

115TH CONGRESS  
1ST SESSION

# H. R. 1865

To amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2017

Mrs. WAGNER (for herself, Mrs. BEATTY, Mr. SMITH of New Jersey, Ms. CLARKE of New York, Mr. POE of Texas, Mrs. CAROLYN B. MALONEY of New York, Mr. ROYCE of California, Mrs. ROBY, Mr. KINZINGER, and Ms. JENKINS of Kansas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Allow States and Vic-  
3 tims to Fight Online Sex Trafficking Act of 2017”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Section 230 of the Communications Act of  
7 1934 (47 U.S.C. 230; commonly known as the  
8 “Communications Decency Act of 1996”) was never  
9 intended to provide legal protection to websites that  
10 facilitate traffickers in advertising the sale of unlaw-  
11 ful sex acts with sex trafficking victims.

12 (2) Clarification of such section is warranted to  
13 ensure that such section does not provide such pro-  
14 tection to such websites.

15 **SEC. 3. ENSURING ABILITY TO ENFORCE FEDERAL AND**  
16 **STATE CRIMINAL AND CIVIL LAW RELATING**  
17 **TO SEXUAL EXPLOITATION OF CHILDREN OR**  
18 **SEX TRAFFICKING.**

19 (a) IN GENERAL.—Section 230 of the Communica-  
20 tions Act of 1934 (47 U.S.C. 230) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (4), by striking “; and”  
23 and inserting a semicolon;

24 (B) in paragraph (5), by striking the pe-  
25 riod at the end and inserting “; and”; and

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

1 “(6) to ensure vigorous enforcement against  
2 providers and users of interactive computer services  
3 of Federal and State criminal and civil law relating  
4 to sexual exploitation of children or sex trafficking,  
5 including through the availability of a civil remedy  
6 for victims of sex trafficking.”; and

7 (2) in subsection (e)—

8 (A) in paragraph (1)—

9 (i) by inserting “section 1591 of such  
10 title (relating to sex trafficking),” after  
11 “title 18, United States Code,”;

12 (ii) by striking “impair the enforce-  
13 ment of section” and inserting the fol-  
14 lowing: “impair the enforcement of, or  
15 limit the availability of victim restitution  
16 under—

17 “(A) section”; and

18 (iii) by striking “statute.” and insert-  
19 ing the following: “statute; or

20 “(B) any State criminal statute that pro-  
21 hibits—

22 “(i) sexual exploitation of children;

23 “(ii) sex trafficking of children; or

24 “(iii) sex trafficking by force, threats  
25 of force, fraud, or coercion.”;

1 (B) in the second sentence of paragraph  
 2 (3), by striking “No cause of action” and in-  
 3 serting “Except as provided in paragraphs  
 4 (1)(B) and (5)(B), no cause of action”; and

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

6 “(5) NO EFFECT ON CIVIL LAW RELATING TO  
 7 SEXUAL EXPLOITATION OF CHILDREN OR SEX TRAF-  
 8 FICKING.—Nothing in this section shall be construed  
 9 to impair the enforcement or limit the application  
 10 of—

11 “(A) section 1595 of title 18, United  
 12 States Code; or

13 “(B) any other Federal or State law that  
 14 provides causes of action, restitution, or other  
 15 civil remedies to victims of—

16 “(i) sexual exploitation of children;

17 “(ii) sex trafficking of children; or

18 “(iii) sex trafficking by force, threats  
 19 of force, fraud, or coercion.”.

20 (b) EFFECTIVE DATE.—The amendments made by  
 21 this section shall take effect on the date of the enactment  
 22 of this Act, and the amendment made by subsection  
 23 (a)(2)(C) (and, to the extent it relates to such amendment,  
 24 the amendment made by subsection (a)(2)(B)) shall apply  
 25 regardless of whether the conduct alleged occurred, or is

1 alleged to have occurred, before, on, or after such date  
2 of enactment.

3 **SEC. 4. ENSURING FEDERAL LIABILITY FOR PUBLISHING**  
4 **INFORMATION DESIGNED TO FACILITATE**  
5 **SEX TRAFFICKING.**

6 (a) IN GENERAL.—Section 1591 of title 18, United  
7 States Code, is amended—

8 (1) by redesignating subsection (e) as sub-  
9 section (f);

10 (2) in subsection (f), as redesignated by para-  
11 graph (1), by adding at the end the following:

12 “(6) ‘The terms ‘information content provider’  
13 and ‘interactive computer service’ have the meanings  
14 given those terms in section 230 of the Communica-  
15 tions Act of 1934 (47 U.S.C. 230).

16 “(7) The term ‘participation in a venture’ in-  
17 cludes knowing or reckless conduct by any person or  
18 entity and by any means that furthers or in anyway  
19 aids or abets the violation of subsection (a)(1).”;  
20 and

21 (3) by inserting after subsection (d) the fol-  
22 lowing:

23 “(e)(1) Whoever, being a provider of an interactive  
24 computer service, publishes information provided by an in-  
25 formation content provider, with reckless disregard that

1 the information provided by the information content pro-  
2 vider is in furtherance of an offense under subsection (a)  
3 or an attempt to commit such an offense, shall be fined  
4 in accordance with this title or imprisoned not more than  
5 20 years, or both.

6 “(2) Nothing in paragraph (1) shall be construed to  
7 require the Federal Government in a prosecution, or a  
8 plaintiff in a civil action, to prove any intent on the part  
9 of the information content provider.”.

10 (b) CLERICAL AMENDMENTS.—Such section is fur-  
11 ther amended by striking “subsection (e)(2)” each place  
12 it appears and inserting “subsection (f)(2)”.

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