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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To establish a private right of action against a person who sends unsolicited
visual depictions of sexually explicit conduct.

IN THE HOUSE OF REPRESENTATIVES

Ms. MCCLELLAN (for herself and Mr. MORAN) introduced the following bill;
which was referred to the Committee on _____

A BILL

To establish a private right of action against a person who
sends unsolicited visual depictions of sexually explicit
conduct.

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 “Curbing Online Non-
5 Consensual Sexually Explicit Nudity Transfers Act” or
6 the “CONSENT Act”.

1 **SEC. 2. TRANSMISSION OF UNSOLICITED VISUAL DEPIC-**
2 **TIONS OF SEXUALLY EXPLICIT CONDUCT.**

3 (a) DEFINITIONS.—

4 (1) IN GENERAL.—In this section:

5 (A) CONSENT.—The term “consent” has
6 the meaning given the term in section 1309 of
7 the Violence Against Women Act Reauthoriza-
8 tion Act of 2022 (15 U.S.C. 6851).

9 (B) MACHINE-MANIPULATED MEDIA.—The
10 term “machine-manipulated media” means a
11 video, image, or audio recording generated or
12 substantially modified using machine-learning
13 techniques in order to—

14 (i) falsely depict—

15 (I) an event; or

16 (II) the speech or conduct of an
17 individual; or

18 (ii) depict an individual who does not
19 exist.

20 (C) SEXUALLY EXPLICIT CONDUCT.—The
21 term “sexually explicit conduct” has the mean-
22 ing given the term in section 2256(2)(B) of title
23 18, United States Code.

24 (D) THIRD-PARTY PROVIDER.—The term
25 “third-party provider” means—

1 (i) a provider of an interactive com-
2 puter service (as defined in section 230 of
3 the Communications Act of 1934 (47
4 U.S.C. 230)); or

5 (ii) any other entity that transmits,
6 routes, or provides connections of elec-
7 tronic communications.

8 (E) VISUAL DEPICTION.—The term “visual
9 depiction”—

10 (i) has the meaning given the term in
11 section 1466A of title 18, United States
12 Code; and

13 (ii) includes machine-manipulated
14 media.

15 (2) RULE OF CONSTRUCTION.—Notwith-
16 standing the application of the terms “sexually ex-
17 plicit conduct” and “visual depiction” to only minors
18 in chapter 110 and section 1466A, respectively, of
19 title 18, United States Code, the applicability of
20 those terms shall not be limited to minors for pur-
21 poses of this section.

22 (b) CIVIL ACTION.—

23 (1) RIGHT OF ACTION.—

24 (A) PROHIBITION.—If an individual 18
25 years of age or older, or any person that is not

1 an individual, (referred to in this subparagraph
2 as the “sender”) knowingly sends an individual
3 (referred to in this subparagraph as the “recipi-
4 ent”) a visual depiction of sexually explicit con-
5 duct, in or affecting interstate or foreign com-
6 merce or using any means or facility of inter-
7 state or foreign commerce, without the consent
8 of the recipient, knowing that, or recklessly dis-
9 regarding whether, the recipient has not pro-
10 vided consent to receive the visual depiction, the
11 recipient may bring a civil action against the
12 sender in an appropriate district court of the
13 United States for relief under paragraph (2).

14 (B) RIGHTS ON BEHALF OF CERTAIN INDIVIDUALS.—If an individual who receives a vis-
15 ual depiction of sexually explicit conduct as de-
16 scribed in subparagraph (A) is under 18 years
17 of age, incompetent, or incapacitated, a legal
18 guardian of the individual may bring a civil ac-
19 tion under that subparagraph on behalf of the
20 individual.
21

22 (C) PRIVACY PROTECTION FOR MINORS.—
23 (i) IN GENERAL.—If a civil action is
24 brought under subparagraph (A) on behalf
25 of an individual who is a minor when the

1 complaint is filed or by an individual who
2 was a minor when the acts giving rise to
3 the civil action took place, the plaintiff
4 may elect to use the plaintiff's initials in
5 all filings with the court.

6 (ii) REQUIREMENT.—If a plaintiff
7 elects to proceed using the plaintiff's ini-
8 tials under clause (i), the court and each
9 other party to the action shall use the
10 plaintiff's initials in—

11 (I) any order, filing, or other
12 such document; and

13 (II) any proceeding that is tran-
14 scribed by a court reporter.

15 (D) EXCEPTIONS.—A civil action under
16 subparagraph (A) may not be brought
17 against—

18 (i) a third-party provider, to the ex-
19 tent that the provider is transmitting,
20 routing, or providing connections of elec-
21 tronic communications initiated by or at
22 the direction of another person;

23 (ii) a person who sends a visual depic-
24 tion for a good faith medical, educational,
25 or law enforcement purpose; or

1 (iii) a person who lawfully publishes a
2 visual depiction of sexually explicit conduct
3 on a website that requires users to be not
4 less than 18 years of age.

5 (2) RELIEF.—In a civil action brought under
6 paragraph (1), an individual may obtain—

7 (A) either—

8 (i) statutory damages of not more
9 than \$500; or

10 (ii) compensatory damages for emo-
11 tional distress;

12 (B) reasonable attorney fees and costs; and

13 (C) a temporary restraining order, a pre-
14 liminary injunction, or a permanent injunction
15 ordering the defendant to cease sending visual
16 depictions of sexually explicit conduct to the
17 plaintiff without consent.

18 (3) RELATION TO CRIMINAL LAWS.—Nothing in
19 this subsection shall be construed to modify, impair,
20 or supersede any provision of criminal law.

21 (c) SEVERABILITY.—If any provision of this section,
22 or the application of such provision to any person or cir-
23 cumstance, is held to be unconstitutional, the remainder
24 of this section, and the application of the provision to any
25 other person or circumstance, shall not be affected.