

**AMENDMENT TO  
RULES COMMITTEE PRINT 119-33  
OFFERED BY MS. CRAIG OF MINNESOTA**

At the end of subtitle B of title XVII, add the following:

1 **SEC. 17\_\_ . REPORTING REQUIREMENTS OF ELECTRONIC**  
2 **COMMUNICATION SERVICE PROVIDERS AND**  
3 **REMOTE COMPUTING SERVICES FOR CER-**  
4 **TAIN CONTROLLED SUBSTANCES VIOLA-**  
5 **TIONS.**

6 (a) AMENDMENTS TO CONTROLLED SUBSTANCES  
7 ACT.—

8 (1) IN GENERAL.—Part E of the Controlled  
9 Substances Act (21 U.S.C. 871 et seq.) is amended  
10 by adding at the end the following:

11 **“SEC. 521. REPORTING REQUIREMENTS OF ELECTRONIC**  
12 **COMMUNICATION SERVICE PROVIDERS AND**  
13 **REMOTE COMPUTING SERVICES FOR CER-**  
14 **TAIN CONTROLLED SUBSTANCES VIOLA-**  
15 **TIONS.**

16 **“(a) DEFINITIONS.—In this section—**

1           “(1) the term ‘electronic communication service’  
2           has the meaning given that term in section 2510 of  
3           title 18, United States Code;

4           “(2) the term ‘electronic mail address’ has the  
5           meaning given that term in section 3 of the CAN-  
6           SPAM Act of 2003 (15 U.S.C. 7702);

7           “(3) the term ‘Internet’ has the meaning given  
8           that term in section 1101(d)(3) of the Internet Tax  
9           Freedom Act (47 U.S.C. 151 note);

10           “(4) the term ‘provider’ means an electronic  
11           communication service provider or remote computing  
12           service;

13           “(5) the term ‘remote computing service’ has  
14           the meaning given that term in section 2711 of title  
15           18, United States Code; and

16           “(6) the term ‘website’ means any collection of  
17           material placed in a computer server-based file ar-  
18           chive so that it is publicly accessible, over the Inter-  
19           net, using hypertext transfer protocol or any suc-  
20           cessor protocol.

21           “(b) DUTY TO REPORT.—

22           “(1) GENERAL DUTY.—In order to reduce the  
23           proliferation of the unlawful sale, distribution, or  
24           manufacture (as applicable) of counterfeit sub-  
25           stances and certain controlled substances, a provider

1 shall, as soon as reasonably possible after obtaining  
2 actual knowledge of any facts or circumstances de-  
3 scribed in paragraph (2), and in any event not later  
4 than 60 days after obtaining such knowledge, submit  
5 to the Attorney General a report containing—

6 “(A) the mailing address, telephone num-  
7 ber, facsimile number, and electronic mailing  
8 address of, and individual point of contact for,  
9 such provider;

10 “(B) information described in subsection  
11 (e) concerning such facts or circumstances; and

12 “(C) for purposes of subsection (j), infor-  
13 mation indicating whether the facts or cir-  
14 cumstances were discovered through content  
15 moderation conducted by a human or via a non-  
16 human method, including use of an algorithm,  
17 machine learning, or other means.

18 “(2) FACTS OR CIRCUMSTANCES.—The facts or  
19 circumstances described in this paragraph are any  
20 facts or circumstances establishing that a crime is  
21 being or has already been committed involving—

22 “(A) creating, manufacturing, distributing,  
23 dispensing, or possession with intent to manu-  
24 facture, distribute, or dispense—

25 “(i) fentanyl; or

1 “(ii) methamphetamine;

2 “(B) creating, manufacturing, distributing,  
3 dispensing, or possession with intent to manu-  
4 facture, distribute, or dispense a counterfeit  
5 substance, including a counterfeit substance  
6 purporting to be a prescription drug; or

7 “(C) creating, manufacturing, distributing,  
8 dispensing, or possession with intent to manu-  
9 facture, distribute, or dispense an actual or  
10 purported prescription pain medication or pre-  
11 scription stimulant by any individual or entity  
12 that is not authorized, which includes an indi-  
13 vidual or entity that falsely claims to be a prac-  
14 titioner.

15 “(3) PERMITTED ACTIONS BASED ON REASON-  
16 ABLE BELIEF.—In order to reduce the proliferation  
17 of the unlawful sale, distribution, or manufacture  
18 (as applicable) of counterfeit substances and certain  
19 controlled substances, if a provider has a reasonable  
20 belief that facts or circumstances described in para-  
21 graph (2) exist, the provider may submit to the At-  
22 torney General a report described in paragraph (1).

23 “(c) CONTENTS OF REPORT.—

24 “(1) IN GENERAL.—To the extent the informa-  
25 tion is within the custody or control of a provider,

1 the facts or circumstances included in each report  
2 under subsection (b)(1)—

3 “(A) shall include, to the extent that it is  
4 applicable and reasonably available, information  
5 relating to the account involved in the commis-  
6 sion of a crime described in subsection (b)(2),  
7 such as the name, address, electronic mail ad-  
8 dress, user or account identification, Internet  
9 Protocol address, uniform resource locator,  
10 screen names or monikers for the account used  
11 or any other accounts associated with the ac-  
12 count user, or any other identifying informa-  
13 tion, including self-reported identifying informa-  
14 tion, but not including the contents of a wire  
15 communication or electronic communication, as  
16 those terms are defined in section 2510 of title  
17 18, United States Code, except as provided in  
18 subparagraph (B) of this paragraph; and

19 “(B) may, at the sole discretion of the pro-  
20 vider, include the information described in para-  
21 graph (2) of this subsection.

22 “(2) OTHER INFORMATION.—The information  
23 referred to in paragraph (1)(B) is the following:

24 “(A) HISTORICAL REFERENCE.—Informa-  
25 tion relating to when and how a user, sub-

1           scriber, or customer of a provider uploaded,  
2           transmitted, or received content relating to the  
3           report or when and how content relating to the  
4           report was reported to or discovered by the pro-  
5           vider, including a date and time stamp and  
6           time zone.

7           “(B) GEOGRAPHIC LOCATION INFORMA-  
8           TION.—Information relating to the geographic  
9           location of the involved individual or website,  
10          which may include the Internet Protocol ad-  
11          dress or verified address, or, if not reasonably  
12          available, at least one form of geographic iden-  
13          tifying information, including area code or ZIP  
14          Code, provided by the user, subscriber, or cus-  
15          tomer, or stored or obtained by the provider,  
16          and any information as to whether a virtual pri-  
17          vate network was used.

18          “(C) DATA RELATING TO FACTS OR CIR-  
19          CUMSTANCES.—Any data, including symbols,  
20          photos, video, icons, or direct messages, relating  
21          to activity involving the facts or circumstances  
22          described in subsection (b)(2) or other content  
23          relating to the crime.

24          “(D) COMPLETE COMMUNICATION.—The  
25          complete communication containing the infor-

1           mation of the crime described in subsection  
2           (b)(2), including—

3                   “(i) any data or information regard-  
4                   ing the transmission of the communication;  
5                   and

6                   “(ii) any data or other digital files  
7                   contained in, or attached to, the commu-  
8                   nication.

9           “(3) USER, SUBSCRIBER, OR CUSTOMER SUB-  
10          MITTED REPORTS.—In the case of a report under  
11          subsection (b)(3), the provider may, at its sole dis-  
12          cretion, include in the report information submitted  
13          to the provider by a user, subscriber, or customer al-  
14          leging facts or circumstances described in subsection  
15          (b)(2) if the provider, upon review, has a reasonable  
16          belief that the alleged facts or circumstances exist.

17          “(d) HANDLING OF REPORTS.—Upon receipt of a re-  
18          port submitted under subsection (b), the Attorney Gen-  
19          eral—

20                   “(1) shall conduct a preliminary review of such  
21          report; and

22                   “(2) after completing the preliminary review,  
23          shall—

24                   “(A) conduct further investigation of the  
25          report, which may include making the report

1 available to other Federal, State, or local law  
2 enforcement agencies involved in the investiga-  
3 tion of crimes described in subsection (b)(2), if  
4 the Attorney General determines that the report  
5 facially contains sufficient information to war-  
6 rant and permit further investigation; or

7 “(B) conclude that no further investigative  
8 steps are warranted or possible, or that insuffi-  
9 cient evidence exists to make a determination,  
10 and close the report.

11 “(e) ATTORNEY GENERAL RESPONSIBILITIES.—

12 “(1) IN GENERAL.—The Attorney General shall  
13 enforce this section.

14 “(2) DESIGNATION OF FEDERAL AGENCIES.—  
15 The Attorney General may designate a Federal law  
16 enforcement agency or agencies to which the Attor-  
17 ney General may forward a report under subsection  
18 (d).

19 “(3) DATA MINIMIZATION REQUIREMENTS.—  
20 The Attorney General shall take reasonable meas-  
21 ures to—

22 “(A) limit the storage of a report sub-  
23 mitted under subsection (b) and its contents to  
24 the amount that is necessary to carry out the

1 investigation of crimes described in subsection  
2 (b)(2); and

3 “(B) store a report submitted under sub-  
4 section (b) and its contents only as long as is  
5 reasonably necessary to carry out an investiga-  
6 tion of crimes described in subsection (b)(2) or  
7 make the report available to other agencies  
8 under subsection (d)(2)(A), after which time  
9 the report and its contents shall be deleted un-  
10 less the preservation of a report has future evi-  
11 dentiary value.

12 “(f) FAILURE TO COMPLY WITH REQUIREMENTS.—

13 “(1) CRIMINAL PENALTY.—

14 “(A) OFFENSE.—It shall be unlawful for a  
15 provider to knowingly fail to submit a report re-  
16 quired under subsection (b)(1).

17 “(B) PENALTY.—A provider that violates  
18 subparagraph (A) shall be fined—

19 “(i) in the case of an initial violation,  
20 not more than \$190,000; and

21 “(ii) in the case of any second or sub-  
22 sequent violation, not more than \$380,000.

23 “(2) CIVIL PENALTY.—In addition to any other  
24 available civil or criminal penalty, a provider shall be  
25 liable to the United States Government for a civil

1 penalty in an amount not less than \$50,000 and not  
2 more than \$100,000 if the provider knowingly sub-  
3 mits a report under subsection (b) that—

4 “(A) contains materially false or fraudu-  
5 lent information; or

6 “(B) omits information described in sub-  
7 section (c)(1)(A) that is reasonably available.

8 “(g) PROTECTION OF PRIVACY.—Nothing in this sec-  
9 tion shall be construed to—

10 “(1) require a provider to monitor any user,  
11 subscriber, or customer of that provider;

12 “(2) require a provider to monitor the content  
13 of any communication of any person described in  
14 paragraph (1);

15 “(3) require a provider to affirmatively search,  
16 screen, or scan for facts or circumstances described  
17 in subsection (b)(2);

18 “(4) permit actual knowledge to be proven  
19 based solely on a provider’s decision not to engage  
20 in additional verification or investigation to discover  
21 facts and circumstances that are not readily appar-  
22 ent, so long as the provider does not deliberately  
23 blind itself to those violations; or

1           “(5) prohibit a provider from using end-to-end  
2 encryption or require a provider to decrypt  
3 encrypted communications.

4           “(h) CONDITIONS OF DISCLOSURE OF INFORMATION  
5 CONTAINED WITHIN REPORT.—

6           “(1) IN GENERAL.—Except as provided in para-  
7 graph (2), a law enforcement agency that receives a  
8 report under subsection (d) shall not disclose any in-  
9 formation contained in that report.

10           “(2) PERMITTED DISCLOSURES BY LAW EN-  
11 FORCEMENT.—A law enforcement agency may dis-  
12 close information in a report received under sub-  
13 section (d)—

14           “(A) to an attorney for the government for  
15 use in the performance of the official duties of  
16 that attorney, including providing discovery to a  
17 defendant;

18           “(B) to such officers and employees of that  
19 law enforcement agency, as may be necessary in  
20 the performance of their investigative and rec-  
21 ordkeeping functions;

22           “(C) to such other government personnel  
23 (including personnel of a State or subdivision of  
24 a State) as are determined to be necessary by  
25 an attorney for the government to assist the at-

1           torney in the performance of the official duties  
2           of the attorney in enforcing Federal criminal  
3           law;

4           “(D) if the report discloses an apparent  
5           violation of State criminal law, to an appro-  
6           priate official of a State or subdivision of a  
7           State for the purpose of enforcing such State  
8           law;

9           “(E) to a defendant in a criminal case or  
10          the attorney for that defendant to the extent  
11          the information relates to a criminal charge  
12          pending against that defendant;

13          “(F) to a provider if necessary to facilitate  
14          response to legal process issued in connection to  
15          a criminal investigation, prosecution, or post-  
16          conviction remedy relating to that report;

17          “(G) as ordered by a court upon a showing  
18          of good cause and pursuant to any protective  
19          orders or other conditions that the court may  
20          impose; and

21          “(H) in order to facilitate the enforcement  
22          of the penalties authorized under subsection (f).

23          “(i) PRESERVATION.—

24          “(1) IN GENERAL.—

1           “(A) REQUEST TO PRESERVE CON-  
2           TENTS.—

3                   “(i) IN GENERAL.—Subject to clause  
4                   (ii), for the purposes of this section, a com-  
5                   pleted submission by a provider of a report  
6                   to the Attorney General under subsection  
7                   (b)(1) shall be treated as a request to pre-  
8                   serve the contents provided in the report,  
9                   and any data or other digital files that are  
10                  reasonably accessible and may provide con-  
11                  text or additional information about the re-  
12                  ported material or person, for 90 days  
13                  after the submission to the Attorney Gen-  
14                  eral.

15                  “(ii) LIMITATIONS ON EXTENSION OF  
16                  PRESERVATION PERIOD.—

17                   “(I) STORED COMMUNICATIONS  
18                   ACT.—The Attorney General may not  
19                   submit a request to a provider to con-  
20                   tinue preservation of the contents of a  
21                   report or other data described in  
22                   clause (i) under section 2703(f) of  
23                   title 18, United States Code, beyond  
24                   the required period of preservation  
25                   under clause (i) of this subparagraph

1 unless the Attorney General has an  
2 active or pending investigation involv-  
3 ing the user, subscriber, or customer  
4 account at issue in the report.

5 “(II) RULE OF CONSTRU-  
6 TION.—Nothing in subclause (I) shall  
7 preclude another Federal, State, or  
8 local law enforcement agency from  
9 seeking continued preservation of the  
10 contents of a report or other data de-  
11 scribed in clause (i) under section  
12 2703(f) of title 18, United States  
13 Code.

14 “(B) NOTIFICATION TO USER.—A provider  
15 may not notify a user, subscriber, or customer  
16 of the provider of a preservation request de-  
17 scribed in subparagraph (A) unless—

18 “(i) the provider has notified the At-  
19 torney General of its intent to provide that  
20 notice; and

21 “(ii) 45 business days have elapsed  
22 since the notification under clause (i).

23 “(2) PROTECTION OF PRESERVED MATE-  
24 RIALS.—A provider preserving materials under this  
25 section shall maintain the materials in a secure loca-

1       tion and take appropriate steps to limit access to the  
2       materials by agents or employees of the provider to  
3       that access necessary to comply with the require-  
4       ments of this subsection.

5           “(3) AUTHORITIES AND DUTIES NOT AF-  
6       FECTED.—Nothing in this section shall be construed  
7       as replacing, amending, or otherwise interfering with  
8       the authorities and duties under section 2703 of title  
9       18, United States Code.

10          “(4) RELATION TO REPORTING REQUIRE-  
11       MENT.—Submission of a report as required by sub-  
12       section (b)(1) does not satisfy the obligations under  
13       this subsection.

14          “(j) ANNUAL REPORT.—Not later than 1 year after  
15       the date of enactment of this section, and annually there-  
16       after, the Attorney General shall publish a report that in-  
17       cludes, for the reporting period—

18           “(1) the total number of reports received from  
19       providers under subsection (b)(1);

20           “(2) the number of reports received under sub-  
21       section (b)(1) disaggregated by—

22           “(A) the provider on whose electronic com-  
23       munication service or remote computing service  
24       the crime for which there are facts or cir-  
25       cumstances occurred; and

1           “(B) the subsidiary of a provider, if any,  
2           on whose electronic communication service or  
3           remote computing service the crime for which  
4           there are facts or circumstances occurred;

5           “(3) the number of reports received under sub-  
6           section (b)(1) that led to convictions in cases inves-  
7           tigated by the Attorney General;

8           “(4) the number of reports received under sub-  
9           section (b)(1) that lacked actionable information;

10           “(5) the number of reports received under sub-  
11           section (b)(1) where the facts or circumstances of a  
12           crime were discovered through—

13           “(A) content moderation conducted by a  
14           human; or

15           “(B) a non-human method including use of  
16           an algorithm, machine learning, or other  
17           means;

18           “(6) the number of reports received under sub-  
19           section (b)(1) that were made available to other law  
20           enforcement agencies, disaggregated by—

21           “(A) the number of reports made available  
22           to Federal law enforcement agencies;

23           “(B) the number of reports made available  
24           to State law enforcement agencies; and

1           “(C) the number of reports made available  
2           to local law enforcement agencies; and

3           “(7) the number of requests to providers to  
4           continue preservation of the contents of a report or  
5           other data described in subsection (i)(1)(A)(i) sub-  
6           mitted by the Attorney General under section  
7           2703(f) of title 18, United States Code.

8           “(k) PROHIBITION ON SUBMISSION OF USER, SUB-  
9           SCRIBER, CUSTOMER, OR ANONYMOUS REPORTS BY LAW  
10          ENFORCEMENT.—

11           “(1) IN GENERAL.—No Federal, Tribal, State,  
12           or local law enforcement officer acting in an official  
13           capacity may submit a report to a provider or ar-  
14           range for another individual to submit a report to a  
15           provider on behalf of the officer under this section.

16           “(2) REMEDY FOR VIOLATION.—No part of the  
17           contents of a provider’s report made under sub-  
18           section (b)(1) or (b)(3) and no evidence derived  
19           therefrom may be received in evidence in any trial,  
20           hearing, or other proceeding in or before any court,  
21           department, officer, agency, regulatory body, legisla-  
22           tive committee, or other authority of the United  
23           States, a State, or a political subdivision thereof if  
24           that provider report resulted from an action prohib-  
25           ited by paragraph (1) of this subsection.

1           “(1) EXEMPTION FOR PROVIDERS OF BROADBAND  
2 INTERNET ACCESS SERVICE AND TEXT MESSAGING  
3 SERVICE.—Subsections (b) through (k) shall not apply to  
4 a provider of—

5           “(1) broadband internet access service, as that  
6 term is defined in section 8.1(b) of title 47, Code of  
7 Federal Regulations (or any successor regulation),  
8 insofar as the provider is acting as a provider of  
9 such service; or

10           “(2) text messaging service, as that term is de-  
11 fined in section 227(e)(8) of title 47, United States  
12 Code, insofar as the provider is acting as a provider  
13 of such service.”.

14           (2) TECHNICAL AND CONFORMING AMEND-  
15 MENT.—The table of contents for the Comprehensive  
16 Drug Abuse Prevention and Control Act of 1970  
17 (Public Law 91–513; 84 Stat. 1236) is amended by  
18 inserting after the item relating to section 520 the  
19 following:

“Sec. 521. Reporting requirements of electronic communication service pro-  
viders and remote computing services for certain controlled  
substances violations.”.

20           (b) CONFORMING AMENDMENTS TO STORED COMMU-  
21 NICATIONS ACT.—

22           (1) IN GENERAL.—Section 2702 of title 18,  
23 United States Code, is amended—

24           (A) in subsection (b)—

1 (i) in paragraph (8), by striking “or”  
2 at the end;

3 (ii) in paragraph (9), by striking the  
4 period at the end and inserting “; or”; and

5 (iii) by adding at the end the fol-  
6 lowing:

7 “(10) to the Attorney General, in connection  
8 with a report submitted thereto under section 521 of  
9 the Controlled Substances Act.”; and

10 (B) in subsection (c)—

11 (i) in paragraph (6), by striking “or”  
12 at the end;

13 (ii) in paragraph (7), by striking the  
14 period at the end and inserting “; or”; and

15 (iii) by adding at the end the fol-  
16 lowing:

17 “(8) to the Attorney General, in connection  
18 with a report submitted thereto under section 521 of  
19 the Controlled Substances Act.”.

20 (2) TECHNICAL AMENDMENT.—Paragraph (7)  
21 of section 2702(b) of title 18, United States Code,  
22 is amended to read as follows:

23 “(7) to a law enforcement agency if the con-  
24 tents—

1                   “(A) were inadvertently obtained by the  
2                   service provider; and

3                   “(B) appear to pertain to the commission  
4                   of a crime;”.

5           (c) SEVERABILITY.—If any provision of this section  
6 or amendment made by this section, or the application of  
7 such a provision or amendment to any person or cir-  
8 cumstance, is held to be unconstitutional, the remaining  
9 provisions of this section and amendments made by this  
10 section, and the application of such a provision or amend-  
11 ment to any other person or circumstance, shall not be  
12 affected thereby.

