

PROVIDING FOR CONSIDERATION OF THE BILL (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

FEBRUARY 26, 2018.—Referred to the House Calendar and ordered to be printed

Mr. COLLINS of Georgia, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 748]

The Committee on Rules, having had under consideration House Resolution 748, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1865, Allow States and Victims to Fight Online Sex Trafficking Act of 2017, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amend-

ments printed in this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment in the nature of a substitute made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Goodlatte (VA): Makes technical changes to the bill, adds “attempt” language that had been inadvertently omitted, clarifies that only sex trafficking victims may recover restitution, and permits the existing affirmative defense to be raised in cases where a defendant is being prosecuted under subsection 2421A(b)(1). (10 minutes)

2. Walters, Mimi (CA): Allows enforcement of criminal and civil sex trafficking laws against websites that knowingly facilitate online sex trafficking. (10 minutes)

3. Jackson Lee (TX): Requests GAO study of: (1) civil damages claimed and awarded in civil actions where the claimant alleges the defendant promoted or facilitated the prostitution of five or more people, or acted in reckless disregard of the fact that their conduct contributed to sex trafficking, filed pursuant to 18 USC 2421A(c); and (2) mandatory restitution requested and orders imposed by courts where a defendant is convicted of using or operating a facility or means of interstate or foreign commerce with intent to promote or facilitate the prostitution of another, promoted or facilitated the prostitution of five or more people, or acted in reckless disregard of the fact that their conduct contributed to sex trafficking, pursuant to 18 USC 2421A(d). (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, beginning on line 12, strike “contribute to sex trafficking” and insert “websites that facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims”.

Page 6, beginning on line 8, strike “Whoever uses or operates a facility or means of interstate or foreign commerce or attempts to do so” and insert “Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service (as such term is defined in defined in section 230(f) the Communications Act of 1934 (47 U.S.C. 230(f))), or conspires or attempts to do so,”.

Page 6, beginning on line 13, strike “Whoever uses or operates a facility or means of interstate or foreign commerce” and insert “Whoever, using a facility or means of interstate or foreign commerce or in or affecting interstate or foreign commerce, owns, manages, or operates an interactive computer service (as such term is defined in defined in section 230(f) the Communications Act of 1934 (47 U.S.C. 230(f))), or conspires or attempts to do so,”.

Page 7, line 1, strike “Consistent” and all that follows through line 7.

Page 7, line 11, strike “offense under this section.” and insert the following: “violation of subsection (b)(2). The scope and nature of such restitution shall be consistent with section 2327(b).”.

Page 7, line 13, insert after “subsection (a)” the following: “, or subsection (b)(1)”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALTERS OF CALIFORNIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 21, strike “COMMUNICATIONS DECENCY ACT” and insert “ENSURING ABILITY TO ENFORCE FEDERAL AND STATE CRIMINAL AND CIVIL LAW RELATING TO SEX TRAFFICKING”.

Page 7, line 22, strike “Section 230” and insert “(a) IN GENERAL—Section 230”.

Page 8, strike line 1 and all that follows through line 13, and insert the following:

“(5) NO EFFECT ON SEX TRAFFICKING LAW.—Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit—

“(A) any claim in a civil action brought under section 1595 of title 18, United States Code, if the conduct underlying the claim constitutes a violation of section 1591 of that title;

“(B) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 1591 of title 18, United States Code; or

“(C) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 2421A of title 18, United States Code, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant’s promotion or facilitation of prostitution was targeted.”.

Page 8, after line 13, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and the amendment made by subsection (a) shall apply regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after such date of enactment.

SEC. 5. ENSURING FEDERAL LIABILITY FOR PUBLISHING INFORMATION DESIGNED TO FACILITATE SEX TRAFFICKING OR OTHERWISE FACILITATING SEX TRAFFICKING.

Section 1591(e) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) The term ‘participation in a venture’ means knowingly assisting, supporting, or facilitating a violation of subsection (a)(1).”.

SEC. 6. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) **IN GENERAL.**—Section 1595 of title 18, United States Code, is amended by adding at the end the following:

“(d) In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates section 1591, the attorney general of the State, as *parens patriae*, may bring a civil action against such person on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.”.

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 1595 of title 18, United States Code, is amended—

(1) in subsection (b)(1), by striking “this section” and inserting “subsection (a)”; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking “this section” and inserting “subsection (a)”.

Page 8, line 14, strike “5” and insert “7”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of the bill the following:

SEC. 6. GAO STUDY.

On the date that is 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate, a report which includes the following:

(1) Information on each civil action brought pursuant to section 2421A(c) of title 18, United States Code, that resulted in an award of damages, including the amount claimed, the nature or description of the losses claimed to support the amount claimed, the losses proven, and the nature or description of the losses proven to support the amount awarded.

(2) Information on each civil action brought pursuant to section 2421A(c) of title 18, United States Code, that did not result in an award of damages, including—

(A) the amount claimed and the nature or description of the losses claimed to support the amount claimed; and

(B) whether the case was dismissed, and if the case was dismissed, information describing the reason for the dismissal.

(3) Information on each order of restitution entered pursuant to section 2421A(d) of title 18, United States Code, including—

(A) whether the defendant was a corporation or an individual;

(B) the amount requested by the Government and the justification for, and calculation of, the amount requested, if restitution was requested; and

(C) the amount ordered by the court and the justification for, and calculation of, the amount ordered.

(4) For each defendant convicted of violating section 2421A(b) of title 18, United States Code, that was not ordered to pay restitution—

(A) whether the defendant was a corporation or an individual;

(B) the amount requested by the Government, if restitution was requested; and

(C) information describing the reason that the court did not order restitution.