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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To establish a private right of action against a person who transmits
unsolicited intimate visual depictions.

IN THE HOUSE OF REPRESENTATIVES

Ms. McCLELLAN introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish a private right of action against a person who
transmits unsolicited intimate visual depictions.

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 the
6 “CONSENT Act”.

7 **SEC. 2. TRANSMISSION OF UNSOLICITED INTIMATE VISUAL**
8 **DEPICTIONS.**

9 (a) **DEFINITIONS.**—In this section:

1 (1) CONSENT.—The term “consent” means an
2 affirmative, conscious, and voluntary authorization
3 made by an individual free from force, fraud, duress,
4 misrepresentation, or coercion.

5 (2) INTIMATE DIGITAL FORGERY.—The term
6 “intimate digital forgery” means any intimate visual
7 depiction of an identifiable individual that—

8 (A) falsely represents, in whole or in
9 part—

10 (i) the identifiable individual; or

11 (ii) the conduct or content that makes
12 the intimate visual depiction intimate;

13 (B) is created through the use of software,
14 machine learning, artificial intelligence, or any
15 other computer-generated or technological
16 means, including by adapting, modifying, ma-
17 nipulating, or altering an authentic intimate
18 visual depiction; and

19 (C) is indistinguishable from an authentic
20 intimate visual depiction of the identifiable indi-
21 vidual when viewed as a whole by a reasonable
22 person.

23 (3) INTIMATE VISUAL DEPICTION.—The term
24 “intimate visual depiction”—

1 (A) has the meaning given the term in sec-
2 tion 1309 of the Consolidated Appropriations
3 Act, 2022 (15 U.S.C. 6851); and

4 (B) includes an intimate digital forgery.

5 (4) TRANSMIT.—The term “transmit”, with re-
6 spect to a depiction—

7 (A) means to send the depiction directly to
8 1 or more individuals; and

9 (B) does not include publishing the depic-
10 tion.

11 (b) CIVIL ACTION.—

12 (1) RIGHT OF ACTION.—

13 (A) PROHIBITED TRANSMISSIONS.—If an
14 individual 18 years of age or older, or any per-
15 son that is not an individual, (referred to in
16 this subparagraph as the “sender”) knowingly
17 transmits to an individual (referred to in this
18 subparagraph as the “recipient”) an intimate
19 visual depiction, in or affecting interstate or
20 foreign commerce or using any means or facility
21 of interstate or foreign commerce, without the
22 consent of the recipient, knowing that, or reck-
23 lessly disregarding whether, the recipient has
24 not provided consent to receive the intimate vis-
25 ual depiction, the recipient may bring a civil ac-

1 tion against the sender in an appropriate dis-
2 trict court of the United States for relief under
3 paragraph (2).

4 (B) RIGHTS ON BEHALF OF CERTAIN INDI-
5 VIDUALS.—If an individual who receives an inti-
6 mate visual depiction as described in subpara-
7 graph (A) is under 18 years of age, incom-
8 petent, or incapacitated, a legal guardian of the
9 individual may bring a civil action under that
10 subparagraph on behalf of the individual.

11 (C) PRIVACY PROTECTION FOR MINORS.—

12 (i) IN GENERAL.—If a civil action is
13 brought under subparagraph (A) on behalf
14 of an individual who is a minor when the
15 complaint is filed or by an individual who
16 was a minor when the acts giving rise to
17 the civil action took place, the plaintiff
18 may elect to use the plaintiff’s initials or
19 a pseudonym in all filings with the court.

20 (ii) REQUIREMENT.—If a plaintiff
21 elects to proceed using the plaintiff’s ini-
22 tials or a pseudonym under clause (i), the
23 court and each other party to the action
24 shall use the plaintiff’s initials or a pseu-
25 donym in—

1 (I) any order, filing, or other
2 such document; and

3 (II) any proceeding that is tran-
4 scribed by a court reporter.

5 (D) EXCEPTIONS.—A civil action under
6 subparagraph (A) may not be brought against
7 a person who transmits an intimate visual de-
8 piction for a good faith medical, educational, or
9 law enforcement purpose.

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

12 (A) either—

13 (i) statutory damages of not more
14 than \$1,000; or

15 (ii) compensatory damages for emo-
16 tional distress;

17 (B) reasonable attorney fees and costs; and

18 (C) a temporary restraining order, a pre-
19 liminary injunction, or a permanent injunction
20 ordering the defendant to cease transmitting in-
21 timate visual depictions to the plaintiff without
22 consent.

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

1 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed or applied so as to abridge the ex-
3 ercise of rights guaranteed under the First Amendment
4 to the Constitution of the United States.

5 (d) SEVERABILITY.—If any provision of this section,
6 or the application of such provision to any person or cir-
7 cumstance, is held to be unconstitutional, the remainder
8 of this section, and the application of the provision to any
9 other person or circumstance, shall not be affected.