

119TH CONGRESS  
1ST SESSION

# S. 1837

To improve rights to relief for individuals affected by non-consensual activities involving intimate digital forgeries, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 21, 2025

Mr. DURBIN (for himself, Mr. GRAHAM, Ms. KLOBUCHAR, Mr. KING, Mr. LEE, Mr. HEINRICH, Mr. WELCH, Mr. SCHUMER, and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To improve rights to relief for individuals affected by non-consensual activities involving intimate digital forgeries, 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 “Disrupt Explicit  
5 Forged Images And Non-Consensual Edits Act of 2025”  
6 or the “DEFIANCE Act of 2025”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1           (1) Digital forgeries, often called deepfakes, are  
2       synthetic images and videos that look realistic. The  
3       technology to create digital forgeries is now ubiq-  
4       uitous and easy to use. Hundreds of apps are avail-  
5       able that can quickly generate digital forgeries with-  
6       out the need for any technical expertise.

7           (2) Digital forgeries can be wholly fictitious but  
8       can also manipulate images of real people to depict  
9       sexually intimate conduct that did not occur. For ex-  
10      ample, some digital forgeries will paste the face of  
11      an individual onto the body of a real or fictitious in-  
12      dividual who is nude or who is engaging in sexual  
13      activity. Another example is a photograph of an indi-  
14      vidual that is manipulated to digitally remove the  
15      clothing of the individual so that the person appears  
16      to be nude.

17          (3) The individuals depicted in such digital for-  
18      geries are profoundly harmed when the content is  
19      produced with intent to disclose, disclosed, or ob-  
20      tained without the consent of those individuals.  
21      These harms are not mitigated through labels or  
22      other information that indicates that the depiction is  
23      fake.

24          (4) It can be destabilizing to victims whenever  
25      those victims are depicted in intimate digital for-

1       geries against their will, as the privacy of those vic-  
 2       tims is violated and the victims lose control over  
 3       their likeness and identity.

4           (5) Victims can feel helpless because the vic-  
 5       tims—

6           (A) may not be able to determine who has  
 7       created the content; and

8           (B) do not know how to prevent further  
 9       disclosure of the intimate digital forgery or how  
 10      to prevent more forgeries from being made.

11          (6) Victims may be fearful of being in public  
 12      out of concern that individuals the victims encounter  
 13      have seen the digital forgeries. This leads to social  
 14      rupture through the loss of the ability to trust, stig-  
 15      matization, and isolation.

16          (7) Victims of non-consensual, sexually intimate  
 17      digital forgeries may experience depression, anxiety,  
 18      and suicidal ideation. These victims may also experi-  
 19      ence the “silencing effect” in which the victims with-  
 20      draw from online spaces and public discourse to  
 21      avoid further abuse.

22          (8) Digital forgeries are often used to—

23           (A) harass victims, interfering with their  
 24      employment, education, reputation, or sense of  
 25      safety; or

1 (B) commit extortion, sexual assault, do-  
 2 mestic violence, and other crimes.

3 (9) Because of the harms caused by non-con-  
 4 sensual, sexually intimate digital forgeries, such dig-  
 5 ital forgeries are considered to be a form of image-  
 6 based sexual abuse.

7 **SEC. 3. CIVIL ACTION RELATING TO DISCLOSURE OF INTI-**  
 8 **MATE IMAGES.**

9 (a) DEFINITIONS.—Section 1309 of the Consolidated  
 10 Appropriations Act, 2022 (15 U.S.C. 6851) is amended—

11 (1) in the section heading, by inserting “**OR**  
 12 **NONCONSENSUAL ACTIVITY INVOLVING DIG-**  
 13 **ITAL FORGERIES**” after “**INTIMATE IMAGES**”;  
 14 and

15 (2) in subsection (a)—

16 (A) in paragraph (2), by inserting “com-  
 17 petent,” after “conscious,”;

18 (B) by striking paragraph (3);

19 (C) by redesignating paragraph (4) as  
 20 paragraph (3);

21 (D) by redesignating paragraphs (5) and  
 22 (6) as paragraphs (6) and (7), respectively;

23 (E) by inserting after paragraph (3) the  
 24 following:

1           “(4) IDENTIFIABLE INDIVIDUAL.—The term  
 2           ‘identifiable individual’ means an individual whose  
 3           body appears in whole or in part in an intimate vis-  
 4           ual depiction or intimate digital forgery and who is  
 5           identifiable by virtue of the individual’s face, like-  
 6           ness, or other distinguishing characteristic, such as  
 7           a unique birthmark or other recognizable feature, or  
 8           from information displayed in connection with the  
 9           intimate visual depiction or intimate digital forgery.

10           “(5) INTIMATE DIGITAL FORGERY.—

11           “(A) IN GENERAL.—The term ‘intimate  
 12           digital forgery’ means any intimate visual depic-  
 13           tion of an identifiable individual that—

14                   “(i) falsely represents, in whole or in  
 15                   part—

16                           “(I) the identifiable individual; or

17                           “(II) the conduct or content that  
 18                   makes the visual depiction intimate;

19                   “(ii) is created through the use of  
 20                   software, machine learning, artificial intel-  
 21                   ligence, or any other computer-generated  
 22                   or technological means, including by adapt-  
 23                   ing, modifying, manipulating, or altering  
 24                   an authentic visual depiction; and

“(iii) is indistinguishable from an authentic visual depiction of the identifiable individual when viewed as a whole by a reasonable person.

“(B) LABELS, DISCLOSURE, AND CONTEXT.—Any visual depiction described in subparagraph (A) constitutes an intimate digital forgery for purposes of this paragraph regardless of whether a label, information disclosed with the visual depiction, or the context or setting in which the visual depiction is disclosed states or implies that the visual depiction is not authentic.”; and

(F) in paragraph (6)(A), as so redesignated—

(i) in clause (i), by striking “or” at the end;

(ii) in clause (ii)—

(I) in subclause (I), by striking “individual;” and inserting “individual; or”; and

(II) by striking subclause (III);

and

(iii) by adding at the end the following:

1 “(iii) an identifiable individual engag-  
2 ing in sexually explicit conduct; and”.

3 (b) CIVIL ACTION.—Section 1309(b) of the Consoli-  
4 dated Appropriations Act, 2022 (15 U.S.C. 6851(b)) is  
5 amended—

6 (1) in paragraph (1)—

7 (A) by striking subparagraph (A) and in-  
8 serting the following:

9 “(A) IN GENERAL.—Except as provided in  
10 paragraph (5)—

11 “(i) an identifiable individual whose  
12 intimate visual depiction is disclosed, in or  
13 affecting interstate or foreign commerce or  
14 using any means or facility of interstate or  
15 foreign commerce, without the consent of  
16 the identifiable individual, where such dis-  
17 closure was made by a person who knows  
18 or recklessly disregards that the identifi-  
19 able individual has not consented to such  
20 disclosure, may bring a civil action against  
21 that person in an appropriate district court  
22 of the United States for relief as set forth  
23 in paragraph (3);

24 “(ii) an identifiable individual who is  
25 the subject of an intimate digital forgery

1 may bring a civil action in an appropriate  
2 district court of the United States for re-  
3 lief as set forth in paragraph (3) against  
4 any person that knowingly produced or  
5 possessed the intimate digital forgery with  
6 intent to disclose it, knowingly disclosed  
7 the intimate digital forgery, or knowingly  
8 solicited and received the intimate digital  
9 forgery, if—

10 “(I) the identifiable individual  
11 did not consent to such production or  
12 possession with intent to disclose, dis-  
13 closure, or solicitation and receipt;

14 “(II) the person knew or reck-  
15 lessly disregarded that the identifiable  
16 individual did not consent to such pro-  
17 duction or possession with intent to  
18 disclose, disclosure, or solicitation and  
19 receipt; and

20 “(III) such production or posses-  
21 sion with intent to disclose, disclosure,  
22 or solicitation and receipt, is in or af-  
23 fects interstate or foreign commerce  
24 or uses any means or facility of inter-  
25 state or foreign commerce; and

1 “(iii) an identifiable individual who is  
2 the subject of an intimate digital forgery  
3 may bring a civil action in an appropriate  
4 district court of the United States for re-  
5 lief as set forth in paragraph (3) against  
6 any person that knowingly produced the  
7 intimate digital forgery if—

8 “(I) the identifiable individual  
9 did not consent to such production;

10 “(II) the person knew or reck-  
11 lessly disregarded that the identifiable  
12 individual—

13 “(aa) did not consent to  
14 such production; and

15 “(bb) was harmed, or was  
16 reasonably likely to be harmed,  
17 by the production; and

18 “(III) such production is in or  
19 affects interstate or foreign commerce  
20 or uses any means or facility of inter-  
21 state or foreign commerce.”; and

22 (B) in subparagraph (B)—

23 (i) in the subparagraph heading, by  
24 inserting “IDENTIFIABLE” before “INDI-  
25 VIDUALS”; and

1           (ii) by striking “an individual who is  
 2           under 18 years of age, incompetent, inca-  
 3           pacitated, or deceased, the legal guardian  
 4           of the individual” and inserting “an identi-  
 5           fiable individual who is under 18 years of  
 6           age, incompetent, incapacitated, or de-  
 7           ceased, the legal guardian of the identifi-  
 8           able individual”;

9           (2) in paragraph (2)—

10           (A) in subparagraph (A)—

11               (i) by inserting “identifiable” before  
 12               “individual”;

13               (ii) by striking “depiction” and insert-  
 14               ing “intimate visual depiction or intimate  
 15               digital forgery”; and

16               (iii) by striking “distribution” and in-  
 17               serting “disclosure, solicitation, or posses-  
 18               sion”; and

19           (B) in subparagraph (B)—

20               (i) by inserting “identifiable” before  
 21               “individual”;

22               (ii) by inserting “or intimate digital  
 23               forgery” after “depiction” each place it ap-  
 24               pears; and

1 (iii) by inserting “, solicitation, or  
2 possession” after “disclosure”;

3 (3) by redesignating paragraph (4) as para-  
4 graph (5);

5 (4) by striking paragraph (3) and inserting the  
6 following:

7 “(3) RELIEF.—

8 “(A) IN GENERAL.—In a civil action filed  
9 under this section, an identifiable individual  
10 may recover—

11 “(i) damages as provided under sub-  
12 paragraph (C); and

13 “(ii) the cost of the action, including  
14 reasonable attorney fees and other litiga-  
15 tion costs reasonably incurred.

16 “(B) PUNITIVE DAMAGES AND OTHER RE-  
17 LIEF.—The court may, in addition to any other  
18 relief available at law, award punitive damages  
19 or order equitable relief, including a temporary  
20 restraining order, a preliminary injunction, or a  
21 permanent injunction ordering the defendant to  
22 delete, destroy, or cease to display or disclose  
23 the intimate visual depiction or intimate digital  
24 forgery.

1 “(C) DAMAGES.—For purposes of subpara-  
2 graph (A)(i), the identifiable individual may re-  
3 cover—

4 “(i) liquidated damages in the amount  
5 of—

6 “(I) \$150,000; or

7 “(II) \$250,000 if the conduct at  
8 issue in the claim was—

9 “(aa) committed in relation  
10 to actual or attempted sexual as-  
11 sault, stalking, or harassment of  
12 the identifiable individual by the  
13 defendant; or

14 “(bb) the direct and proximate  
15 cause of actual or at-  
16 tempted sexual assault, stalking,  
17 or harassment of the identifiable  
18 individual by any person; or

19 “(ii) actual damages sustained by the  
20 individual, which shall include any profits  
21 of the defendant that are attributable to  
22 the conduct at issue in the claim that are  
23 not otherwise taken into account in com-  
24 puting the actual damages.

1           “(D) CALCULATION OF DEFENDANT’S  
 2           PROFIT.—For purposes of subparagraph (C)(ii),  
 3           to establish the defendant’s profits, the identifi-  
 4           able individual shall be required to present  
 5           proof only of the gross revenue of the defend-  
 6           ant, and the defendant shall be required to  
 7           prove the deductible expenses of the defendant  
 8           and the elements of profit attributable to fac-  
 9           tors other than the conduct at issue in the  
 10          claim.

11          “(4) PRESERVATION OF PRIVACY.—In a civil  
 12          action filed under this section, the court may issue  
 13          an order to protect the privacy of a plaintiff, includ-  
 14          ing by—

15               “(A) permitting the plaintiff to use a pseu-  
 16               donym;

17               “(B) requiring the parties to redact the  
 18               personal identifying information of the plaintiff  
 19               from any public filing, or to file such documents  
 20               under seal; and

21               “(C) issuing a protective order for pur-  
 22               poses of discovery, which may include an order  
 23               indicating that any intimate visual depiction or  
 24               intimate digital forgery shall remain in the  
 25               care, custody, and control of the court.”;

1 (5) in paragraph (5)(A), as so redesignated—

2 (A) by striking “image” and inserting “vis-  
3 ual depiction or intimate digital forgery”; and

4 (B) by striking “depicted” and inserting  
5 “identifiable”; and

6 (6) by adding at the end the following:

7 “(6) STATUTE OF LIMITATIONS.—Any action  
8 commenced under this section shall be barred unless  
9 the complaint is filed not later than 10 years from  
10 the later of—

11 “(A) the date on which the identifiable in-  
12 dividual reasonably discovers the violation that  
13 forms the basis for the claim; or

14 “(B) the date on which the identifiable in-  
15 dividual reaches 18 years of age.

16 “(7) DUPLICATIVE RECOVERY BARRED.—No re-  
17 lief may be ordered under paragraph (3) against a  
18 person who is subject to a judgment under section  
19 2255 of title 18, United States Code, for the same  
20 conduct involving the same identifiable individual  
21 and the same intimate visual depiction or intimate  
22 digital forgery.”.

23 (c) CONTINUED APPLICABILITY OF FEDERAL,  
24 STATE, AND TRIBAL LAW.—

1           (1) IN GENERAL.—This Act shall not be con-  
2       strued to impair, supersede, or limit a provision of  
3       Federal, State, or Tribal law.

4           (2) NO PREEMPTION.—Nothing in this Act  
5       shall prohibit a State or Tribal government from  
6       adopting and enforcing a provision of law governing  
7       disclosure of intimate images or nonconsensual activ-  
8       ity involving an intimate digital forgery, as defined  
9       in section 1309(a) of the Consolidated Appropria-  
10      tions Act, 2022 (15 U.S.C. 6851(a)), as amended by  
11      this Act, that is at least as protective of the rights  
12      of a victim as this Act.

13 **SEC. 4. SEVERABILITY; RULE OF CONSTRUCTION.**

14       (a) SEVERABILITY.—If any provision of this Act, an  
15      amendment made by this Act, or the application of such  
16      a provision or amendment to any person or circumstance,  
17      is held to be unconstitutional, the remaining provisions of  
18      and amendments made by this Act, and the application  
19      of the provision or amendment held to be unconstitutional  
20      to any other person or circumstance, shall not be affected  
21      thereby.

22       (b) RULE OF CONSTRUCTION.—Nothing in this Act,  
23      or an amendment made by this Act, shall be construed

- 1 to limit or expand any law pertaining to intellectual prop-
- 2 erty.

