

116TH CONGRESS
2D SESSION

S. 5012

To amend chapter 110 of title 18, United States Code, to provide for criminal and civil liability for an interactive computer service that willfully or recklessly promotes or facilitates child exploitation, to amend section 230 of the Communications Act of 1934, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2020

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

A BILL

To amend chapter 110 of title 18, United States Code, to provide for criminal and civil liability for an interactive computer service that willfully or recklessly promotes or facilitates child exploitation, to amend section 230 of the Communications Act of 1934, 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 “Holding Sexual Preda-
5 tors and Online Enablers Accountable Act of 2020”.

1 **SEC. 2. LIABILITY FOR HOSTING CHILD EXPLOITATION AND**
 2 **OTHER ABUSES OF CHILDREN.**

3 (a) AMENDMENT.—Chapter 110 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 2260B. Liability for hosting child exploitation and**
 7 **other abuses of children**

8 “(a) OFFENSE.—It shall be unlawful for any person,
 9 using a facility or means of interstate commerce or affect-
 10 ing interstate or foreign commerce, to—

11 “(1) own, manage, or operate an interactive
 12 computer service (as such term is defined in section
 13 230(f) of the Communications Act of 1934 (47
 14 U.S.C. 230(f))) that promotes or facilitates the
 15 hosting or trafficking in any materials or content de-
 16 scribed in section 2251, 2251A, 2252, or 2252A;
 17 and

18 “(2) act in reckless disregard of the fact that
 19 the conduct described in paragraph (1) contributed
 20 to a violation of section 2251, 2251A, 2252, or
 21 2252A.

22 “(b) PENALTY.—Whoever violates this section, or
 23 conspires or attempts to do so, shall be fined under this
 24 title, imprisoned for not more than 25 years, or both.

25 “(c) CIVIL REMEDY.—

1 “(1) IN GENERAL.—Any person aggrieved by a
 2 violation of this section may bring a civil action in
 3 an appropriate district court of the United States
 4 for relief described in paragraph (2).

5 “(2) RELIEF.—In a civil action brought under
 6 this subsection, the court may award appropriate re-
 7 lief, including damages and reasonable attorneys’
 8 fees.”.

9 (b) TABLE OF SECTIONS AMENDMENTS.—The table
 10 of sections for chapter 110 of title 18, United States Code,
 11 is amended by inserting after the item relating to section
 12 2260A the following:

 “2260B. Liability for hosting child exploitation and other abuses of children.”.

13 **SEC. 3. SEXUAL EXPLOITATION OF CHILDREN.**

14 Section 2251 of title 18, United States Code, is
 15 amended by striking subsection (e) and inserting the fol-
 16 lowing:

17 “(e) Any individual who violates, or attempts or con-
 18 spires to violate, this section shall be fined under this title
 19 and imprisoned not less than 20 years nor more than 30
 20 years, but if such person has any prior conviction under
 21 this chapter, section 1591, chapter 71, chapter 109A, or
 22 chapter 117, or under section 920 of title 10 (article 120
 23 of the Uniform Code of Military Justice), or under the
 24 laws of any State relating to the aggravated sexual abuse,
 25 sexual abuse, abusive sexual contact involving a minor or

ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 35 years nor more than life. Any organization that violates, or attempts or conspires to violate this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for not less than 30 years or for life.”.

SEC. 4. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “not less than 5 years” and inserting “not less than 10 years”; and

(B) by striking “not less than 15 years” and inserting “not less than 20 years”; and

(2) in paragraph (2), by striking “not less than 10 years nor more than 20 years” and inserting “not less than 20 years nor more than 40 years”.

1 **SEC. 5. COMMUNICATIONS DECENCY ACT AMENDMENT.**

2 Section 230(e) of the Communications Act of 1934
3 (47 U.S.C. 230(e)) is amended by adding at the end the
4 following:

5 “(6) NO EFFECT ON SEXUAL EXPLOITATION
6 AND OTHER ABUSES OF CHILDREN LAWS.—Nothing
7 in this section (other than subsection (c)(2)(A))
8 shall be construed to impair or limit—

9 “(A) any claim in a civil action brought
10 under section 2260B of title 18, United States
11 Code, if the underlying claim constitutes a vio-
12 lation of section 2260B; or

13 “(B) any charge in a criminal prosecution
14 brought under State law if the conduct under-
15 lying the charge would constitute a violation of
16 section 2260B of title 18, United States
17 Code.”.

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