.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act, and the amendment made by subsection
22 (a)(2)(B) shall apply regardless of whether the conduct
23 alleged occurred, or is alleged to have occurred, before,
24 on, or after such date of enactment.

1 **SEC. 4. ENSURING FEDERAL LIABILITY FOR PUBLISHING**
 2 **INFORMATION DESIGNED TO FACILITATE**
 3 **SEX TRAFFICKING OR OTHERWISE FACILI-**
 4 **TATING SEX TRAFFICKING.**

5 Section 1591(e) of title 18, United States Code, is
 6 amended—

7 (1) by redesignating paragraphs (4) and (5) as
 8 paragraphs (5) and (6), respectively; and

9 (2) by inserting after paragraph (3) the fol-
 10 lowing:

11 “(4) The term ‘participation in a venture’
 12 means knowing conduct by an individual or entity,
 13 by any means, that assists, supports, or facilitates a
 14 violation of subsection (a)(1).”.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Stop Enabling Sex Traf-*
 17 *fickers Act of 2017”.*

18 **SEC. 2. FINDINGS.**

19 *Congress finds the following:*

20 (1) *Section 230 of the Communications Act of*
 21 *1934 (47 U.S.C. 230) (as added by title V of the Tele-*
 22 *communications Act of 1996 (Public Law 104–104;*
 23 *110 Stat. 133) (commonly known as the “Commu-*
 24 *nications Decency Act of 1996”)) was never intended*
 25 *to provide legal protection to websites that facilitate*

1 *traffickers in advertising the sale of unlawful sex acts*
 2 *with sex trafficking victims.*

3 (2) *Clarification of section 230 of the Commu-*
 4 *nications Act of 1934 is warranted to ensure that that*
 5 *section does not provide such protection to such*
 6 *websites.*

7 **SEC. 3. ENSURING ABILITY TO ENFORCE FEDERAL AND**
 8 **STATE CRIMINAL AND CIVIL LAW RELATING**
 9 **TO SEX TRAFFICKING.**

10 (a) *IN GENERAL.*—*Section 230 of the Communications*
 11 *Act of 1934 (47 U.S.C. 230) is amended—*

12 (1) *in subsection (b)—*

13 (A) *in paragraph (4), by striking “and” at*
 14 *the end;*

15 (B) *in paragraph (5), by striking the period*
 16 *at the end and inserting “; and”; and*

17 (C) *by adding at the end the following:*

18 “(6) *to ensure vigorous enforcement of Federal*
 19 *criminal and civil law relating to sex trafficking.”;*
 20 *and*

21 (2) *in subsection (e), by adding at the end the*
 22 *following:*

23 “(5) *NO EFFECT ON SEX TRAFFICKING LAW.—*
 24 *Nothing in this section (other than subsection*
 25 *(c)(2)(A)) shall be construed to impair or limit—*

1 “(A) any claim in a civil action brought
2 under section 1595 of title 18, United States
3 Code, if the conduct underlying the claim con-
4 stitutes a violation of section 1591 of that title;
5 or

6 “(B) any charge in a criminal prosecution
7 brought under State law if the conduct under-
8 lying the charge constitutes a violation of section
9 1591 of title 18, United States Code.”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
11 section shall take effect on the date of enactment of this Act,
12 and the amendment made by subsection (a)(2) shall apply
13 regardless of whether the conduct alleged occurred, or is al-
14 leged to have occurred, before, on, or after such date of en-
15 actment.

16 **SEC. 4. ENSURING FEDERAL LIABILITY FOR PUBLISHING**
17 **INFORMATION DESIGNED TO FACILITATE SEX**
18 **TRAFFICKING OR OTHERWISE FACILITATING**
19 **SEX TRAFFICKING.**

20 Section 1591(e) of title 18, United States Code, is
21 amended—

22 (1) by redesignating paragraphs (4) and (5) as
23 paragraphs (5) and (6), respectively; and

24 (2) by inserting after paragraph (3) the fol-
25 lowing:

1 “(4) The term ‘participation in a venture’ means
2 *knowingly assisting, supporting, or facilitating a vio-*
3 *lation of subsection (a)(1).’*”.

4 **SEC. 5. ACTIONS BY STATE ATTORNEYS GENERAL.**

5 (a) *IN GENERAL.*—Section 1595 of title 18, United
6 *States Code, is amended by adding at the end the following:*

7 “(d) *In any case in which the attorney general of a*
8 *State has reason to believe that an interest of the residents*
9 *of that State has been or is threatened or adversely affected*
10 *by any person who violates section 1591, the attorney gen-*
11 *eral of the State, as parens patriae, may bring a civil ac-*
12 *tion against such person on behalf of the residents of the*
13 *State in an appropriate district court of the United States*
14 *to obtain appropriate relief.’*”.

15 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—
16 *Section 1595 of title 18, United States Code, is amended—*

17 (1) *in subsection (b)(1), by striking “this sec-*
18 *tion” and inserting “subsection (a)”*; and

19 (2) *in subsection (c), in the matter preceding*
20 *paragraph (1), by striking “this section” and insert-*
21 *ing “subsection (a)”*.

22 **SEC. 6. SAVINGS CLAUSE.**

23 *Nothing in this Act or the amendments made by this*
24 *Act is intended to limit—*

1 (1) *any claim or cause of action under Federal*
2 *law that was filed, or could have been filed, before the*
3 *date of enactment of this Act; or*

4 (2) *any claim or cause of action under State*
5 *law, including statutory and common law, that—*

6 (A) *was filed, or could have been filed, be-*
7 *fore the date of enactment of this Act; and*

8 (B) *was not preempted by section 230 of the*
9 *Communications Act of 1934 (47 U.S.C. 230).*

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