

116TH CONGRESS  
1ST SESSION

# H. R. 2896

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute private intimate visual depictions with reckless disregard for the individual's lack of consent to the distribution, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2019

Ms. SPEIER (for herself, Mrs. BUSTOS, Ms. CLARK of Massachusetts, Ms. DEAN, Mrs. DINGELL, Ms. ESCOBAR, Ms. GARCIA of Texas, Ms. HAALAND, Ms. JACKSON LEE, Mr. JOYCE of Ohio, Mr. KATKO, Ms. KUSTER of New Hampshire, Mrs. LAWRENCE, Ms. MCCOLLUM, Mr. MEEKS, Ms. MOORE, Mr. NEGUSE, Mr. SOTO, Mr. THOMPSON of California, Mr. TONKO, Ms. FRANKEL, Ms. BROWNLEY of California, Ms. ROYBAL-ALLARD, Ms. CASTOR of Florida, Mr. RASKIN, Mr. TED LIEU of California, and Ms. HILL of California) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute private intimate visual depictions with reckless disregard for the individual's lack of consent to the distribution, 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 “Stopping Harmful  
3 Image Exploitation and Limiting Distribution Act of  
4 2019” or the “SHIELD Act of 2019”.

5 **SEC. 2. CERTAIN ACTIVITIES RELATING TO INTIMATE VIS-**  
6 **UAL DEPICTIONS.**

7 (a) IN GENERAL.—Chapter 88 of title 18, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“§ 1802. Certain activities relating to intimate visual**  
11 **depictions**

12 “(a) DEFINITIONS.—In this section:

13 “(1) COMMUNICATIONS SERVICE.—The term  
14 ‘communications service’ means—

15 “(A) a service provided by a person that is  
16 a common carrier, as that term is defined in  
17 section 3 of the Communications Act of 1934  
18 (47 U.S.C. 153), insofar as the person is acting  
19 as a common carrier;

20 “(B) an electronic communication service,  
21 as that term is defined in section 2510;

22 “(C) an information service, as that term  
23 is defined in section 3 of the Communications  
24 Act of 1934 (47 U.S.C. 153); and

25 “(D) an interactive computer service, as  
26 that term is defined in section 230(f) of the

1           Communications Act of 1934 (47 U.S.C.  
2           230(f)).

3           “(2) INFORMATION CONTENT PROVIDER.—The  
4           term ‘information content provider’ has the meaning  
5           given that term in section 230(f) of the Communica-  
6           tions Act of 1934 (47 U.S.C. 230(f)).

7           “(3) INTIMATE VISUAL DEPICTION.—The term  
8           ‘intimate visual depiction’ means any visual depic-  
9           tion (as that term is defined in section 2256(5))—

10           “(A) of an individual who is reasonably  
11           identifiable from the visual depiction itself or  
12           information displayed in connection with the  
13           visual depiction;

14           “(B) in which—

15           “(i) the individual has obtained 18  
16           years of age and is engaging in sexually  
17           explicit conduct; or

18           “(ii) the naked genitals, anus, pubic  
19           area or post-pubescent female nipple of the  
20           individual are visible;

21           “(C) in which the content described in sub-  
22           paragraph (B) is not simulated; and

23           “(D) in original or modified format.

1           “(4) SEXUALLY EXPLICIT CONDUCT.—The term  
2           ‘sexually explicit conduct’ has the meaning given  
3           that term in section 2256(2)(A).

4           “(b) OFFENSE.—Except as provided in subsection  
5 (d), it shall be unlawful to knowingly use any means or  
6 facility of interstate or foreign commerce to distribute an  
7 intimate visual depiction of an individual—

8           “(1) with knowledge of or reckless disregard  
9           for—

10           “(A) the lack of consent of the individual  
11           to the distribution; and

12           “(B) the reasonable expectation of the in-  
13           dividual that the depiction would remain pri-  
14           vate; and

15           “(2) without an objectively reasonable belief  
16           that such distribution touches upon a matter of pub-  
17           lic concern.

18           “(c) PENALTY.—Any person who violates subsection  
19 (b) shall be fined under this title, imprisoned not more  
20 than 5 years, or both.

21           “(d) EXCEPTIONS.—

22           “(1) LAW ENFORCEMENT, LAWFUL REPORTING,  
23           AND OTHER LEGAL PROCEEDINGS.—This section—

24           “(A) does not prohibit any lawful law en-  
25           forcement, correctional, or intelligence activity;

1           “(B) shall not apply in the case of an indi-  
2           vidual acting in good faith to report unlawful  
3           activity or in pursuance of a legal or profes-  
4           sional or other lawful obligation; and

5           “(C) shall not apply in the case of a docu-  
6           ment production or filing associated with a legal  
7           proceeding.

8           “(2) SERVICE PROVIDERS.—This section shall  
9           not apply to any provider of a communications serv-  
10          ice with regard to content provided by another infor-  
11          mation content provider unless the provider of the  
12          communications service intentionally solicits, or  
13          knowingly and predominantly distributes, content  
14          that the provider of the communications service ac-  
15          tually knows is in violation of this section.

16          “(e) THREATS.—Any person who intentionally  
17          threatens to commit an offense under subsection (b) shall  
18          be punished as provided in subsection (c).

19          “(f) VENUE AND EXTRATERRITORIALITY.—A pros-  
20          ecution under this section may be brought in a district  
21          where the defendant or the depicted individual resides or  
22          in a district where the intimate visual depictions are dis-  
23          tributed or made available. There is extraterritorial Fed-  
24          eral jurisdiction over an offense under this section if the

1 defendant or the depicted individual is a citizen or perma-  
2 nent resident of the United States.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 of chapter 88 of title 18, United States Code, is amended  
5 by inserting after the item relating to section 1801 the  
6 following:

“1802. Certain activities relating to intimate visual depictions.”.

