

117TH CONGRESS
2D SESSION

S. 3777

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute private intimate visual depictions with reckless disregard for the individual’s lack of consent to the distribution, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 8 (legislative day, MARCH 7), 2022

Ms. KLOBUCHAR (for herself and Mr. BURR) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute private intimate visual depictions with reckless disregard for the individual’s lack of consent to the distribution, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Harmful
5 Image Exploitation and Limiting Distribution Act of
6 2022” or the “SHIELD Act of 2022”.

1 **SEC. 2. CERTAIN ACTIVITIES RELATING TO INTIMATE VIS-**
 2 **UAL DEPICTIONS.**

3 (a) IN GENERAL.—Chapter 88 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 1802. Certain activities relating to intimate visual**
 7 **depictions**

8 “(a) DEFINITIONS.—In this section:

9 “(1) COMMUNICATIONS SERVICE.—The term
 10 ‘communications service’ means—

11 “(A) a service provided by a person that is
 12 a common carrier, as that term is defined in
 13 section 3 of the Communications Act of 1934
 14 (47 U.S.C. 153), insofar as the person is acting
 15 as a common carrier;

16 “(B) an electronic communication service,
 17 as that term is defined in section 2510;

18 “(C) an information service, as that term
 19 is defined in section 3 of the Communications
 20 Act of 1934 (47 U.S.C. 153); and

21 “(D) an interactive computer service, as
 22 that term is defined in section 230(f) of the
 23 Communications Act of 1934 (47 U.S.C.
 24 230(f)).

25 “(2) INFORMATION CONTENT PROVIDER.—The
 26 term ‘information content provider’ has the meaning

1 given that term in section 230(f) of the Communica-
2 tions Act of 1934 (47 U.S.C. 230(f)).

3 “(3) INTIMATE VISUAL DEPICTION.—The term
4 ‘intimate visual depiction’ means any visual depic-
5 tion (as that term is defined in section 2256(5))—

6 “(A) of an individual who is reasonably
7 identifiable from the visual depiction itself or
8 information displayed in connection with the
9 visual depiction;

10 “(B) in which—

11 “(i) the individual has obtained 18
12 years of age and is engaging in sexually
13 explicit conduct; or

14 “(ii) the naked genitals, anus, pubic
15 area, or post-pubescent female nipple of
16 the individual are visible;

17 “(C) in which the content described in sub-
18 paragraph (B) is not simulated; and

19 “(D) in original or modified format.

20 “(4) SEXUALLY EXPLICIT CONDUCT.—The term
21 ‘sexually explicit conduct’ has the meaning given
22 that term in section 2256(2)(A).

23 “(b) OFFENSE.—Except as provided in subsection
24 (d), it shall be unlawful to knowingly use any means or

1 facility of interstate or foreign commerce to distribute an
2 intimate visual depiction of an individual—

3 “(1) with knowledge of or reckless disregard
4 for—

5 “(A) the lack of consent of the individual
6 to the distribution; and

7 “(B) the reasonable expectation of the in-
8 dividual that the depiction would remain pri-
9 vate; and

10 “(2) without an objectively reasonable belief
11 that such distribution touches upon a matter of pub-
12 lic concern.

13 “(c) PENALTY.—Any person who violates subsection
14 (b) shall be fined under this title, imprisoned not more
15 than 5 years, or both.

16 “(d) EXCEPTIONS.—

17 “(1) LAW ENFORCEMENT, LAWFUL REPORTING,
18 AND OTHER LEGAL PROCEEDINGS.—This section—

19 “(A) does not prohibit any lawful law en-
20 forcement, correctional, or intelligence activity;

21 “(B) shall not apply in the case of an indi-
22 vidual acting in good faith to report unlawful
23 activity or in pursuance of a legal or profes-
24 sional or other lawful obligation; and

1 “(C) shall not apply in the case of a docu-
2 ment production or filing associated with a legal
3 proceeding.

4 “(2) SERVICE PROVIDERS.—This section shall
5 not apply to any provider of a communications serv-
6 ice with regard to content provided by another infor-
7 mation content provider unless the provider of the
8 communications service intentionally solicits, or
9 knowingly and predominantly distributes, content
10 that the provider of the communications service ac-
11 tually knows is in violation of this section.

12 “(e) THREATS.—Any person who intentionally
13 threatens to commit an offense under subsection (b) shall
14 be punished as provided in subsection (c).

15 “(f) VENUE AND EXTRATERRITORIALITY.—A pros-
16 ecution under this section may be brought in a district
17 where the defendant or the depicted individual resides or
18 in a district where the intimate visual depictions are dis-
19 tributed or made available. There is extraterritorial Fed-
20 eral jurisdiction over an offense under this section if the
21 defendant or the depicted individual is a citizen or perma-
22 nent resident of the United States.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 of chapter 88 of title 18, United States Code, is amended

- 1 by inserting after the item relating to section 1801 the
- 2 following:

“1802. Certain activities relating to intimate visual depictions.”.

