S. 3538

To establish a National Commission on Online Child Sexual Exploitation Prevention, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2022

Mr. GRAHAM (for himself, Mr. BLUMENTHAL, Mr. DURBIN, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. CORNYN, Mr. WHITEHOUSE, Mr. HAWLEY, Ms. HIRONO, Mr. KENNEDY, Mr. CASEY, Mrs. BLACKBURN, Ms. CORTEZ MASTO, Ms. COLLINS, Ms. HASSAN, Ms. ERNST, Mr. WARNER, Mrs. HYDE-SMITH, Ms. MURKOWSKI, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a National Commission on Online Child Sexual Exploitation Prevention, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Eliminating Abusive and Rampant Neglect of Interactive Technologies Act of 2022” or the “EARN IT Act of 2022”.

SEC. 2. DEFINITIONS.

In this Act:
(1) Commission.—The term “Commission” means the National Commission on Online Child Sexual Exploitation Prevention.

(2) Interactive computer service.—The term “interactive computer service” has the meaning given the term in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)).

SEC. 3. NATIONAL COMMISSION ON ONLINE CHILD SEXUAL EXPLOITATION PREVENTION.

(a) Establishment.—There is established a National Commission on Online Child Sexual Exploitation Prevention.

(b) Purpose.—The purpose of the Commission is to develop recommended best practices that providers of interactive computer services may choose to implement to prevent, reduce, and respond to the online sexual exploitation of children, including the enticement, grooming, sex trafficking, and sexual abuse of children and the proliferation of online child sexual abuse material.

(c) Membership.—

(1) Composition.—

(A) In general.—The Commission shall be composed of 19 members.
(B) AGENCY HEADS.—The following Federal officials shall serve as members of the Commission:

(i) The Attorney General or his or her representative.

(ii) The Secretary of Homeland Security or his or her representative.

(iii) The Chairman of the Federal Trade Commission or his or her representative.

(C) OTHER MEMBERS.—Of the remaining 16 members of the Commission—

(i) 4 shall be appointed by the majority leader of the Senate, of whom—

(I) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(A);

(II) 1 shall have the qualifications required under paragraph (2)(B);

(III) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(C); and
(IV) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(D);

(ii) 4 shall be appointed by the minority leader of the Senate, of whom—

(I) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(A);

(II) 1 shall have the qualifications required under paragraph (2)(B);

(III) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(C); and

(IV) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(D);

(iii) 4 shall be appointed by the Speaker of the House of Representatives, of whom—

(I) 1 shall have the qualifications required under clause (i) or (ii) of paragraph (2)(A);
(II) I shall have the qualifications required under paragraph (2)(B);

(III) I shall have the qualifications required under clause (i) or (ii) of paragraph (2)(C); and

(IV) I shall have the qualifications required under clause (i) or (ii) of paragraph (2)(D); and

(iv) A shall be appointed by the minority leader of the House of Representatives, of whom—

(I) I shall have the qualifications required under clause (i) or (ii) of paragraph (2)(A);

(II) I shall have the qualifications required under paragraph (2)(B);

(III) I shall have the qualifications required under clause (i) or (ii) of paragraph (2)(C); and

(IV) I shall have the qualifications required under clause (i) or (ii) of paragraph (2)(D).
(2) QUALIFICATIONS.—Of the 16 members of the Commission appointed under paragraph (1)(C)—

(A) 4 shall have current experience in investigating online child sexual exploitation crimes, of whom—

(i) 2 shall have such experience in a law enforcement capacity; and

(ii) 2 shall have such experience in a prosecutorial capacity;

(B) 4 shall be survivors of online child sexual exploitation, or have current experience in providing services for victims of online child sexual exploitation in a non-governmental capacity;

(C)(i) 2 shall have current experience in matters related to consumer protection, civil liberties, civil rights, or privacy; and

(ii) 2 shall have current experience in computer science or software engineering related to matters of cryptography, data security, or artificial intelligence in a non-governmental capacity; and

(D) 4 shall be individuals who each currently work for an interactive computer service
that is unrelated to each other interactive computer service represented under this subparagraph, representing diverse types of businesses and areas of professional expertise, of whom—

(i) 2 shall have current experience in addressing online child sexual exploitation and promoting child safety at an interactive computer service with not less than 30,000,000 monthly users in the United States; and

(ii) 2 shall have current experience in addressing online child sexual exploitation and promoting child safety at an interactive computer service with less than 10,000,000 monthly users in the United States.

(3) DATE.—The initial appointments of members to the Commission under paragraph (1)(C) shall be made not later than 90 days after the date of enactment of this Act.

(d) PERIOD OF APPOINTMENT; VACANCIES.—

(1) PERIOD OF APPOINTMENT.—A member of the Commission shall be appointed for a term of 5 years.

(2) VACANCIES.—
(A) Effect on Commission.—Any vacancy in the Commission shall not affect the powers of the Commission.

(B) Filling of Vacancies.—A vacancy in the Commission shall be filled in the same manner as the original appointment under subsection (e)(1).

(c) Initial Meeting.—The Commission shall hold the first meeting of the Commission not later than 60 days after the date on which a majority of the members of the Commission have been appointed.

(f) Chairperson.—The Attorney General or his or her representative shall serve as the Chairperson of the Commission.

(g) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold a meeting.

(h) Meetings.—The Commission shall meet at the call of the Chairperson.

(i) Authority of Commission.—The Commission may, for the purpose of carrying out this section and section 4, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(j) Information from Federal Agencies.—
(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this section and section 4.

(2) FURNISHING INFORMATION.—Upon request of the Chairperson of the Commission for information under paragraph (1), the head of a Federal department or agency shall furnish the information to the Commission, unless the information is subject to an active investigation or otherwise privileged or confidential.

(k) TRAVEL EXPENSES.—A member of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular places of business of the member in the performance of services for the Commission.

(l) DURATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) RECOMMENDED BEST PRACTICES.—

(1) INITIAL RECOMMENDATIONS.—
(A) IN GENERAL.—Not later than 18 months after the date on which a majority of the members of the Commission required to be appointed under section 3(c)(1)(C) have been so appointed, the Commission shall develop and submit to the Attorney General recommended best practices that providers of interactive computer services may choose to engage in to prevent, reduce, and respond to the online sexual exploitation of children, including the enticement, grooming, sex trafficking, and sexual abuse of children and the proliferation of online child sexual abuse material.

(B) REQUIREMENTS.—

(i) ALTERNATIVE BEST PRACTICES.—

The best practices required to be developed and submitted under subparagraph (A) shall include alternatives that take into consideration—

(I) the size, type of product, and business model of a provider of an interactive computer service;

(II) whether an interactive computer service—
(aa) is made available to the public;

(bb) is primarily responsible for hosting, storage, display, and retrieval of information on behalf of third parties, including providers of other interactive computer services; or

(cc) provides the capability to transmit data to and receive data from all or substantially all internet endpoints on behalf of a consumer; and

(III) whether a type of product, business model, product design, or other factors related to the provision of an interactive computer service could make a product or service susceptible to the use and facilitation of online child sexual exploitation.

(ii) SCOPE.—Notwithstanding paragraph (3), the alternatives described in clause (i) of this subparagraph may exclude certain matters required to be addressed under paragraph (3), as the Com-
mission determines appropriate based on the nature of particular products or services, the factors described in such clause (i), or other factors relevant to the purposes of this Act.

(2) SUPPORT REQUIREMENT.—The Commission may only recommend the best practices under paragraph (1) if not fewer than 14 members of the Commission support the best practices.

(3) MATTERS ADDRESSED.—The matters addressed by the recommended best practices developed and submitted by the Commission under paragraph (1) shall include—

(A) preventing, identifying, disrupting, and reporting online child sexual exploitation;

(B) coordinating with non-profit organizations and other providers of interactive computer services to preserve, remove from view, and report online child sexual exploitation;

(C) retaining child sexual exploitation content and related user identification and location data;

(D) receiving and triaging reports of online child sexual exploitation by users of interactive computer services, including self-reporting;
(E) implementing a standard rating and categorization system to identify the type and severity of child sexual abuse material;

(F) training and supporting content moderators who review child sexual exploitation content for the purposes of preventing and disrupting online child sexual exploitation;

(G) preparing and issuing transparency reports, including disclosures in terms of service, relating to identifying, categorizing, and reporting online child sexual exploitation and efforts to prevent and disrupt online child sexual exploitation;

(H) coordinating with voluntary initiatives offered among and to providers of interactive computer services relating to identifying, categorizing, and reporting online child sexual exploitation;

(I) employing age rating and age gating systems to reduce online child sexual exploitation;

(J) offering parental control products that enable customers to limit the types of websites, social media platforms, and internet content that are accessible to children; and
(K) contractual and operational practices
to ensure third parties, contractors, and affilia-
tes comply with the best practices.

(4) RELEVANT CONSIDERATIONS.—In devel-
oping best practices under paragraph (1), the Com-
mission shall consider—

(A) the cost and technical limitations of
implementing the best practices;

(B) the impact on competition, product
and service quality, data security, and privacy;

(C) the impact on the ability of law en-
forcement agencies to investigate and prosecute
child sexual exploitation and rescue victims; and

(D) the current state of technology.

(5) PERIODIC UPDATES.—Not less frequently
than once every 5 years, the Commission shall up-
date and resubmit to the Attorney General rec-
ommended best practices under paragraph (1).

(b) PUBLICATION OF BEST PRACTICES.—Not later
than 30 days after the date on which the Commission sub-
mits recommended best practices under subsection (a), in-
cluding updated recommended best practices under para-
graph (5) of that subsection, the Attorney General shall
publish the recommended best practices on the website of
the Department of Justice and in the Federal Register.
SEC. 5. PROTECTING VICTIMS OF ONLINE CHILD SEXUAL ABUSE.

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

“(6) NO EFFECT ON CHILD SEXUAL EXPLOITATION LAW.—Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit—

“(A) any claim in a civil action brought against a provider of an interactive computer service under section 2255 of title 18, United States Code, if the conduct underlying the claim constitutes a violation of section 2252 or section 2252A of that title;

“(B) any charge in a criminal prosecution brought against a provider of an interactive computer service under State law regarding the advertisement, promotion, presentation, distribution, or solicitation of child sexual abuse material, as defined in section 2256(8) of title 18, United States Code; or

“(C) any claim in a civil action brought against a provider of an interactive computer service under State law regarding the advertisement, promotion, presentation, distribution, or
solicitation of child sexual abuse material, as defined in section 2256(8) of title 18, United States Code.

“(7) **Encryption technologies.**—

“(A) In general.—Notwithstanding paragraph (6), none of the following actions or circumstances shall serve as an independent basis for liability of a provider of an interactive computer service for a claim or charge described in that paragraph:

“(i) The provider utilizes full end-to-end encrypted messaging services, device encryption, or other encryption services.

“(ii) The provider does not possess the information necessary to decrypt a communication.

“(iii) The provider fails to take an action that would otherwise undermine the ability of the provider to offer full end-to-end encrypted messaging services, device encryption, or other encryption services.

“(B) Consideration of evidence.—Nothing in subparagraph (A) shall be construed to prohibit a court from considering evidence of actions or circumstances described in that sub-
paragraph if the evidence is otherwise admissible.”.

SEC. 6. USE OF TERM “CHILD SEXUAL ABUSE MATERIAL”.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the term “child sexual abuse material” has the same legal meaning as the term “child pornography”, as that term was used in Federal statutes and case law before the date of enactment of this Act.

(b) AMENDMENTS.—

(1) TITLE 5, UNITED STATES CODE.—Chapter 65 of title 5, United States Code, is amended—

(A) in section 6502(a)(2)(B), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 6504(c)(2)(F), by striking “child pornography” and inserting “child sexual abuse material”.


(A) in section 307(b)(3)(D) (6 U.S.C. 187(b)(3)(D)), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 890A (6 U.S.C. 473)—
(i) in subsection (b)(2)(A)(ii), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subsection (c)(3)(B)(ii), by striking “child pornography” and inserting “child sexual abuse material”.

(3) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(I) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(I)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(4) SMALL BUSINESS JOBS ACT OF 2010.—Section 3011(c) of the Small Business Jobs Act of 2010 (12 U.S.C. 5710(c)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(5) BROADBAND DATA IMPROVEMENT ACT.—Section 214(a)(2) of the Broadband Data Improvement Act (15 U.S.C. 6554(a)(2)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

pornography” and inserting “child sexual abuse material”.

(7) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended—

(A) in section 1956(c)(7)(D), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”;

(B) in chapter 110—

(i) in section 2251(e), by striking “child pornography” and inserting “child sexual abuse material”;

(ii) in section 2252(b)—

(I) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”;

(iii) in section 2252A—

(I) in the section heading, by striking “material constituting or containing child pornography” and inserting “child sexual abuse material”;
(II) in subsection (a)—

(aa) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”;

(bb) in paragraph (2)—

(AA) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) in subparagraph (B), by striking “material that contains child pornography” and inserting “child sexual abuse material”;

(cc) in paragraph (3)(A), by striking “child pornography” and inserting “child sexual abuse material”;

(dd) in paragraph (4)—

(AA) in subparagraph (A), by striking “child pornography” and inserting
“child sexual abuse material”; and

(BB) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”;

(ee) in paragraph (5)—

(AA) in subparagraph (A), by striking “material that contains an image of child pornography” and inserting “item containing child sexual abuse material”; and

(BB) in subparagraph (B), by striking “material that contains an image of child pornography” and inserting “item containing child sexual abuse material”; and

(ff) in paragraph (7)—

(AA) by striking “child pornography” and inserting
“child sexual abuse material”; and

(BB) by striking the period at the end and inserting a comma;

(III) in subsection (b)—

(aa) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (2), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”;

(IV) in subsection (e)—

(aa) in paragraph (1)(A), by striking “child pornography” and inserting “child sexual abuse material”;

(bb) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and
(cc) in the undesignated matter following paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; 

(V) in subsection (d)(1), by striking “child pornography” and inserting “child sexual abuse material”; and 

(VI) in subsection (e), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; 

(iv) in section 2256(8)— 

(I) by striking “child pornography” and inserting “child sexual abuse material”; and 

(II) by striking the period at the end and inserting a semicolon; 

(v) in section 2257A(h)— 

(I) in paragraph (1)(A)(iii)— 

(aa) by inserting a comma after “marketed”; 

(bb) by striking “such than” and inserting “such that”; and
(ee) by striking “a visual depiction that is child pornography” and inserting “child sexual abuse material”; and

(II) in paragraph (2), by striking “any visual depiction that is child pornography” and inserting “child sexual abuse material”;

(vi) in section 2258A—

(I) in subsection (a)(2)—

(aa) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”;

(II) in subsection (b)—

(aa) in paragraph (4)—

(AA) in the paragraph heading, by striking “Visual Depictions of Apparent Child Pornography” and inserting “Apparent
CHILD SEXUAL ABUSE MATERIAL”; and

(BB) by striking “visual depiction of apparent child pornography” and inserting “apparent child sexual abuse material”; and

(bb) in paragraph (5), by striking “visual depiction of apparent child pornography” and inserting “apparent child sexual abuse material”; and

(III) in subsection (g)(2)(B), by striking “visual depictions of apparent child pornography” and inserting “apparent child sexual abuse material”; and

(vii) in section 2258C—

(I) in the section heading, by striking “Use to combat child pornography of technical elements relating to reports made to the CyberTipline” and inserting “Use of technical elements from reports made to
the CyberTipline to combat child sexual abuse material’’;

(II) in subsection (a)—

(aa) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (3), by striking “the actual visual depictions of apparent child pornography” and inserting “any apparent child sexual abuse material”; and

(III) in subsection (d), by striking “child pornography visual depiction” and inserting “child sexual abuse material visual depiction”; and

(IV) in subsection (e), by striking “child pornography visual depiction” and inserting “child sexual abuse material visual depiction”; and

(viii) in section 2259—

(I) in paragraph (b)(2)—

(aa) in the paragraph heading, by striking “CHILD PORNOG-
raphy” and inserting “child sexual abuse material”;

(bb) in the matter preceding subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(cc) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in subsection (c)—

(aa) in paragraph (1)—

(AA) in the paragraph heading, by striking “child pornography production” and inserting “production of child sexual abuse material”; and

(BB) by striking “child pornography production” and inserting “production of child sexual abuse material”; and
(CC) by striking “production of child pornography” and inserting “production of child sexual abuse material”;

(bb) in paragraph (2), in the matter preceding subparagraph (A), by striking “trafficking in child pornography offenses” each place the term appears and inserting “offenses for trafficking in child sexual abuse material”;

and

(ee) in paragraph (3)—

(AA) in the paragraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(BB) by striking “child pornography” and inserting “child sexual abuse material”; and

(III) in subsection (d)(1)—

(aa) in subparagraph (A)—
(AA) by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; and

(BB) by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(bb) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”; and

(cc) in subparagraph (C)—

(AA) by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(ix) in section 2259A—
(I) in the section heading, by striking “child pornography cases” and inserting “cases involving child sexual abuse material”;

(II) in subsection (a)—

(aa) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (3), by striking “a child pornography production offense” and inserting “an offense for production of child sexual abuse material”; and

(III) in subsection (d)(2)(B), by striking “child pornography production or trafficking offense that the defendant committed” and inserting “offense for production of child sexual abuse material or trafficking in child sexual abuse material committed by the defendant”; and

(x) in section 2259B—
(I) in the section heading, by striking “Child pornography victims reserve” and inserting “Reserve for child sexual abuse material”;

(II) in subsection (a), by striking “Child Pornography Victims Reserve” each place the term appears and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(III) in subsection (b), by striking “Child Pornography Victims Reserve” each place the term appears and inserting “Reserve for Victims of Child Sexual Abuse Material”; and

(IV) in subsection (c), by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(C) in chapter 117—

(i) in section 2423(f)(3), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in section 2427—
(I) in the section heading, by striking “child pornography” and inserting “child sexual abuse material”; and

(II) by striking “child pornography” and inserting “child sexual abuse material”;

(D) in section 2516—

(i) in paragraph (1)(c), by striking “material constituting or containing child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (2), by striking “child pornography production” and inserting “production of child sexual abuse material”;

(E) in section 3014(h)(3), by striking “child pornography victims” and inserting “victims of child sexual abuse material”; 

(F) in section 3509—

(i) in subsection (a)(6), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subsection (m)—
(I) in the subsection heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”;

(II) in paragraph (1), by striking “property or material that constitutes child pornography (as defined by section 2256 of this title)” and inserting “child sexual abuse material (as defined by section 2256 of this title), or property or items containing such material,”;

(III) in paragraph (2)—

(aa) in subparagraph (A)—

(AA) by striking “property or material that constitutes child pornography (as defined by section 2256 of this title)” and inserting “child sexual abuse material (as defined by section 2256 of this title), or property or items containing such material,”; and
(BB) by striking “the property or material” and inserting “the child sexual abuse material, property, or items”; and

(bb) in subparagraph (B), by striking “property or material” each place the term appears and inserting “child sexual abuse material, property, or items”; and

(IV) in paragraph (3)—

(aa) by striking “property or material that constitutes child pornography, as defined under section 2256(8)” and inserting “child sexual abuse material (as defined by section 2256 of this title)”; and

(bb) by striking “such child pornography” and inserting “such child sexual abuse material”; and

(cc) by striking “Such property or material” and inserting
“Such child sexual abuse mate-
rial”; and

(G) in section 3632(d)(4)(D)(xlii), by
striking “material constituting or containing
child pornography” and inserting “child sexual
abuse material”.

(8) Tariff Act of 1930.—Section
583(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C.
1583(a)(2)(B)) is amended by striking “child por-
ography” and inserting “child sexual abuse mate-
rial”.

(9) Elementary and Secondary Education
Act of 1965.—Section 4121 of the Elementary and
is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A)(ii), by striking
“child pornography” and inserting “child
sexual abuse material”; and

(ii) in paragraph (2)(A)(ii), by strik-
ing “child pornography” and inserting
“child sexual abuse material”; and

(B) in subsection (e)(5)—
(i) in the paragraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”.

(10) MUSEUM AND LIBRARY SERVICES ACT.—

Section 224(f) of the Museum and Library Services Act (20 U.S.C. 9134(f)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in paragraph (7)(A)—

(i) in the subparagraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”.

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(A) in clause (i)(I)(aa), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in clause (ii), by striking “child pornography” and inserting “child sexual abuse material”.


(A) in section 212(4) (34 U.S.C. 20302(4)), by striking “child pornography” and inserting “child sexual abuse material”;

(B) in section 214(b) (34 U.S.C. 20304(b))—

(i) in the subsection heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”; and

(C) in section 226(c)(6) (34 U.S.C. 20341(c)(6)), by striking “child pornography” and inserting “child sexual abuse material”.

(15) SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.—Section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911) is amended—

(A) in paragraph (3)(B)(iii), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in paragraph (7)(G), by striking “child pornography” and inserting “child sexual abuse material”.
(16) ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006.—Section 143(b)(3) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20942(b)(3)) is amended by striking “child pornography and enticement cases” and inserting “cases involving child sexual abuse material and enticement of children”.

(17) PROTECT OUR CHILDREN ACT OF 2008.—The PROTECT Our Children Act of 2008 (34 U.S.C. 21101 et seq.) is amended—

(A) in section 101(c) (34 U.S.C. 21111(c))—

(i) in paragraph (16)—

(I) in the matter preceding subparagraph (A), by striking “child pornography trafficking” and inserting “trafficking in child sexual abuse material”;

(II) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”;

(III) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”;

...
(IV) in subparagraph (C), by striking “child pornography” and inserting “child sexual abuse material”; and

(V) in subparagraph (D), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (17)(A), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 105(e)(1)(C) (34 U.S.C. 21115(e)(1)(C)), by striking “child pornography trafficking” and inserting “trafficking in child sexual abuse material”.


(19) PRIVACY PROTECTION ACT OF 1980.—Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—
(A) in subsection (a)(1), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in subsection (b)(1), by striking “child pornography” and inserting “child sexual abuse material”.

(20) Child Care and Development Block Grant Act of 1990.—Section 658H(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f(c)(1)) is amended—

(A) in subparagraph (D)(iii), by striking “child pornography” and inserting “offenses relating to child sexual abuse material”; and

(B) in subparagraph (E), by striking “child pornography” and inserting “child sexual abuse material”.

(21) Communications Act of 1934.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended—

(A) in section 223 (47 U.S.C. 223)—

(i) in subsection (a)(1)—

(I) in subparagraph (A), in the undesignated matter following clause (ii), by striking “child pornography”
and inserting “which constitutes child sexual abuse material”; and

(II) in subparagraph (B), in the undesignated matter following clause (ii), by striking “child pornography” and inserting “which constitutes child sexual abuse material”; and

(ii) in subsection (d)(1), in the undesignated matter following subparagraph (B), by striking “child pornography” and inserting “that constitutes child sexual abuse material”; and

(B) in section 254(h) (47 U.S.C. 254(h))—

(i) in paragraph (5)—

(I) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in subparagraph (C)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (6)—
(I) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in subparagraph (C)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(iii) in paragraph (7)(F)—

(I) in the subparagraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(II) by striking “child pornography” and inserting “child sexual abuse material”.

(c) Table of Sections Amendments.—

(1) Chapter 110 of Title 18.—The table of sections for chapter 110 of title 18, United States Code, is amended—

(A) by striking the item relating to section 2252A and inserting the following:

“2252A. Certain activities relating to child sexual abuse material.”;

(B) by striking the item relating to section 2258C and inserting the following:
(C) by striking the item relating to section 2259A and inserting the following:

“2259A. Assessments in cases involving child sexual abuse material.”;

and

(D) by striking the item relating to section 2259B and inserting the following:

“2259B. Reserve for victims of child sexual abuse material.”.

(2) CHAPTER 117 OF TITLE 18.—The table of sections for chapter 117 of title 18, United States Code, is amended by striking the item relating to section 2427 and inserting the following:

“2427. Inclusion of offenses relating to child sexual abuse material in definition of sexual activity for which any person can be charged with a criminal offense.”.

(d) AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall amend the Federal sentencing guidelines, including application notes, to replace the terms “child pornography” and “child pornographic material” with “child sexual abuse material”.

(e) EFFECTIVE DATE.—The amendments made by this section to title 18 of the United States Code shall apply to conduct that occurred before, on, or after the date of enactment of this Act.
SEC. 7. MODERNIZING THE CYBERTIPLINE.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended—

(1) in section 2258A, as amended by section 6(b) of this Act—

(A) in subsection (a)—

(i) in paragraph (1)(B)(ii), by inserting after “facts or circumstances” the following: “, including any available facts or circumstances sufficient to identify and locate each minor and each involved individual,”; and

(ii) in paragraph (2)(A)—

(I) by inserting “1591 (if the violation involves a minor),” before “2251,”; and

(II) by striking “or 2260” and inserting “2260, or 2422(b)”;

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by inserting “or location” after “identity”; and

(II) by striking “other identifying information,” and inserting “other information which may identify or locate the involved individual,”;
(ii) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively;

(iii) by inserting after paragraph (1) the following:

“(2) INFORMATION ABOUT THE INVOLVED MINOR.—Information relating to the identity or location of any involved minor, which may, to the extent reasonably practicable, include the electronic mail address, Internet Protocol address, uniform resource locator, or any other information which may identify or locate any involved minor, including self-reported identifying information.”; and

(iv) by adding at the end the following:

“(7) FORMATTING OF REPORTS.—When in its discretion a provider voluntarily includes any content described in this subsection in a report to the CyberTipline, the provider shall use best efforts to ensure that the report conforms with the structure of the CyberTipline.”; and

(C) in subsection (d)(5)(B)—

(i) in clause (i), by striking “forwarded” and inserting “made available”;

and
(ii) in clause (ii), by striking “forwarded” and inserting “made available”;

(2) in section 2258B—

(A) in subsection (a)—

(i) by striking “arising from the performance” and inserting the following: “,

may not be brought in any Federal or State court if the claim or charge is directly attributable to—

“(1) the performance”;

(ii) in paragraph (1), as so designated, by striking “may not be brought in any Federal or State court.” and inserting a semicolon; and

(iii) by adding at the end the following:

“(2) transmitting, distributing, or mailing child sexual abuse material to any Federal, State, or local law enforcement agency, or giving such agency access to child sexual abuse material, in response to a search warrant, court order, or other legal process issued by such agency; or

“(3) research voluntarily undertaken by the provider or domain name registrar using any mate-
rial being preserved under section 2258A(h), if the research is only for the purpose of—

“(A) improving or facilitating reporting under this section, section 2258A, or section 2258C; or

“(B) stopping the online sexual exploitation of children.”; and

(B) in subsection (b)(2)(C)—

(i) by striking “the performance of”;

(ii) by inserting “described in or performed” after “function”; and

(iii) by striking “this section, sections” and inserting “this section or section”; and

(3) in section 2258C, as amended by section 6(b) of this Act—

(A) in the section heading, by striking “the CyberTipLine” and inserting “NCMEC”;

(B) in subsection (a)—

(i) in paragraph (1)—

(I) by striking “NCMEC” and inserting the following:

“(A) Provision to Providers.—

NCMEC”;
(II) in subparagraph (A), as so designated, by inserting “or submission to the child victim identification program described in section 404(b)(1)(K)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii))” after “CyberTipline report”; and

(III) by adding at the end the following:

“(B) Provision to Non-profit Entities.—NCMEC may provide hash values or similar technical identifiers associated with visual depictions provided in a CyberTipline report or submission to the child victim identification program described in section 404(b)(1)(K)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii)) to a non-profit entity for the sole and exclusive purpose of preventing and curtailing the online sexual exploitation of children.”; and

(ii) in paragraph (2)—
(I) by inserting “(A)” after “(1)”; (II) by inserting “or submission to the child victim identification program described in section 404(b)(1)(K)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii))” after “CyberTipline report”; and (III) by adding at the end the following: “The elements authorized under paragraph (1)(B) shall be limited to hash values or similar technical identifiers associated with visual depictions provided in a CyberTipline report or submission to the child victim identification program described in section 404(b)(1)(K)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii)).”; and (C) in subsection (d), by inserting “or to the child victim identification program described in section 404(b)(1)(K)(ii) of the Juve-

(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 110 of title 18, United States Code, is amended by striking the item relating to section 2258C (as amended by section 6(c)(1)(B) of this Act) and inserting the following:

“2258C. Use of technical elements from reports made to NCMEC to combat child sexual abuse material.”.

SEC. 8. ELIMINATING NETWORK DISTRIBUTION OF CHILD EXPLOITATION.

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

(1) in paragraph (1), by striking “90 days” and inserting “180 days”; and

(2) by adding at the end the following:

“(5) EXTENSION OF PRESERVATION.—A provider of a report to the CyberTipline may voluntarily preserve the contents provided in the report (including any commingled content described in paragraph (2)) for longer than 180 days after the submission to the CyberTipline for the purpose of reducing the proliferation of online child sexual exploitation or preventing the online sexual exploitation of children.”.
SEC. 9. IT SOLUTIONS RELATING TO COMBATING ONLINE CHILD EXPLOITATION.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11291 et seq.) is amended—

(1) by redesignating section 409 (34 U.S.C. 11297) as section 410; and

(2) by inserting after section 408 (34 U.S.C. 11296) the following:

“SEC. 409. IT SOLUTIONS RELATING TO COMBATING ONLINE CHILD EXPLOITATION.

“(a) DEVELOPMENT OF IT SOLUTIONS.—The Administrator shall enable the development of information technology solutions and the creation and acquisition of innovative tools to implement updates, improvements, and modernization needed to enhance efforts to combat online child exploitation in order to ensure that consistent, actionable information is provided to law enforcement agencies, including Internet Crimes Against Children (commonly known as ‘ICAC’) task forces.

“(b) CONSULTATION WITH PARTNERS.—In developing the information technology solutions under subsection (a), the Administrator shall solicit input from all partners in the effort to combat online child exploitation, including the Center, ICAC task forces, the Federal Bureau of Investigation, the Department of Homeland Secu-
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2. “(c) FUNDING.—Each fiscal year, the Administrator shall carry out this section using not less than $1,000,000 of the amounts made available to carry out this title for that fiscal year.”.

3. SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

4. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

5. SEC. 11. SEVERABILITY.

6. If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act, and the application of the provision or amendment to any other person or circumstance, shall not be affected.

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