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116TH CONGRESS
2D SESSION

S. 3398

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

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2020

Mr. GRAHAM (for himself, Mr. BLUMENTHAL, Mr. CRAMER, Mrs. FEINSTEIN, Mr. HAWLEY, Mr. JONES, Mr. CASEY, Mr. WHITEHOUSE, Mr. DURBIN, Ms. ERNST, Mr. KENNEDY, Mr. CRUZ, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 20, 2020

Reported by Mr. GRAHAM, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To establish a National Commission on Online Child Sexual
Exploitation Prevention, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Eliminating Abusive
3 and Rampant Neglect of Interactive Technologies Act of
4 2020” or the “EARN IT Act of 2020”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **COMMISSION.**—The term “Commission”
8 means the National Commission on Online Child
9 Sexual Exploitation Prevention.

10 (2) **INTERACTIVE COMPUTER SERVICE.**—The
11 term “interactive computer service” has the meaning
12 given the term in section 230(f)(2) of the Commu-
13 nications Act of 1934 (47 U.S.C. 230(f)(2)).

14 **SEC. 3. NATIONAL COMMISSION ON ONLINE CHILD SEXUAL**
15 **EXPLOITATION PREVENTION.**

16 (a) **ESTABLISHMENT.**—There is established a Na-
17 tional Commission on Online Child Sexual Exploitation
18 Prevention.

19 (b) **PURPOSE.**—The purpose of the Commission is to
20 develop recommended best practices that providers of
21 interactive computer services may choose to implement to
22 prevent, reduce, and respond to the online sexual exploi-
23 tation of children, including the enticement, grooming, sex
24 trafficking, and sexual abuse of children and the prolifera-
25 tion of online child sexual abuse material.

26 (c) **MEMBERSHIP.**—

1 ~~(1) COMPOSITION.—~~

2 ~~(A) IN GENERAL.—~~The Commission shall
3 be composed of 19 members.

4 ~~(B) AGENCY HEADS.—~~The following Fed-
5 eral officials shall serve as members of the
6 Commission:

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

9 (ii) The Secretary of Homeland Secu-
10 rity or his or her representative.

11 (iii) The Chairman of the Federal
12 Trade Commission or his or her represent-
13 ative.

14 ~~(C) OTHER MEMBERS.—~~Of the remaining
15 16 members of the Commission—

16 (i) 4 shall be appointed by the major-
17 ity leader of the Senate, of whom—

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

21 ~~(II)~~ 1 shall have the qualifica-
22 tions required under paragraph
23 (2)(B);

1 (III) 1 shall have the qualifica-
2 tions required under clause (i) or (ii)
3 of paragraph (2)(C); and

4 (IV) 1 shall have the qualifica-
5 tions required under clause (i) or (ii)
6 of paragraph (2)(D);

7 (ii) 4 shall be appointed by the minor-
8 ity leader of the Senate, of whom—

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

12 (II) 1 shall have the qualifica-
13 tions required under paragraph
14 (2)(B);

15 (III) 1 shall have the qualifica-
16 tions required under clause (i) or (ii)
17 of paragraph (2)(C); and

18 (IV) 1 shall have the qualifica-
19 tions required under clause (i) or (ii)
20 of paragraph (2)(D);

21 (iii) 4 shall be appointed by the
22 Speaker of the House of Representatives;
23 of whom—

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

4 (II) 1 shall have the qualifica-
5 tions required under paragraph
6 (2)(B);

7 (III) 1 shall have the qualifica-
8 tions required under clause (i) or (ii)
9 of paragraph (2)(C); and

10 (IV) 1 shall have the qualifica-
11 tions required under clause (i) or (ii)
12 of paragraph (2)(D); and

13 (iv) 4 shall be appointed by the minor-
14 ity leader of the House of Representatives;
15 of whom—

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

19 (II) 1 shall have the qualifica-
20 tions required under paragraph
21 (2)(B);

22 (III) 1 shall have the qualifica-
23 tions required under clause (i) or (ii)
24 of paragraph (2)(C); and

1 (IV) 1 shall have the qualifica-
 2 tions required under clause (i) or (ii)
 3 of paragraph (2)(D).

4 (2) QUALIFICATIONS.—Of the 16 members of
 5 the Commission appointed under paragraph
 6 (1)(C)—

7 (A) 4 shall have current experience in in-
 8 vestigating online child sexual exploitation
 9 crimes; of whom—

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

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

14 (B) 4 shall be survivors of online child sex-
 15 ual exploitation, or have current experience in
 16 providing services for victims of online child
 17 sexual exploitation in a non-governmental ca-
 18 pacity;

19 (C)(i) 2 shall have current experience in
 20 matters related to constitutional law, consumer
 21 protection, or privacy; and

22 (ii) 2 shall have current experience in com-
 23 puter science or software engineering related to
 24 matters of cryptography, data security, or arti-

1 ficial intelligence in a non-governmental capac-
2 ity; and

3 ~~(D)~~ 4 shall be individuals who each cur-
4 rently work for an interactive computer service
5 that is unrelated to each other interactive com-
6 puter service represented under this subpara-
7 graph; representing diverse types of businesses
8 and areas of professional expertise; of whom—

9 (i) 2 shall have current experience in
10 addressing online child sexual exploitation
11 and promoting child safety at an inter-
12 active computer service with not less than
13 30,000,000 registered monthly users in the
14 United States; and

15 (ii) 2 shall have current experience in
16 addressing online child sexual exploitation
17 and promoting child safety at an inter-
18 active computer service with less than
19 10,000,000 registered monthly users in the
20 United States.

21 ~~(3)~~ DATE.—The initial appointments of mem-
22 bers to the Commission under paragraph ~~(1)~~(C)
23 shall be made not later than 90 days after the date
24 of enactment of this Act.

25 ~~(d)~~ PERIOD OF APPOINTMENT; VACANCIES.—

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

4 (2) VACANCIES.—

5 (A) EFFECT ON COMMISSION.—Any va-
6 caney in the Commission shall not affect the
7 powers of the Commission.

8 (B) FILLING OF VACANCIES.—A vacancy
9 in the Commission shall be filled in the same
10 manner as the original appointment under sub-
11 section (c)(1).

12 (c) INITIAL MEETING.—The Commission shall hold
13 the first meeting of the Commission not later than 60 days
14 after the date on which a majority of the members of the
15 Commission have been appointed.

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

19 (g) QUORUM.—A majority of the members of the
20 Commission shall constitute a quorum, but a lesser num-
21 ber of members may hold a meeting.

22 (h) MEETINGS.—The Commission shall meet at the
23 call of the Chairperson.

24 (i) AUTHORITY OF COMMISSION.—The Commission
25 may, for the purpose of carrying out this section and sec-

tion 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.

1 ~~(4) DURATION.—Section 14 of the Federal Advisory~~
 2 ~~Committee Act (5 U.S.C. App.) shall not apply to the~~
 3 ~~Commission.~~

4 **SEC. 4. DUTIES OF THE COMMISSION.**

5 ~~(a) RECOMMENDED BEST PRACTICES.—~~

6 ~~(1) INITIAL RECOMMENDATIONS.—~~

7 ~~(A) IN GENERAL.—Not later than 18~~
 8 ~~months after the date on which a majority of~~
 9 ~~the members of the Commission required to be~~
 10 ~~appointed under section 3(c)(1)(C) have been so~~
 11 ~~appointed, the Commission shall develop and~~
 12 ~~submit to the Attorney General recommended~~
 13 ~~best practices that providers of interactive com-~~
 14 ~~puter services may choose to engage in to pre-~~
 15 ~~vent, reduce, and respond to the online sexual~~
 16 ~~exploitation of children, including the entice-~~
 17 ~~ment, grooming, sex trafficking, and sexual~~
 18 ~~abuse of children and the proliferation of online~~
 19 ~~child sexual abuse material.~~

20 ~~(B) REQUIREMENTS.—~~

21 ~~(i) ALTERNATIVE BEST PRACTICES.—~~

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

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

4 (II) whether an interactive com-
 5 puter service—

6 (aa) is made available to the
 7 public;

8 (bb) is primarily responsible
 9 for the transmission and storage
 10 of information on behalf of other
 11 interactive computer services; or

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

17 (III) whether a type of product,
 18 business model, product design, or
 19 other factors related to the provision
 20 of an interactive computer service
 21 could make a product or service sus-
 22 ceptible to the use and facilitation of
 23 online child sexual exploitation.

24 (ii) SCOPE.—Notwithstanding para-
 25 graph (3), the alternatives described in

1 clause (i) of this subparagraph may ex-
 2 clude certain matters required to be ad-
 3 dressed under paragraph (3), as the Com-
 4 mission determines appropriate based on
 5 the nature of particular products or serv-
 6 ices or other factors relevant to the pur-
 7 poses of this Act.

8 (2) SUPPORT REQUIREMENT.—The Commission
 9 may only recommend the best practices under para-
 10 graph (1) if not fewer than 14 members of the Com-
 11 mission support the best practices.

12 (3) MATTERS ADDRESSED.—The matters ad-
 13 dressed by the recommended best practices devel-
 14 oped and submitted by the Commission under para-
 15 graph (1) shall include—

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

18 (B) coordinating with non-profit organiza-
 19 tions and other providers of interactive com-
 20 puter services to preserve, remove from view,
 21 and report child sexual exploitation;

22 (C) retaining child sexual exploitation con-
 23 tent and related user identification and location
 24 data;

1 (D) receiving and triaging reports of child
2 sexual exploitation by users of interactive com-
3 puter services, including self-reporting;

4 (E) implementing a standard rating and
5 categorization system to identify the type and
6 severity of child sexual abuse material;

7 (F) training and supporting content mod-
8 erators who review child sexual exploitation con-
9 tent for the purposes of preventing and dis-
10 rupting online child sexual exploitation;

11 (G) preparing and issuing transparency re-
12 ports, including disclosures in terms of service,
13 relating to identifying, categorizing, and report-
14 ing child sexual exploitation and efforts to pre-
15 vent and disrupt online child sexual exploi-
16 tation;

17 (H) coordinating with voluntary initiatives
18 offered among and to providers of interactive
19 computer services relating to identifying, cat-
20 egorizing, and reporting child sexual exploi-
21 tation;

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

24 (J) offering parental control products that
25 enable customers to limit the types of websites;

1 social media platforms, and internet content
2 that are accessible to children; and

3 ~~(K) contractual and operational practices~~
4 ~~to ensure third parties, contractors, and affili-~~
5 ~~ates comply with the best practices.~~

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

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

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

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

16 ~~(D) the current state of technology.~~

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

21 ~~(6) RESUBMISSION AFTER DENIAL OR FAILURE~~
22 ~~TO APPROVE.—~~

23 ~~(A) IN GENERAL.—~~If, with respect to rec-
24 ~~ommended best practices submitted under para-~~
25 ~~graph (1), the best practices are denied under~~

1 subsection (b)(1)(A) or a bill that contains the
 2 best practices is not enacted under the expedited procedures under subsection (c), the Commission may resubmit recommended best practices to the Attorney General until the applicable deadline.

7 ~~(B) APPLICABLE DEADLINE.—~~

8 (i) INITIAL BEST PRACTICES.—For
 9 purposes of subparagraph (A), in the case
 10 of resubmission of initial recommended
 11 best practices that were submitted under
 12 paragraph (1) before any bill that contains
 13 best practices has been enacted under the
 14 expedited procedures under subsection (c),
 15 the applicable deadline is the later of—

16 (I) the deadline described in
 17 paragraph (1)(A) of this subsection;
 18 or

19 (II) the date that is 60 days
 20 after, as applicable—

21 (aa) the date of the denial;

22 or

23 (bb) the last day on which a
 24 bill containing the best practices
 25 could have been enacted under

1 the expedited procedures under
2 subsection (e).

3 (ii) UPDATED BEST PRACTICES.—For
4 purposes of subparagraph (A), in the case
5 of resubmission of updated recommended
6 best practices that were submitted under
7 paragraph (1) in accordance with para-
8 graph (5), the applicable deadline is the
9 later of—

10 (I) the deadline described in
11 paragraph (5); or

12 (II) the date that is 60 days
13 after, as applicable—

14 (aa) the date of the denial;
15 or

16 (bb) the last day on which a
17 bill containing the best practices
18 could have been enacted under
19 the expedited procedures under
20 subsection (e).

21 (b) PUBLICATION OF BEST PRACTICES.—

22 (1) IN GENERAL.—Not later than 30 days after
23 the date on which the Commission submits rec-
24 ommended best practices under subsection (a), in-
25 cluding updated recommended best practices under

1 paragraph (5) of that subsection, the Attorney Gen-
 2 eral, upon agreement with the Secretary of Home-
 3 land Security and the Chairman of the Federal
 4 Trade Commission, shall—

5 (A) approve or deny the recommended best
 6 practices; and

7 (B) if approved—

8 (i) publish the recommended best
 9 practices on the website of the Department
 10 of Justice and in the Federal Register; and

11 (ii) submit the recommended best
 12 practices to Congress, including to—

13 (I) the Committee on the Judici-
 14 ary and the Committee on Commerce,
 15 Science, and Transportation of the
 16 Senate; and

17 (II) the Committee on the Judici-
 18 ary and the Committee on Energy and
 19 Commerce of the House of Represent-
 20 atives.

21 (2) CONSIDERATIONS.—In determining whether
 22 to approve or deny recommended best practices
 23 under paragraph (1), the Attorney General shall
 24 consider—

1 (A) the purpose of the Commission, as set
2 forth in section 3(b); and

3 (B) the relevant considerations set forth in
4 subsection (a)(4) of this section.

5 (3) WRITTEN FINDINGS.—Any denial of the
6 recommended best practices by the Attorney General
7 under paragraph (1) shall be accompanied by public
8 written findings setting forth the basis for, and rea-
9 sons supporting, the denial.

10 (c) CONGRESSIONAL APPROVAL.—

11 (1) DEFINITION.—In this subsection, the term
12 “covered bill” means a bill that—

13 (A) contains only the recommended best
14 practices that have been submitted to Congress
15 under subsection (b), in their entirety; and

16 (B) is introduced under paragraph (3) of
17 this subsection.

18 (2) RULES OF HOUSE OF REPRESENTATIVES
19 AND SENATE.—This subsection is enacted by Con-
20 gress—

21 (A) as an exercise of the rulemaking power
22 of the Senate and the House of Representa-
23 tives, respectively, and as such is deemed a part
24 of the rules of each House, respectively, but ap-
25 plicable only with respect to the procedure to be

1 followed in that House in the case of a covered
 2 bill, and it supersedes other rules only to the
 3 extent that it is inconsistent with such rules;
 4 and

5 (B) with full recognition of the constitu-
 6 tional right of either House to change the rules
 7 (so far as relating to the procedure of that
 8 House) in the same manner, and to the same
 9 extent, as in the case of any other rule of that
 10 House.

11 (3) INTRODUCTION.—

12 (A) IN GENERAL.—On the day on which
 13 recommended best practices are submitted to
 14 Congress under subsection (b), a covered bill
 15 containing those best practices shall be intro-
 16 duced—

17 (i) in the Senate by—

18 (I) the majority leader of the
 19 Senate, for himself or herself and the
 20 minority leader of the Senate; or

21 (II) Members of the Senate des-
 22 ignated by the majority leader and
 23 minority leader of the Senate; and

24 (ii) in the House of Representatives
 25 by—

1 (I) the majority leader of the
 2 House of Representatives, for himself
 3 or herself and the minority leader of
 4 the House of the House of Represent-
 5 atives; or

6 (II) Members of the House of
 7 Representatives designated by the ma-
 8 jority leader and minority leader of
 9 the House of the House of Represent-
 10 atives.

11 (B) NOT IN SESSION.—If either House is
 12 not in session on the day on which rec-
 13 ommended best practices are submitted to Con-
 14 gress under subsection (b), a covered bill con-
 15 taining the best practices shall be introduced in
 16 that House, as provided in subparagraph (A),
 17 on the first day thereafter on which that House
 18 is in session.

19 (C) REFERRAL.—A covered bill introduced
 20 under this paragraph shall be referred by the
 21 Presiding Officers of the respective Houses to
 22 the appropriate committee, or, in the case of a
 23 bill containing provisions within the jurisdiction
 24 of 2 or more committees, jointly to such com-

1 mittees for consideration of those provisions
2 within their respective jurisdictions.

3 ~~(4) FAST TRACK CONSIDERATION IN HOUSE OF~~
4 ~~REPRESENTATIVES.—~~

5 (A) REPORTING AND DISCHARGE.—Any
6 committee of the House of Representatives to
7 which a covered bill is referred shall report it
8 to the House not later than 45 calendar days
9 after the date of introduction under paragraph
10 ~~(3)~~. If a committee fails to report the covered
11 bill within that period, the committee shall be
12 discharged from further consideration of the
13 covered bill and the covered bill shall be re-
14 ferred to the appropriate calendar.

15 (B) PROCEEDING TO CONSIDERATION.—
16 After each committee authorized to consider a
17 covered bill reports it to the House or has been
18 discharged from its consideration, it shall be in
19 order, not later than 60 calendar days after the
20 date of introduction under paragraph ~~(3)~~, to
21 move to proceed to consider the covered bill in
22 the House. All points of order against the mo-
23 tion are waived. Such a motion shall not be in
24 order after the House has disposed of a motion
25 to proceed on the covered bill. The previous

1 question shall be considered as ordered on the
 2 motion to its adoption without intervening mo-
 3 tion. The motion shall not be debatable. A mo-
 4 tion to reconsider the vote by which the motion
 5 is disposed of shall not be in order.

6 (C) CONSIDERATION.—The covered bill
 7 shall be considered as read. All points of order
 8 against the covered bill and against its consid-
 9 eration are waived. The previous question shall
 10 be considered as ordered on the covered bill to
 11 its passage without intervening motion except
 12 10 hours of debate equally divided and con-
 13 trolled by the proponent and an opponent. A
 14 motion to reconsider the vote on passage of the
 15 covered bill shall not be in order.

16 (5) FAST TRACK CONSIDERATION IN SENATE.—

17 (A) REPORTING AND DISCHARGE.—Any
 18 committee of the Senate to which a covered bill
 19 is referred shall report it to the Senate not later
 20 than 45 calendar days after the date of intro-
 21 duction under paragraph (3). If a committee
 22 fails to report the covered bill within that pe-
 23 riod, the committee shall be discharged from
 24 further consideration of the covered bill and the

covered bill shall be referred to the appropriate calendar.

(B) ~~PLACEMENT ON CALENDAR.~~—After each committee authorized to consider a covered bill reports it to the Senate or has been discharged from its consideration, it shall be in order, not later than 60 calendar days after the date of introduction under paragraph (3) of this subsection, to place the covered bill on the calendar.

(C) ~~FLOOR CONSIDERATION.~~—

(i) ~~IN GENERAL.~~—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 60th day after the date on which the covered bill was introduced under paragraph (3) and ending on the 65th day after the date on which the covered bill was introduced under that paragraph (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the covered bill, and all points of order against the covered bill (and against consideration of the covered bill) are waived.

1 The motion to proceed is not debatable.
 2 The motion is not subject to a motion to
 3 postpone. A motion to reconsider the vote
 4 by which the motion is agreed to or dis-
 5 agreed to shall not be in order. If a motion
 6 to proceed to the consideration of the cov-
 7 ered bill is agreed to, the covered bill shall
 8 remain the unfinished business until dis-
 9 posed of.

10 (ii) DEBATE.—Debate on the covered
 11 bill, and on all debatable motions and ap-
 12 peals in connection therewith, shall be lim-
 13 ited to not more than 10 hours, which
 14 shall be divided equally between the major-
 15 ity and minority leaders or their designees.
 16 A motion further to limit debate is in order
 17 and not debatable. An amendment to, or a
 18 motion to postpone, or a motion to proceed
 19 to the consideration of other business, or a
 20 motion to recommit the covered bill is not
 21 in order.

22 (iii) VOTE ON PASSAGE.—The vote on
 23 passage shall occur immediately following
 24 the conclusion of the debate on a covered
 25 bill, and a single quorum call at the con-

1 clusion of the debate if requested in ac-
2 cordance with the rules of the Senate.

3 (iv) ~~RULINGS OF THE CHAIR ON PRO-~~
4 ~~CEDURE.~~—Appeals from the decisions of
5 the Chair relating to the application of the
6 rules of the Senate, as the case may be, to
7 the procedure relating to a covered bill
8 shall be decided without debate.

9 (6) ~~RULES RELATING TO SENATE AND HOUSE~~
10 ~~OF REPRESENTATIVES.—~~

11 (A) ~~COORDINATION WITH ACTION BY~~
12 ~~OTHER HOUSE.~~—If, before the passage by one
13 House of a covered bill of that House, that
14 House receives from the other House a covered
15 bill, then the following procedures shall apply:

16 (i) The covered bill of the other House
17 shall not be referred to a committee.

18 (ii) With respect to a covered bill of
19 the House receiving the bill—

20 (I) the procedure in that House
21 shall be the same as if no covered bill
22 had been received from the other
23 House; but

24 (II) the vote on passage shall be
25 on the covered bill of the other House.

1 ~~(B) TREATMENT OF COVERED BILL OF~~
 2 ~~OTHER HOUSE.—If one House fails to introduce~~
 3 ~~or consider a covered bill under this section, the~~
 4 ~~covered bill of the other House shall be entitled~~
 5 ~~to expedited floor procedures under this section.~~

6 ~~(C) TREATMENT OF COMPANION MEAS-~~
 7 ~~URES.—If, following passage of the covered bill~~
 8 ~~in the Senate, the Senate then receives the com-~~
 9 ~~panion measure from the House of Representa-~~
 10 ~~tives, the companion measure shall not be de-~~
 11 ~~batable.~~

12 ~~(d) CERTIFICATION OF BEST PRACTICES.—Not later~~
 13 ~~than 1 year after the date on which a bill that contains~~
 14 ~~recommended best practices submitted to Congress under~~
 15 ~~subsection (b) is enacted under the expedited procedures~~
 16 ~~under subsection (c), and annually thereafter, an officer~~
 17 ~~of a provider of an interactive computer service may sub-~~
 18 ~~mit a written certification to the Attorney General stating~~
 19 ~~that the provider—~~

20 ~~(1) has conducted a thorough review of the im-~~
 21 ~~plementation and operation of the best practices;~~
 22 ~~and~~

23 ~~(2) has a reasonable basis to conclude that re-~~
 24 ~~view does not reveal any material non-compliance~~
 25 ~~with the requirements of the best practices.~~

1 ~~(e) PUBLICATION OF CERTIFIED INTERACTIVE COM-~~
 2 ~~PUTER SERVICE PROVIDERS.~~—The Attorney General shall
 3 maintain on the website of the Department of Justice a
 4 public list of each provider of an interactive computer serv-
 5 ice for which a certification has been submitted under sub-
 6 section ~~(d)~~.

7 ~~(f) CIVIL INVESTIGATIVE DEMANDS.~~—

8 ~~(1) ISSUANCE; SERVICE; PRODUCTION OF MATE-~~
 9 ~~RIAL; TESTIMONY.~~—

10 ~~(A) IN GENERAL.~~—Whenever the Attorney
 11 General has reason to believe that an officer of
 12 a provider of an interactive computer service
 13 has filed a false certification under subsection
 14 ~~(d)~~, the Attorney General may issue in writing,
 15 and cause to be served upon the provider, a
 16 civil investigative demand requiring the provider
 17 to—

18 ~~(i) produce any documentary material~~
 19 ~~relevant to such certification for inspection~~
 20 ~~and copying;~~

21 ~~(ii) answer in writing written interrog-~~
 22 ~~atories with respect to such documentary~~
 23 ~~material;~~

24 ~~(iii) give oral testimony concerning~~
 25 ~~such documentary material; or~~

1 (iv) furnish any combination of such
2 material, answers, or testimony.

3 (B) SERVICE.—If a civil investigative de-
4 mand issued under subparagraph (A) is an ex-
5 press demand for any product of discovery, the
6 Attorney General shall—

7 (i) cause to be served, in any manner
8 authorized under section 3733 of title 31,
9 United States Code, a copy of the demand
10 upon the person from whom the discovery
11 was obtained; and

12 (ii) notify the person to whom the de-
13 mand is issued of the date on which the
14 copy was served.

15 (2) CONTENTS; RETURN DATE FOR DEMAND
16 FOR PRODUCT OF DISCOVERY.—

17 (A) IN GENERAL.—Each civil investigative
18 demand issued under paragraph (1) shall—

19 (i) state the nature of the Attorney
20 General's belief that a false certification
21 has been filed under subsection (d);

22 (ii) if the demand is for production of
23 documentary material—

24 (I) describe the class or classes of
25 documentary material to be produced

1 thereunder with such definiteness and
 2 certainty as to permit such material
 3 to be fairly identified;

4 (II) prescribe a return date or
 5 dates that will provide a reasonable
 6 period of time within which the mate-
 7 rial so demanded may be assembled
 8 and made available for inspection and
 9 copying; and

10 (III) identify the custodian to
 11 whom the material shall be made
 12 available;

13 (iii) if the demand is for answers to
 14 written interrogatories—

15 (I) propound with definiteness
 16 and certainty the written interroga-
 17 tories to be answered;

18 (II) prescribe a date or dates at
 19 which time answers to written inter-
 20 rogatories shall be submitted; and

21 (III) identify the custodian to
 22 whom the answers shall be submitted;
 23 and

24 (iv) if the demand is for the giving of
 25 oral testimony—

1 (I) prescribe a date, time, and
 2 place at which oral testimony shall be
 3 commenced; and

4 (II) identify—

5 (aa) an investigator who
 6 shall conduct the examination;
 7 and

8 (bb) the custodian to whom
 9 the transcript of the examination
 10 shall be submitted.

11 (B) RETURN DATE FOR PRODUCT OF DIS-
 12 COVERY.—Any civil investigative demand issued
 13 under paragraph (1) that is an express demand
 14 for any product of discovery shall not be re-
 15 turned or returnable until 20 days after a copy
 16 of the demand has been served upon the person
 17 from whom the discovery was obtained.

18 (3) APPLICABILITY OF OTHER PROVISIONS.—

19 (A) IN GENERAL.—Subject to subpara-
 20 graph (B), subsections (b) through (l) of sec-
 21 tion 3733 of title 31, United States Code, shall
 22 apply with respect to a civil investigative de-
 23 mand issued under paragraph (1) of this sub-
 24 section in the same manner as those sub-
 25 sections apply to a civil investigative demand

1 issued under subsection (a) of such section
2 ~~3733~~.

3 (B) FALSE CLAIMS REFERENCES.—For
4 purposes of subparagraph (A), a reference in
5 section ~~3733~~ of title 31, United States Code,
6 to—

7 (i) a violation of a false claims law
8 shall be deemed to be a reference to the fil-
9 ing of a false certification under subsection
10 (d) of this section;

11 (ii) a false claims law investigation
12 shall be deemed to be a reference to an in-
13 quiry into whether any person is or has
14 been engaged in filing a false certification
15 under subsection (d) of this section; and

16 (iii) a false claims law investigator
17 shall be deemed to be a reference to—

18 (I) any attorney or investigator
19 employed by the Department of Jus-
20 tice who is charged with the duty of
21 enforcing or carrying into effect this
22 section; or

23 (II) any officer or employee of
24 the United States acting under the di-
25 rection and supervision of an attorney

1 or investigator described in subclause
 2 (I) in connection with an inquiry into
 3 whether any person is or has been en-
 4 gaged in filing a false certification
 5 under subsection (d) of this section.

6 **SEC. 5. ENFORCEMENT.**

7 (a) OFFENSE.—It shall be unlawful for an officer of
 8 a provider of an interactive computer service to knowingly
 9 submit a written certification under section 4(d) that con-
 10 tains a false statement.

11 (b) CRIMINAL PENALTIES.—Any person who violates
 12 subsection (a) shall be fined in accordance with title 18,
 13 United States Code, imprisoned for not more than 2 years,
 14 or both.

15 **SEC. 6. EARNING IMMUNITY.**

16 (a) IN GENERAL.—Section 230(e) of the Commu-
 17 nications Act of 1934 (47 U.S.C. 230(e)) is amended by
 18 adding at the end the following:

19 “(6) NO EFFECT ON CHILD SEXUAL EXPLOI-
 20 TATION LAW.—

21 “(A) LIABILITY OF PROVIDERS OF INTER-
 22 ACTIVE COMPUTER SERVICE.—Nothing in this
 23 section (other than subsection (e)(2)(A)) shall
 24 be construed to impair or limit—

1 “(i) any claim in a civil action
2 brought against a provider of an inter-
3 active computer service under section 2255
4 of title 18, United States Code, if the con-
5 duct underlying the claim—

6 “(I) constitutes a violation of sec-
7 tion 2252 or section 2252A of that
8 title; or

9 “(II) is considered a violation of
10 section 2252 or section 2252A of that
11 title by operation of subsection (a)(2)
12 of such section 2255;

13 “(ii) any charge in a criminal prosecu-
14 tion brought against a provider of an inter-
15 active computer service under State law if
16 the conduct underlying the charge would
17 constitute a violation of section 2252 or
18 section 2252A of title 18, United States
19 Code; or

20 “(iii) any claim in a civil action
21 brought against a provider of an inter-
22 active computer service under State law if
23 the conduct underlying the claim—

1 “(I) would constitute a violation
2 of section 2252 or section 2252A of
3 title 18, United States Code; or

4 “(H) would be considered a viola-
5 tion of section 2252 or section 2252A
6 of title 18, United States Code; for
7 purposes of subsection (a)(1) of sec-
8 tion 2255 of that title; by operation of
9 subsection (a)(2) of such section
10 2255.

11 “(B) SAFE HARBOR.—Subparagraph (A)
12 shall not apply to a claim in a civil action or
13 charge in a State criminal prosecution brought
14 against a provider of an interactive computer
15 service if—

16 “(i) an officer of the provider has
17 elected to certify to the Attorney General
18 under section 4(d) of the Eliminating Abus-
19 sive and Rampant Neglect of Interactive
20 Technologies Act of 2020 that the provider
21 has implemented, and is in compliance
22 with, the child sexual exploitation preven-
23 tion best practices contained in a law en-
24 acted under the expedited procedures
25 under section 4(e) of such Act and such

certification was in force at the time of any alleged acts or omissions that are the subject of a claim in a civil action or charge in a State criminal prosecution brought against such provider; or

“(ii) the provider has implemented reasonable measures relating to the matters described in section 4(a)(3) of the Eliminating Abusive and Rampant Neglect of Interactive Technologies Act of 2020, subject to the exceptions authorized under section 4(a)(1)(B)(ii) of that Act, to prevent the use of the interactive computer service for the exploitation of minors.”.

(b) MENS REA FOR CIVIL SUITS.—Section 2255 of title 18, United States Code, is amended—

(1) by redesignating subsection (a) as paragraph (1) and adjusting the margin accordingly;

(2) by inserting before paragraph (1), as so designated, the following:

“(a) RIGHT OF ACTION.—”; and

(3) in subsection (a), as so designated, by adding at the end the following:

“(2) CIVIL REMEDY FOR CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL

EXPLOITATION OF MINORS.—Conduct by a provider of an interactive computer service (as defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230)) that would violate section 2252 or section 2252A if that section were applied by substituting ‘recklessly’ for ‘knowingly’ each place that term appears shall be considered a violation of section 2252 or section 2252A for purposes of paragraph (1) of this subsection.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect on the earlier of—

(A) the date that is 1 year after the date on which a bill that contains best practices submitted under section 4(b) is enacted under the expedited procedures under section 4(c); or

(B) the date that is 4 years after the date of enactment of this Act; and

(2) only apply to a claim in a civil action or charge in a criminal prosecution brought against a provider of an interactive computer service if the alleged acts or omissions occurred after the effective date described in paragraph (1).

1 **SEC. 7. USE OF TERM “CHILD SEXUAL ABUSE MATERIAL”.**

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

7 (b) AMENDMENTS.—

8 (1) TITLE 5, UNITED STATES CODE.—Chapter
9 65 of title 5, United States Code, is amended—

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

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

16 (2) HOMELAND SECURITY ACT OF 2002.—The
17 Homeland Security Act of 2002 (6 U.S.C. 101 et
18 seq.) is amended—

19 (A) in section 307(b)(3)(D) (6 U.S.C.
20 187(b)(3)(D)), by striking “child pornography”
21 and inserting “child sexual abuse material”;
22 and

23 (B) in section 890A (6 U.S.C. 473)—

24 (i) in subsection (b)(2)(A)(ii), by
25 striking “child pornography” and inserting
26 “child sexual abuse material”; and

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

4 (3) IMMIGRATION AND NATIONALITY ACT.—Sec-
 5 tion 101(a)(43)(I) of the Immigration and Nation-
 6 ality Act (8 U.S.C. 1101(a)(43)(I)) is amended by
 7 striking “child pornography” and inserting “child
 8 sexual abuse material”.

9 (4) SMALL BUSINESS JOBS ACT OF 2010.—Sec-
 10 tion 3011(e) of the Small Business Jobs Act of 2010
 11 (12 U.S.C. 5710(e)) is amended by striking “child
 12 pornography” and inserting “child sexual abuse ma-
 13 terial”.

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

19 (6) CAN-SPAM ACT OF 2003.—Section
 20 4(b)(2)(B) of the CAN-SPAM Act of 2003 (15
 21 U.S.C. 7703(b)(2)(B)) is amended by striking “child
 22 pornography” and inserting “child sexual abuse ma-
 23 terial”.

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

1 (A) in section 1956(c)(7)(D), by striking
 2 “child pornography” each place the term ap-
 3 pears and inserting “child sexual abuse mate-
 4 rial”;

5 (B) in chapter 110—

6 (i) in section 2251(c), by striking
 7 “child pornography” and inserting “child
 8 sexual abuse material”;

9 (ii) in section 2252(b)—

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

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

16 (iii) in section 2252A—

17 (I) in the section heading, by
 18 striking “**child pornography**”
 19 and inserting “**child sexual abuse**
 20 **material**”;

21 (II) in subsection (a)—

22 (aa) in paragraph (1), by
 23 striking “child pornography” and
 24 inserting “child sexual abuse ma-
 25 terial”;

- 1 (bb) in paragraph (2)—
2 (AA) in subparagraph
3 (A), by striking “child por-
4 nography” and inserting
5 “child sexual abuse mate-
6 rial”; and
7 (BB) in subparagraph
8 (B), by striking “child por-
9 nography” and inserting
10 “child sexual abuse mate-
11 rial”;
12 (cc) in paragraph (3), by
13 striking “child pornography” and
14 inserting “child sexual abuse ma-
15 terial”;
16 (dd) in paragraph (4)—
17 (AA) in subparagraph
18 (A), by striking “child por-
19 nography” and inserting
20 “child sexual abuse mate-
21 rial”; and
22 (BB) in subparagraph
23 (B), by striking “child por-
24 nography” and inserting

1 “child sexual abuse mate-
2 rial”;

3 (ee) in paragraph (5)—

4 (AA) in subparagraph
5 (A), by striking “an image
6 of child pornography” and
7 inserting “child sexual abuse
8 material”; and

9 (BB) in subparagraph
10 (B), by striking “an image
11 of child pornography” and
12 inserting “child sexual abuse
13 material”; and

14 (ff) in paragraph (7)—

15 (AA) by striking “child
16 pornography” and inserting
17 “child sexual abuse mate-
18 rial”; and

19 (BB) by striking the
20 period at the end and insert-
21 ing a comma;

22 (III) in subsection (b)—

23 (aa) in paragraph (1), by
24 striking “child pornography” and

1 inserting “child sexual abuse ma-
2 terial”; and

3 (bb) in paragraph (2), by
4 striking “child pornography”
5 each place the term appears and
6 inserting “child sexual abuse ma-
7 terial”; and

8 (IV) in subsection (c)—

9 (aa) in paragraph (1)(A), by
10 striking “child pornography” and
11 inserting “child sexual abuse ma-
12 terial”;

13 (bb) in paragraph (2), by
14 striking “child pornography” and
15 inserting “child sexual abuse ma-
16 terial”; and

17 (cc) in the undesignated
18 matter following paragraph (2),
19 by striking “child pornography”
20 and inserting “child sexual abuse
21 material”;

22 (V) in subsection (d)(1), by strik-
23 ing “child pornography” and inserting
24 “child sexual abuse material”; and

1 (VI) in subsection (c), by striking
 2 “child pornography” each place the
 3 term appears and inserting “child sexual
 4 abuse material”;
 5 (iv) in section 2256(8)—

6 (I) by striking “child pornog-
 7 raphy” and inserting “child sexual
 8 abuse material”; and

9 (II) by striking the period at the
 10 end and inserting a semicolon;
 11 (v) in section 2257A(h)—

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

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

18 (vi) in section 2258A—

19 (I) in subsection (a)(2)—

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

24 (bb) in subparagraph (B),
 25 by striking “child pornography”

1 and inserting “child sexual abuse
2 material”;

3 (II) in subsection (b)—

4 (aa) in paragraph (4)—

5 (AA) in the paragraph
6 heading, by striking “CHILD
7 PORNOGRAPHY” and insert-
8 ing “CHILD SEXUAL ABUSE
9 MATERIAL”; and

10 (BB) by striking “child
11 pornography” and inserting
12 “child sexual abuse mate-
13 rial”; and

14 (bb) in paragraph (5), by
15 striking “child pornography” and
16 inserting “child sexual abuse ma-
17 terial”; and

18 (III) in subsection (g)(2)(B), by
19 striking “child pornography” and in-
20 serting “child sexual abuse material”;
21 (vii) in section 2258C—

22 (I) in the section heading, by
23 striking “**child pornography**”
24 and inserting “**child sexual abuse**
25 **material**”;

1 (II) in subsection (a)—

2 (aa) in paragraph (2), by
3 striking “child pornography” and
4 inserting “child sexual abuse ma-
5 terial”; and

6 (bb) in paragraph (3), by
7 striking “child pornography” and
8 inserting “child sexual abuse ma-
9 terial”;

10 (III) in subsection (d), by strik-
11 ing “child pornography visual depic-
12 tion” and inserting “child sexual
13 abuse material visual depiction”; and

14 (IV) in subsection (e), by striking
15 “child pornography visual depiction”
16 and inserting “child sexual abuse ma-
17 terial visual depiction”;

18 (viii) in section 2259—

19 (I) in paragraph (b)(2)—

20 (aa) in the paragraph head-
21 ing, by striking “CHILD PORNOG-
22 RAPHY” and inserting “CHILD
23 SEXUAL ABUSE MATERIAL”;

24 (bb) in the matter preceding
25 subparagraph (A), by striking

1 “child pornography” and insert-
 2 ing “child sexual abuse mate-
 3 rial”; and

4 (cc) in subparagraph (A), by
 5 striking “child pornography” and
 6 inserting “child sexual abuse ma-
 7 terial”;

8 (II) in subsection (c)—

9 (aa) in paragraph (1)—

10 (AA) in the paragraph
 11 heading, by striking “CHILD
 12 PORNOGRAPHY” and insert-
 13 ing “CHILD SEXUAL ABUSE
 14 MATERIAL”; and

15 (BB) by striking “child
 16 pornography” each place the
 17 term appears and inserting
 18 “child sexual abuse mate-
 19 rial”;

20 (bb) in paragraph (2), in the
 21 matter preceding subparagraph
 22 (A), by striking “child pornog-
 23 raphy” each place the term ap-
 24 pears and inserting “child sexual
 25 abuse material”; and

1 (cc) in paragraph (3)—

2 (AA) in the paragraph
3 heading, by striking “CHILD
4 PORNOGRAPHY” and insert-
5 ing “CHILD SEXUAL ABUSE
6 MATERIAL”; and

7 (BB) by striking “child
8 pornography” and inserting
9 “child sexual abuse mate-
10 rial”; and

11 (III) in subsection (d)(1)—

12 (aa) in subparagraph (A)—

13 (AA) by striking “child
14 pornography” each place the
15 term appears and inserting
16 “child sexual abuse mate-
17 rial”; and

18 (BB) by striking “Child
19 Pornography” and inserting
20 “Child Sexual Abuse Mate-
21 rial”;

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

1 (cc) in subparagraph (C)—

2 (AA) by striking “child
3 pornography” and inserting
4 “child sexual abuse mate-
5 rial”; and

6 (BB) by striking “Child
7 Pornography” and inserting
8 “Child Sexual Abuse Mate-
9 rial”;

10 (ix) in section 2259A—

11 (I) in the section heading, by
12 striking “**child pornography**”
13 and inserting “**child sexual abuse**
14 **material**”;

15 (II) in subsection (a)—

16 (aa) in paragraph (2), by
17 striking “child pornography” and
18 inserting “child sexual abuse ma-
19 terial”; and

20 (bb) in paragraph (3), by
21 striking “child pornography” and
22 inserting “child sexual abuse ma-
23 terial”; and

24 (III) in subsection (d)(2)(B), by
25 striking “child pornography” and in-

1 serting “child sexual abuse material”;
 2 and
 3 ~~(x) in section 2259B—~~

4 (I) in the section heading, by
 5 striking “**Child pornography**”
 6 and inserting “**Child sexual**
 7 **abuse material**”;

8 (II) in subsection (a), by striking
 9 “Child Pornography” each place the
 10 term appears and inserting “Child
 11 Sexual Abuse Material”;

12 (III) in subsection (b), by strik-
 13 ing “Child Pornography” each place
 14 the term appears and inserting “Child
 15 Sexual Abuse Material”;

16 (IV) in subsection (c), by striking
 17 “Child Pornography” and inserting
 18 “Child Sexual Abuse Material”; and

19 (V) in subsection (d), by striking
 20 “Child Pornography” and inserting
 21 “Child Sexual Abuse Material”;

22 (C) in chapter 117—

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

1 (ii) in section 2427—

2 (I) in the section heading, by
3 striking “**child pornography**”
4 and inserting “**child sexual abuse**
5 **material**”; and

6 (II) by striking “child pornog-
7 raphy” and inserting “child sexual
8 abuse material”;

9 (D) in section 2516—

10 (i) in paragraph (1)(c), by striking
11 “child pornography” and inserting “child
12 sexual abuse material”; and

13 (ii) in paragraph (2), by striking
14 “child pornography” and inserting “child
15 sexual abuse material”;

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

19 (F) in section 3509—

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

23 (ii) in subsection (m)—

24 (I) in the subsection heading, by
25 striking “CHILD PORNOGRAPHY” and

1 inserting “CHILD SEXUAL ABUSE
2 MATERIAL”;

3 (II) in paragraph (1), by striking
4 “child pornography” and inserting
5 “constitutes a child sexual abuse ma-
6 terial”;

7 (III) in paragraph (2), by strik-
8 ing “child pornography” and inserting
9 “constitutes a child sexual abuse ma-
10 terial”; and

11 (IV) in paragraph (3), by strik-
12 ing “child pornography” each place
13 the term appears and inserting “child
14 sexual abuse material”; and

15 (G) in section 3632(d)(4)(D)(xlii), by
16 striking “child pornography” and inserting
17 “child sexual abuse material”.

18 (8) TARIFF ACT OF 1930.—Section
19 583(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C.
20 1583(a)(2)(B)) is amended by striking “child por-
21 nography” and inserting “child sexual abuse mate-
22 rial”.

23 (9) ELEMENTARY AND SECONDARY EDUCATION
24 ACT OF 1965.—Section 4121 of the Elementary and

Secondary Education Act of 1965 (20 U.S.C. 7131)
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 (c)(5)—

(i) in the paragraph heading, by strik-
ing “CHILD PORNOGRAPHY” and inserting
“CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography”
and inserting “child sexual abuse mate-
rial”.

(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”.

(11) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 3031(b)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10721(b)(3)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(12) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)) is amended—

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

1 (B) in clause (ii), by striking “child por-
 2 nography” and inserting “child sexual abuse
 3 material”.

4 (13) VICTIMS OF CRIME ACT OF 1984.—Section
 5 1402(d)(6)(A) of the Victims of Crime Act of 1984
 6 (34 U.S.C. 20101(d)(6)(A)) is amended by striking
 7 “Child Pornography” and inserting “Child Sexual
 8 Abuse Material”.

9 (14) VICTIMS OF CHILD ABUSE ACT OF 1990.—
 10 The Victims of Child Abuse Act of 1990 (34 U.S.C.
 11 20301 et seq.) is amended—

12 (A) in section 212(4) (34 U.S.C.
 13 20302(4)), by striking “child pornography” and
 14 inserting “child sexual abuse material”;

15 (B) in section 214(b) (34 U.S.C.
 16 20304(b))—

17 (i) in the subsection heading, by strik-
 18 ing “CHILD PORNOGRAPHY” and inserting
 19 “CHILD SEXUAL ABUSE MATERIAL”; and

20 (ii) by striking “child pornography”
 21 and inserting “child sexual abuse mate-
 22 rial”; and

23 (C) in section 226(e)(6) (34 U.S.C.
 24 20341(e)(6)), by striking “child pornography”
 25 and inserting “child sexual abuse material”.

1 ~~(15) SEX OFFENDER REGISTRATION AND NOTI-~~
 2 ~~FICATION ACT.—Section 111 of the Sex Offender~~
 3 ~~Registration and Notification Act (34 U.S.C. 20911)~~
 4 ~~is amended—~~

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

8 (B) in paragraph ~~(7)~~(G), by striking “child
 9 pornography” and inserting “child sexual abuse
 10 material”.

11 ~~(16) ADAM WALSH CHILD PROTECTION AND~~
 12 ~~SAFETY ACT OF 2006.—Section 143(b)(3) of the~~
 13 ~~Adam Walsh Child Protection and Safety Act of~~
 14 ~~2006 (34 U.S.C. 20942(b)(3)) is amended by strik-~~
 15 ~~ing “child pornography” and inserting “child sexual~~
 16 ~~abuse material”.~~

17 ~~(17) PROTECT OUR CHILDREN ACT OF 2008.—~~
 18 ~~Section 105(e)(1)(C) of the PROTECT Our Chil-~~
 19 ~~dren Act of 2008 (34 U.S.C. 21115(e)(1)(C)) is~~
 20 ~~amended by striking “child pornography” and in-~~
 21 ~~serting “child sexual abuse material”.~~

22 ~~(18) SOCIAL SECURITY ACT.—Section~~
 23 ~~471(a)(20)(A)(i) of the Social Security Act (42~~
 24 ~~U.S.C. 671(a)(20)(A)(i)) is amended by striking~~

1 “child pornography” and inserting “offenses involv-
 2 ing child sexual abuse material”.

3 ~~(19) PRIVACY PROTECTION ACT OF 1980.—~~See-
 4 tion 101 of the Privacy Protection Act of 1980 (42
 5 U.S.C. 2000aa) is amended—

6 (A) in subsection (a)(1), by striking “child
 7 pornography” and inserting “child sexual abuse
 8 material”; and

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

12 ~~(20) CHILD CARE AND DEVELOPMENT BLOCK~~
 13 ~~GRANT ACT OF 1990.—~~Section 658H(c)(1) of the
 14 Child Care and Development Block Grant Act of
 15 1990 (42 U.S.C. 9858f(c)(1)) is amended—

16 (A) in subparagraph (D)(iii), by striking
 17 “child pornography” and inserting “offenses re-
 18 lating to child sexual abuse material”; and

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

22 ~~(21) COMMUNICATIONS ACT OF 1934.—~~Title H
 23 of the Communications Act of 1934 (47 U.S.C. 201
 24 et seq.) is amended—

25 (A) in section 223 (47 U.S.C. 223)—

1 (i) in subsection (a)(1)—

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

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

12 (ii) in subsection (d)(1), in the undes-
13 ignated matter following subparagraph
14 (B), by striking “child pornography” and
15 inserting “that constitutes child sexual
16 abuse material”; and

17 (B) in section 254(h) (47 U.S.C.
18 254(h))—

19 (i) in paragraph (5)—

20 (I) in subparagraph (B)(i)(II), by
21 striking “child pornography” and in-
22 serting “child sexual abuse material”;
23 and

24 (II) in subparagraph (C)(i)(II),
25 by striking “child pornography” and

1 inserting “child sexual abuse mate-
2 rial”;

3 (ii) in paragraph (6)—

4 (I) in subparagraph (B)(i)(II), by
5 striking “child pornography” and in-
6 serting “child sexual abuse material”;
7 and

8 (II) in subparagraph (C)(i)(II)
9 by striking “child pornography” and
10 inserting “child sexual abuse mate-
11 rial”; and

12 (iii) in paragraph (7)(F)—

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

17 (II) by striking “child pornog-
18 raphy” and inserting “child sexual
19 abuse material”.

20 (c) TABLE OF SECTIONS AMENDMENTS.—

21 (1) CHAPTER 110 OF TITLE 18.—The table of
22 sections for chapter 110 of title 18, United States
23 Code, is amended—

24 (A) by striking the item relating to section
25 2252A and inserting the following:

~~“2252A. Certain activities relating to material constituting or containing child sexual abuse material.”;~~

1 ~~(B) by striking the item relating to section~~
 2 ~~2258C and inserting the following:~~

~~“2258C. Use to combat child sexual abuse material of technical elements relating to reports made to the CyberTipline.”;~~

3 ~~(C) by striking the item relating to section~~
 4 ~~2259A and inserting the following:~~

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

5 and

6 ~~(D) by striking the item relating to section~~
 7 ~~2259B and inserting the following:~~

~~“2259B. Child sexual abuse materials victims reserve.”.~~

8 ~~(2) CHAPTER 117 OF TITLE 18.—The table of~~
 9 ~~sections for chapter 117 of title 18, United States~~
 10 ~~Code, is amended by striking the item relating to~~
 11 ~~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.”.~~

12 **SEC. 8. MODERNIZING THE CYBERTIPLINE.**

13 Chapter 110 of title 18, United States Code, is
 14 amended—

15 (1) in section 2258A—

16 (A) in subsection (a)—

17 (i) in paragraph (1)(B)(ii), by insert-
 18 ing after “facts or circumstances” the fol-
 19 lowing: “, 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

1 reasonably practicable, include the electronic mail
 2 address, Internet Protocol address, uniform resource
 3 locator, or any other information which may identify
 4 or locate any involved minor, including self-reported
 5 identifying information.”; and

6 (iv) by adding at the end the fol-
 7 lowing:

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

14 (C) in subsection (d)(5)(B)—

15 (i) in clause (i), by striking “for-
 16 warded” and inserting “made available”;
 17 and

18 (ii) in clause (ii), by striking “for-
 19 warded” and inserting “made available”;

20 (2) in section 2258B(a)—

21 (A) by striking “arising from the perform-
 22 ance” and inserting the following: “, may not
 23 be brought in any Federal or State court if the
 24 claim or charge arises from—

25 “(1) the performance”;

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

4 (C) by adding at the end the following:

5 “(2) compliance with a search warrant, court
 6 order, or other legal process; or

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

11 “(A) improving or facilitating reporting
 12 under this section, section 2258A, or section
 13 2258C; or

14 “(B) stopping the online sexual exploi-
 15 tation of children.”; and

16 (3) in section 2258C—

17 (A) in the section heading, by striking
 18 “**the CyberTipline**” and inserting
 19 “**NCMEC**”;

20 (B) in subsection (a)—

21 (i) in paragraph (1)—

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

24 “(A) PROVISION TO PROVIDERS.—
 25 NCMEC”;

- 1 (H) in subparagraph (A), as so
 2 designated, by inserting “or submis-
 3 sion to the child victim identification
 4 program described in section
 5 404(b)(1)(K)(ii) of the Juvenile Jus-
 6 tice and Delinquency Prevention Act
 7 of 1974 (34 U.S.C.
 8 11293(b)(1)(K)(ii))” after
 9 “CyberTipline report”; and
- 10 (H) by adding at the end the
 11 following:
- 12 “(B) PROVISION TO NON-PROFIT ENTI-
 13 TIES.—NCMEC may provide hash values or
 14 similar technical identifiers associated with vis-
 15 ual depictions provided in a CyberTipline report
 16 or submission to the child victim identification
 17 program described in section 404(b)(1)(K)(ii)
 18 of the Juvenile Justice and Delinquency Pre-
 19 vention Act of 1974 (34 U.S.C.
 20 11293(b)(1)(K)(ii)) to a non-profit entity for
 21 the sole and exclusive purpose of preventing
 22 and curtailing the online sexual exploitation of
 23 children.”; and
- 24 (ii) in paragraph (2)—

1 (I) by inserting “(A)” after
2 “(1)”;

3 (II) by inserting “or submission
4 to the child victim identification pro-
5 gram described in section
6 404(b)(1)(K)(ii) of the Juvenile Jus-
7 tice and Delinquency Prevention Act
8 of 1974 (34 U.S.C.
9 11293(b)(1)(K)(ii))” after
10 “CyberTipline report”; and

11 (III) by adding at the end the
12 following: “The elements authorized
13 under paragraph (1)(B) shall be lim-
14 ited to hash values or similar tech-
15 nical identifiers associated with visual
16 depictions provided in a CyberTipline
17 report or submission to the child vic-
18 tim identification program described
19 in section 404(b)(1)(K)(ii) of the Ju-
20 venile Justice and Delinquency Pre-
21 vention Act of 1974 (34 U.S.C.
22 11293(b)(1)(K)(ii)).”; and

23 (C) in subsection (d), by inserting “or to
24 the child victim identification program de-
25 scribed in section 404(b)(1)(K)(ii) of the Juve-

1 nile Justice and Delinquency Prevention Act of
 2 1974 (34 U.S.C. 11293(b)(1)(K)(ii))” after
 3 “CyberTipline”.

4 **SEC. 9. RULE OF CONSTRUCTION.**

5 Nothing in this Act or the amendments made by this
 6 Act shall be construed to require a provider of an inter-
 7 active computer service to search, screen, or scan for in-
 8 stances of online child sexual exploitation.

9 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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

12 **SEC. 11. SEVERABILITY.**

13 If any provision of this Act or any amendment made
 14 by this Act, or any application of such provision or amend-
 15 ment to any person or circumstance, is held to be uncon-
 16 stitutional, the remainder of the provisions of this Act and
 17 the amendments made by this Act, and the application of
 18 the provision or amendment to any other person or cir-
 19 cumstance, shall not be affected.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Eliminating Abusive*
 22 *and Rampant Neglect of Interactive Technologies Act of*
 23 *2020” or the “EARN IT Act of 2020”.*

24 **SEC. 2. DEFINITIONS.**

25 *In this Act:*

1 (1) *COMMISSION.*—*The term “Commission”*
 2 *means the National Commission on Online Child Sex-*
 3 *ual Exploitation Prevention.*

4 (2) *INTERACTIVE COMPUTER SERVICE.*—*The*
 5 *term “interactive computer service” has the meaning*
 6 *given the term in section 230(f)(2) of the Communica-*
 7 *tions Act of 1934 (47 U.S.C. 230(f)(2)).*

8 **SEC. 3. NATIONAL COMMISSION ON ONLINE CHILD SEXUAL**
 9 **EXPLOITATION PREVENTION.**

10 (a) *ESTABLISHMENT.*—*There is established a National*
 11 *Commission on Online Child Sexual Exploitation Preven-*
 12 *tion.*

13 (b) *PURPOSE.*—*The purpose of the Commission is to*
 14 *develop recommended best practices that providers of inter-*
 15 *active computer services may choose to implement to pre-*
 16 *vent, reduce, and respond to the online sexual exploitation*
 17 *of children, including the enticement, grooming, sex traf-*
 18 *ficking, and sexual abuse of children and the proliferation*
 19 *of online child sexual abuse material.*

20 (c) *MEMBERSHIP.*—

21 (1) *COMPOSITION.*—

22 (A) *IN GENERAL.*—*The Commission shall be*
 23 *composed of 19 members.*

1 (B) *AGENCY HEADS.*—*The following Federal*
 2 *officials shall serve as members of the Commis-*
 3 *sion:*

4 (i) *The Attorney General or his or her*
 5 *representative.*

6 (ii) *The Secretary of Homeland Secu-*
 7 *rity or his or her representative.*

8 (iii) *The Chairman of the Federal*
 9 *Trade Commission or his or her representa-*
 10 *tive.*

11 (C) *OTHER MEMBERS.*—*Of the remaining*
 12 *16 members of the Commission—*

13 (i) *4 shall be appointed by the major-*
 14 *ity leader of the Senate, of whom—*

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

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

20 (III) *1 shall have the qualifica-*
 21 *tions required under clause (i) or (ii)*
 22 *of paragraph (2)(C); and*

23 (IV) *1 shall have the qualifica-*
 24 *tions required under clause (i) or (ii)*
 25 *of paragraph (2)(D);*

1 (ii) 4 shall be appointed by the minor-
2 ity leader of the Senate, of whom—

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

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

8 (III) 1 shall have the qualifica-
9 tions required under clause (i) or (ii)
10 of paragraph (2)(C); and

11 (IV) 1 shall have the qualifica-
12 tions required under clause (i) or (ii)
13 of paragraph (2)(D);

14 (iii) 4 shall be appointed by the Speak-
15 er of the House of Representatives, of
16 whom—

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

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

22 (III) 1 shall have the qualifica-
23 tions required under clause (i) or (ii)
24 of paragraph (2)(C); and

1 (IV) 1 shall have the qualifica-
 2 tions required under clause (i) or (ii)
 3 of paragraph (2)(D); and
 4 (iv) 4 shall be appointed by the minor-
 5 ity leader of the House of Representatives,
 6 of whom—

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

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

12 (III) 1 shall have the qualifica-
 13 tions required under clause (i) or (ii)
 14 of paragraph (2)(C); and

15 (IV) 1 shall have the qualifica-
 16 tions required under clause (i) or (ii)
 17 of paragraph (2)(D).

18 (2) QUALIFICATIONS.—Of the 16 members of the
 19 Commission appointed under paragraph (1)(C)—

20 (A) 4 shall have current experience in inves-
 21 tigating online child sexual exploitation crimes,
 22 of whom—

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

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

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

7 (C)(i) 2 shall have current experience in
8 matters related to consumer protection, civil lib-
9 erties, civil rights, or privacy; and

10 (ii) 2 shall have current experience in com-
11 puter science or software engineering related to
12 matters of cryptography, data security, or artifi-
13 cial intelligence in a non-governmental capacity;
14 and

15 (D) 4 shall be individuals who each cur-
16 rently work for an interactive computer service
17 that is unrelated to each other interactive com-
18 puter service represented under this subpara-
19 graph, representing diverse types of businesses
20 and areas of professional expertise, of whom—

21 (i) 2 shall have current experience in
22 addressing online child sexual exploitation
23 and promoting child safety at an inter-
24 active computer service with not less than

1 30,000,000 monthly users in the United
2 States; and

3 (ii) 2 shall have current experience in
4 addressing online child sexual exploitation
5 and promoting child safety at an inter-
6 active computer service with less than
7 10,000,000 monthly users in the United
8 States.

9 (3) *DATE.*—The initial appointments of mem-
10 bers to the Commission under paragraph (1)(C) shall
11 be made not later than 90 days after the date of en-
12 actment of this Act.

13 (d) *PERIOD OF APPOINTMENT; VACANCIES.*—

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

16 (2) *VACANCIES.*—

17 (A) *EFFECT ON COMMISSION.*—Any vacancy
18 in the Commission shall not affect the powers of
19 the Commission.

20 (B) *FILLING OF VACANCIES.*—A vacancy in
21 the Commission shall be filled in the same man-
22 ner as the original appointment under subsection
23 (c)(1).

24 (e) *INITIAL MEETING.*—The Commission shall hold the
25 first meeting of the Commission not later than 60 days after

1 *the date on which a majority of the members of the Commis-*
 2 *sion have been appointed.*

3 (f) *CHAIRPERSON.—The Attorney General or his or her*
 4 *representative shall serve as the Chairperson of the Commis-*
 5 *sion.*

6 (g) *QUORUM.—A majority of the members of the Com-*
 7 *mission shall constitute a quorum, but a lesser number of*
 8 *members may hold a meeting.*

9 (h) *MEETINGS.—The Commission shall meet at the*
 10 *call of the Chairperson.*

11 (i) *AUTHORITY OF COMMISSION.—The Commission*
 12 *may, for the purpose of carrying out this section and section*
 13 *4, hold such hearings, sit and act at such times and places,*
 14 *take such testimony, and receive such evidence as the Com-*
 15 *mission considers appropriate.*

16 (j) *INFORMATION FROM FEDERAL AGENCIES.—*

17 (1) *IN GENERAL.—The Commission may secure*
 18 *directly from any Federal department or agency such*
 19 *information as the Commission considers necessary to*
 20 *carry out this section and section 4.*

21 (2) *FURNISHING INFORMATION.—Upon request of*
 22 *the Chairperson of the Commission for information*
 23 *under paragraph (1), the head of a Federal depart-*
 24 *ment or agency shall furnish the information to the*
 25 *Commission, unless the information is subject to an*

1 *active investigation or otherwise privileged or con-*
 2 *fidential.*

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

10 (l) *DURATION.*—*Section 14 of the Federal Advisory*
 11 *Committee Act (5 U.S.C. App.) shall not apply to the Com-*
 12 *mission.*

13 **SEC. 4. DUTIES OF THE COMMISSION.**

14 (a) *RECOMMENDED BEST PRACTICES.*—

15 (1) *INITIAL RECOMMENDATIONS.*—

16 (A) *IN GENERAL.*—*Not later than 18*
 17 *months after the date on which a majority of the*
 18 *members of the Commission required to be ap-*
 19 *pointed under section 3(c)(1)(C) have been so ap-*
 20 *pointed, the Commission shall develop and sub-*
 21 *mit to the Attorney General recommended best*
 22 *practices that providers of interactive computer*
 23 *services may choose to engage in to prevent, re-*
 24 *duce, and respond to the online sexual exploi-*
 25 *tation 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

1 *internet endpoints on behalf of a*
2 *consumer; and*

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

10 *(ii) SCOPE.—Notwithstanding para-*
11 *graph (3), the alternatives described in*
12 *clause (i) of this subparagraph may exclude*
13 *certain matters required to be addressed*
14 *under paragraph (3), as the Commission*
15 *determines appropriate based on the nature*
16 *of particular products or services, the fac-*
17 *tors described in such clause (i), or other*
18 *factors relevant to the purposes of this Act.*

19 *(2) SUPPORT REQUIREMENT.—The Commission*
20 *may only recommend the best practices under para-*
21 *graph (1) if not fewer than 14 members of the Com-*
22 *mission support the best practices.*

23 *(3) MATTERS ADDRESSED.—The matters ad-*
24 *dressed by the recommended best practices developed*

1 *and submitted by the Commission under paragraph*
2 *(1) shall include—*

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

5 *(B) coordinating with non-profit organiza-*
6 *tions and other providers of interactive computer*
7 *services to preserve, remove from view, and re-*
8 *port online child sexual exploitation;*

9 *(C) retaining child sexual exploitation con-*
10 *tent and related user identification and location*
11 *data;*

12 *(D) receiving and triaging reports of online*
13 *child sexual exploitation by users of interactive*
14 *computer services, including self-reporting;*

15 *(E) implementing a standard rating and*
16 *categorization system to identify the type and se-*
17 *verity of child sexual abuse material;*

18 *(F) training and supporting content mod-*
19 *erators who review child sexual exploitation con-*
20 *tent for the purposes of preventing and dis-*
21 *rupting online child sexual exploitation;*

22 *(G) preparing and issuing transparency re-*
23 *ports, including disclosures in terms of service,*
24 *relating to identifying, categorizing, and report-*
25 *ing online child sexual exploitation and efforts to*

1 *prevent and disrupt online child sexual exploi-*
 2 *tation;*

3 *(H) coordinating with voluntary initiatives*
 4 *offered among and to providers of interactive*
 5 *computer services relating to identifying, catego-*
 6 *rizing, and reporting online child sexual exploi-*
 7 *tation;*

8 *(I) employing age rating and age gating*
 9 *systems to reduce online child sexual exploi-*
 10 *tation;*

11 *(J) offering parental control products that*
 12 *enable customers to limit the types of websites,*
 13 *social media platforms, and internet content that*
 14 *are accessible to children; and*

15 *(K) contractual and operational practices to*
 16 *ensure third parties, contractors, and affiliates*
 17 *comply with the best practices.*

18 *(4) RELEVANT CONSIDERATIONS.—In developing*
 19 *best practices under paragraph (1), the Commission*
 20 *shall consider—*

21 *(A) the cost and technical limitations of im-*
 22 *plementing the best practices;*

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

1 (C) *the impact on the ability of law enforce-*
 2 *ment agencies to investigate and prosecute child*
 3 *sexual exploitation and rescue victims; and*

4 (D) *the current state of technology.*

5 (5) *PERIODIC UPDATES.*—*Not less frequently*
 6 *than once every 5 years, the Commission shall update*
 7 *and resubmit to the Attorney General recommended*
 8 *best practices under paragraph (1).*

9 (b) *PUBLICATION OF BEST PRACTICES.*—*Not later*
 10 *than 30 days after the date on which the Commission sub-*
 11 *mits recommended best practices under subsection (a), in-*
 12 *cluding updated recommended best practices under para-*
 13 *graph (5) of that subsection, the Attorney General shall pub-*
 14 *lish the recommended best practices on the website of the*
 15 *Department of Justice and in the Federal Register.*

16 **SEC. 5. PROTECTING VICTIMS OF ONLINE CHILD SEXUAL**
 17 **ABUSE.**

18 *Section 230(e) of the Communications Act of 1934 (47*
 19 *U.S.C. 230(e)) is amended by adding at the end the fol-*
 20 *lowing:*

21 “(6) *NO EFFECT ON CHILD SEXUAL EXPLOI-*
 22 *TATION LAW.*—*Nothing in this section (other than*
 23 *subsection (c)(2)(A)) shall be construed to impair or*
 24 *limit—*

1 “(A) any claim in a civil action brought
2 against a provider of an interactive computer
3 service under section 2255 of title 18, United
4 States Code, if the conduct underlying the claim
5 constitutes a violation of section 2252 or section
6 2252A of that title;

7 “(B) any charge in a criminal prosecution
8 brought against a provider of an interactive
9 computer service under State law regarding the
10 advertisement, promotion, presentation, distribu-
11 tion, or solicitation of child sexual abuse mate-
12 rial, as defined in section 2256(8) of title 18,
13 United States Code; or

14 “(C) any claim in a civil action brought
15 against a provider of an interactive computer
16 service under State law regarding the advertise-
17 ment, promotion, presentation, distribution, or
18 solicitation of child sexual abuse material, as de-
19 fined in section 2256(8) of title 18, United
20 States Code.

21 “(7) CYBERSECURITY PROTECTIONS DO NOT GIVE
22 RISE TO LIABILITY.—Notwithstanding paragraph (6),
23 a provider of an interactive computer service shall
24 not be deemed to be in violation of section 2252 or
25 2252A of title 18, United States Code, for the pur-

1 poses of subparagraph (A) of such paragraph (6), and
 2 shall not otherwise be subject to any charge in a
 3 criminal prosecution under State law under subpara-
 4 graph (B) of such paragraph (6), or any claim in a
 5 civil action under State law under subparagraph (C)
 6 of such paragraph (6), because the provider—

7 “(A) utilizes full end-to-end encrypted mes-
 8 saging services, device encryption, or other
 9 encryption services;

10 “(B) does not possess the information nec-
 11 essary to decrypt a communication; or

12 “(C) fails to take an action that would oth-
 13 erwise undermine the ability of the provider to
 14 offer full end-to-end encrypted messaging serv-
 15 ices, device encryption, or other encryption serv-
 16 ices.”.

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

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

23 (b) *AMENDMENTS.*—

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

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

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

7 (2) *HOMELAND SECURITY ACT OF 2002.*—*The*
 8 *Homeland Security Act of 2002 (6 U.S.C. 101 et seq.)*
 9 *is amended—*

10 (A) in section 307(b)(3)(D) (6 U.S.C.
 11 187(b)(3)(D)), by striking “child pornography”
 12 and inserting “child sexual abuse material”; and

13 (B) in section 890A (6 U.S.C. 473)—

14 (i) in subsection (b)(2)(A)(ii), by strik-
 15 ing “child pornography” and inserting
 16 “child sexual abuse material”; and

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

20 (3) *IMMIGRATION AND NATIONALITY ACT.*—*Sec-*
 21 *tion 101(a)(43)(I) of the Immigration and Nation-*
 22 *ality Act (8 U.S.C. 1101(a)(43)(I)) is amended by*
 23 *striking “child pornography” and inserting “child*
 24 *sexual abuse material”.*

1 (4) *SMALL BUSINESS JOBS ACT OF 2010*.—Section
 2 3011(c) of the *Small Business Jobs Act of 2010* (12
 3 U.S.C. 5710(c)) is amended by striking “child por-
 4 nography” and inserting “child sexual abuse mate-
 5 rial”.

6 (5) *BROADBAND DATA IMPROVEMENT ACT*.—Sec-
 7 tion 214(a)(2) of the *Broadband Data Improvement*
 8 *Act* (15 U.S.C. 6554(a)(2)) is amended by striking
 9 “child pornography” and inserting “child sexual
 10 abuse material”.

11 (6) *CAN-SPAM ACT OF 2003*.—Section
 12 4(b)(2)(B) of the *CAN-SPAM Act of 2003* (15 U.S.C.
 13 7703(b)(2)(B)) is amended by striking “child pornog-
 14 raphy” and inserting “child sexual abuse material”.

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

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

20 (B) in chapter 110—

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

24 (ii) in section 2252(b)—

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

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

7 (iii) in section 2252A—

8 (I) in the section heading, by
9 striking “**child pornography**” and
10 inserting “**child sexual abuse**
11 **material**”;

12 (II) in subsection (a)—

13 (aa) in paragraph (1), by
14 striking “child pornography” and
15 inserting “child sexual abuse ma-
16 terial”;

17 (bb) in paragraph (2)—

18 (AA) in subparagraph
19 (A), by striking “child por-
20 nography” and inserting
21 “child sexual abuse mate-
22 rial”; and

23 (BB) in subparagraph
24 (B), by striking “child por-
25 nography” and inserting

1 *“child sexual abuse mate-*
 2 *rial”;*

3 *(cc) in paragraph (3), by*
 4 *striking “child pornography” and*
 5 *inserting “child sexual abuse ma-*
 6 *terial”;*

7 *(dd) in paragraph (4)—*

8 *(AA) in subparagraph*
 9 *(A), by striking “child por-*
 10 *nography” and inserting*
 11 *“child sexual abuse mate-*
 12 *rial”; and*

13 *(BB) in subparagraph*
 14 *(B), by striking “child por-*
 15 *nography” and inserting*
 16 *“child sexual abuse mate-*
 17 *rial”;*

18 *(ee) in paragraph (5)—*

19 *(AA) in subparagraph*
 20 *(A), by striking “an image of*
 21 *child pornography” and in-*
 22 *serting “child sexual abuse*
 23 *material”; and*

24 *(BB) in subparagraph*
 25 *(B), by striking “an image of*

1 *child pornography” and in-*
 2 *serting “child sexual abuse*
 3 *material”; and*

4 *(ff) in paragraph (7)—*

5 *(AA) by striking “child*
 6 *pornography” and inserting*
 7 *“child sexual abuse mate-*
 8 *rial”; and*

9 *(BB) by striking the pe-*
 10 *riod at the end and inserting*
 11 *a comma;*

12 *(III) in subsection (b)—*

13 *(aa) in paragraph (1), by*
 14 *striking “child pornography” and*
 15 *inserting “child sexual abuse ma-*
 16 *terial”; and*

17 *(bb) in paragraph (2), by*
 18 *striking “child pornography” each*
 19 *place the term appears and insert-*
 20 *ing “child sexual abuse material”;*
 21 *and*

22 *(IV) in subsection (c)—*

23 *(aa) in paragraph (1)(A), by*
 24 *striking “child pornography” and*

1 *inserting “child sexual abuse ma-*
 2 *terial”;*

3 *(bb) in paragraph (2), by*
 4 *striking “child pornography” and*
 5 *inserting “child sexual abuse ma-*
 6 *terial”; and*

7 *(cc) in the undesignated mat-*
 8 *ter following paragraph (2), by*
 9 *striking “child pornography” and*
 10 *inserting “child sexual abuse ma-*
 11 *terial”;*

12 *(V) in subsection (d)(1), by strik-*
 13 *ing “child pornography” and inserting*
 14 *“child sexual abuse material”; and*

15 *(VI) in subsection (e), by striking*
 16 *“child pornography” each place the*
 17 *term appears and inserting “child sex-*
 18 *ual abuse material”;*

19 *(iv) in section 2256(8)—*

20 *(I) by striking “child pornog-*
 21 *raphy” and inserting “child sexual*
 22 *abuse material”; and*

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

25 *(v) in section 2257A(h)—*

1 (I) in paragraph (1)(A)(iii), by
 2 striking “child pornography” and in-
 3 serting “child sexual abuse material”;
 4 and

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

8 (vi) in section 2258A—

9 (I) in subsection (a)(2)—

10 (aa) in subparagraph (A), by
 11 striking “child pornography” and
 12 inserting “child sexual abuse ma-
 13 terial”; and

14 (bb) in subparagraph (B), by
 15 striking “child pornography” and
 16 inserting “child sexual abuse ma-
 17 terial”;

18 (II) in subsection (b)—

19 (aa) in paragraph (4)—

20 (AA) in the paragraph
 21 heading, by striking “CHILD
 22 PORNOGRAPHY” and insert-
 23 ing “CHILD SEXUAL ABUSE
 24 MATERIAL”; and

1 *(BB) by striking “child*
 2 *pornography” and inserting*
 3 *“child sexual abuse mate-*
 4 *rial”; and*

5 *(bb) in paragraph (5), by*
 6 *striking “child pornography” and*
 7 *inserting “child sexual abuse ma-*
 8 *terial”; and*

9 *(III) in subsection (g)(2)(B), by*
 10 *striking “child pornography” and in-*
 11 *serting “child sexual abuse material”;*
 12 *(vii) in section 2258C—*

13 *(I) in the section heading, by*
 14 *striking “**child pornography**” and*
 15 *inserting “**child sexual abuse***
 16 ***material**”;*

17 *(II) in subsection (a)—*

18 *(aa) in paragraph (2), by*
 19 *striking “child pornography” and*
 20 *inserting “child sexual abuse ma-*
 21 *terial”; and*

22 *(bb) in paragraph (3), by*
 23 *striking “child pornography” and*
 24 *inserting “child sexual abuse ma-*
 25 *terial”;*

1 (III) in subsection (d), by striking
 2 “child pornography visual depiction”
 3 and inserting “child sexual abuse ma-
 4 terial visual depiction”; and

5 (IV) in subsection (e), by striking
 6 “child pornography visual depiction”
 7 and inserting “child sexual abuse ma-
 8 terial visual depiction”;

9 (viii) in section 2259—

10 (I) in paragraph (b)(2)—

11 (aa) in the paragraph head-
 12 ing, by striking “CHILD PORNOG-
 13 RAPHY” and inserting “CHILD
 14 SEXUAL ABUSE MATERIAL”;

15 (bb) in the matter preceding
 16 subparagraph (A), by striking
 17 “child pornography” and insert-
 18 ing “child sexual abuse material”;
 19 and

20 (cc) in subparagraph (A), by
 21 striking “child pornography” and
 22 inserting “child sexual abuse ma-
 23 terial”;

24 (II) in subsection (c)—

25 (aa) in paragraph (1)—

1 (AA) in the paragraph
 2 heading, by striking “CHILD
 3 PORNOGRAPHY” and insert-
 4 ing “CHILD SEXUAL ABUSE
 5 MATERIAL”; and

6 (BB) by striking “child
 7 pornography” each place the
 8 term appears and inserting
 9 “child sexual abuse mate-
 10 rial”;

11 (bb) in paragraph (2), in the
 12 matter preceding subparagraph
 13 (A), by striking “child pornog-
 14 raphy” each place the term ap-
 15 pears and inserting “child sexual
 16 abuse material”; and

17 (cc) in paragraph (3)—

18 (AA) in the paragraph
 19 heading, by striking “CHILD
 20 PORNOGRAPHY” and insert-
 21 ing “CHILD SEXUAL ABUSE
 22 MATERIAL”; and

23 (BB) by striking “child
 24 pornography” and inserting

1 *“child sexual abuse mate-*
 2 *rial”*; and

3 (III) in subsection (d)(1)—

4 (aa) in subparagraph (A)—

5 (AA) by striking *“child*
 6 *pornography”* each place the
 7 term appears and inserting
 8 *“child sexual abuse mate-*
 9 *rial”*; and

10 (BB) by striking *“Child*
 11 *Pornography”* and inserting
 12 *“Child Sexual Abuse Mate-*
 13 *rial”*;

14 (bb) in subparagraph (B), by
 15 striking *“child pornography”* and
 16 inserting *“child sexual abuse ma-*
 17 *terial”*; and

18 (cc) in subparagraph (C)—

19 (AA) by striking *“child*
 20 *pornography”* and inserting
 21 *“child sexual abuse mate-*
 22 *rial”*; and

23 (BB) by striking *“Child*
 24 *Pornography”* and inserting

1 “Child Sexual Abuse Mate-
2 rial”;

3 *(ix) in section 2259A—*

4 *(I) in the section heading, by*
5 *striking “**child pornography**” and*
6 *inserting “**child sexual abuse***
7 ***material**”;*

8 *(II) in subsection (a)—*

9 *(aa) in paragraph (2), by*
10 *striking “child pornography” and*
11 *inserting “child sexual abuse ma-*
12 *terial”;* and

13 *(bb) in paragraph (3), by*
14 *striking “child pornography” and*
15 *inserting “child sexual abuse ma-*
16 *terial”;* and

17 *(III) in subsection (d)(2)(B), by*
18 *striking “child pornography” and in-*
19 *serting “child sexual abuse material”;*
20 *and*

21 *(x) in section 2259B—*

22 *(I) in the section heading, by*
23 *striking “**Child pornography**”*
24 *and inserting “**Child sexual***
25 ***abuse material**”;*

1 (II) in subsection (a), by striking
 2 “Child Pornography” each place the
 3 term appears and inserting “Child
 4 Sexual Abuse Material”;

5 (III) in subsection (b), by striking
 6 “Child Pornography” each place the
 7 term appears and inserting “Child
 8 Sexual Abuse Material”;

9 (IV) in subsection (c), by striking
 10 “Child Pornography” and inserting
 11 “Child Sexual Abuse Material”; and

12 (V) in subsection (d), by striking
 13 “Child Pornography” and inserting
 14 “Child Sexual Abuse Material”;

15 (C) in chapter 117—

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

19 (ii) in section 2427—

20 (I) in the section heading, by
 21 striking “**child pornography**” and
 22 inserting “**child sexual abuse**
 23 **material**”; and

1 (II) by striking “child pornog-
2 raphy” and inserting “child sexual
3 abuse material”;

4 (D) in section 2516—

5 (i) in paragraph (1)(c), by striking
6 “child pornography” and inserting “child
7 sexual abuse material”; and

8 (ii) in paragraph (2), by striking
9 “child pornography” and inserting “child
10 sexual abuse material”;

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

14 (F) in section 3509—

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

18 (ii) in subsection (m)—

19 (I) in the subsection heading, by
20 striking “CHILD PORNOGRAPHY” and
21 inserting “CHILD SEXUAL ABUSE MA-
22 TERIAL”;

23 (II) in paragraph (1), by striking
24 “child pornography” and inserting

1 “constitutes a child sexual abuse mate-
2 rial”;

3 (III) in paragraph (2), by strik-
4 ing “child pornography” and inserting
5 “constitutes a child sexual abuse mate-
6 rial”; and

7 (IV) in paragraph (3), by striking
8 “child pornography” each place the
9 term appears and inserting “child sex-
10 ual abuse material”; and

11 (G) in section 3632(d)(4)(D)(xlii), by strik-
12 ing “child pornography” and inserting “child
13 sexual abuse material”.

14 (8) *TARIFF ACT OF 1930*.—Section 583(a)(2)(B)
15 of the *Tariff Act of 1930* (19 U.S.C. 1583(a)(2)(B))
16 is amended by striking “child pornography” and in-
17 serting “child sexual abuse material”.

18 (9) *ELEMENTARY AND SECONDARY EDUCATION*
19 *ACT OF 1965*.—Section 4121 of the *Elementary and*
20 *Secondary Education Act of 1965* (20 U.S.C. 7131)
21 is amended—

22 (A) in subsection (a)—

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

(ii) in paragraph (2)(A)(ii), by striking “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

1 (ii) by striking “child pornography”
 2 and inserting “child sexual abuse mate-
 3 rial”.

4 (11) OMNIBUS CRIME CONTROL AND SAFE
 5 STREETS ACT OF 1968.—Section 3031(b)(3) of title I
 6 of the Omnibus Crime Control and Safe Streets Act
 7 of 1968 (34 U.S.C. 10721(b)(3)) is amended by strik-
 8 ing “child pornography” and inserting “child sexual
 9 abuse material”.

10 (12) JUVENILE JUSTICE AND DELINQUENCY PRE-
 11 VENTION ACT OF 1974.—Section 404(b)(1)(K) of the
 12 Juvenile Justice and Delinquency Prevention Act of
 13 1974 (34 U.S.C. 11293(b)(1)(K)) is amended—

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

17 (B) in clause (ii), by striking “child por-
 18 nography” and inserting “child sexual abuse
 19 material”.

20 (13) VICTIMS OF CRIME ACT OF 1984.—Section
 21 1402(d)(6)(A) of the Victims of Crime Act of 1984 (34
 22 U.S.C. 20101(d)(6)(A)) is amended by striking “Child
 23 Pornography” and inserting “Child Sexual Abuse
 24 Material”.

1 (14) *VICTIMS OF CHILD ABUSE ACT OF 1990.*—
 2 *The Victims of Child Abuse Act of 1990 (34 U.S.C.*
 3 *20301 et seq.) is amended—*

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

7 (B) *in section 214(b) (34 U.S.C.*
 8 *20304(b))—*

9 (i) *in the subsection heading, by strik-*
 10 *ing “CHILD PORNOGRAPHY” and inserting*
 11 *“CHILD SEXUAL ABUSE MATERIAL”; and*

12 (ii) *by striking “child pornography”*
 13 *and inserting “child sexual abuse mate-*
 14 *rial”; and*

15 (C) *in section 226(c)(6) (34 U.S.C.*
 16 *20341(c)(6)), by striking “child pornography”*
 17 *and inserting “child sexual abuse material”.*

18 (15) *SEX OFFENDER REGISTRATION AND NOTIFI-*
 19 *CATION ACT.—Section 111 of the Sex Offender Reg-*
 20 *istration and Notification Act (34 U.S.C. 20911) is*
 21 *amended—*

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

1 (B) in paragraph (7)(G), by striking “child
2 pornography” and inserting “child sexual abuse
3 material”.

4 (16) ADAM WALSH CHILD PROTECTION AND
5 SAFETY ACT OF 2006.—Section 143(b)(3) of the Adam
6 Walsh Child Protection and Safety Act of 2006 (34
7 U.S.C. 20942(b)(3)) is amended by striking “child
8 pornography” and inserting “child sexual abuse ma-
9 terial”.

10 (17) PROTECT OUR CHILDREN ACT OF 2008.—
11 Section 105(e)(1)(C) of the PROTECT Our Children
12 Act of 2008 (34 U.S.C. 21115(e)(1)(C)) is amended by
13 striking “child pornography” and inserting “child
14 sexual abuse material”.

15 (18) SOCIAL SECURITY ACT.—Section
16 471(a)(20)(A)(i) of the Social Security Act (42 U.S.C.
17 671(a)(20)(A)(i)) is amended by striking “child por-
18 nography” and inserting “offenses involving child sex-
19 ual abuse material”.

20 (19) PRIVACY PROTECTION ACT OF 1980.—Section
21 101 of the Privacy Protection Act of 1980 (42 U.S.C.
22 2000aa) is amended—

23 (A) in subsection (a)(1), by striking “child
24 pornography” and inserting “child sexual abuse
25 material”; and

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

4 (20) CHILD CARE AND DEVELOPMENT BLOCK
5 GRANT ACT OF 1990.—Section 658H(c)(1) of the Child
6 Care and Development Block Grant Act of 1990 (42
7 U.S.C. 9858f(c)(1)) is amended—

8 (A) in subparagraph (D)(iii), by striking
9 “child pornography” and inserting “offenses re-
10 lating to child sexual abuse material”; and

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

14 (21) COMMUNICATIONS ACT OF 1934.—Title II of
15 the Communications Act of 1934 (47 U.S.C. 201 et
16 seq.) is amended—

17 (A) in section 223 (47 U.S.C. 223)—

18 (i) in subsection (a)(1)—

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

24 (II) in subparagraph (B), in the
25 undesignated matter following clause

1 (ii), by striking “child pornography”
 2 and inserting “which constitutes child
 3 sexual abuse material”; and

4 (ii) in subsection (d)(1), in the undes-
 5 ignated matter following subparagraph (B),
 6 by striking “child pornography” and insert-
 7 ing “that constitutes child sexual abuse ma-
 8 terial”; and

9 (B) in section 254(h) (47 U.S.C. 254(h))—
 10 (i) in paragraph (5)—

11 (I) in subparagraph (B)(i)(II), by
 12 striking “child pornography” and in-
 13 serting “child sexual abuse material”;
 14 and

15 (II) in subparagraph (C)(i)(II),
 16 by striking “child pornography” and
 17 inserting “child sexual abuse mate-
 18 rial”;

19 (ii) in paragraph (6)—

20 (I) in subparagraph (B)(i)(II), by
 21 striking “child pornography” and in-
 22 serting “child sexual abuse material”;
 23 and

24 (II) in subparagraph (C)(i)(II) by
 25 striking “child pornography” and in-

1 serting “child sexual abuse material”;

2 and

3 (iii) in paragraph (7)(F)—

4 (I) in the subparagraph heading,

5 by striking “CHILD PORNOGRAPHY”

6 and inserting “CHILD SEXUAL ABUSE

7 MATERIAL”; and

8 (II) by striking “child pornog-

9 raphy” and inserting “child sexual

10 abuse material”.

11 (c) TABLE OF SECTIONS AMENDMENTS.—

12 (1) CHAPTER 110 OF TITLE 18.—The table of sec-

13 tions for chapter 110 of title 18, United States Code,

14 is amended—

15 (A) by striking the item relating to section

16 2252A and inserting the following:

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

17 (B) by striking the item relating to section

18 2258C and inserting the following:

“2258C. Use to combat child sexual abuse material of technical elements relating
to reports made to the CyberTipline.”;

19 (C) by striking the item relating to section

20 2259A and inserting the following:

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

21 and

1 (D) by striking the item relating to section
2 2259B and inserting the following:

“2259B. Child sexual abuse materials victims reserve”.

3 (2) CHAPTER 117 OF TITLE 18.—The table of sec-
4 tions for chapter 117 of title 18, United States Code,
5 is amended by striking the item relating to section
6 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.”.

7 **SEC. 7. MODERNIZING THE CYBERTIPLINE.**

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

10 (1) in section 2258A—

11 (A) in subsection (a)—

12 (i) in paragraph (1)(B)(ii), by insert-
13 ing after “facts or circumstances” the fol-
14 lowing: “, including any available facts or
15 circumstances sufficient to identify and lo-
16 cate each minor and each involved indi-
17 vidual,”; and

18 (ii) in paragraph (2)(A)—

19 (I) by inserting “1591 (if the vio-
20 lation involves a minor),” before
21 “2251,”; and

22 (II) by striking “or 2260” and in-
23 serting “2260, or 2422(b)”;

1 (B) *in subsection (b)—*

2 (i) *in paragraph (1)—*

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

5 (II) *by striking “other identifying*
6 *information,” and inserting “other in-*
7 *formation which may identify or locate*
8 *the involved individual,”;*

9 (ii) *by redesignating paragraphs (2)*
10 *through (5) as paragraphs (3) through (6),*
11 *respectively;*

12 (iii) *by inserting after paragraph (1)*
13 *the following:*

14 “(2) *INFORMATION ABOUT THE INVOLVED*
15 *MINOR.—Information relating to the identity or loca-*
16 *tion of any involved minor, which may, to the extent*
17 *reasonably practicable, include the electronic mail ad-*
18 *dress, Internet Protocol address, uniform resource lo-*
19 *cator, or any other information which may identify*
20 *or locate any involved minor, including self-reported*
21 *identifying information.”; and*

22 (iv) *by adding at the end the following:*

23 “(7) *FORMATTING OF REPORTS.—When in its*
24 *discretion a provider voluntarily includes any content*
25 *described in this subsection in a report to the*

1 *CyberTipline, the provider shall use best efforts to en-*
 2 *sure that the report conforms with the structure of the*
 3 *CyberTipline.”; and*

4 *(C) in subsection (d)(5)(B)—*

5 *(i) in clause (i), by striking “for-*
 6 *warded” and inserting “made available”;*
 7 *and*

8 *(ii) in clause (ii), by striking “for-*
 9 *warded” and inserting “made available”;*

10 *(2) in section 2258B—*

11 *(A) in subsection (a)—*

12 *(i) by striking “arising from the per-*
 13 *formance” and inserting the following: “,*
 14 *may not be brought in any Federal or State*
 15 *court if the claim or charge is directly at-*
 16 *tributable to—*

17 *“(1) the performance”;*

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

22 *(iii) by adding at the end the fol-*
 23 *lowing:*

24 *“(2) transmitting, distributing, or mailing child*
 25 *sexual abuse material to any Federal, State, or local*

1 *law enforcement agency, or giving such agency access*
 2 *to child sexual abuse material, in response to a search*
 3 *warrant, court order, or other legal process issued by*
 4 *such agency; or*

5 *“(3) research voluntarily undertaken by the pro-*
 6 *vider or domain name registrar using any material*
 7 *being preserved under section 2258A(h), if the re-*
 8 *search is only for the purpose of—*

9 *“(A) improving or facilitating reporting*
 10 *under this section, section 2258A, or section*
 11 *2258C; or*

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

14 *(B) in subsection (b)(2)(C)—*

15 *(i) by striking “the performance of”;*

16 *(ii) by inserting “described in or per-*
 17 *formed” after “function”; and*

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

20 *(3) in section 2258C—*

21 *(A) in the section heading, by striking “**the***
 22 ***CyberTipline**” and inserting “**NCMEC**”;*

23 *(B) in subsection (a)—*

24 *(i) in paragraph (1)—*

1 (I) by striking “NCMEC” and in-
2 serting the following:

3 “(A) *PROVISION TO PROVIDERS.—NCMEC*”;

4 (II) in subparagraph (A), as so
5 designated, by inserting “or submission
6 to the child victim identification pro-
7 gram described in section
8 404(b)(1)(K)(ii) of the Juvenile Justice
9 and Delinquency Prevention Act of
10 1974 (34 U.S.C. 11293(b)(1)(K)(ii))”
11 after “CyberTipline report”; and

12 (III) by adding at the end the fol-
13 lowing:

14 “(B) *PROVISION TO NON-PROFIT ENTI-*
15 *TIES.—NCMEC may provide hash values or*
16 *similar technical identifiers associated with vis-*
17 *ual depictions provided in a CyberTipline report*
18 *or submission to the child victim identification*
19 *program described in section 404(b)(1)(K)(ii) of*
20 *the Juvenile Justice and Delinquency Prevention*
21 *Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii)) to a*
22 *non-profit entity for the sole and exclusive pur-*
23 *pose of preventing and curtailing the online sex-*
24 *ual exploitation of children.”; and*

25 (ii) in paragraph (2)—

1 (I) by inserting “(A)” after “(1)”;

2 (II) by inserting “or submission

3 to the child victim identification pro-

4 gram described in section

5 404(b)(1)(K)(ii) of the Juvenile Justice

6 and Delinquency Prevention Act of

7 1974 (34 U.S.C. 11293(b)(1)(K)(ii))”

8 after “CyberTipline report”; and

9 (III) by adding at the end the fol-

10 lowing: “The elements authorized

11 under paragraph (1)(B) shall be lim-

12 ited to hash values or similar technical

13 identifiers associated with visual de-

14 pictions provided in a CyberTipline

15 report or submission to the child vic-

16 tim identification program described

17 in section 404(b)(1)(K)(ii) of the Juve-

18 nile Justice and Delinquency Preven-

19 tion Act of 1974 (34 U.S.C.

20 11293(b)(1)(K)(ii)).”; and

21 (C) in subsection (d), by inserting “or to the

22 child victim identification program described in

23 section 404(b)(1)(K)(ii) of the Juvenile Justice

24 and Delinquency Prevention Act of 1974 (34

1 U.S.C. 11293(b)(1)(K)(ii))” after
2 “CyberTipline”.

3 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—The
4 table of sections for chapter 110 of title 18, United States
5 Code, is amended by striking the item relating to section
6 2258C (as amended by section 6(c)(1)(B) of this Act) and
7 inserting the following:

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

8 **SEC. 8. ELIMINATING NETWORK DISTRIBUTION OF CHILD**
9 **EXPLOITATION.**

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

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

14 (2) by adding at the end the following:

15 “(5) *EXTENSION OF PRESERVATION.*—A provider
16 of a report to the CyberTipline may voluntarily pre-
17 serve the contents provided in the report (including
18 any comingled content described in paragraph (2))
19 for longer than 180 days after the submission to the
20 CyberTipline for the purpose of reducing the pro-
21 liferation of online child sexual exploitation or pre-
22 venting the online sexual exploitation of children.”.

1 **SEC. 9. IT SOLUTIONS RELATING TO COMBATING ONLINE**
 2 **CHILD EXPLOITATION.**

3 *Title IV of the Juvenile Justice and Delinquency Pre-*
 4 *vention Act of 1974 (34 U.S.C. 11291 et seq.) is amended—*

5 *(1) by redesignating section 409 (34 U.S.C.*
 6 *11297) as section 410; and*

7 *(2) by inserting after section 408 (34 U.S.C.*
 8 *11296) the following:*

9 **“SEC. 409. IT SOLUTIONS RELATING TO COMBATING ON-**
 10 **LINE CHILD EXPLOITATION.**

11 *“(a) DEVELOPMENT OF IT SOLUTIONS.—The Admin-*
 12 *istrator shall enable the development of information tech-*
 13 *nology solutions and the creation and acquisition of inno-*
 14 *vative tools to implement updates, improvements, and mod-*
 15 *ernization needed to enhance efforts to combat online child*
 16 *exploitation in order to ensure that consistent, actionable*
 17 *information is provided to law enforcement agencies, in-*
 18 *cluding Internet Crimes Against Children (commonly*
 19 *known as ‘ICAC’) task forces.*

20 *“(b) CONSULTATION WITH PARTNERS.—In developing*
 21 *the information technology solutions under subsection (a),*
 22 *the Administrator shall solicit input from all partners in*
 23 *the effort to combat online child exploitation, including the*
 24 *Center, ICAC task forces, the Federal Bureau of Investiga-*
 25 *tion, the Department of Homeland Security, U.S. Immigra-*

1 *tion and Customs Enforcement, Homeland Security Inves-*
2 *tigations, and the United States Marshals Service.*

3 “(c) *FUNDING.—Each fiscal year, the Administrator*
4 *shall carry out this section using not less than \$1,000,000*
5 *of the amounts made available to carry out this title for*
6 *that fiscal year.*”.

7 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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

10 **SEC. 11. SEVERABILITY.**

11 *If any provision of this Act or any amendment made*
12 *by this Act, or any application of such provision or amend-*
13 *ment to any person or circumstance, is held to be unconsti-*
14 *tutional, the remainder of the provisions of this Act and*
15 *the amendments made by this Act, and the application of*
16 *the provision or amendment to any other person or cir-*
17 *cumstance, shall not be affected.*

Calendar No. 491

116TH CONGRESS
2D Session

S. 3398

A BILL

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

JULY 20, 2020

Reported with an amendment