

AMENDMENT TO RULES COMMITTEE PRINT 119-

33

OFFERED BY MR. MOORE OF ALABAMA

Add at the end of subtitle B of title XVII the following:

1 **SEC. 17___ . STRENGTHENING TRANSPARENCY AND OBLI-**
2 **GATIONS TO PROTECT CHILDREN SUF-**
3 **FERING FROM ABUSE AND MISTREATMENT.**

4 (a) **PROTECTING CHILD VICTIMS AND WITNESSES IN**
5 **FEDERAL COURT.—**

6 (1) **IN GENERAL.—**Section 3509 of title 18,
7 United States Code, is amended—

8 (A) in subsection (a)—

9 (i) in paragraph (2)(A), by striking
10 “or exploitation” and inserting “exploit-
11 ation, or kidnapping, including inter-
12 national parental kidnapping”;

13 (ii) in paragraph (3), by striking
14 “physical or mental injury” and inserting
15 “physical injury, psychological abuse”;

16 (iii) by striking paragraphs (5), (6),
17 and (7) and inserting the following:

18 “(5) the term ‘psychological abuse’ includes—

1 “(A) a pattern of acts, threats of acts, or
2 coercive tactics intended to degrade, humiliate,
3 intimidate, or terrorize a child; and

4 “(B) the infliction of trauma on a child
5 through—

6 “(i) isolation;

7 “(ii) the withholding of food or other
8 necessities in order to control behavior;

9 “(iii) physical restraint; or

10 “(iv) the confinement of the child
11 without the child’s consent and in degrad-
12 ing conditions;

13 “(6) the term ‘exploitation’ means—

14 “(A) child pornography;

15 “(B) child sex trafficking; or

16 “(C) an obscene visual depiction of a child;

17 “(7) the term ‘multidisciplinary child abuse
18 team’ means a professional unit of individuals work-
19 ing together to investigate child abuse and provide
20 assistance and support to a victim of child abuse,
21 composed of representatives from—

22 “(A) health, social service, and legal serv-
23 ice agencies that represent the child;

24 “(B) law enforcement agencies and pros-
25 ecutorial offices; and

- 1 “(C) children’s advocacy centers;”;
- 2 (iv) in paragraph (9)(D)—
- 3 (I) by striking “genitals” and in-
- 4 serting “anus, genitals,”; and
- 5 (II) by striking “or animal”;
- 6 (v) in paragraph (11), by striking
- 7 “and” at the end;
- 8 (vi) in paragraph (12)—
- 9 (I) by striking “the term ‘child
- 10 abuse’ does not” and inserting “the
- 11 terms ‘physical injury’ and ‘psycho-
- 12 logical abuse’ do not”; and
- 13 (II) by striking the period and
- 14 inserting a semicolon; and
- 15 (vii) by adding at the end the fol-
- 16 lowing:
- 17 “(13) the term ‘covered person’ means a person
- 18 of any age who—
- 19 “(A) is or is alleged to be—
- 20 “(i) a victim of a crime of physical
- 21 abuse, sexual abuse, exploitation, or kid-
- 22 napping, including international parental
- 23 kidnapping; or
- 24 “(ii) a witness to a crime committed
- 25 against another person; and

1 “(B) was under the age of 18 when the
2 crime described in subparagraph (A) was com-
3 mitted;

4 “(14) the term ‘protected information’, with re-
5 spect to a covered person, includes—

6 “(A) personally identifiable information of
7 the covered person, including—

8 “(i) the name of the covered person;

9 “(ii) an address;

10 “(iii) a phone number;

11 “(iv) a user name or identifying infor-
12 mation for an online, social media, or
13 email account; and

14 “(v) any information that can be used
15 to distinguish or trace the identity of the
16 covered person, either alone or when com-
17 bined with other information that is linked
18 or linkable to the covered person;

19 “(B) medical, dental, behavioral, psy-
20 chiatric, or psychological information of the cov-
21 ered person;

22 “(C) educational or juvenile justice records
23 of the covered person; and

24 “(D) any other information concerning the
25 covered person that is deemed ‘protected infor-

1 mation’ by order of the court under subsection
2 (d)(5);

3 “(15) the term ‘child pornography’ has the
4 meaning given the term in section 2256(8); and

5 “(16) the term ‘obscene visual depiction of a
6 child’ means any visual depiction prohibited by sec-
7 tion 1466A involving an identifiable minor, as that
8 term is defined in section 2256(9).”;

9 (B) in subsection (b)—

10 (i) in paragraph (1)(C), by striking
11 “minor” and inserting “child”; and

12 (ii) in paragraph (2)—

13 (I) in the heading, by striking
14 “VIDEOTAPED” and inserting “RE-
15 CORDED”;

16 (II) in subparagraph (A), by
17 striking “that the deposition be re-
18 corded and preserved on videotape”
19 and inserting “that a video recording
20 of the deposition be made and pre-
21 served”;

22 (III) in subparagraph (B)—

23 (aa) in clause (ii), by strik-
24 ing “that the child’s deposition
25 be taken and preserved by video-

1 tape” and inserting “that a video
2 recording of the child’s deposition
3 be made and preserved”;

4 (bb) in clause (iii)—

5 (AA) in the matter pre-
6 ceding subclause (I), by
7 striking “videotape” and in-
8 serting “recorded”; and

9 (BB) in subelause (IV),
10 by striking “videotape” and
11 inserting “recording”; and

12 (cc) in clause (v)—

13 (AA) in the heading, by
14 striking “VIDEOTAPE” and
15 inserting “VIDEO RECORD-
16 ING”;

17 (BB) in the first sen-
18 tence, by striking “made
19 and preserved on video
20 tape” and inserting “re-
21 corded and preserved”; and

22 (CC) in the second sen-
23 tence, by striking “video-
24 tape” and inserting “video
25 recording”;

1 (IV) in subparagraph (C), by
2 striking “child’s videotaped” and in-
3 sserting “video recording of the
4 child’s”;

5 (V) in subparagraph (D)—

6 (aa) by striking
7 “videotaping” and inserting
8 “deposition”; and

9 (bb) by striking
10 “videotaped” and inserting “re-
11 corded”;

12 (VI) in subparagraph (E), by
13 striking “videotaped” and inserting
14 “recorded”; and

15 (VII) in subparagraph (F), by
16 striking “videotape” each place the
17 term appears and inserting “video re-
18 cording”;

19 (C) in subsection (d)—

20 (i) in paragraph (1)(A)—

21 (I) in clause (i), by striking “the
22 name of or any other information con-
23 cerning a child” and inserting “a cov-
24 ered person’s protected information”;
25 and

1 (II) in clause (ii)—

2 (aa) by striking “documents
3 described in clause (i) or the in-
4 formation in them that concerns
5 a child” and inserting “a covered
6 person’s protected information”;
7 and

8 (bb) by striking “, have rea-
9 son to know such information”
10 and inserting “(including wit-
11 nesses or potential witnesses),
12 have reason to know each item of
13 protected information to be dis-
14 closed”;

15 (ii) in paragraph (2)—

16 (I) by striking “the name of or
17 any other information concerning a
18 child” each place the term appears
19 and inserting “a covered person’s pro-
20 tected information”;

21 (II) by redesignating subpara-
22 graphs (A) and (B) as clauses (i) and
23 (ii), respectively, and adjusting the
24 margins accordingly;

1 (III) by striking “All papers”
2 and inserting the following:

3 “(A) IN GENERAL.—All papers”; and

4 (IV) by adding at the end the fol-
5 lowing:

6 “(B) ENFORCEMENT OF VIOLATIONS.—

7 The court may address a violation of subpara-
8 graph (A) in the same manner as disobedience
9 or resistance to a lawful court order under sec-
10 tion 401(3).”;

11 (iii) in paragraph (3)—

12 (I) in subparagraph (A)—

13 (aa) by striking “a child
14 from public disclosure of the
15 name of or any other information
16 concerning the child” and insert-
17 ing “a covered person’s protected
18 information from public disclo-
19 sure”; and

20 (bb) by striking “, if the
21 court determines that there is a
22 significant possibility that such
23 disclosure would be detrimental
24 to the child”;

25 (II) in subparagraph (B)—

1 (aa) in clause (i)—
2 (AA) by striking “a
3 child witness, and the testi-
4 mony of any other witness”
5 and inserting “any witness”;
6 and

7 (BB) by striking “the
8 name of or any other infor-
9 mation concerning a child”
10 and inserting “a covered
11 person’s protected informa-
12 tion”; and

13 (bb) in clause (ii), by strik-
14 ing “child” and inserting “cov-
15 ered person”; and

16 (III) by adding at the end the
17 following:

18 “(C)(i) For purposes of this paragraph, there
19 shall be a presumption that public disclosure of a
20 covered person’s protected information would be det-
21 rimental to the covered person.

22 “(ii) The court shall deny a motion for a pro-
23 tective order under subparagraph (A) only if the
24 court finds that the party opposing the motion has

1 rebutted the presumption under clause (i) of this
2 subparagraph.”;

3 (iv) in paragraph (4)—

4 (I) by striking “This subsection”
5 and inserting the following:

6 “(A) DISCLOSURE TO CERTAIN PARTIES.—
7 This subsection”;

8 (II) in subparagraph (A), as so
9 designated—

10 (aa) by striking “the name
11 of or other information con-
12 cerning a child” and inserting “a
13 covered person’s protected infor-
14 mation”; and

15 (bb) by striking “or an adult
16 attendant, or to” and inserting
17 “an adult attendant, a law en-
18 forcement agency for any intel-
19 ligence or investigative purpose,
20 or”; and

21 (III) by adding at the end the
22 following:

23 “(B) REQUEST FOR PUBLIC DISCLO-
24 SURE.—If any party requests public disclosure
25 of a covered person’s protected information to

1 further a public interest, the court shall deny
2 the request unless the court finds that—

3 “(i) the party seeking disclosure has
4 established that there is a compelling pub-
5 lic interest in publicly disclosing the cov-
6 ered person’s protected information;

7 “(ii) there is a substantial probability
8 that the public interest would be harmed if
9 the covered person’s protected information
10 is not disclosed;

11 “(iii) the substantial probability of
12 harm to the public interest outweighs the
13 harm to the covered person from public
14 disclosure of the covered person’s protected
15 information; and

16 “(iv) there is no alternative to public
17 disclosure of the covered person’s protected
18 information that would adequately protect
19 the public interest.”; and

20 (v) by adding at the end the following:

21 “(5) OTHER PROTECTED INFORMATION.—The
22 court may order that information shall be considered
23 to be ‘protected information’ for purposes of this
24 subsection if the court finds that the information is
25 sufficiently personal, sensitive, or identifying that it

1 should be subject to the protections and presump-
2 tions under this subsection.”;

3 (D) by striking subsection (f) and inserting
4 the following:

5 “(f) VICTIM IMPACT STATEMENT.—

6 “(1) PROBATION OFFICER.—In preparing the
7 presentence report pursuant to rule 32(c) of the
8 Federal Rules of Criminal Procedure, the probation
9 officer shall request information from the multidisci-
10 plinary child abuse team, if applicable, or other ap-
11 propriate sources to determine the impact of the of-
12 fense on a child victim and any other children who
13 may have been affected by the offense.

14 “(2) GUARDIAN AD LITEM.—A guardian ad
15 litem appointed under subsection (h) shall—

16 “(A) make every effort to obtain and re-
17 port information that accurately expresses the
18 views of a child victim, and the views of family
19 members as appropriate, concerning the impact
20 of the offense; and

21 “(B) use forms that permit a child victim
22 to express the child’s views concerning the per-
23 sonal consequences of the offense, at a level and
24 in a form of communication commensurate with
25 the child’s age and ability.”;

1 (E) in subsection (h), by adding at the end
2 the following:

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—

4 “(A) IN GENERAL.—There is authorized to
5 be appropriated to the United States courts to
6 carry out this subsection \$25,000,000 for each
7 fiscal year.

8 “(B) SUPERVISION OF PAYMENTS.—Pay-
9 ments from appropriations authorized under
10 subparagraph (A) shall be made under the su-
11 pervision of the Director of the Administrative
12 Office of the United States Courts.”;

13 (F) in subsection (i)—

14 (i) by striking “A child testifying at
15 or attending a judicial proceeding” and in-
16 sserting the following:

17 “(1) IN GENERAL.—A child testifying at a judi-
18 cial proceeding, including in a manner described in
19 subsection (b),”;

20 (ii) in paragraph (1), as so des-
21 ignated—

22 (I) in the third sentence, by
23 striking “proceeding” and inserting
24 “testimony”; and

1 (II) by striking the fifth sen-
2 tence; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(2) RECORDING.—If the adult attendant is in
6 close physical proximity to or in contact with the
7 child while the child testifies—

8 “(A) at a judicial proceeding, a video re-
9 cording of the adult attendant shall be made
10 and shall become part of the court record; or

11 “(B) in a manner described in subsection
12 (b), the adult attendant shall be visible on the
13 closed-circuit television or in the recorded depo-
14 sition.

15 “(3) COVERED PERSONS ATTENDING PRO-
16 CEEDING.—A covered person shall have the right to
17 be accompanied by an adult attendant when attend-
18 ing any judicial proceeding.”;

19 (G) in subsection (j)—

20 (i) by striking “child” each place the
21 term appears and inserting “covered per-
22 son”; and

23 (ii) in the fourth sentence—

24 (I) by striking “and the poten-
25 tial” and inserting “, the potential”;

1 (II) by striking “child’s” and in-
2 serting “covered person’s”; and

3 (III) by inserting before the pe-
4 riod at the end the following: “, and
5 the necessity of the continuance to
6 protect the defendant’s rights”;

7 (H) in subsection (k), by striking “child”
8 each place the term appears and inserting “cov-
9 ered person”;

10 (I) in subsection (l), by striking “child”
11 each place the term appears and inserting “cov-
12 ered person”; and

13 (J) in subsection (m)—

14 (i) by striking “(as defined by section
15 2256 of this title)” each place it appears;

16 (ii) by inserting “or an obscene visual
17 depiction of a child” after “child pornog-
18 raphy” each place it appears except the
19 second instance in paragraph (3);

20 (iii) in paragraph (1), by inserting
21 “and any civil action brought under section
22 2255 or 2255A” after “any criminal pro-
23 ceeding”;

24 (iv) in paragraph (2), by adding at
25 the end the following:

1 “(C)(i) Notwithstanding rule 26 of the Federal
2 Rules of Civil Procedure, a court shall deny, in any
3 civil action brought under section 2255 or 2255A,
4 any request by any party to copy, photograph, dupli-
5 cate, or otherwise reproduce any property or mate-
6 rial that constitutes child pornography or an obscene
7 visual depiction of a child.

8 “(ii) In a civil action brought under section
9 2255 or 2255A, for purposes of paragraph (1), the
10 court may—

11 “(I) order the plaintiff or defendant to
12 provide to the court or the Government, as ap-
13 plicable, any equipment necessary to maintain
14 care, custody, and control of such property or
15 material; and

16 “(II) take reasonable measures, and may
17 order the Government (if such property or ma-
18 terial is in the care, custody, and control of the
19 Government) to take reasonable measures, to
20 provide each party to the action, the attorney of
21 each party, and any individual a party may seek
22 to qualify as an expert, with ample opportunity
23 to inspect, view, and examine such property or
24 material at the court or a Government facility,
25 as applicable.”; and

1 (v) in paragraph (3)—

2 (I) by inserting “and during the
3 1-year period following the date on
4 which the criminal proceeding be-
5 comes final or is terminated” after
6 “any criminal proceeding”;

7 (II) by striking “, as defined
8 under section 2256(8),”; and

9 (III) by inserting “or obscene vis-
10 ual depiction of a child” after “such
11 child pornography”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by this section shall apply to conduct that occurs be-
14 fore, on, or after the date of enactment of this Act.

15 (b) FACILITATING PAYMENT OF RESTITUTION;
16 TECHNICAL AMENDMENTS TO RESTITUTION STAT-
17 UTES.—Title 18, United States Code, is amended—

18 (1) in section 1593(c)—

19 (A) by inserting “(1)” after “(c)”;

20 (B) by striking “chapter, including, in”
21 and inserting the following: “chapter.

22 “(2) In”; and

23 (C) in paragraph (2), as so designated, by
24 inserting “may assume the rights of the victim

1 under this section” after “suitable by the
2 court”;

3 (2) in section 2248(c)—

4 (A) by striking “For purposes” and insert-
5 ing the following:

6 “(1) IN GENERAL.—For purposes”;

7 (B) by striking “chapter, including, in”
8 and inserting the following: “chapter.

9 “(2) ASSUMPTION OF CRIME VICTIM’S
10 RIGHTS.—In”; and

11 (C) in paragraph (2), as so designated, by
12 inserting “may assume the rights of the victim
13 under this section” after “suitable by the
14 court”;

15 (3) in section 2259—

16 (A) by striking subsection (a) and insert-
17 ing the following:

18 “(a) IN GENERAL.—Notwithstanding section 3663 or
19 3663A, and in addition to any other civil or criminal pen-
20 alty authorized by law, the court shall order restitution
21 for any offense under—

22 “(1) section 1466A, to the extent the conduct
23 involves a visual depiction of an identifiable minor;
24 or

25 “(2) this chapter.”;

1 (B) in subsection (b)—

2 (i) in paragraph (1), by striking “DI-
3 RECTIONS.—Except as provided in para-
4 graph (2), the” and inserting “RESTITU-
5 TION FOR CHILD PORNOGRAPHY PRODUC-
6 TION.—If the defendant was convicted of
7 child pornography production, the”; and

8 (ii) in paragraph (2)(B), by striking
9 “\$3,000.” and inserting the following: “—

10 “(i) \$3,000; or

11 “(ii) 10 percent of the full amount of
12 the victim’s losses, if the full amount of
13 the victim’s losses is less than \$3,000.”;
14 and

15 (C) in subsection (c)—

16 (i) by striking paragraph (1) and in-
17 serting the following:

18 “(1) CHILD PORNOGRAPHY PRODUCTION.—For
19 purposes of this section and section 2259A, the term
20 ‘child pornography production’ means—

21 “(A) a violation of, attempted violation of,
22 or conspiracy to violate section 1466A(a) to the
23 extent the conduct involves production of a vis-
24 ual depiction of an identifiable minor;

1 “(B) a violation of, attempted violation of,
2 or conspiracy to violate section 1466A(a) involv-
3 ing possession with intent to distribute, or sec-
4 tion 1466A(b), to the extent the conduct in-
5 volves a visual depiction of an identifiable
6 minor—

7 “(i) produced by the defendant; or

8 “(ii) that the defendant attempted or
9 conspired to produce;

10 “(C) a violation of subsection (a), (b), or
11 (c) of section 2251, or an attempt or conspiracy
12 to violate any of those subsections under sub-
13 section (e) of that section;

14 “(D) a violation of section 2251A;

15 “(E) a violation of section 2252(a)(4) or
16 2252A(a)(5), or an attempt or conspiracy to
17 violate either of those sections under section
18 2252(b)(2) or 2252A(b)(2), to the extent such
19 conduct involves child pornography—

20 “(i) produced by the defendant; or

21 “(ii) that the defendant attempted or
22 conspired to produce;

23 “(F) a violation of subsection (a)(7) of sec-
24 tion 2252A, or an attempt or conspiracy to vio-
25 late that subsection under subsection (b)(3) of

1 that section, to the extent the conduct involves
2 production with intent to distribute;

3 “(G) a violation of section 2252A(g) if the
4 series of felony violations involves not fewer
5 than 1 violation—

6 “(i) described in subparagraph (A),
7 (B), (E), or (F) of this paragraph;

8 “(ii) of section 1591; or

9 “(iii) of section 1201, chapter 109A,
10 or chapter 117, if the victim is a minor;

11 “(H) a violation of subsection (a) of sec-
12 tion 2260, or an attempt or conspiracy to vio-
13 late that subsection under subsection (c)(1) of
14 that section;

15 “(I) a violation of section 2260B(a)(2) for
16 promoting or facilitating an offense—

17 “(i) described in subparagraph (A),
18 (B), (D), or (E) of this paragraph; or

19 “(ii) under section 2422(b); and

20 “(J) a violation of chapter 109A or chap-
21 ter 117, if the offense involves the production
22 or attempted production of, or conspiracy to
23 produce, child pornography.”;

24 (ii) by striking paragraph (3) and in-
25 serting the following:

1 “(3) TRAFFICKING IN CHILD PORNOGRAPHY.—

2 For purposes of this section and section 2259A, the

3 term ‘trafficking in child pornography’ means—

4 “(A) a violation of, attempted violation of,

5 or conspiracy to violate section 1466A(a) to the

6 extent the conduct involves distribution or re-

7 ceipt of a visual depiction of an identifiable

8 minor;

9 “(B) a violation of, attempted violation of,

10 or conspiracy to violate section 1466A(a) involv-

11 ing possession with intent to distribute, or sec-

12 tion 1466A(b), to the extent the conduct in-

13 volves a visual depiction of an identifiable

14 minor—

15 “(i) not produced by the defendant; or

16 “(ii) that the defendant did not at-

17 tempt or conspire to produce;

18 “(C) a violation of subsection (d) of section

19 2251 or an attempt or conspiracy to violate

20 that subsection under subsection (e) of that sec-

21 tion;

22 “(D) a violation of paragraph (1), (2), or

23 (3) of subsection (a) of section 2252, or an at-

24 tempt or conspiracy to violate any of those

1 paragraphs under subsection (b)(1) of that sec-
2 tion;

3 “(E) a violation of section 2252(a)(4) or
4 2252A(a)(5), or an attempt or conspiracy to
5 violate either of those sections under section
6 2252(b)(2) or 2252A(b)(2), to the extent such
7 conduct involves child pornography—

8 “(i) not produced by the defendant; or

9 “(ii) that the defendant did not at-
10 tempt or conspire to produce;

11 “(F) a violation of paragraph (1), (2), (3),
12 (4), or (6) of subsection (a) of section 2252A,
13 or an attempt or conspiracy to violate any of
14 those paragraphs under subsection (b)(1) of
15 that section;

16 “(G) a violation of subsection (a)(7) of sec-
17 tion 2252A, or an attempt or conspiracy to vio-
18 late that subsection under subsection (b)(3) of
19 that section, to the extent the conduct involves
20 distribution;

21 “(H) a violation of section 2252A(g) if the
22 series of felony violations exclusively involves
23 violations described in this paragraph (except
24 subparagraphs (A) and (B));

1 “(I) a violation of subsection (b) of section
2 2260, or an attempt or conspiracy to violate
3 that subsection under subsection (c)(2) of that
4 section; and

5 “(J) a violation of subsection (a)(1) of sec-
6 tion 2260B, or a violation of subsection (a)(2)
7 of that section for promoting or facilitating an
8 offense described in this paragraph (except sub-
9 paragraphs (A) and (B)).”; and

10 (iii) in paragraph (4), in the first sen-
11 tence, by inserting “or an identifiable
12 minor harmed as a result of the commis-
13 sion of a crime under section 1466A” after
14 “under this chapter”;

15 (4) in section 2259A(a)—

16 (A) in paragraph (1), by striking “under
17 section 2252(a)(4) or 2252A(a)(5)” and insert-
18 ing “described in subparagraph (B) or (E) of
19 section 2259(e)(3)”; and

20 (B) in paragraph (2), by striking “any
21 other offense for trafficking in child pornog-
22 raphy” and inserting “any offense for traf-
23 ficking in child pornography other than an of-
24 fense described in subparagraph (B) or (E) of
25 section 2259(e)(3)”; and

1 (5) in section 2429—

2 (A) in subsection (b)(3), by striking
3 “2259(b)(3)” and inserting “2259(c)(2)”; and

4 (B) in subsection (d)—

5 (i) by inserting “(1)” after “(d)”;
6 (ii) by striking “chapter, including,
7 in” and inserting the following: “chapter.
8 “(2) In”; and

9 (iii) in paragraph (2), as so des-
10 ignated, by inserting “may assume the
11 rights of the victim under this section”
12 after “suitable by the court”; and

13 (6) in section 3664, by adding at the end the
14 following:

15 “(q) TRUSTEE OR OTHER FIDUCIARY.—

16 “(1) IN GENERAL.—

17 “(A) APPOINTMENT OF TRUSTEE OR
18 OTHER FIDUCIARY.—When the court issues an
19 order of restitution under section 1593, 2248,
20 2259, 2429, or 3663, or subparagraphs (A)(i)
21 and (B) of section 3663A(c)(1), for a victim de-
22 scribed in subparagraph (B) of this paragraph,
23 the court, at its own discretion or upon motion
24 by the Government, may appoint a trustee or
25 other fiduciary to hold any amount paid for res-

1 titution in a trust or other official account for
2 the benefit of the victim.

3 “(B) COVERED VICTIMS.—A victim re-
4 ferred to in subparagraph (A) is a victim who
5 is—

6 “(i) under the age of 18 at the time
7 of the proceeding;

8 “(ii) incompetent or incapacitated; or

9 “(iii) subject to paragraph (3), a for-
10 eign citizen or stateless person residing
11 outside the United States.

12 “(2) ORDER.—When the court appoints a trust-
13 ee or other fiduciary under paragraph (1), the court
14 shall issue an order specifying—

15 “(A) the duties of the trustee or other fi-
16 duciary, which shall require—

17 “(i) the administration of the trust or
18 maintaining an official account in the best
19 interests of the victim; and

20 “(ii) disbursing payments from the
21 trust or account—

22 “(I) to the victim; or

23 “(II) to any individual or entity
24 on behalf of the victim;

25 “(B) that the trustee or other fiduciary—

1 “(i) shall avoid any conflict of inter-
2 est;

3 “(ii) may not profit from the adminis-
4 tration of the trust or maintaining an offi-
5 cial account for the benefit of the victim
6 other than as specified in the order; and

7 “(iii) may not delegate administration
8 of the trust or maintaining the official ac-
9 count to any other person;

10 “(C) if and when the trust or the duties of
11 the other fiduciary will expire; and

12 “(D) the fees payable to the trustee or
13 other fiduciary to cover expenses of admin-
14 istering the trust or maintaining the official ac-
15 count for the benefit of the victim, and the
16 schedule for payment of those fees.

17 “(3) FACT-FINDING REGARDING FOREIGN CITI-
18 ZENS AND STATELESS PERSON.—In the case of a
19 victim who is a foreign citizen or stateless person re-
20 siding outside the United States and is not under
21 the age of 18 at the time of the proceeding or in-
22 competent or incapacitated, the court may appoint a
23 trustee or other fiduciary under paragraph (1) only
24 if the court finds it necessary to—

1 “(A) protect the safety or security of the
2 victim; or

3 “(B) provide a reliable means for the vic-
4 tim to access or benefit from the restitution
5 payments.

6 “(4) PAYMENT OF FEES.—

7 “(A) IN GENERAL.—The court may, with
8 respect to the fees of the trustee or other fidu-
9 ciary—

10 “(i) pay the fees in whole or in part;

11 or

12 “(ii) order the defendant to pay the
13 fees in whole or in part.

14 “(B) APPLICABILITY OF OTHER PROVI-
15 SIONS.—With respect to a court order under
16 subparagraph (A)(ii) requiring a defendant to
17 pay fees—

18 “(i) subsection (f)(3) shall apply to
19 the court order in the same manner as
20 that subsection applies to a restitution
21 order;

22 “(ii) subchapter C of chapter 227
23 (other than section 3571) shall apply to
24 the court order in the same manner as

1 that subchapter applies to a sentence of a
2 fine; and

3 “(iii) subchapter B of chapter 229
4 shall apply to the court order in the same
5 manner as that subchapter applies to the
6 implementation of a sentence of a fine.

7 “(C) EFFECT ON OTHER PENALTIES.—Im-
8 position of payment under subparagraph (A)(ii)
9 shall not relieve a defendant of, or entitle a de-
10 fendant to a reduction in the amount of, any
11 special assessment, restitution, other fines, pen-
12 alties, or costs, or other payments required
13 under the defendant’s sentence.

14 “(D) SCHEDULE.—Notwithstanding any
15 other provision of law, if the court orders the
16 defendant to make any payment under subpara-
17 graph (A)(ii), the court may provide a payment
18 schedule that is concurrent with the payment of
19 any other financial obligation described in sub-
20 paragraph (C).

21 “(5) AUTHORIZATION OF APPROPRIATIONS.—

22 “(A) IN GENERAL.—There is authorized to
23 be appropriated to the United States courts to
24 carry out this subsection \$15,000,000 for each
25 fiscal year.

1 “(B) SUPERVISION OF PAYMENTS.—Pay-
2 ments from appropriations authorized under
3 subparagraph (A) shall be made under the su-
4 pervision of the Director of the Administrative
5 Office of the United States Courts.”.

6 (c) CYBERTIPLINE IMPROVEMENTS, AND ACCOUNT-
7 ABILITY AND TRANSPARENCY BY THE TECH INDUSTRY.—

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

10 (A) in section 2258A—

11 (i) by striking subsections (a), (b),
12 and (c) and inserting the following:

13 “(a) DUTY TO REPORT.—

14 “(1) DUTY.—In order to reduce the prolifera-
15 tion of online child sexual exploitation and to pre-
16 vent the online sexual exploitation of children, as
17 soon as reasonably possible after obtaining actual
18 knowledge of any facts or circumstances described in
19 paragraph (2) or any apparent child pornography on
20 the provider’s service, and in any event not later
21 than 60 days after obtaining such knowledge, a pro-
22 vider shall submit to the CyberTipline of NCMEC,
23 or any successor to the CyberTipline operated by
24 NCMEC, a report that—

25 “(A) shall contain—

1 “(i) the mailing address, telephone
2 number, facsimile number, electronic mail-
3 ing address of, and individual point of con-
4 tact for, such provider; and

5 “(ii) information or material described
6 in subsection (b)(1)(A) concerning such
7 facts or circumstances or apparent child
8 pornography; and

9 “(B) may contain information described in
10 subsection (b)(2), including any available infor-
11 mation to identify or locate any involved minor.

12 “(2) FACTS OR CIRCUMSTANCES.—The facts or
13 circumstances described in this paragraph are any
14 facts or circumstances indicating an apparent,
15 planned, or imminent violation of section 1591 (if
16 the violation involves a minor), 2251, 2251A, 2252,
17 2252A, 2252B, 2260, or 2422(b).

18 “(3) COMPLAINANT INFORMATION.—For a re-
19 port premised on a complaint or notification sub-
20 mitted to a provider by a user of the provider’s
21 product or service, or a parent, guardian, or rep-
22 resentative of such user, the provider shall take rea-
23 sonable measures to determine what information or
24 material in the user’s account shall be included in
25 the report as provided in subsection (b)(1)(A)(vi).

1 “(b) CONTENTS OF REPORT.—

2 “(1) IN GENERAL.—In an effort to prevent the
3 future sexual victimization of children, and to the
4 extent the information is within the custody or con-
5 trol of a provider, each report provided under sub-
6 section (a)(1)—

7 “(A) shall include, to the extent that it is
8 applicable and reasonably available—

9 “(i) the name, address, electronic mail
10 address, user or account identification,
11 Internet Protocol address, port number,
12 and uniform resource locator of any indi-
13 vidual who is a subject of the report;

14 “(ii) the terms of service in effect at
15 the time of—

16 “(I) the apparent violation; or

17 “(II) the detection of apparent
18 child pornography or a planned or im-
19 minent violation;

20 “(iii) a copy of any apparent child
21 pornography that is the subject of the re-
22 port, or all accessible chats, messages, or
23 text exchanges that are related to the re-
24 port, that were identified in a publicly
25 available location;

1 “(iv) for each item of apparent child
2 pornography included in the report under
3 clause (iii) or paragraph (2)(E), informa-
4 tion indicating whether—

5 “(I) the apparent child pornog-
6 raphy was publicly available; or

7 “(II) the provider, in its sole dis-
8 cretion, viewed the apparent child por-
9 nography, or any copy thereof, at any
10 point concurrent with or prior to the
11 submission of the report;

12 “(v) for each item of apparent child
13 pornography that is the subject of the re-
14 port, an indication as to whether the ap-
15 parent child pornography—

16 “(I) is created in whole or in part
17 through the use of software, machine
18 learning, artificial intelligence, or any
19 other computer-generated or techno-
20 logical means, including by adapting,
21 modifying, manipulating, or altering
22 an authentic visual depiction;

23 “(II) has previously been the
24 subject of a report under subsection
25 (a)(1); or

1 “(III) is the subject of multiple
2 contemporaneous reports due to rapid
3 and widespread distribution; and

4 “(vi) any and all information or mate-
5 rial (including apparent child pornography,
6 chats, messages, or text exchanges) relat-
7 ing to the subject of the report in the ac-
8 count of a user of the provider’s product or
9 service, if the user, or the parent, guard-
10 ian, or representative of such user—

11 “(I) provided the information or
12 material in a notification or complaint
13 to the provider;

14 “(II) indicates that such informa-
15 tion or material should be included in
16 the report; or

17 “(III) consents to the inclusion of
18 such information or material in the
19 report; and

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

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

1 “(A) INFORMATION ABOUT ANY INVOLVED
2 INDIVIDUAL.—Any information relating to the
3 identity or location of any individual who is a
4 subject of the report, including payment or fi-
5 nancial information (excluding personally iden-
6 tifiable information) and self-reported identi-
7 fying or locating information.

8 “(B) INFORMATION ABOUT ANY INVOLVED
9 MINOR.—Information relating to the identity or
10 location of any involved minor, which may in-
11 clude an address, electronic mail address, Inter-
12 net Protocol address, port number, uniform re-
13 source locator, payment or financial information
14 (excluding personally identifiable information),
15 or any other information that may identify or
16 locate any involved minor, including self-re-
17 ported identifying or locating information.

18 “(C) HISTORICAL REFERENCE.—Informa-
19 tion relating to when and how a customer or
20 subscriber of a provider uploaded, transmitted,
21 or received content relating to the report or
22 when and how content relating to the report
23 was reported to, or discovered by the provider,
24 including a date and time stamp and time zone.

1 “(D) GEOGRAPHIC LOCATION INFORMA-
2 TION.—Information relating to the geographic
3 location of the involved individual or website,
4 which may include the Internet Protocol ad-
5 dress, port number, or verified address, or, if
6 not reasonably available, at least one form of
7 geographic identifying information, including
8 area code or ZIP Code, provided by the cus-
9 tomer or subscriber, or stored or obtained by
10 the provider.

11 “(E) APPARENT CHILD PORNOGRAPHY.—
12 Any apparent child pornography not described
13 in paragraph (1)(A)(iii), or other content re-
14 lated to the subject of the report.

15 “(F) COMPLETE COMMUNICATION.—The
16 complete communication containing any appar-
17 ent child pornography or other content, includ-
18 ing—

19 “(i) any data or information regard-
20 ing the transmission of the communication;
21 and

22 “(ii) any visual depictions, data, or
23 other digital files contained in, or attached
24 to, the communication.

1 “(G) TECHNICAL IDENTIFIER.—An indus-
2 try-standard hash value or other similar indus-
3 try-standard technical identifier for any re-
4 ported visual depiction as it existed on the pro-
5 vider’s service.

6 “(H) DESCRIPTION.—For any item of ap-
7 parent child pornography that is the subject of
8 the report, an indication of whether—

9 “(i) the depicted sexually explicit con-
10 duct involves—

11 “(I) genital, oral, or anal sexual
12 intercourse;

13 “(II) bestiality;

14 “(III) masturbation;

15 “(IV) sadistic or masochistic
16 abuse; or

17 “(V) lascivious exhibition of the
18 anus, genitals, or pubic area of any
19 person; and

20 “(ii) the depicted minor is—

21 “(I) an infant or toddler;

22 “(II) prepubescent;

23 “(III) pubescent;

24 “(IV) post-pubescent; or

1 “(V) of an indeterminate age or
2 developmental stage.

3 “(I) CHATS, MESSAGES, OR TEXT EX-
4 CHANGES.—Chats, messages, or text exchanges
5 that fully provide the context for the report.

6 “(3) FORMATTING OF REPORTS.—When a pro-
7 vider includes any information described in para-
8 graph (1) or, at its sole discretion, any information
9 described in paragraph (2) in a report to the
10 CyberTipline of NCMEC, or any successor to the
11 CyberTipline operated by NCMEC, the provider
12 shall use best efforts to ensure that the report con-
13 forms with the structure of the CyberTipline or the
14 successor, as applicable.

15 “(c) FORWARDING OF REPORT AND OTHER INFOR-
16 MATION TO LAW ENFORCEMENT.—

17 “(1) IN GENERAL.—Pursuant to its clearing-
18 house role as a private, nonprofit organization, and
19 at the conclusion of its review in furtherance of its
20 nonprofit mission, NCMEC shall make available
21 each report submitted under subsection (a)(1) to one
22 or more of the following law enforcement agencies:

23 “(A) Any Federal law enforcement agency
24 that is involved in the investigation of child sex-

1 ual exploitation, kidnapping, or enticement
2 crimes.

3 “(B) Any State or local law enforcement
4 agency that is involved in the investigation of
5 child sexual exploitation.

6 “(C) A foreign law enforcement agency
7 designated by the Attorney General under sub-
8 section (d)(3) or a foreign law enforcement
9 agency that has an established relationship with
10 the Federal Bureau of Investigation, Immigra-
11 tion and Customs Enforcement, or
12 INTERPOL, and is involved in the investiga-
13 tion of child sexual exploitation, kidnapping, or
14 enticement crimes.

15 “(2) TECHNICAL IDENTIFIERS.—If a report
16 submitted under subsection (a)(1) contains an in-
17 dustry-standard hash value or other similar indus-
18 try-standard technical identifier—

19 “(A) NCMEC may compare that hash
20 value or identifier with any database or reposi-
21 tory of visual depictions owned or operated by
22 NCMEC; and

23 “(B) if the comparison under subpara-
24 graph (A) results in a match, NCMEC may in-
25 clude the matching visual depiction from its

1 database or repository when forwarding the re-
2 port to an agency described in subparagraph
3 (A) or (B) of paragraph (1).”;

4 (ii) in subsection (d)—

5 (I) in paragraph (2), by striking
6 “subsection (c)(1)” and inserting
7 “subsection (c)(1)(A)”;

8 (II) in paragraph (3)—

9 (aa) in subparagraph (A),
10 by striking “subsection (c)(3)”
11 and inserting “subsection
12 (c)(1)(C)”;

13 (bb) in subparagraph (C),
14 by striking “subsection (c)(3)”
15 and inserting “subsection
16 (c)(1)(C)”;

17 (III) in paragraph (5)(B)—

18 (aa) in clause (i), by striking
19 “forwarded” and inserting “made
20 available”;

21 (bb) in clause (ii), by strik-
22 ing “forwarded” and inserting
23 “made available”;

24 (iii) by striking subsection (e) and in-
25 serting the following:

1 “(e) FAILURE TO COMPLY WITH REQUIREMENTS.—

2 “(1) CRIMINAL PENALTY.—

3 “(A) OFFENSE.—It shall be unlawful for a
4 provider to knowingly—

5 “(i) fail to submit a report under sub-
6 section (a)(1) within the time period re-
7 quired by that subsection; or

8 “(ii) fail to preserve material as re-
9 quired under subsection (h).

10 “(B) PENALTY.—

11 “(i) IN GENERAL.—A provider that
12 violates subparagraph (A) shall be fined—

13 “(I) in the case of an initial vio-
14 lation, not more than—

15 “(aa) \$850,000 if the pro-
16 vider has not fewer than
17 100,000,000 monthly active
18 users; or

19 “(bb) \$600,000 if the pro-
20 vider has fewer than 100,000,000
21 monthly active users; and

22 “(II) in the case of any second or
23 subsequent violation, not more than—

24 “(aa) \$1,000,000 if the pro-
25 vider has not fewer than

1 100,000,000 monthly active
2 users; or

3 “(bb) \$850,000 if the pro-
4 vider has fewer than 100,000,000
5 monthly active users.

6 “(ii) HARM TO INDIVIDUALS.—The
7 maximum fine under clause (i) shall be
8 doubled if an individual is harmed as a di-
9 rect and proximate result of the applicable
10 violation.

11 “(2) CIVIL PENALTY.—

12 “(A) VIOLATIONS RELATING TO
13 CYBERTIPLINE REPORTS AND MATERIAL PRES-
14 ERVATION.—A provider shall be liable to the
15 United States Government for a civil penalty in
16 an amount of not less than \$50,000 and not
17 more than \$250,000 if the provider know-
18 ingly—

19 “(i) fails to submit a report under
20 subsection (a)(1) within the time period re-
21 quired by that subsection;

22 “(ii) fails to preserve material as re-
23 quired under subsection (h); or

24 “(iii) submits a report under sub-
25 section (a)(1) that—

1 “(I) contains materially false or
2 fraudulent information; or

3 “(II) omits information described
4 in subsection (b)(1)(A) that is reason-
5 ably available.

6 “(B) ANNUAL REPORT VIOLATIONS.—A
7 provider shall be liable to the United States
8 Government for a civil penalty in an amount of
9 not less than \$100,000 and not more than
10 \$1,000,000 if the provider knowingly—

11 “(i) fails to submit an annual report
12 as required under subsection (i); or

13 “(ii) submits an annual report under
14 subsection (i) that—

15 “(I) contains a materially false,
16 fraudulent, or misleading statement;
17 or

18 “(II) omits information described
19 in subsection (i)(1) that is reasonably
20 available.

21 “(C) HARM TO INDIVIDUALS.—The
22 amount of a civil penalty under subparagraph
23 (A) or (B) shall be tripled if an individual is
24 harmed as a direct and proximate result of the
25 applicable violation.

1 “(D) COSTS OF CIVIL ACTIONS.—A pro-
2 vider that commits a violation described in sub-
3 paragraph (A) or (B) shall be liable to the
4 United States Government for the costs of a
5 civil action brought to recover a civil penalty
6 under that subparagraph.

7 “(E) ENFORCEMENT.—This paragraph
8 shall be enforced in accordance with sections
9 3731, 3732, and 3733 of title 31, except that
10 a civil action to recover a civil penalty under
11 subparagraph (A) or (B) of this paragraph may
12 only be brought by the United States Govern-
13 ment.

14 “(3) DEPOSIT OF FINES AND PENALTIES.—
15 Notwithstanding any other provision of law, any
16 criminal fine or civil penalty collected under this
17 subsection shall be deposited into the Child Pornog-
18 raphy Victims Reserve as provided in section
19 2259B.”;

20 (iv) in subsection (f), by striking para-
21 graph (3) and inserting the following:

22 “(3) affirmatively search, screen, or scan for—

23 “(A) facts or circumstances described in
24 subsection (a)(2);

1 “(B) information described in subsection
2 (b)(2); or

3 “(C) any apparent child pornography.”;

4 (v) in subsection (g)—

5 (I) in paragraph (2)(A)—

6 (aa) in clause (iii), by insert-
7 ing “or personnel at a children’s
8 advocacy center” after “State”);
9 and

10 (bb) in clause (iv), by strik-
11 ing “State or subdivision of a
12 State” and inserting “State, sub-
13 division of a State, or children’s
14 advocacy center”; and

15 (II) in paragraph (3), in the mat-
16 ter preceding subparagraph (A), by
17 striking “subsection (a)” and insert-
18 ing “subsection (a)(1)”;

19 (vi) in subsection (h), by striking
20 paragraph (5) and inserting the following:

21 “(5) RELATION TO REPORTING REQUIRE-
22 MENT.—Submission of a report as described in sub-
23 section (a)(1) does not satisfy the obligations under
24 this subsection.”; and

1 (vii) by adding at the end the fol-
2 lowing:

3 “(i) ANNUAL REPORT.—

4 “(1) IN GENERAL.—Not later than March 31 of
5 the second year beginning after the date of enact-
6 ment of this subsection, and of each year thereafter,
7 a provider that had more than 1,000,000 unique
8 monthly visitors or users during each month of the
9 preceding year and accrued revenue of more than
10 \$50,000,000 during the preceding year shall submit
11 to the Attorney General and the Chair of the Fed-
12 eral Trade Commission a report, disaggregated by
13 subsidiary, that provides the following information
14 for the preceding year to the extent such informa-
15 tion is applicable and reasonably available:

16 “(A) CYBERTIPLINE DATA.—

17 “(i) The total number of reports that
18 the provider submitted under subsection
19 (a)(1).

20 “(ii) Which items of information de-
21 scribed in subsection (b)(2) are routinely
22 included in the reports submitted by the
23 provider under subsection (a)(1).

24 “(B) OTHER REPORTING TO THE PRO-
25 VIDER.—

1 “(i) The measures the provider has in
2 place to receive other reports concerning
3 child sexual exploitation and abuse using
4 the provider’s product or on the provider’s
5 service.

6 “(ii) The average time for responding
7 to reports described in clause (i).

8 “(iii) The number of reports described
9 in clause (i) that the provider received.

10 “(iv) A summary description of the
11 actions taken upon receipt of the reports
12 described in clause (i).

13 “(C) POLICIES.—

14 “(i) A description of the policies of
15 the provider with respect to the commis-
16 sion of child sexual exploitation and abuse
17 using the provider’s product or on the pro-
18 vider’s service, including how child sexual
19 exploitation and abuse is defined.

20 “(ii) A description of possible user
21 consequences for violations of the policies
22 described in clause (i).

23 “(iii) The methods of informing users
24 of the policies described in clause (i).

1 “(iv) The process for adjudicating po-
2 tential violations of the policies described
3 in clause (i).

4 “(D) CULTURE OF SAFETY.—

5 “(i) The measures, tools, and tech-
6 nologies that the provider deploys to—

7 “(I) protect children from sexual
8 exploitation and abuse using the pro-
9 vider’s product or service;

10 “(II) prevent or interdict activity
11 by children related to sexual exploi-
12 tation and abuse, including the post-
13 ing or sharing of intimate visual de-
14 pictions; and

15 “(III) accurately identify adult
16 and minor users.

17 “(ii) The measures, tools, and tech-
18 nologies that the provider deploys to em-
19 power parents and guardians to protect
20 their children from sexual exploitation and
21 abuse using the provider’s product or serv-
22 ice.

23 “(iii) The measures, tools, and tech-
24 nologies that the provider deploys to pre-
25 vent the use of the provider’s product or

1 service by individuals seeking to commit
2 child sexual exploitation and abuse.

3 “(iv) With respect to the measures,
4 tools, and technologies described in clauses
5 (i), (ii), and (iii)—

6 “(I) an assessment of their effi-
7 cacy, including any relevant quan-
8 titative information indicating when
9 and how often they are used; and

10 “(II) information on any factors
11 that limit their efficacy or create gaps
12 in their protection and efforts by the
13 provider to address those loopholes or
14 gaps.

15 “(v) A description of factors that
16 interfere with the provider’s ability to de-
17 tect or evaluate instances of child sexual
18 exploitation and abuse and an analysis of
19 the impact of those factors.

20 “(vi) Information shared by the pro-
21 vider with users about the risks to children
22 on the provider’s product or service con-
23 cerning sexual exploitation and abuse and
24 an assessment of the impact of the infor-
25 mation on users, including any relevant

1 quantitative information indicating how
2 often the information is reviewed.

3 “(E) SAFETY BY DESIGN.—The measures
4 that the provider takes before launching a new
5 product or service—

6 “(i) to assess—

7 “(I) the safety risks for children
8 with respect to sexual exploitation and
9 abuse; and

10 “(II) whether and how individ-
11 uals could use the new product or
12 service to commit child sexual exploi-
13 tation and abuse; and

14 “(ii) to determine—

15 “(I) the appropriate age for users
16 of the new product or service; and

17 “(II) whether the new product or
18 service will be adopted to commit
19 child sexual exploitation and abuse.

20 “(F) PREVALENCE, TRENDS, AND PAT-
21 TERNS.—Any information concerning—

22 “(i) the prevalence of child sexual ex-
23 ploitation and abuse on the provider’s
24 product or service, including the volume of
25 child pornography that is available and

1 that is being accessed, distributed, or re-
2 ceived; and

3 “(ii) emerging trends, risks, and
4 changing patterns with respect to the com-
5 mission of online child sexual exploitation
6 and abuse.

7 “(G) OTHER INFORMATION.—Any other
8 information relevant to child sexual exploitation
9 and abuse on the provider’s product or service.

10 “(2) AVOIDING DUPLICATION.—Notwith-
11 standing the requirement under the matter pre-
12 ceding paragraph (1) that information be submitted
13 annually, in the case of any report submitted under
14 that paragraph after the initial report, a provider
15 shall submit information described in subparagraphs
16 (C) through (F) of that paragraph not less fre-
17 quently than once every 3 years or when new infor-
18 mation is available, whichever is more frequent.

19 “(3) LIMITATION.—Nothing in paragraph (1)
20 shall require the disclosure of trade secrets or other
21 proprietary information.

22 “(4) PUBLICATION.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), the Attorney General and the Chair

1 of the Federal Trade Commission shall publish
2 the reports received under this subsection.

3 “(B) REDACTION.—

4 “(i) IN GENERAL.—Whether or not
5 such redaction is requested by the pro-
6 vider, the Attorney General and Chair of
7 the Federal Trade Commission shall redact
8 from a report published under subpara-
9 graph (A) any information as necessary to
10 avoid—

11 “(I) undermining the efficacy of
12 a safety measure described in the re-
13 port; or

14 “(II) revealing how a product or
15 service of a provider may be used to
16 commit online child sexual exploi-
17 tation and abuse.

18 “(ii) ADDITIONAL REDACTION.—

19 “(I) REQUEST.—In addition to
20 information redacted under clause (i),
21 a provider may request the redaction,
22 from a report published under sub-
23 paragraph (A), of any information
24 that is law enforcement sensitive or

1 otherwise not suitable for public dis-
2 tribution.

3 “(II) AGENCY DISCRETION.—The
4 Attorney General and Chair of the
5 Federal Trade Commission—

6 “(aa) shall consider a re-
7 quest made under subclause (I);
8 and

9 “(bb) may, in their discre-
10 tion, redact from a report pub-
11 lished under subparagraph (A)
12 any information pursuant to the
13 request.”;

14 (B) in section 2258B—

15 (i) by striking subsection (a) and in-
16 serting the following:

17 “(a) IN GENERAL.—

18 “(1) LIMITED LIABILITY.—Except as provided
19 in subsection (b), a civil claim or criminal charge de-
20 scribed in paragraph (2) may not be brought in any
21 Federal or State court.

22 “(2) COVERED CLAIMS AND CHARGES.—A civil
23 claim or criminal charge referred to in paragraph
24 (1) is a civil claim or criminal charge against a pro-
25 vider or domain name registrar, including any direc-

1 tor, officer, employee, or agent of such provider or
2 domain name registrar, that is directly attributable
3 to—

4 “(A) the performance of the reporting or
5 preservation responsibilities of such provider or
6 domain name registrar under this section, sec-
7 tion 2258A, or section 2258C;

8 “(B) transmitting, distributing, or mailing
9 child pornography to any Federal, State, or
10 local law enforcement agency, or giving such
11 agency access to child pornography, in response
12 to a search warrant, court order, or other legal
13 process issued or obtained by such agency; or

14 “(C) the use by the provider or domain
15 name registrar of any material being preserved
16 under section 2258A(h) by such provider or
17 registrar for research and the development and
18 training of tools, undertaken voluntarily and in
19 good faith for the sole and exclusive purpose
20 of—

21 “(i) improving or facilitating reporting
22 under this section, section 2258A, or sec-
23 tion 2258C; or

24 “(ii) stopping the online sexual exploi-
25 tation of children.”; and

1 (ii) in subsection (b)—

2 (I) in paragraph (1), by striking
3 “; or” and inserting “or knowingly
4 failed to comply with a requirement
5 under section 2258A;”;

6 (II) in paragraph (2)(C)—

7 (aa) by striking “sections”
8 and inserting “this section or
9 section”; and

10 (bb) by striking the period
11 and inserting “; or”; and

12 (III) by adding at the end the
13 following:

14 “(3) for purposes of subsection (a)(2)(C),
15 knowingly distributed or transmitted the material, or
16 made the material available, except as required by
17 law, to—

18 “(A) any other entity;

19 “(B) any person not employed by the pro-
20 vider or domain name registrar; or

21 “(C) any person employed by the provider
22 or domain name registrar who is not conducting
23 any research described in that subsection.”;

24 (C) in section 2258C—

1 (i) in the section heading, by striking
2 **“the CyberTipline”** and inserting
3 **“NCMEC”**;

4 (ii) in subsection (a)—

5 (I) in the subsection heading, by
6 striking **“ELEMENTS”** and inserting
7 **“INFORMATION SHARING WITH PRO-**
8 **VIDERS AND ENTITIES FOR THE PUR-**
9 **POSES OF PREVENTING AND CUR-**
10 **TAILING THE ONLINE SEXUAL EX-**
11 **PLOITATION OF CHILDREN”**;

12 (II) in paragraph (1)—

13 (aa) by striking **“to a pro-**
14 **vider”** and inserting the fol-
15 **lowing: “or submission to the**
16 **Child Victim Identification Pro-**
17 **gram to—**

18 **“(A) a provider”**;

19 (bb) in subparagraph (A), as
20 so designated—

21 (AA) by inserting **“use**
22 **of the provider’s products or**
23 **services to commit”** after
24 **“stop the”**; and

1 (BB) by striking the
2 period at the end and insert-
3 ing “; or”; and

4 (cc) by adding at the end
5 the following:

6 “(B) an entity for the sole and exclusive
7 purpose of preventing and curtailing the online
8 sexual exploitation of children.”; and

9 (III) in paragraph (2)—

10 (aa) in the heading, by
11 striking “INCLUSIONS” and in-
12 sserting “ELEMENTS”;

13 (bb) by striking “unique
14 identifiers” and inserting “simi-
15 lar technical identifiers”;

16 (cc) by inserting “or con-
17 tent, elements, or reported mate-
18 rials,” after “visual depiction,”;

19 (dd) by inserting a comma
20 after “location”;

21 (ee) by striking “and any
22 other elements”; and

23 (ff) by inserting “or submis-
24 sion to the Child Victim Identi-

1 fication Program” after

2 “CyberTipline report”;

3 (iii) in subsection (b)—

4 (I) in the heading, by inserting

5 “OR ENTITIES” after “PROVIDERS”;

6 (II) by striking “Any provider”

7 and inserting the following:

8 “(1) IN GENERAL.—Any provider or entity”;

9 (III) in paragraph (1), as so des-
10 ignated—

11 (aa) by striking “receives”
12 and inserting “obtains”; and

13 (bb) by inserting “or sub-
14 mission to the Child Victim Iden-
15 tification Program” after

16 “CyberTipline report”; and

17 (IV) by adding at the end the fol-
18 lowing:

19 “(2) LIMITATION ON SHARING WITH OTHER EN-
20 TITIES.—A provider or entity that obtains elements
21 under subsection (a)(1) may not distribute those ele-
22 ments, or make those elements available, to any
23 other entity, except for the sole and exclusive pur-
24 pose of curtailing, preventing, or stopping the online
25 sexual exploitation of children.”;

1 (iv) in subsection (c)—

2 (I) by striking “subsections” and
3 inserting “subsection”;

4 (II) by striking “providers receiv-
5 ing” and inserting “a provider or enti-
6 ty to obtain”;

7 (III) by inserting “or submission
8 to the Child Victim Identification Pro-
9 gram” after “CyberTipline report”;
10 and

11 (IV) by striking “to use the ele-
12 ments to stop the online sexual exploi-
13 tation of children”; and

14 (v) in subsection (d), by inserting “or
15 to the Child Victim Identification Pro-
16 gram” after “CyberTipline”;

17 (D) in section 2258E—

18 (i) in paragraph (6), by striking “elec-
19 tronic communication service provider”
20 and inserting “electronic communication
21 service”;

22 (ii) in paragraph (7), by striking
23 “and” at the end;

1 (iii) in paragraph (8), by striking the
2 period at the end and inserting a semi-
3 colon; and

4 (iv) by adding at the end the fol-
5 lowing:

6 “(9) the term ‘publicly available’, with respect
7 to a visual depiction on a provider’s service, means
8 the visual depiction can be viewed by or is accessible
9 to all users of the service, regardless of the steps, if
10 any, a user must take to create an account or to
11 gain access to the service in order to access or view
12 the visual depiction; and

13 “(10) the term ‘Child Victim Identification Pro-
14 gram’ means the program described in section
15 404(b)(1)(K)(ii) of the Juvenile Justice and Delin-
16 quency Prevention Act of 1974 (34 U.S.C.
17 11293(b)(1)(K)(ii)).”;

18 (E) in section 2259B(a), by inserting “,
19 any fine or penalty collected under section
20 2258A(e),” after “2259A”; and

21 (F) by adding at the end the following:

22 **“§ 2260B. Liability for certain child sexual exploi-
23 tation offenses**

24 “(a) OFFENSE.—It shall be unlawful for a provider
25 of an interactive computer service, as that term is defined

1 in section 230 of the Communications Act of 1934 (47
2 U.S.C. 230), that operates through the use of any facility
3 or means of interstate or foreign commerce or in or affect-
4 ing interstate or foreign commerce, through such service
5 to—

6 “(1) intentionally host or store child pornog-
7 raphy or make child pornography available to any
8 person; or

9 “(2) knowingly promote or facilitate a violation
10 of section 2251, 2251A, 2252, 2252A, or 2422(b).

11 “(b) PENALTY.—A provider of an interactive com-
12 puter service that violates subsection (a)—

13 “(1) subject to paragraph (2), shall be fined not
14 more than \$1,000,000; and

15 “(2) if the offense involves a conscious or reck-
16 less risk of serious personal injury or an individual
17 is harmed as a direct and proximate result of the
18 violation, shall be fined not more than \$5,000,000.

19 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to apply to any good faith action
21 by a provider of an interactive computer service that is
22 necessary to comply with a valid court order, subpoena,
23 search warrant, statutory obligation, or preservation re-
24 quest from law enforcement.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for chapter 110 of title 18, United States
3 Code, is amended by adding at the end the fol-
4 lowing:

“2260B. Liability for certain child sexual exploitation offenses.”.

5 (3) EFFECTIVE DATE FOR AMENDMENTS TO
6 REPORTING REQUIREMENTS OF PROVIDERS.—The
7 amendments made by subsection (a)(1) of this sec-
8 tion shall take effect on the date that is 120 days
9 after the date of enactment of this Act.

10 (d) EXPANDING CIVIL REMEDIES FOR VICTIMS OF
11 ONLINE CHILD SEXUAL EXPLOITATION.—

12 (1) STATEMENT OF INTENT.—Nothing in this
13 section shall be construed to abrogate or narrow any
14 case law concerning section 2255 of title 18, United
15 States Code.

16 (2) CIVIL REMEDY FOR PERSONAL INJURIES.—
17 Section 2255(a) of title 18, United States Code, is
18 amended—

19 (A) by striking “IN GENERAL.—Any per-
20 son who, while a minor, was a victim of a viola-
21 tion of section 1589, 1590, 1591, 2241(c),
22 2242, 2243, 2251, 2251A, 2252, 2252A, 2260,
23 2421, 2422, or 2423 of this title and who suf-
24 fers personal injury as a result of such viola-
25 tion, regardless of whether the injury occurred

1 while such person was a minor, may sue” and
2 inserting the following: “PRIVATE RIGHT OF
3 ACTION.—

4 “(1) IN GENERAL.—Any person described in
5 subparagraph (A), (B), or (C) of paragraph (2) who
6 suffers personal injury as a result of a violation de-
7 scribed in that subparagraph, regardless of whether
8 the injury occurred while such person was a minor,
9 may bring a civil action”; and

10 (B) by adding at the end the following:

11 “(2) ELIGIBLE PERSONS.—Paragraph (1) shall
12 apply to any person—

13 “(A) who, while a minor, was a victim of—

14 “(i) a violation of section 1589, 1590,
15 1591, 2241, 2242, 2243, 2251, 2251A,
16 2260(a), 2421, 2422, or 2423;

17 “(ii) an attempt to violate section
18 1589, 1590, or 1591 under section
19 1594(a);

20 “(iii) a conspiracy to violate section
21 1589 or 1590 under section 1594(b); or

22 “(iv) a conspiracy to violate section
23 1591 under section 1594(c);

24 “(B) who—

1 “(i) is depicted as a minor in child
2 pornography; and

3 “(ii) is a victim of a violation of 2252,
4 2252A, or 2260(b) (regardless of when the
5 violation occurs); or

6 “(C) who—

7 “(i) is depicted as an identifiable
8 minor in a visual depiction described in
9 section 1466A; and

10 “(ii) is a victim of a violation of that
11 section (regardless of when the violation
12 occurs).”.

13 (3) CIVIL REMEDY AGAINST ONLINE PLAT-
14 FORMS AND APP STORES.—

15 (A) IN GENERAL.—Chapter 110 of title
16 18, United States Code, is amended by insert-
17 ing after section 2255 the following:

18 **“§ 2255A. Additional remedy for certain victims of**
19 **child pornography or child sexual exploi-**
20 **tation**

21 “(a) IN GENERAL.—

22 “(1) PROMOTION OR AIDING AND ABETTING OF
23 CERTAIN VIOLATIONS.—Any person who is a victim
24 of the intentional, knowing, or reckless promotion, or
25 aiding and abetting, of a violation of section 1591 or

1 1594(e) (involving a minor), or section 2251, 2251A,
2 2252, 2252A, or 2422(b), where such promotion, or
3 aiding and abetting, is by a provider of an inter-
4 active computer service or an app store, and who
5 suffers personal injury as a result of such promotion
6 or aiding and abetting, regardless of when the injury
7 occurred, may bring a civil action in any appropriate
8 United States District Court for relief set forth in
9 subsection (b).

10 “(2) ACTIVITIES INVOLVING CHILD PORNOG-
11 RAPHY.—Any person who is a victim of the inten-
12 tional, knowing, or reckless hosting or storing of
13 child pornography or making child pornography
14 available to any person by a provider of an inter-
15 active computer service, and who suffers personal in-
16 jury as a result of such hosting, storing, or making
17 available, regardless of when the injury occurred,
18 may bring a civil action in any appropriate United
19 States District Court for relief set forth in sub-
20 section (b).

21 “(b) RELIEF.—In a civil action brought by a person
22 under subsection (a)—

23 “(1) the person shall recover the actual dam-
24 ages the person sustains or liquidated damages in
25 the amount of \$300,000, and the cost of the action,

1 including reasonable attorney fees and other litiga-
2 tion costs reasonably incurred; and

3 “(2) the court may, in addition to any other re-
4 lief available at law, award punitive damages and
5 such other preliminary and equitable relief as the
6 court determines to be appropriate, including a tem-
7 porary restraining order, a preliminary injunction, or
8 a permanent injunction ordering the defendant to
9 cease the offending conduct.

10 “(c) STATUTE OF LIMITATIONS.—There shall be no
11 time limit for the filing of a complaint commencing an
12 action under subsection (a).

13 “(d) VENUE; SERVICE OF PROCESS.—

14 “(1) VENUE.—Any action brought under sub-
15 section (a) may be brought in the district court of
16 the United States that meets applicable require-
17 ments relating to venue under section 1391 of title
18 28.

19 “(2) SERVICE OF PROCESS.—In an action
20 brought under subsection (a), process may be served
21 in any district in which the defendant—

22 “(A) is an inhabitant; or

23 “(B) may be found.

24 “(e) RELATION TO SECTION 230 OF THE COMMU-
25 NICATIONS ACT OF 1934.—Nothing in section 230 of the

1 Communications Act of 1934 (47 U.S.C. 230) shall be
2 construed to impair or limit any claim brought under sub-
3 section (a).

4 “(f) RULES OF CONSTRUCTION.—

5 “(1) APPLICABILITY TO LEGAL PROCESS OR OB-
6 LIGATION.—Nothing in this section shall be con-
7 strued to apply to any good faith action that is nec-
8 essary to comply with a valid court order, subpoena,
9 search warrant, statutory obligation, or preservation
10 request from law enforcement.

11 “(2) APPLICATION OF SECTION 2258B.—A civil
12 action brought under subsection (a) shall be subject
13 to section 2258B.

14 “(g) ENCRYPTION TECHNOLOGIES.—

15 “(1) IN GENERAL.—None of the following ac-
16 tions or circumstances shall serve as an independent
17 basis for liability under subsection (a):

18 “(A) Utilizing full end-to-end encrypted
19 messaging services, device encryption, or other
20 encryption services.

21 “(B) Not possessing the information nec-
22 essary to decrypt a communication.

23 “(C) Failing to take an action that would
24 otherwise undermine the ability to offer full

1 end-to-end encrypted messaging services, device
2 encryption, or other encryption services.

3 “(2) CONSIDERATION OF EVIDENCE.—Evidence
4 of actions or circumstances described in paragraph
5 (1) shall be admissible in a civil action brought
6 under subsection (a) if—

7 “(A) the actions or circumstances are rel-
8 evant under rules 401 and 402 of the Federal
9 Rules of Evidence to—

10 “(i) prove motive, intent, preparation,
11 plan, absence of mistake, or lack of acci-
12 dent; or

13 “(ii) rebut any evidence or factual or
14 legal claim; and

15 “(B) the actions or circumstances—

16 “(i) are otherwise admissible under
17 the Federal Rules of Evidence; and

18 “(ii) are not subject to exclusion
19 under rule 403 or any other rule of the
20 Federal Rules of Evidence.

21 “(3) NO EFFECT ON DISCOVERY.—Nothing in
22 paragraph (1) or (2) shall be construed to create a
23 defense to a discovery request or otherwise limit or
24 affect discovery in any civil action brought under
25 subsection (a).

1 “(h) DEFENSE.—In a civil action under subsection
2 (a)(2) involving knowing or reckless conduct, it shall be
3 a defense at trial, which the provider of an interactive
4 computer service must establish by a preponderance of the
5 evidence as determined by the finder of fact, that—

6 “(1) the provider disabled access to or removed
7 the child pornography within a reasonable time-
8 frame, and in any event not later than 48 hours
9 after obtaining knowledge that the child pornog-
10 raphy was being hosted, stored, or made available by
11 the provider (or, in the case of a provider that, for
12 the most recent calendar year, averaged fewer than
13 10,000,000 active users on a monthly basis in the
14 United States, within a reasonable timeframe, and
15 in any event not later than 2 business days after ob-
16 taining such knowledge);

17 “(2) the provider exercised a reasonable, good
18 faith effort to disable access to or remove the child
19 pornography but was unable to do so for reasons
20 outside the provider’s control; or

21 “(3) it is technologically impossible for the pro-
22 vider to disable access to or remove the child por-
23 nography without compromising encryption tech-
24 nologies.

1 “(i) SANCTIONS FOR REPEATED BAD FAITH CIVIL
2 ACTIONS OR DEFENSES.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) BAD FAITH CIVIL ACTION.—The term
5 ‘bad faith civil action’ means a civil action
6 brought under subsection (a) in bad faith where
7 the finder of fact determines that at the time
8 the civil action was filed, the party, attorney, or
9 law firm described in paragraph (2) had actual
10 knowledge that—

11 “(i) the alleged conduct did not in-
12 volve any minor; or

13 “(ii) the alleged child pornography did
14 not depict—

15 “(I) any minor; or

16 “(II) sexually explicit conduct,
17 sexual suggestiveness, full or partial
18 nudity, or implied sexual activity.

19 “(B) BAD FAITH DEFENSE.—The term
20 ‘bad faith defense’ means a defense in a civil
21 action brought under subsection (a) raised in
22 bad faith where the finder of fact determines
23 that at the time the defense was raised, the
24 party, attorney, or law firm described in para-

1 graph (3) had actual knowledge that the de-
2 fense—

3 “(i) was made solely for the purpose
4 of delaying the civil action or increasing
5 the costs of the civil action; or

6 “(ii) was objectively baseless in light
7 of the applicable law or facts at issue.

8 “(2) BAD FAITH CIVIL ACTION.—In the case of
9 a civil action brought under subsection (a), the court
10 may impose sanctions on—

11 “(A) the party bringing the civil action if
12 the court finds that the party has brought 2 or
13 more bad faith civil actions (which may include
14 the instant civil action); or

15 “(B) an attorney or law firm representing
16 the party bringing the civil action if the court
17 finds that the attorney or law firm has rep-
18 resented—

19 “(i) a party who has brought 2 or
20 more bad faith civil actions (which may in-
21 clude the instant civil action); or

22 “(ii) 2 or more parties who have each
23 brought a bad faith civil action (which may
24 include the instant civil action).

1 “(3) BAD FAITH DEFENSE.—In the case of a
2 civil action brought under subsection (a), the court
3 may impose sanctions on—

4 “(A) the party defending the civil action if
5 the court finds that the party has raised 2 or
6 more bad faith defenses (which may include 1
7 or more defenses raised in the instant civil ac-
8 tion); or

9 “(B) an attorney or law firm representing
10 the party defending the civil action if the court
11 finds that the attorney or law firm has rep-
12 resented—

13 “(i) a party who has raised 2 or more
14 bad faith defenses (which may include 1 or
15 more defenses raised in the instant civil ac-
16 tion); or

17 “(ii) 2 or more parties who have each
18 raised a bad faith defense (which may in-
19 clude a defense raised in the instant civil
20 action).

21 “(4) IMPLEMENTATION.—Rule 11(c) of the
22 Federal Rules of Civil Procedure shall apply to sanc-
23 tions imposed under this subsection in the same
24 manner as that rule applies to sanctions imposed for
25 a violation of rule 11(b) of those Rules.

1 “(5) RULES OF CONSTRUCTION.—

2 “(A) RULE 11.—This subsection shall not
3 be construed to limit or expand the application
4 of rule 11 of the Federal Rules of Civil Proce-
5 dure.

6 “(B) DEFINITION CHANGE.—Paragraph
7 (1)(A)(ii) shall not be construed to apply to a
8 civil action affected by a contemporaneous
9 change in the law with respect to the definition
10 of ‘child pornography’.

11 “(j) DEFINITIONS.—In this section:

12 “(1) APP.—The term ‘app’ means a software
13 application or electronic service that may be run or
14 directed by a user on a computer, a mobile device,
15 or any other general purpose computing device.

16 “(2) APP STORE.—The term ‘app store’ means
17 a publicly available website, software application, or
18 other electronic service that—

19 “(A) distributes apps from third-party de-
20 velopers to users of a computer, a mobile de-
21 vice, or any other general purpose computing
22 device; and

23 “(B) operates—

1 “(i) through the use of any means or
2 facility of interstate or foreign commerce;

3 or

4 “(ii) in or affecting interstate or for-
5 eign commerce.

6 “(3) INTERACTIVE COMPUTER SERVICE.—The
7 term ‘interactive computer service’ means an inter-
8 active computer service, as defined in section 230(f)
9 of the Communications Act of 1934 (47 U.S.C.
10 230(f)), that operates—

11 “(A) through the use of any means or fa-
12 cility of interstate or foreign commerce; or

13 “(B) in or affecting interstate or foreign
14 commerce.

15 “(k) SAVINGS CLAUSE.—Nothing in this section, in-
16 cluding the defenses under this section, shall be construed
17 to apply to any civil action brought under any other Fed-
18 eral law, rule, or regulation, including any civil action
19 brought against a provider of an interactive computer
20 service or an app store under section 1595 or 2255.”.

21 (B) CLERICAL AMENDMENT.—The table of
22 sections for chapter 110 of title 18, United
23 States Code, is amended by inserting after the
24 item relating to section 2255 the following:

“2255A. Additional remedy for certain victims of child pornography or child sexual exploitation.”.

1 (e) SEVERABILITY.—If any provision of this section,
2 an amendment made by this section, or the application
3 of such provision or amendment to any person or cir-
4 cumstance is held to be unconstitutional, the remainder
5 of this section and the amendments made by this section,
6 and the application of the provision or amendment to any
7 other person or circumstance, shall not be affected.

8 (f) CONTINUED APPLICABILITY OF FEDERAL,
9 STATE, AND TRIBAL LAW.—

10 (1) FEDERAL LAW.—Nothing in this section or
11 the amendments made by this section, nor any rule
12 or regulation issued pursuant to this section or the
13 amendments made by this section, shall affect or di-
14 minish any right or remedy for a victim of child por-
15 nography or child sexual exploitation under any
16 other Federal law, rule, or regulation, including any
17 claim under section 2255 of title 18, United States
18 Code, with respect to any individual or entity.

19 (2) STATE OR TRIBAL LAW.—Nothing in this
20 section or the amendments made by this section, nor
21 any rule or regulation issued pursuant to this sec-
22 tion or the amendments made by this section,
23 shall—

24 (A) preempt, diminish, or supplant any
25 right or remedy for a victim of child pornog-

1 raphy or child sexual exploitation under any
2 State or Tribal common or statutory law; or

3 (B) prohibit the enforcement of a law gov-
4 erning child pornography or child sexual exploi-
5 tation that is at least as protective of the rights
6 of a victim as this section and the amendments
7 made by this section.

