

116TH CONGRESS  
1ST SESSION

# H. R. 2873

To amend title 18, United States Code, to criminalize the knowing consent of the visual depiction, or live transmission, of a minor engaged in sexually explicit conduct, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2019

Mr. JOHNSON of Louisiana introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to criminalize the knowing consent of the visual depiction, or live transmission, of a minor engaged in sexually explicit conduct, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Against  
5 Child Exploitation Act of 2019”.

6 **SEC. 2. SEXUAL EXPLOITATION OF CHILDREN.**

7 Section 2251 of title 18, United States Code, is  
8 amended—

1           (1) by amending subsections (a) and (b) to read  
2       as follows:

3       “(a) Any person who, in a circumstance described in  
4 subsection (f), knowingly—

5           “(1) employs, uses, persuades, induces, entices,  
6       or coerces a minor to engage in any sexually explicit  
7       conduct for the purpose of producing any visual de-  
8       piction of such conduct, or transmitting a live visual  
9       depiction of such conduct;

10          “(2) produces or causes to be produced a visual  
11       depiction of a minor engaged in any sexually explicit  
12       conduct where the production of such visual depic-  
13       tion involves the use of a minor engaging in sexually  
14       explicit conduct and such visual depiction is of such  
15       conduct;

16          “(3) transmits or causes to be transmitted a  
17       live visual depiction of a minor engaged in any sexu-  
18       ally explicit conduct;

19          “(4) has a minor assist any other person to en-  
20       gage in any sexually explicit conduct during the  
21       commission of an offense set forth in paragraphs (1)  
22       through (3) of this subsection; or

23          “(5) transports any minor in or affecting inter-  
24       state or foreign commerce with the intent that such  
25       minor be used in the production or live transmission

1 of a visual depiction of a minor engaged in any sexu-  
2 ally explicit conduct,

3 shall be punished as provided under subsection (e).

4 “(b) Any parent, legal guardian, or person having  
5 custody or control of a minor who, in a circumstance de-  
6 scribed in subsection (f), knowingly permits such minor  
7 to engage in, or to assist any other person to engage in,  
8 sexually explicit conduct knowing that a visual depiction  
9 of such conduct will be produced or transmitted shall be  
10 punished as provided under subsection (e).”;

11 (2) in subsection (c)—

12 (A) in paragraph (1)—

13 (i) by striking “employs, uses, per-  
14 suades, induces, entices, or coerces any  
15 minor to engage in, or who has a minor as-  
16 sist any other person to engage in, any  
17 sexually explicit conduct” and inserting  
18 “engages in any conduct described in para-  
19 graphs (1) through (5) of subsection (a)”;  
20 and

21 (ii) by striking “, for the purpose of  
22 producing any visual depiction of such con-  
23 duct,”;

1 (B) in paragraph (2)(A), by inserting after  
2 “transported” the following: “or transmitted”;  
3 and

4 (C) in paragraph (2)(B), by inserting after  
5 “transports” the following: “or transmits”;  
6 (3) by adding at the end the following:

7 “(f) The circumstances referred to in subsections (a)  
8 and (b) are—

9 “(1) that the person knows or has reason to  
10 know that such visual depiction will be—

11 “(A) transported or transmitted using any  
12 means or facility of interstate or foreign com-  
13 merce;

14 “(B) transported or transmitted in or af-  
15 fecting interstate or foreign commerce; or

16 “(C) mailed;

17 “(2) the visual depiction was produced or trans-  
18 mitted using materials that have been mailed, or  
19 shipped or transported in or affecting interstate or  
20 foreign commerce by any means, including by com-  
21 puter;

22 “(3) such visual depiction has actually been—

23 “(A) transported or transmitted using any  
24 means or facility of interstate or foreign com-  
25 merce;

1 “(B) transported or transmitted in or af-  
2 fecting interstate or foreign commerce; or

3 “(C) mailed; or

4 “(4) any part of the offense occurred in a terri-  
5 tory or possession of the United States or within the  
6 special maritime and territorial jurisdiction of the  
7 United States.

8 “(g) Notwithstanding any other provision of this sec-  
9 tion, no criminal charge under subsection (a)(3) may be  
10 brought against an electronic communication service pro-  
11 vider or remote computing service provider unless such  
12 provider has intentionally transmitted or caused to be  
13 transmitted a visual depiction with actual knowledge that  
14 such depiction is of a minor engaged in sexually explicit  
15 conduct, nor may any such criminal charge be brought if  
16 barred by the provisions of section 2258B.”.

17 **SEC. 3. LIMITED LIABILITY FOR CERTAIN PERSONS WHEN**  
18 **RESPONDING TO SEARCH WARRANTS OR**  
19 **OTHER LEGAL PROCESS.**

20 Section 2258B of title 18, United States Code, is  
21 amended—

22 (1) in subsection (a), by inserting “from the re-  
23 sponse to a search warrant or other legal process  
24 or” before “from the performance”; and

1           (2) in subsection (b)(2)(C), by inserting “the  
2       response to a search warrant or other legal process  
3       or to” before “the performance of any responsi-  
4       bility”.

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