

116TH CONGRESS  
2D SESSION

# S. 5054

To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2020

Mr. MERKLEY (for himself and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

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 Internet Sexual  
5   Exploitation Act”.

### 6   **SEC. 2. DEFINITIONS.**

7       (a) IN GENERAL.—In this Act—

8               (1) the term “Commission” means the Federal  
9   Trade Commission;

(2) the term “covered platform” means an online platform that hosts and makes available to the general public pornographic images; and

(3) the term “pornographic image” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct.

(b) TERMS DEFINED IN SECTION 2256 OF TITLE 18, UNITED STATES CODE.—For purposes of subsection (a)(3), the terms “computer”, “sexually explicit conduct”, and “visual depiction” have the meanings given those terms in section 2256 of title 18, United States Code.

15 SEC. 3. DUTIES OF ONLINE PLATFORMS THAT HOST POR-  
16 NOGRAPHY.

(a) **UPLOAD REQUIREMENTS.**—

(1) IN GENERAL.—A covered platform shall require any user who uploads a pornographic image to the platform to—

(A) verify—

- (i) the identity of the user; and

(ii) that the user is not less than the minimum age required to consent to sexual

1 acts under the law of the State in which  
2 the user resides; and

3 (B) upload a signed consent form from  
4 each individual appearing in the pornographic  
5 image that includes—

6 (i) the name and electronic signature  
7 of the individual;

8 (ii) a statement that the consent is for  
9 distribution of the specific pornographic  
10 image; and

11 (iii) the geographic area for which the  
12 individual consents to distribution of the  
13 pornographic image.

14 (2) EFFECTIVE DATE; APPLICABILITY.—Para-  
15 graph (1) shall—

16 (A) take effect on the date that is 14 days  
17 after the date of enactment of this Act; and

18 (B) apply to any pornographic image  
19 uploaded to a covered platform before, on, or  
20 after that effective date.

21 (b) MEANS OF REMOVAL.—

22 (1) NOTICE.—A covered platform shall display  
23 a notice on the website or mobile application of the  
24 platform, in the form of a prominently visible ban-  
25 ner, that provides instructions on how an individual

1 or an authorized representative of an individual, or  
2 a law enforcement officer, can request removal of a  
3 pornographic image from the platform, including  
4 through the hotline required under paragraph (2), if  
5 the individual appears in the pornographic image  
6 and has not consented to the pornographic image  
7 being uploaded to the platform.

8 (2) HOTLINE.—

9 (A) IN GENERAL.—A covered platform  
10 shall operate a 24-hour telephone hotline that  
11 an individual or an authorized representative of  
12 an individual, or a law enforcement officer, can  
13 contact to request removal of a pornographic  
14 image from the platform if the individual ap-  
15 pears in the pornographic image and has not  
16 consented to the pornographic image being  
17 uploaded to the platform.

18 (B) FRAUDULENT CLAIMS.—It shall be un-  
19 lawful for an individual to abuse a hotline de-  
20 scribed in subparagraph (A) by submitting  
21 fraudulent claims.

22 (3) TIMING OF REMOVAL.—If a covered plat-  
23 form receives notice through any mechanism offered  
24 by the platform as described in paragraph (1) that  
25 a pornographic image has been uploaded to the plat-

1 form without the consent of an individual who ap-  
2 pears in the pornographic image, the platform shall  
3 remove the pornographic image from the platform as  
4 quickly as possible, and in any event not later than  
5 2 hours after receiving the notice.

6 (c) PROHIBITION ON DOWNLOADS.—On and after the  
7 date that is 90 days after the date of enactment of this  
8 Act, a covered platform may not permit the download to  
9 a retrievable data file of any pornographic image from the  
10 platform.

11 (d) BLOCKING RE-UPLOADS.—On and after the date  
12 that is 180 days after the date of enactment of this Act,  
13 a covered platform shall block any pornographic image  
14 that has been removed from the platform in accordance  
15 with this section from being re-uploaded to the platform.

16 (e) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
17 SION.—

18 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
19 TICES.—A violation of this section shall be treated  
20 as a violation of a rule defining an unfair or decep-  
21 tive act or practice under section 18(a)(1)(B) of the  
22 Federal Trade Commission Act (15 U.S.C.  
23 57a(a)(1)(B)).

24 (2) POWERS OF COMMISSION.—

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

9           (B) PRIVILEGES AND IMMUNITIES.—Ex-  
10          cept as provided in subparagraph (C), any per-  
11          son who violates this section shall be subject to  
12          the penalties and entitled to the privileges and  
13          immunities provided in the Federal Trade Com-  
14          mission Act (15 U.S.C. 41 et seq.).

15          (C) NONPROFIT ORGANIZATIONS AND COM-  
16          MON CARRIERS.—Notwithstanding section 4,  
17          5(a)(2), or 6 of the Federal Trade Commission  
18          Act (15 U.S.C. 44, 45(a)(2), 46) or any juris-  
19          dictional limitation of the Commission, the  
20          Commission shall also enforce this section, in  
21          the same manner provided in subparagraphs  
22          (A) and (B) of this paragraph, with respect  
23          to—

1 (i) organizations not organized to  
2 carry on business for their own profit or  
3 that of their members; and

4 (ii) common carriers subject to the  
5 Communications Act of 1934 (47 U.S.C.  
6 151 et seq.) and any Act amendatory  
7 thereof or supplementary thereto.

8 (3) SUBSTANTIAL COMPLIANCE.—The Commis-  
9 sion may elect not to enforce a violation of this sec-  
10 tion by a covered platform that has demonstrated  
11 substantial compliance with this section.

12 **SEC. 4. DATABASE.**

13 (a) ESTABLISHMENT.—Not later than 90 days after  
14 the date of enactment of this Act, the Attorney General  
15 shall establish a database of individuals who have indi-  
16 cated that they do not consent to the uploading to any  
17 covered platform of any pornographic images in which the  
18 individuals appear.

19 (b) PERSONALLY IDENTIFIABLE INFORMATION.—  
20 The Attorney General shall protect the personally identifi-  
21 able information of any individual listed in the database  
22 established under subsection (a).

23 (c) VERIFICATION BY PLATFORMS REQUIRED.—Be-  
24 fore allowing a pornographic image to be uploaded to a  
25 covered platform, the platform shall ensure that no indi-

1 individual who appears in the pornographic image is listed in  
2 the database established under subsection (a).

3 (d) CIVIL PENALTY.—

4 (1) IN GENERAL.—The Attorney General shall  
5 impose a civil penalty on any covered platform that  
6 violates subsection (c) in an amount of not more  
7 than \$1,000 for each day or fraction thereof during  
8 which a pornographic image is hosted on the plat-  
9 form in violation of that subsection.

10 (2) USE OF FUNDS.—The Attorney General  
11 shall use the proceeds of a civil penalty imposed  
12 under paragraph (1) for services to individuals  
13 whose image is uploaded to a covered platform in  
14 violation of this Act.

15 (e) REGULATIONS.—Not later than 90 days after the  
16 date of enactment of this Act, the Attorney General shall  
17 promulgate regulations specifying—

18 (1) where the database established under sub-  
19 section (a) will be housed; and

20 (2) an entity, whether an office of the Depart-  
21 ment of Justice or a nonprofit organization that re-  
22 ceives a grant from the Department, that can con-  
23 nect individuals listed in the database with services,  
24 including mental health counseling, medical treat-  
25 ment, and legal services.



1 **SEC. 5. PRIVATE RIGHT OF ACTION.**

2 (a) IN GENERAL.—If a user of a covered platform  
3 uploads a pornographic image of an individual to the plat-  
4 form without the consent of the individual, the individual  
5 may bring a civil action against the user in an appropriate  
6 district court of the United States.

7 (b) STRICT LIABILITY.—In a civil action brought  
8 against a user of a covered platform under subsection (a),  
9 unless the user can prove bona fide consent from the plain-  
10 tiff, the user shall be strictly liable to the plaintiff.

11 **SEC. 6. RELATION TO COMMUNICATIONS DECENCY ACT.**

12 Nothing in this Act shall be construed to affect sec-  
13 tion 230 of the Communications Act of 1934 (47 U.S.C.  
14 230).

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