

116TH CONGRESS  
1ST SESSION

# H. R. 5448

To direct the Secretary of Health and Human Services to conduct a study to assess the unintended impacts on the health and safety of people engaged in transactional sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164) and the loss of interactive computer services that host information related to sexual exchange, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2019

Mr. KHANNA (for himself, Ms. LEE of California, Mrs. WATSON COLEMAN, Ms. SCHAKOWSKY, Ms. JUDY CHU of California, Ms. JAYAPAL, Ms. NORTON, Mr. CARSON of Indiana, Ms. OCASIO-CORTEZ, and Ms. TLAIB) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To direct the Secretary of Health and Human Services to conduct a study to assess the unintended impacts on the health and safety of people engaged in transactional sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164) and the loss of interactive computer services that host information related to sexual exchange, 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 “SESTA/FOSTA Ex-  
3 amination of Secondary Effects for Sex Workers Study  
4 Act” or the “SAFE SEX Workers Study Act”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds the following:

7 (1) People who engage in consensual, trans-  
8 actional sex utilize online platforms to protect their  
9 health, safety, and independence. This use includes  
10 building community connections, distribution of  
11 harm reduction information and techniques, identi-  
12 fication and screening of potential clients, and nego-  
13 tiating the terms of consensual, transactional sex  
14 services, including condom use and other harm re-  
15 duction strategies.

16 (2) Widespread discrimination against popu-  
17 lations, including LGBTQI+ individuals, particu-  
18 larly transgender women of color, prevents many  
19 from accessing formal employment resources and  
20 educational opportunities.

21 (3) In the 2015 United States Transgender  
22 Survey conducted by the National Center for  
23 Transgender Equality, 19 percent of respondents re-  
24 ported having exchanged sex for resources, such as  
25 for money, food, or a place to sleep. Transgender  
26 women of color, including Black (42 percent), Amer-

1        ican Indian (28 percent), multiracial (27 percent),  
2        Latina (23 percent), and Asian (22 percent) re-  
3        spondents were more likely to have participated in  
4        sex work than the overall sample.

5            (4) In the 2015 United States Transgender  
6        Survey, respondents who experienced homelessness  
7        in the past year (17 percent) were more than three  
8        times as likely to have participated in sex work dur-  
9        ing that year compared to the overall sample.

10           (5) On a broader scale, internet platforms fos-  
11        ter connections between people and play an integral  
12        part in American society. Meaningful regulation of  
13        internet platforms must take into account the role  
14        they play in the health, safety, and privacy of all  
15        people's lives.

16           (6) While policymakers, representatives of inter-  
17        net platforms, and some advocates have discussed  
18        ways to mitigate the use of internet platforms to de-  
19        crease exploitation, people who consensually trade  
20        sex are rarely involved in the drafting of legislation  
21        or policies, or in assessing their impact, despite  
22        being amongst the populations who are impacted by  
23        legislation and policies related to the regulation of  
24        these internet platforms.

1           (7) On February 27, 2018, the House of Rep-  
2           representatives passed the Allow States to Fight Online  
3           Sex Trafficking Act, known as SESTA/FOSTA.  
4           While SESTA/FOSTA holds websites liable for user-  
5           generated content that facilitates sex trafficking, it  
6           also impacts online platforms where users discuss  
7           consensual sex work and related topics.

8           (8) Contemporaneously with the passage of  
9           SESTA/FOSTA in the Senate on March 21, 2018,  
10          websites preemptively shut down, some directly cit-  
11          ing the law’s passage as the rationale for closure.

12          (9) One week before President Donald Trump  
13          signed SESTA/FOSTA into law (Public Law 115–  
14          164), the Department of Justice seized Back-  
15          page.com and arrested Backpage employees, citing  
16          promotion of prostitution and money laundering  
17          charges, similar to the Department of Homeland Se-  
18          curity’s seizure of Rentboy.com only a few years  
19          prior.

20          (10) While these websites and individual ac-  
21          counts have been closing down, there has been no  
22          national investigation rigorously examining the im-  
23          pact of losing access to these platforms on the health  
24          and safety of people in consensual, transactional sex  
25          work. Regional and anecdotal information from

1 health and safety service providers and sex workers  
2 has pointed to significant impacts on the health and  
3 safety of people who engage in consensual, trans-  
4 actional sex.

5 (11) Community organizations have reported  
6 increased homelessness of sex workers, including of  
7 sex workers who are caretakers for their families  
8 and have lost the economic stability provided by ac-  
9 cess to online platforms.

10 (12) Sex workers have reported a reduced abil-  
11 ity to screen potential clients for safety, and nego-  
12 tiate for boundaries such as condom use, resulting in  
13 reports of physical and sexual violence.

14 (13) Many sex workers have turned to street-  
15 based work, which has historically involved higher  
16 rates of violence than other forms of transactional  
17 sex. Street-based sex workers have frequently noted  
18 practices which harm their health and safety, such  
19 as the confiscation of condoms by police, or use of  
20 condoms as evidence of arrest for prostitution.

21 (14) With this new level of precarity, isolation,  
22 and vulnerability, there is substantial anecdotal evi-  
23 dence that members of the sex work community are  
24 more frequently being contacted by third parties  
25 seeking to engage in management activities. This in-

1 includes both sex workers who had always worked  
2 independently, as well as those who have previously  
3 experienced violence and exploitation by a third  
4 party.

5 (15) The United States Government has long  
6 discussed the importance of assessing collateral con-  
7 sequences when looking at other industries. A com-  
8 prehensive study is essential to evaluate the impact  
9 on the health and safety of those involved in consen-  
10 sual, transactional sex, who are increasingly losing  
11 access to digital platforms, which have been used for  
12 harm reduction information and techniques, and to  
13 screen clients. Informed government policies begin  
14 with seeking out relevant information to better guide  
15 our actions moving forward.

16 **SEC. 3. STUDY ON UNINTENDED IMPACTS ON HEALTH AND**  
17 **SAFETY OF PEOPLE ENGAGED IN TRANS-**  
18 **ACTIONAL SEX AS A RESULT OF THE LOSS OF**  
19 **CERTAIN ONLINE RESOURCES.**

20 (a) STUDY.—The Secretary of Health and Human  
21 Services (in this section referred to as the “Secretary”)  
22 in consultation as appropriate with the Director of the  
23 Centers for Disease Control and Prevention, the Director  
24 of the National Institutes of Health, and the Assistant  
25 Secretary for Mental Health and Substance Use shall

1 study the impacts on the health and safety of people en-  
2 gaged in transactional sex resulting from the loss of access  
3 to interactive computer services (as defined in section  
4 230(f) of the Communications Act of 1934 (47 U.S.C.  
5 230(f))) in connection with the closure of websites (includ-  
6 ing Backpage.com) that host information related to con-  
7 sensual sexual exchange, on or after February 27, 2018,  
8 in anticipation of, or in response to, the enactment of the  
9 Allow States and Victims to Fight Online Sex Trafficking  
10 Act of 2017 (Public Law 115–164).

11 (b) INTERVIEWS AND SURVEYS.—The study under  
12 subsection (a) shall include interviews with, and surveys  
13 conducted by, nonprofit and community-based organiza-  
14 tions that provide direct services to people engaged in  
15 transactional sex.

16 (c) TOPICS.—The study under subsection (a) shall in-  
17 clude assessment of the following impacts on people en-  
18 gaged in transactional sex:

19 (1) Changes in access to technology-related  
20 harm reduction services.

21 (2) Changes in ability to negotiate terms with  
22 potential clients.

23 (3) Changes in experiences of violence from cli-  
24 ents.

1           (4) Changes in interactions with law enforce-  
2           ment officials, including changes in police surveil-  
3           lance, stops, and arrests.

4           (5) Changes in contact from third parties.

5           (6) Changes in relationship to and reliance on  
6           third parties.

7           (7) Changes in experiences of exploitation.

8           (8) Impacts on access to economic resources.

9           (9) Impacts on homelessness and housing sta-  
10          bility.

11          (10) Impacts on mental health.

12          (11) Impacts on vulnerability to the trans-  
13          mission of HIV and other sexually transmitted infec-  
14          tions.

15          (12) Changes in participation in other  
16          criminalized behavior.

17          (13) Disparities in these effects on key popu-  
18          lations typically underserved by service providers,  
19          specifically LGBTQI+ individuals, people living in  
20          rural areas, racial and ethnic minorities, Tribal com-  
21          munities, people experiencing exploitation and traf-  
22          ficking, and undocumented and documented foreign  
23          nationals.



1           (14) Any other impacts on people engaged in  
2           transactional sex, as determined appropriate by the  
3           Secretary for inclusion in the study.

4           (d) REPORT.—Not later than one year after the date  
5           of enactment of this Act, the Secretary shall submit to  
6           the Congress a report on the results of the study under  
7           subsection (a) and make such report available to the pub-  
8           lic.

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