To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself and Mr. Sasse) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Internet Sexual Exploitation Act”.

SEC. 2. DEFINITIONS.

(a) IN GENERAL.—In this Act—

(1) the term “Commission” means the Federal Trade Commission;
(2) the term “covered platform” means an online platform that hosts and makes available to the general public pornographic images; and

(3) the term “pornographic image” means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct.

(b) Terms Defined in Section 2256 of Title 18, United States Code.—For purposes of subsection (a)(3), the terms “computer”, “sexually explicit conduct” and “visual depiction” have the meanings given those terms in section 2256 of title 18, United States Code.

SEC. 3. DUTIES OF ONLINE PLATFORMS THAT HOST PORNOGRAPHY.

(a) Upload Requirements.—

(1) In general.—A covered platform shall require any user who uploads a pornographic image to the platform to—

(A) verify—

(i) the identity of the user; and

(ii) that the user is not less than the minimum age required to consent to sexual
acts under the law of the State in which
the user resides; and

(B) upload a signed consent form from
each individual appearing in the pornographic
image that includes—

(i) the name and electronic signature
of the individual;

(ii) a statement that the consent is for
distribution of the specific pornographic
image; and

(iii) the geographic area for which the
individual consents to distribution of the
pornographic image.

(2) EFFECTIVE DATE; APPLICABILITY.—Para-

graph (1) shall—

(A) take effect on the date that is 14 days
after the date of enactment of this Act; and

(B) apply to any pornographic image
uploaded to a covered platform before, on, or
after that effective date.

(b) MEANS OF REMOVAL.—

(1) NOTICE.—A covered platform shall display
a notice on the website or mobile application of the
platform, in the form of a prominently visible ban-
ner, that provides instructions on how an individual
or an authorized representative of an individual, or
a law enforcement officer, can request removal of a
pornographic image from the platform, including
through the hotline required under paragraph (2), if
the individual appears in the pornographic image
and has not consented to the pornographic image
being uploaded to the platform.

(2) Hotline.—

(A) In general.—A covered platform
shall operate a 24-hour telephone hotline that
an individual or an authorized representative of
an individual, or a law enforcement officer, can
contact to request removal of a pornographic
image from the platform if the individual ap-
ppears in the pornographic image and has not
consented to the pornographic image being
uploaded to the platform.

(B) Fraudulent claims.—It shall be un-
lawful for an individual to abuse a hotline de-
scribed in subparagraph (A) by submitting
fraudulent claims.

(3) Timing of removal.—If a covered plat-
form receives notice through any mechanism offered
by the platform as described in paragraph (1) that
a pornographic image has been uploaded to the plat-
form without the consent of an individual who appears in the pornographic image, the platform shall remove the pornographic image from the platform as quickly as possible, and in any event not later than 2 hours after receiving the notice.

(c) Prohibition on Downloads.—On and after the date that is 90 days after the date of enactment of this Act, a covered platform may not permit the download to a retrievable data file of any pornographic image from the platform.

(d) Blocking Re-uploads.—On and after the date that is 180 days after the date of enactment of this Act, a covered platform shall block any pornographic image that has been removed from the platform in accordance with this section from being re-uploaded to the platform.

(e) Enforcement by Federal Trade Commission.—

(1) Unfair or Deceptive Acts or Practices.—A violation of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of Commission.—
(A) IN GENERAL.—Except as provided in subparagraph (C), the Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) PRIVILEGES AND IMMUNITIES.—Except as provided in subparagraph (C), any person who violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(C) NONPROFIT ORGANIZATIONS AND COMMON CARRIERS.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Commission, the Commission shall also enforce this section, in the same manner provided in subparagraphs (A) and (B) of this paragraph, with respect to—
(i) organizations not organized to carry on business for their own profit or that of their members; and

(ii) common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and any Act amendatory thereof or supplementary thereto.

(3) **Substantial Compliance.**—The Commission may elect not to enforce a violation of this section by a covered platform that has demonstrated substantial compliance with this section.

**SEC. 4. DATABASE.**

(a) **Establishment.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish a database of individuals who have indicated that they do not consent to the uploading to any covered platform of any pornographic images in which the individuals appear.

(b) **Personally Identifiable Information.**—The Attorney General shall protect the personally identifiable information of any individual listed in the database established under subsection (a).

(c) **Verification by Platforms Required.**—Before allowing a pornographic image to be uploaded to a covered platform, the platform shall ensure that no indi-
individual who appears in the pornographic image is listed in
the database established under subsection (a).

(d) Civil Penalty.—

(1) In general.—The Attorney General shall
impose a civil penalty on any covered platform that
violates subsection (c) in an amount of not more
than $1,000 for each day or fraction thereof during
which a pornographic image is hosted on the plat-
form in violation of that subsection.

(2) Use of funds.—The Attorney General
shall use the proceeds of a civil penalty imposed
under paragraph (1) for services to individuals
whose image is uploaded to a covered platform in
violation of this Act.

(c) Regulations.—Not later than 90 days after the
date of enactment of this Act, the Attorney General shall
promulgate regulations specifying—

(1) where the database established under sub-
section (a) will be housed; and

(2) an entity, whether an office of the Depart-
ment of Justice or a nonprofit organization that re-
ceives a grant from the Department, that can con-
nect individuals listed in the database with services,
including mental health counseling, medical treat-
ment, and legal services.
SEC. 5. PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—If a user of a covered platform uploads a pornographic image of an individual to the platform without the consent of the individual, the individual may bring a civil action against the user in an appropriate district court of the United States.

(b) STRICT LIABILITY.—In a civil action brought against a user of a covered platform under subsection (a), unless the user can prove bona fide consent from the plaintiff, the user shall be strictly liable to the plaintiff.

SEC. 6. RELATION TO COMMUNICATIONS DECENCY ACT.

Nothing in this Act shall be construed to affect section 230 of the Communications Act of 1934 (47 U.S.C. 230).