

HOUSE No. 4153

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to reduce the incidence and sharing of child sexual abuse material (CSAM).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/19/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>2/22/2021</i>

HOUSE No. 4153

By Mr. Kearney of Scituate, a petition (accompanied by bill, House, No. 4153) of Patrick Joseph Kearney and David F. DeCoste for legislation to reduce the incidence and sharing of child sexual abuse material. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to reduce the incidence and sharing of child sexual abuse material (CSAM).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 93L the
2 following chapter:-

3 Chapter 93M

4 Reduced Transmission of Child Sexual Abuse Material

5 Section 1. As used in this chapter the following terms shall, unless the context clearly
6 requires otherwise, have the following meanings:

7 “Child pornography”, as defined in 18 U.S.C. § 2256(8).

8 “Content-sharing platform”, (i) an online medium accessed within the commonwealth by
9 which content, including, but not limited to images, videos, messages and sound files, is shared
10 with or capable of being shared with the general public or a significant section of the general

11 public; or (ii) a cloud-based application and platform service available to the public, that is
12 accessed within the commonwealth.

13 “Hash”, a unique digital signature of an image.

14 “Hashing”, comparison of a hash against hashes of other photographs to find copies of
15 the same image.

16 “Qualifying software”, software that shall: (i) contain a database of hashes of child
17 pornography images and videos; (ii) discover child pornography without the need for a human
18 viewer; (iii) share and receive all existing and newly identified hashes of child pornography
19 images with other databases, including the database maintained by the National Center for
20 Missing & Exploited Children, in compliance with all applicable state and federal law; and (iv)
21 immediately report all identified child pornography to the National Center for Missing &
22 Exploited Children, which shall work with district attorneys and law enforcement to identify the
23 location of the uploaded or shared child pornography.

24 “Undersecretary”, the undersecretary of consumer affairs and business regulation.

25 Section 2. A content-sharing platform shall utilize qualifying software to evaluate all
26 images and videos uploaded to or shared on the platform.

27 Section 3. (a) The attorney general, in conjunction with the undersecretary, shall identify
28 or develop qualifying software.

29 (b) There shall be a department within the office of consumer affairs and business
30 regulation responsible for ensuring implementation of and compliance with this chapter. The
31 department shall serve as a reference for content-sharing platforms to ensure timely and

32 productive installation of qualifying software. The department shall communicate and work in
33 conjunction with the attorney general and the Internet Crimes Against Children task force of the
34 department of state police.

35 (c) A content-sharing platform may utilize the qualifying software described in
36 subsection (a) or comparable qualifying software approved by the undersecretary.

37 Section 4. Each content-sharing platform shall demonstrate use of qualifying software to
38 the undersecretary at an annual audit. The undersecretary shall randomly audit content-sharing
39 platforms to ensure compliance with this chapter.

40 Section 5. (a) A content-sharing platform found to be in violation of this chapter during
41 an annual or random audit pursuant to section 4 shall be subject to a fine of not less than \$10,000
42 for a first offense and \$25,000 for a second or subsequent offense. In addition to annual and
43 random audits, the content-sharing platform shall demonstrate compliance with this chapter to
44 the undersecretary not less than 2 times per year for 2 years subsequent to the violation.

45 (b) If federal or state law enforcement agency has found that child pornography has been
46 previously shared on a content-sharing platform and the content-sharing platform is found to be
47 in violation of this chapter during an annual or random audit, the content-sharing shall be subject
48 to a fine of not less than \$25,000 for a first offense and \$50,000 for a second or subsequent
49 offense. In addition to annual and random audits, the content-sharing platform shall demonstrate
50 compliance with this chapter to the undersecretary in a manner to be determined by the
51 undersecretary: (i) not less than 2 times per year for 2 years subsequent to the first violation or
52 (ii) monthly for 2 years subsequent to the second or subsequent violation; provided, that for each

53 month the content-sharing platform is found not to be in compliance with this chapter, the
54 content-sharing platform shall be subject to a fine of \$10,000.

55 (c) A content-sharing platform that: (1) violates this chapter and (2) (i) promotes child
56 pornography, (ii) knowingly shares child pornography or (iii) knowingly allows the sharing of
57 child pornography shall be subject to section 29B of chapter 272.

58 Section 6. The attorney general, in conjunction with the undersecretary, shall promulgate
59 rules and regulations necessary to implement this chapter.

60 SECTION 2. Not later than 1 year after the effective date of this act, the attorney general,
61 in conjunction with the undersecretary, shall: (i) promulgate regulations necessary to implement
62 section 1 and (ii) identify or develop qualifying software, as described in subsection (a) of
63 section 3 of chapter 93M of the General Laws.

64 SECTION 3. (a) All content-sharing platforms, as that term is defined in section 1 of
65 chapter 93M of the General Laws, shall comply with said chapter 93M within 1 year of the
66 publication of regulations promulgated pursuant to clause (i) of section 2. A content-sharing
67 platform that violates this subsection shall be punished by a fine of not less than \$5000.

68 (b) A content-sharing platform made available to the public after the publication of
69 regulations promulgated pursuant to clause (i) of section 2 shall comply with said chapter 93M at
70 the time the content-sharing platform is made available to the public.