

118TH CONGRESS
2D SESSION

H. R. 7949

To combat the sexual exploitation of children by supporting victims and promoting accountability and transparency by the tech industry.

IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2024

Ms. GARCIA of Texas (for herself and Mr. MOORE of Alabama) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To combat the sexual exploitation of children by supporting victims and promoting accountability and transparency by the tech industry.

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 “Strengthening Trans-
5 parency and Obligations to Protect Children Suffering
6 from Abuse and Mistreatment Act of 2024” or the “STOP
7 CSAM Act of 2024”.

1 **SEC. 2. PROTECTING CHILD VICTIMS AND WITNESSES IN**
2 **FEDERAL COURT.**

3 (a) IN GENERAL.—Section 3509 of title 18, United
4 States Code, is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2)(A), by striking “or
7 exploitation” and inserting “exploitation, or
8 kidnapping, including international parental
9 kidnapping”;

10 (B) in paragraph (3), by striking “physical
11 or mental injury” and inserting “physical in-
12 jury, psychological abuse”;

13 (C) by striking paragraph (5) and insert-
14 ing the following:

15 “(5) the term ‘psychological abuse’ includes—

16 “(A) a pattern of acts, threats of acts, or
17 coercive tactics intended to degrade, humiliate,
18 intimidate, or terrorize a child; and

19 “(B) the infliction of trauma on a child
20 through—

21 “(i) isolation;

22 “(ii) the withholding of food or other
23 necessities in order to control behavior;

24 “(iii) physical restraint; or

1 “(iv) the confinement of the child
2 without the child’s consent and in degrad-
3 ing conditions;”;

4 (D) in paragraph (6), by striking “child
5 prostitution” and inserting “child sex traf-
6 ficking”;

7 (E) by striking paragraph (7) and insert-
8 ing the following:

9 “(7) the term ‘multidisciplinary child abuse
10 team’ means a professional unit of individuals work-
11 ing together to investigate child abuse and provide
12 assistance and support to a victim of child abuse,
13 composed of representatives from—

14 “(A) health, social service, and legal serv-
15 ice agencies that represent the child;

16 “(B) law enforcement agencies and pros-
17 ecutorial offices; and

18 “(C) children’s advocaey centers;”;

19 (F) in paragraph (9)(D)—

20 (i) by striking “genitals” and insert-
21 ing “anus, genitals,”; and

22 (ii) by striking “or animal”;

23 (G) in paragraph (11), by striking “and”
24 at the end;

25 (H) in paragraph (12)—

1 (i) by striking “the term ‘child abuse’
2 does not” and inserting “the terms ‘phys-
3 ical injury’ and ‘psychological abuse’ do
4 not”; and

5 (ii) by striking the period and insert-
6 ing a semicolon; and

7 (I) by adding at the end the following:

8 “(13) the term ‘covered person’ means a person
9 of any age who—

10 “(A) is or is alleged to be—

11 “(i) a victim of a crime of physical
12 abuse, sexual abuse, exploitation, or kid-
13 napping, including international parental
14 kidnapping; or

15 “(ii) a witness to a crime committed
16 against another person; and

17 “(B) was under the age of 18 when the
18 crime described in subparagraph (A) was com-
19 mitted;

20 “(14) the term ‘protected information’, with re-
21 spect to a covered person, includes—

22 “(A) personally identifiable information of
23 the covered person, including—

24 “(i) the name of the covered person;

25 “(ii) an address;

1 “(iii) a phone number;

2 “(iv) a user name or identifying infor-
3 mation for an online, social media, or
4 email account; and

5 “(v) any information that can be used
6 to distinguish or trace the identity of the
7 covered person, either alone or when com-
8 bined with other information that is linked
9 or linkable to the covered person;

10 “(B) medical, dental, behavioral, psy-
11 chiatric, or psychological information of the cov-
12 ered person;

13 “(C) educational or juvenile justice records
14 of the covered person; and

15 “(D) any other information concerning the
16 covered person that is deemed ‘protected infor-
17 mation’ by order of the court under subsection
18 (d)(5); and

19 “(15) the term ‘child pornography’ has the
20 meaning given the term in section 2256(8).”;

21 (2) in subsection (b)—

22 (A) in paragraph (1)(C), by striking
23 “minor” and inserting “child”; and

24 (B) in paragraph (2)—

1 (i) in the heading, by striking
2 “VIDEOTAPED” and inserting “RE-
3 CORDED”;

4 (ii) in subparagraph (A), by striking
5 “that the deposition be recorded and pre-
6 served on videotape” and inserting “that a
7 video recording of the deposition be made
8 and preserved”;

9 (iii) in subparagraph (B)—

10 (I) in clause (ii), by striking
11 “that the child’s deposition be taken
12 and preserved by videotape” and in-
13 serting “that a video recording of the
14 child’s deposition be made and pre-
15 served”;

16 (II) in clause (iii)—

17 (aa) in the matter preceding
18 subclause (I), by striking “video-
19 tape” and inserting “recorded”;
20 and

21 (bb) in subclause (IV), by
22 striking “videotape” and insert-
23 ing “recording”; and

24 (III) in clause (v)—

1 (aa) in the heading, by
2 striking “VIDEOTAPE” and in-
3 sserting “VIDEO RECORDING”;

4 (bb) in the first sentence, by
5 striking “made and preserved on
6 video tape” and inserting “re-
7 corded and preserved”; and

8 (cc) in the second sentence,
9 by striking “videotape” and in-
10 sserting “video recording”;

11 (iv) in subparagraph (C), by striking
12 “child’s videotaped” and inserting “video
13 recording of the child’s”;

14 (v) in subparagraph (D)—

15 (I) by striking “videotaping” and
16 inserting “deposition”; and

17 (II) by striking “videotaped” and
18 inserting “recorded”;

19 (vi) in subparagraph (E), by striking
20 “videotaped” and inserting “recorded”;
21 and

22 (vii) in subparagraph (F), by striking
23 “videotape” each place the term appears
24 and inserting “video recording”;

25 (3) in subsection (d)—

1 (A) in paragraph (1)(A)—

2 (i) in clause (i), by striking “the name
3 of or any other information concerning a
4 child” and inserting “a covered person’s
5 protected information”; and

6 (ii) in clause (ii)—

7 (I) by striking “documents de-
8 scribed in clause (i) or the informa-
9 tion in them that concerns a child”
10 and inserting “a covered person’s pro-
11 tected information”; and

12 (II) by striking “, have reason to
13 know such information” and inserting
14 “(including witnesses or potential wit-
15 nesses), have reason to know each
16 item of protected information to be
17 disclosed”;

18 (B) in paragraph (2)—

19 (i) by striking “the name of or any
20 other information concerning a child” each
21 place the term appears and inserting “a
22 covered person’s protected information”;

23 (ii) by redesignating subparagraphs
24 (A) and (B) as clauses (i) and (ii), respec-

1 tively, and adjusting the margins accord-
2 ingly;

3 (iii) by striking “All papers” and in-
4 serting the following:

5 “(A) IN GENERAL.—All papers”; and

6 (iv) by adding at the end the fol-
7 lowing:

8 “(B) ENFORCEMENT OF VIOLATIONS.—

9 The court may address a violation of subpara-
10 graph (A) in the same manner as disobedience
11 or resistance to a lawful court order under sec-
12 tion 401(3).”;

13 (C) in paragraph (3)—

14 (i) in subparagraph (A)—

15 (I) by striking “a child from pub-
16 lic disclosure of the name of or any
17 other information concerning the
18 child” and inserting “a covered per-
19 son’s protected information from pub-
20 lic disclosure”; and

21 (II) by striking “, if the court de-
22 termines that there is a significant
23 possibility that such disclosure would
24 be detrimental to the child”;

25 (ii) in subparagraph (B)—

1 (I) in clause (i)—

2 (aa) by striking “a child wit-
3 ness, and the testimony of any
4 other witness” and inserting
5 “any witness”; and

6 (bb) by striking “the name
7 of or any other information con-
8 cerning a child” and inserting “a
9 covered person’s protected infor-
10 mation”; and

11 (II) in clause (ii), by striking
12 “child” and inserting “covered per-
13 son”; and

14 (iii) by adding at the end the fol-
15 lowing:

16 “(C)(i) For purposes of this paragraph, there
17 shall be a presumption that public disclosure of a
18 covered person’s protected information would be det-
19 rimental to the covered person.

20 “(ii) The court shall deny a motion for a pro-
21 tective order under subparagraph (A) only if the
22 court finds that the party opposing the motion has
23 rebutted the presumption under clause (i) of this
24 subparagraph.”;

25 (D) in paragraph (4)—

1 (i) by striking “This subsection” and
2 inserting the following:

3 “(A) DISCLOSURE TO CERTAIN PARTIES.—
4 This subsection”;

5 (ii) in subparagraph (A), as so des-
6 ignated—

7 (I) by striking “the name of or
8 other information concerning a child”
9 and inserting “a covered person’s pro-
10 tected information”; and

11 (II) by striking “or an adult at-
12 tendant, or to” and inserting “an
13 adult attendant, a law enforcement
14 agency for any intelligence or inves-
15 tigative purpose, or”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(B) REQUEST FOR PUBLIC DISCLO-
19 SURE.—If any party requests public disclosure
20 of a covered person’s protected information to
21 further a public interest, the court shall deny
22 the request unless the court finds that—

23 “(i) the party seeking disclosure has
24 established that there is a compelling pub-

1 lic interest in publicly disclosing the cov-
2 ered person’s protected information;

3 “‘(ii) there is a substantial probability
4 that the public interest would be harmed if
5 the covered person’s protected information
6 is not disclosed;

7 “‘(iii) the substantial probability of
8 harm to the public interest outweighs the
9 harm to the covered person from public
10 disclosure of the covered person’s protected
11 information; and

12 “‘(iv) there is no alternative to public
13 disclosure of the covered person’s protected
14 information that would adequately protect
15 the public interest.’”; and

16 (E) by adding at the end the following:

17 “(5) OTHER PROTECTED INFORMATION.—The
18 court may order that information shall be considered
19 to be ‘protected information’ for purposes of this
20 subsection if the court finds that the information is
21 sufficiently personal, sensitive, or identifying that it
22 should be subject to the protections and presump-
23 tions under this subsection.”;

24 (4) by striking subsection (f) and inserting the
25 following:

1 “(f) VICTIM IMPACT STATEMENT.—

2 “(1) PROBATION OFFICER.—In preparing the
3 presentence report pursuant to rule 32(c) of the
4 Federal Rules of Criminal Procedure, the probation
5 officer shall request information from the multidisci-
6 plinary child abuse team, if applicable, or other ap-
7 propriate sources to determine the impact of the of-
8 fense on a child victim and any other children who
9 may have been affected by the offense.

10 “(2) GUARDIAN AD LITEM.—A guardian ad
11 litem appointed under subsection (h) shall—

12 “(A) make every effort to obtain and re-
13 port information that accurately expresses the
14 views of a child victim, and the views of family
15 members as appropriate, concerning the impact
16 of the offense; and

17 “(B) use forms that permit a child victim
18 to express the child’s views concerning the per-
19 sonal consequences of the offense, at a level and
20 in a form of communication commensurate with
21 the child’s age and ability.”;

22 (5) in subsection (h), by adding at the end the
23 following:

24 “(4) AUTHORIZATION OF APPROPRIATIONS.—

1 “(A) IN GENERAL.—There is authorized to
2 be appropriated to the United States courts to
3 carry out this subsection \$25,000,000 for each
4 fiscal year.

5 “(B) SUPERVISION OF PAYMENTS.—Pay-
6 ments from appropriations authorized under
7 subparagraph (A) shall be made under the su-
8 pervision of the Director of the Administrative
9 Office of the United States Courts.”;

10 (6) in subsection (i)—

11 (A) by striking “A child testifying at or at-
12 tending a judicial proceeding” and inserting the
13 following:

14 “(1) IN GENERAL.—A child testifying at a judi-
15 cial proceeding, including in a manner described in
16 subsection (b),”;

17 (B) in paragraph (1), as so designated—

18 (i) in the third sentence, by striking
19 “proceeding” and inserting “testimony”;
20 and

21 (ii) by striking the fifth sentence; and

22 (C) by adding at the end the following:

23 “(2) RECORDING.—If the adult attendant is in
24 close physical proximity to or in contact with the
25 child while the child testifies—

1 “(A) at a judicial proceeding, a video re-
2 cording of the adult attendant shall be made
3 and shall become part of the court record; or

4 “(B) in a manner described in subsection
5 (b), the adult attendant shall be visible on the
6 closed-circuit television or in the recorded depo-
7 sition.

8 “(3) COVERED PERSONS ATTENDING PRO-
9 CEEDING.—A covered person shall have the right to
10 be accompanied by an adult attendant when attend-
11 ing any judicial proceeding.”;

12 (7) in subsection (j)—

13 (A) by striking “child” each place the term
14 appears and inserting “covered person”; and

15 (B) in the fourth sentence—

16 (i) by striking “and the potential”
17 and inserting “, the potential”;

18 (ii) by striking “child’s” and inserting
19 “covered person’s”; and

20 (iii) by inserting before the period at
21 the end the following: “, and the necessity
22 of the continuance to protect the defend-
23 ant’s rights”;

1 (8) in subsection (k), by striking “child” each
2 place the term appears and inserting “covered per-
3 son”;

4 (9) in subsection (l), by striking “child” each
5 place the term appears and inserting “covered per-
6 son”; and

7 (10) in subsection (m)—

8 (A) by striking “(as defined by section
9 2256 of this title)” each place it appears;

10 (B) in paragraph (1), by inserting “and
11 any civil action brought under section 2255 or
12 2255A” after “any criminal proceeding”;

13 (C) in paragraph (2), by adding at the end
14 the following:

15 “(C)(i) Notwithstanding Rule 26 of the Federal
16 Rules of Civil Procedure, a court shall deny, in any
17 civil action brought under section 2255 or 2255A,
18 any request by any party to copy, photograph, dupli-
19 cate, or otherwise reproduce any property or mate-
20 rial that constitutes child pornography.

21 “(ii) In a civil action brought under section
22 2255 or 2255A, for purposes of paragraph (1), the
23 court may—

24 “(I) order the plaintiff or defendant to
25 provide to the court or the Government, as ap-

1 plicable, any equipment necessary to maintain
2 care, custody, and control of such property or
3 material; and

4 “(II) take reasonable measures, and may
5 order the Government (if such property or ma-
6 terial is in the care, custody, and control of the
7 Government) to take reasonable measures, to
8 provide each party to the action, the attorney of
9 each party, and any individual a party may seek
10 to qualify as an expert, with ample opportunity
11 to inspect, view, and examine such property or
12 material at the court or a Government facility,
13 as applicable.”; and

14 (D) in paragraph (3)—

15 (i) by inserting “and during the 1-
16 year period following the date on which the
17 criminal proceeding becomes final or is ter-
18 minated” after “any criminal proceeding”;
19 and

20 (ii) by striking “, as defined under
21 section 2256(8),”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to conduct that occurs before, on,
24 or after the date of enactment of this Act.

1 **SEC. 3. FACILITATING PAYMENT OF RESTITUTION; TECH-**
2 **NICAL AMENDMENTS TO RESTITUTION STAT-**
3 **UTES.**

4 Title 18, United States Code, is amended—

5 (1) in section 1593(c)—

6 (A) by inserting “(1)” after “(c)”;

7 (B) by striking “chapter, including, in”

8 and inserting the following: “chapter.

9 “(2) In”; and

10 (C) in paragraph (2), as so designated, by

11 inserting “may assume the rights of the victim

12 under this section” after “suitable by the

13 court”;

14 (2) in section 2248(c)—

15 (A) by striking “For purposes” and insert-
16 ing the following:

17 “(1) IN GENERAL.—For purposes”;

18 (B) by striking “chapter, including, in”

19 and inserting the following: “chapter.

20 “(2) ASSUMPTION OF CRIME VICTIM’S
21 RIGHTS.—In”; and

22 (C) in paragraph (2), as so designated, by

23 inserting “may assume the rights of the victim

24 under this section” after “suitable by the

25 court”;

26 (3) in section 2259—

1 (A) by striking subsection (a) and insert-
2 ing the following:

3 “(a) IN GENERAL.—Notwithstanding section 3663 or
4 3663A, and in addition to any other civil or criminal pen-
5 alty authorized by law, the court shall order restitution
6 for any offense under—

7 “(1) section 1466A, to the extent the conduct
8 involves a visual depiction of an identifiable minor;
9 or

10 “(2) this chapter.”;

11 (B) in subsection (b)—

12 (i) in paragraph (1), by striking “DI-
13 RECTIONS.—Except as provided in para-
14 graph (2), the” and inserting “RESTITU-
15 TION FOR CHILD PORNOGRAPHY PRODUC-
16 TION.—If the defendant was convicted of
17 child pornography production, the”; and

18 (ii) in paragraph (2)(B), by striking
19 “\$3,000.” and inserting the following: “—

20 “(i) \$3,000; or

21 “(ii) 10 percent of the full amount of
22 the victim’s losses, if the full amount of
23 the victim’s losses is less than \$3,000.”;
24 and

25 (C) in subsection (c)—

1 (i) by striking paragraph (1) and in-
2 serting the following:

3 “(1) CHILD PORNOGRAPHY PRODUCTION.—For
4 purposes of this section and section 2259A, the term
5 ‘child pornography production’ means—

6 “(A) a violation of, attempted violation of,
7 or conspiracy to violate section 1466A(a) to the
8 extent the conduct involves production of a vis-
9 ual depiction of an identifiable minor;

10 “(B) a violation of, attempted violation of,
11 or conspiracy to violate section 1466A(a) involv-
12 ing possession with intent to distribute, or sec-
13 tion 1466A(b), to the extent the conduct in-
14 volves a visual depiction of an identifiable
15 minor—

16 “(i) produced by the defendant; or

17 “(ii) that the defendant attempted or
18 conspired to produce;

19 “(C) a violation of subsection (a), (b), or
20 (c) of section 2251, or an attempt or conspiracy
21 to violate any of those subsections under sub-
22 section (e) of that section;

23 “(D) a violation of section 2251A;

24 “(E) a violation of section 2252(a)(4) or
25 2252A(a)(5), or an attempt or conspiracy to

1 violate either of those sections under section
2 2252(b)(2) or 2252A(b)(2), to the extent such
3 conduct involves child pornography—

4 “(i) produced by the defendant; or

5 “(ii) that the defendant attempted or
6 conspired to produce;

7 “(F) a violation of subsection (a)(7) of sec-
8 tion 2252A, or an attempt or conspiracy to vio-
9 late that subsection under subsection (b)(3) of
10 that section, to the extent the conduct involves
11 production with intent to distribute;

12 “(G) a violation of section 2252A(g) if the
13 series of felony violations involves not fewer
14 than 1 violation—

15 “(i) described in subparagraph (A),
16 (B), (E), or (F) of this paragraph;

17 “(ii) of section 1591; or

18 “(iii) of section 1201, chapter 109A,
19 or chapter 117, if the victim is a minor;

20 “(H) a violation of subsection (a) of sec-
21 tion 2260, or an attempt or conspiracy to vio-
22 late that subsection under subsection (c)(1) of
23 that section;

24 “(I) a violation of section 2260B(a)(2) for
25 promoting or facilitating an offense—

1 “(i) described in subparagraph (A),
2 (B), (D), or (E) of this paragraph; or

3 “(ii) under section 2422(b); and

4 “(J) a violation of chapter 109A or chap-
5 ter 117, if the offense involves the production
6 or attempted production of, or conspiracy to
7 produce, child pornography.”;

8 (ii) by striking paragraph (3) and in-
9 serting the following:

10 “(3) TRAFFICKING IN CHILD PORNOGRAPHY.—

11 For purposes of this section and section 2259A, the
12 term ‘trafficking in child pornography’ means—

13 “(A) a violation of, attempted violation of,
14 or conspiracy to violate section 1466A(a) to the
15 extent the conduct involves distribution or re-
16 ceipt of a visual depiction of an identifiable
17 minor;

18 “(B) a violation of, attempted violation of,
19 or conspiracy to violate section 1466A(a) involv-
20 ing possession with intent to distribute, or sec-
21 tion 1466A(b), to the extent the conduct in-
22 volves a visual depiction of an identifiable
23 minor—

24 “(i) not produced by the defendant; or

1 “(ii) that the defendant did not at-
2 tempt or conspire to produce;

3 “(C) a violation of subsection (d) of section
4 2251 or an attempt or conspiracy to violate
5 that subsection under subsection (e) of that sec-
6 tion;

7 “(D) a violation of paragraph (1), (2), or
8 (3) of subsection (a) of section 2252, or an at-
9 tempt or conspiracy to violate any of those
10 paragraphs under subsection (b)(1) of that sec-
11 tion;

12 “(E) a violation of section 2252(a)(4) or
13 2252A(a)(5), or an attempt or conspiracy to
14 violate either of those sections under section
15 2252(b)(2) or 2252A(b)(2), to the extent such
16 conduct involves child pornography—

17 “(i) not produced by the defendant; or

18 “(ii) that the defendant did not at-
19 tempt or conspire to produce;

20 “(F) a violation of paragraph (1), (2), (3),
21 (4), or (6) of subsection (a) of section 2252A,
22 or an attempt or conspiracy to violate any of
23 those paragraphs under subsection (b)(1) of
24 that section;

1 “(G) a violation of subsection (a)(7) of sec-
2 tion 2252A, or an attempt or conspiracy to vio-
3 late that subsection under subsection (b)(3) of
4 that section, to the extent the conduct involves
5 distribution;

6 “(H) a violation of section 2252A(g) if the
7 series of felony violations exclusively involves
8 violations described in this paragraph (except
9 subparagraphs (A) and (B));

10 “(I) a violation of subsection (b) of section
11 2260, or an attempt or conspiracy to violate
12 that subsection under subsection (c)(2) of that
13 section; and

14 “(J) a violation of subsection (a)(1) of sec-
15 tion 2260B, or a violation of subsection (a)(2)
16 of that section for promoting or facilitating an
17 offense described in this paragraph (except sub-
18 paragraphs (A) and (B)).”; and

19 (iii) in paragraph (4), in the first sen-
20 tence, by inserting “or an identifiable
21 minor harmed as a result of the commis-
22 sion of a crime under section 1466A” after
23 “under this chapter”;

24 (4) in section 2259A(a)—

1 (A) in paragraph (1), by striking “under
2 section 2252(a)(4) or 2252A(a)(5)” and insert-
3 ing “described in subparagraph (B) or (E) of
4 section 2259(e)(3)”; and

5 (B) in paragraph (2), by striking “any
6 other offense for trafficking in child pornog-
7 raphy” and inserting “any offense for traf-
8 ficking in child pornography other than an of-
9 fense described in subparagraph (B) or (E) of
10 section 2259(e)(3)”;
11

(5) in section 2429—

12 (A) in subsection (b)(3), by striking
13 “2259(b)(3)” and inserting “2259(e)(2)”; and

14 (B) in subsection (d)—

15 (i) by inserting “(1)” after “(d)”;
16

17 (ii) by striking “chapter, including,
18 in” and inserting the following: “chapter.

19 “(2) In”; and

20 (iii) in paragraph (2), as so des-
21 ignated, by inserting “may assume the
22 rights of the victim under this section”
after “suitable by the court”; and

23 (6) in section 3664, by adding at the end the
24 following:

25 “(q) TRUSTEE OR OTHER FIDUCIARY.—

1 “(1) IN GENERAL.—

2 “(A) APPOINTMENT OF TRUSTEE OR
3 OTHER FIDUCIARY.—When the court issues an
4 order of restitution under section 1593, 2248,
5 2259, 2429, or 3663, or subparagraphs (A)(i)
6 and (B) of section 3663A(c)(1), for a victim de-
7 scribed in subparagraph (B) of this paragraph,
8 the court, at its own discretion or upon motion
9 by the Government, may appoint a trustee or
10 other fiduciary to hold any amount paid for res-
11 titution in a trust or other official account for
12 the benefit of the victim.

13 “(B) COVERED VICTIMS.—A victim re-
14 ferred to in subparagraph (A) is a victim who
15 is—

16 “(i) under the age of 18 at the time
17 of the proceeding;

18 “(ii) incompetent or incapacitated; or

19 “(iii) subject to paragraph (3), a for-
20 eign citizen or stateless person residing
21 outside the United States.

22 “(2) ORDER.—When the court appoints a trust-
23 ee or other fiduciary under paragraph (1), the court
24 shall issue an order specifying—

1 “(A) the duties of the trustee or other fi-
2 duciary, which shall require—

3 “(i) the administration of the trust or
4 maintaining an official account in the best
5 interests of the victim; and

6 “(ii) disbursing payments from the
7 trust or account—

8 “(I) to the victim; or

9 “(II) to any individual or entity
10 on behalf of the victim;

11 “(B) that the trustee or other fiduciary—

12 “(i) shall avoid any conflict of inter-
13 est;

14 “(ii) may not profit from the adminis-
15 tration of the trust or maintaining an offi-
16 cial account for the benefit of the victim
17 other than as specified in the order; and

18 “(iii) may not delegate administration
19 of the trust or maintaining the official ac-
20 count to any other person;

21 “(C) if and when the trust or the duties of
22 the other fiduciary will expire; and

23 “(D) the fees payable to the trustee or
24 other fiduciary to cover expenses of admin-
25 istering the trust or maintaining the official ac-

1 count for the benefit of the victim, and the
2 schedule for payment of those fees.

3 “(3) FACT-FINDING REGARDING FOREIGN CITI-
4 ZENS AND STATELESS PERSON.—In the case of a
5 victim who is a foreign citizen or stateless person re-
6 siding outside the United States and is not under
7 the age of 18 at the time of the proceeding or in-
8 competent or incapacitated, the court may appoint a
9 trustee or other fiduciary under paragraph (1) only
10 if the court finds it necessary to—

11 “(A) protect the safety or security of the
12 victim; or

13 “(B) provide a reliable means for the vic-
14 tim to access or benefit from the restitution
15 payments.

16 “(4) PAYMENT OF FEES.—

17 “(A) IN GENERAL.—The court may, with
18 respect to the fees of the trustee or other fidu-
19 ciary—

20 “(i) pay the fees in whole or in part;

21 or

22 “(ii) order the defendant to pay the
23 fees in whole or in part.

24 “(B) APPLICABILITY OF OTHER PROVI-
25 SIONS.—With respect to a court order under

1 subparagraph (A)(ii) requiring a defendant to
2 pay fees—

3 “(i) subsection (f)(3) shall apply to
4 the court order in the same manner as
5 that subsection applies to a restitution
6 order;

7 “(ii) subchapter C of chapter 227
8 (other than section 3571) shall apply to
9 the court order in the same manner as
10 that subchapter applies to a sentence of a
11 fine; and

12 “(iii) subchapter B of chapter 229
13 shall apply to the court order in the same
14 manner as that subchapter applies to the
15 implementation of a sentence of a fine.

16 “(C) EFFECT ON OTHER PENALTIES.—Im-
17 position of payment under subparagraph (A)(ii)
18 shall not relieve a defendant of, or entitle a de-
19 fendant to a reduction in the amount of, any
20 special assessment, restitution, other fines, pen-
21 alties, or costs, or other payments required
22 under the defendant’s sentence.

23 “(D) SCHEDULE.—Notwithstanding any
24 other provision of law, if the court orders the
25 defendant to make any payment under subpara-

1 graph (A)(ii), the court may provide a payment
2 schedule that is concurrent with the payment of
3 any other financial obligation described in sub-
4 paragraph (C).

5 “(5) AUTHORIZATION OF APPROPRIATIONS.—

6 “(A) IN GENERAL.—There is authorized to
7 be appropriated to the United States courts to
8 carry out this subsection \$15,000,000 for each
9 fiscal year.

10 “(B) SUPERVISION OF PAYMENTS.—Pay-
11 ments from appropriations authorized under
12 subparagraph (A) shall be made under the su-
13 pervision of the Director of the Administrative
14 Office of the United States Courts.”.

15 **SEC. 4. CYBERTIPLINE IMPROVEMENTS, AND ACCOUNT-**
16 **ABILITY AND TRANSPARENCY BY THE TECH**
17 **INDUSTRY.**

18 (a) IN GENERAL.—Chapter 110 of title 18, United
19 States Code, is amended—

20 (1) in section 2258A—

21 (A) by striking subsections (a), (b), and (c)
22 and inserting the following:

23 “(a) DUTY TO REPORT.—

24 “(1) DUTY.—In order to reduce the prolifera-
25 tion of online child exploitation and to prevent the

1 online sexual exploitation of children, as soon as rea-
2 sonably possible after obtaining actual knowledge of
3 any facts or circumstances described in paragraph
4 (2) or any apparent child pornography on the pro-
5 vider’s service, and in any event not later than 60
6 days after obtaining such knowledge, a provider
7 shall submit to the CyberTipline of NCMEC, or any
8 successor to the CyberTipline operated by NCMEC,
9 a report containing—

10 “(A) the mailing address, telephone num-
11 ber, facsimile number, electronic mailing ad-
12 dress of, and individual point of contact for,
13 such provider; and

14 “(B) information described in subsection
15 (b) concerning such facts or circumstances or
16 apparent child pornography, including any
17 available information to identify or locate any
18 involved minor.

19 “(2) FACTS OR CIRCUMSTANCES.—The facts or
20 circumstances described in this paragraph are any
21 facts or circumstances indicating an apparent,
22 planned, or imminent violation of section 1591 (if
23 the violation involves a minor), 2251, 2251A, 2252,
24 2252A, 2252B, 2260, or 2422(b).

25 “(b) CONTENTS OF REPORT.—

1 “(1) IN GENERAL.—In an effort to prevent the
2 future sexual victimization of children, and to the
3 extent the information is within the custody or con-
4 trol of a provider, each report provided under sub-
5 section (a)(1)—

6 “(A) shall include, to the extent that it is
7 applicable and reasonably available—

8 “(i) the name, address, electronic mail
9 address, user or account identification,
10 Internet Protocol address, and uniform re-
11 source locator of any individual who is a
12 subject of the report;

13 “(ii) the terms of service in effect at
14 the time of—

15 “(I) the apparent violation; or

16 “(II) the detection of apparent
17 child pornography or a planned or im-
18 minent violation;

19 “(iii) a copy of any apparent child
20 pornography that is the subject of the re-
21 port that was identified in a publicly avail-
22 able location;

23 “(iv) for each item of apparent child
24 pornography included in the report under

1 clause (iii) or paragraph (2)(E), informa-
2 tion indicating whether—

3 “(I) the apparent child pornog-
4 raphy was publicly available; or

5 “(II) the provider, in its sole dis-
6 cretion, viewed the apparent child por-
7 nography, or any copy thereof, at any
8 point concurrent with or prior to the
9 submission of the report; and

10 “(v) for each item of apparent child
11 pornography that is the subject of the re-
12 port, an indication as to whether the ap-
13 parent child pornography—

14 “(I) has previously been the sub-
15 ject of a report under subsection
16 (a)(1); or

17 “(II) is the subject of multiple
18 contemporaneous reports due to rapid
19 and widespread distribution; and

20 “(B) may, at the sole discretion of the pro-
21 vider, include the information described in para-
22 graph (2) of this subsection.

23 “(2) OTHER INFORMATION.—The information
24 referred to in paragraph (1)(B) is the following:

1 “(A) INFORMATION ABOUT ANY INVOLVED
2 INDIVIDUAL.—Any information relating to the
3 identity or location of any individual who is a
4 subject of the report, including payment infor-
5 mation (excluding personally identifiable infor-
6 mation) and self-reported identifying or locating
7 information.

8 “(B) INFORMATION ABOUT ANY INVOLVED
9 MINOR.—Information relating to the identity or
10 location of any involved minor, which may in-
11 clude an address, electronic mail address, Inter-
12 net Protocol address, uniform resource locator,
13 or any other information that may identify or
14 locate any involved minor, including self-re-
15 ported identifying or locating information.

16 “(C) HISTORICAL REFERENCE.—Informa-
17 tion relating to when and how a customer or
18 subscriber of a provider uploaded, transmitted,
19 or received content relating to the report or
20 when and how content relating to the report
21 was reported to, or discovered by the provider,
22 including a date and time stamp and time zone.

23 “(D) GEOGRAPHIC LOCATION INFORMA-
24 TION.—Information relating to the geographic
25 location of the involved individual or website,

1 which may include the Internet Protocol ad-
2 dress or verified address, or, if not reasonably
3 available, at least one form of geographic iden-
4 tifying information, including area code or zip
5 code, provided by the customer or subscriber, or
6 stored or obtained by the provider.

7 “(E) APPARENT CHILD PORNOGRAPHY.—
8 Any apparent child pornography not described
9 in paragraph (1)(A)(iii), or other content re-
10 lated to the subject of the report.

11 “(F) COMPLETE COMMUNICATION.—The
12 complete communication containing any appar-
13 ent child pornography or other content, includ-
14 ing—

15 “(i) any data or information regard-
16 ing the transmission of the communication;
17 and

18 “(ii) any visual depictions, data, or
19 other digital files contained in, or attached
20 to, the communication.

21 “(G) TECHNICAL IDENTIFIER.—An indus-
22 try-standard hash value or other similar indus-
23 try-standard technical identifier for any re-
24 ported visual depiction as it existed on the pro-
25 vider’s service.

1 “(H) DESCRIPTION.—For any item of ap-
2 parent child pornography that is the subject of
3 the report, an indication of whether—

4 “(i) the depicted sexually explicit con-
5 duct involves—

6 “(I) genital, oral, or anal sexual
7 intercourse;

8 “(II) bestiality;

9 “(III) masturbation;

10 “(IV) sadistic or masochistic
11 abuse; or

12 “(V) lascivious exhibition of the
13 anus, genitals, or pubic area of any
14 person; and

15 “(ii) the depicted minor is—

16 “(I) an infant or toddler;

17 “(II) prepubescent;

18 “(III) pubescent;

19 “(IV) post-pubescent; or

20 “(V) of an indeterminate age or
21 developmental stage.

22 “(3) FORMATTING OF REPORTS.—When a pro-
23 vider includes any information described in para-
24 graph (1) or, at its sole discretion, any information
25 described in paragraph (2) in a report to the

1 CyberTipline of NCMEC, or any successor to the
2 CyberTipline operated by NCMEC, the provider
3 shall use best efforts to ensure that the report con-
4 forms with the structure of the CyberTipline or the
5 successor, as applicable.

6 “(c) FORWARDING OF REPORT AND OTHER INFOR-
7 MATION TO LAW ENFORCEMENT.—

8 “(1) IN GENERAL.—Pursuant to its clearing-
9 house role as a private, nonprofit organization, and
10 at the conclusion of its review in furtherance of its
11 nonprofit mission, NCMEC shall make available
12 each report submitted under subsection (a)(1) to one
13 or more of the following law enforcement agencies:

14 “(A) Any Federal law enforcement agency
15 that is involved in the investigation of child sex-
16 ual exploitation, kidnapping, or enticement
17 crimes.

18 “(B) Any State or local law enforcement
19 agency that is involved in the investigation of
20 child sexual exploitation.

21 “(C) A foreign law enforcement agency
22 designated by the Attorney General under sub-
23 section (d)(3) or a foreign law enforcement
24 agency that has an established relationship with
25 the Federal Bureau of Investigation, Immigra-

1 tion and Customs Enforcement, or
2 INTERPOL, and is involved in the investiga-
3 tion of child sexual exploitation, kidnapping, or
4 enticement crimes.

5 “(2) TECHNICAL IDENTIFIERS.—If a report
6 submitted under subsection (a)(1) contains an in-
7 dustry-standard hash value or other similar indus-
8 try-standard technical identifier—

9 “(A) NCMEC may compare that hash
10 value or identifier with any database or reposi-
11 tory of visual depictions owned or operated by
12 NCMEC; and

13 “(B) if the comparison under subpara-
14 graph (A) results in a match, NCMEC may in-
15 clude the matching visual depiction from its
16 database or repository when forwarding the re-
17 port to an agency described in subparagraph
18 (A) or (B) of paragraph (1).”;

19 (B) in subsection (d)—

20 (i) in paragraph (2), by striking “sub-
21 section (c)(1)” and inserting “subsection
22 (c)(1)(A)”;

23 (ii) in paragraph (3)—

1 (I) in subparagraph (A), by strik-
2 ing “subsection (c)(3)” and inserting
3 “subsection (c)(1)(C)”; and

4 (II) in subparagraph (C), by
5 striking “subsection (c)(3)” and in-
6 serting “subsection (c)(1)(C)”; and

7 (iii) in paragraph (5)(B)—

8 (I) in clause (i), by striking “for-
9 warded” and inserting “made avail-
10 able”; and

11 (II) in clause (ii), by striking
12 “forwarded” and inserting “made
13 available”;

14 (C) by striking subsection (e) and inserting
15 the following:

16 “(e) FAILURE TO COMPLY WITH REQUIREMENTS.—

17 “(1) CRIMINAL PENALTY.—

18 “(A) OFFENSE.—It shall be unlawful for a
19 provider to knowingly—

20 “(i) fail to submit a report under sub-
21 section (a)(1) within the time period re-
22 quired by that subsection; or

23 “(ii) fail to preserve material as re-
24 quired under subsection (h).

25 “(B) PENALTY.—

1 “(i) IN GENERAL.—A provider that
2 violates subparagraph (A) shall be fined—

3 “(I) in the case of an initial vio-
4 lation, not more than—

5 “(aa) \$850,000 if the pro-
6 vider has not fewer than
7 100,000,000 monthly active
8 users; or

9 “(bb) \$600,000 if the pro-
10 vider has fewer than 100,000,000
11 monthly active users; and

12 “(II) in the case of any second or
13 subsequent violation, not more than—

14 “(aa) \$1,000,000 if the pro-
15 vider has not fewer than
16 100,000,000 monthly active
17 users; or

18 “(bb) \$850,000 if the pro-
19 vider has fewer than 100,000,000
20 monthly active users.

21 “(ii) HARM TO INDIVIDUALS.—The
22 maximum fine under clause (i) shall be
23 doubled if an individual is harmed as a di-
24 rect and proximate result of the applicable
25 violation.

1 “(2) CIVIL PENALTY.—

2 “(A) VIOLATIONS RELATING TO
3 CYBERTIPLINE REPORTS AND MATERIAL PRES-
4 ERVATION.—A provider shall be liable to the
5 United States Government for a civil penalty in
6 an amount of not less than \$50,000 and not
7 more than \$250,000 if the provider know-
8 ingly—

9 “(i) fails to submit a report under
10 subsection (a)(1) within the time period re-
11 quired by that subsection;

12 “(ii) fails to preserve material as re-
13 quired under subsection (h); or

14 “(iii) submits a report under sub-
15 section (a)(1) that—

16 “(I) contains materially false or
17 fraudulent information; or

18 “(II) omits information described
19 in subsection (b)(1)(A) that is reason-
20 ably available.

21 “(B) ANNUAL REPORT VIOLATIONS.—A
22 provider shall be liable to the United States
23 Government for a civil penalty in an amount of
24 not less than \$100,000 and not more than
25 \$1,000,000 if the provider knowingly—

1 “(i) fails to submit an annual report
2 as required under subsection (i); or

3 “(ii) submits an annual report under
4 subsection (i) that—

5 “(I) contains a materially false,
6 fraudulent, or misleading statement;
7 or

8 “(II) omits information described
9 in subsection (i)(1) that is reasonably
10 available.

11 “(C) HARM TO INDIVIDUALS.—The
12 amount of a civil penalty under subparagraph
13 (A) or (B) shall be tripled if an individual is
14 harmed as a direct and proximate result of the
15 applicable violation.

16 “(D) COSTS OF CIVIL ACTIONS.—A pro-
17 vider that commits a violation described in sub-
18 paragraph (A) or (B) shall be liable to the
19 United States Government for the costs of a
20 civil action brought to recover a civil penalty
21 under that subparagraph.

22 “(E) ENFORCEMENT.—This paragraph
23 shall be enforced in accordance with sections
24 3731, 3732, and 3733 of title 31, except that
25 a civil action to recover a civil penalty under

1 subparagraph (A) or (B) of this paragraph may
2 only be brought by the United States Govern-
3 ment.

4 “(3) DEPOSIT OF FINES AND PENALTIES.—
5 Notwithstanding any other provision of law, any
6 criminal fine or civil penalty collected under this
7 subsection shall be deposited into the Child Pornog-
8 raphy Victims Reserve as provided in section
9 2259B.”;

10 (D) in subsection (f), by striking para-
11 graph (3) and inserting the following:

12 “(3) affirmatively search, screen, or scan for—

13 “(A) facts or circumstances described in
14 subsection (a)(2);

15 “(B) information described in subsection
16 (b)(2); or

17 “(C) any apparent child pornography.”;

18 (E) in subsection (g)—

19 (i) in paragraph (2)(A)—

20 (I) in clause (iii), by inserting

21 “or personnel at a children’s advocacy
22 center” after “State”;

23 (II) in clause (iv), by striking

24 “State or subdivision of a State” and
25 inserting “State, subdivision of a

1 State, or children’s advocacy center”;

2 and

3 (ii) in paragraph (3), in the matter
4 preceding subparagraph (A), by striking
5 “subsection (a)” and inserting “subsection
6 (a)(1)”;

7 (F) in subsection (h), by adding at the end
8 the following:

9 “(5) RELATION TO REPORTING REQUIRE-
10 MENT.—Submission of a report as described in sub-
11 section (a)(1) does not satisfy the obligations under
12 this subsection.”; and

13 (G) by adding at the end the following:

14 “(i) ANNUAL REPORT.—

15 “(1) IN GENERAL.—Not later than March 31 of
16 the second year beginning after the date of enact-
17 ment of the STOP CSAM Act of 2024, and of each
18 year thereafter, a provider that had more than
19 1,000,000 unique monthly visitors or users during
20 each month of the preceding year and accrued rev-
21 enue of more than \$50,000,000 during the preceding
22 year shall submit to the Attorney General and the
23 Chair of the Federal Trade Commission a report,
24 disaggregated by subsidiary, that provides the fol-
25 lowing information for the preceding year to the ex-

1 tent such information is applicable and reasonably
2 available:

3 “(A) CYBERTIPLINE DATA.—

4 “(i) The total number of reports that
5 the provider submitted under subsection
6 (a)(1).

7 “(ii) Which items of information de-
8 scribed in subsection (b)(2) are routinely
9 included in the reports submitted by the
10 provider under subsection (a)(1).

11 “(B) REPORT AND REMOVE DATA.—With
12 respect to section 6 of the STOP CSAM Act of
13 2024—

14 “(i) a description of the provider’s
15 designated reporting system;

16 “(ii) the number of complete notifica-
17 tions received;

18 “(iii) the number of items of child
19 sexual abuse material that were removed;
20 and

21 “(iv) the total amount of any fine or-
22 dered and paid.

23 “(C) OTHER REPORTING TO THE PRO-
24 VIDER.—

1 “(i) The measures the provider has in
2 place to receive other reports concerning
3 child sexual exploitation and abuse using
4 the provider’s product or on the provider’s
5 service.

6 “(ii) The average time for responding
7 to reports described in clause (i).

8 “(iii) The number of reports described
9 in clause (i) that the provider received.

10 “(iv) A summary description of the
11 actions taken upon receipt of the reports
12 described in clause (i).

13 “(D) POLICIES.—

14 “(i) A description of the policies of
15 the provider with respect to the commis-
16 sion of child sexual exploitation and abuse
17 using the provider’s product or on the pro-
18 vider’s service, including how child sexual
19 exploitation and abuse is defined.

20 “(ii) A description of possible con-
21 sequences for violations of the policies de-
22 scribed in clause (i).

23 “(iii) The methods of informing users
24 of the policies described in clause (i).

1 “(iv) The process for adjudicating po-
2 tential violations of the policies described
3 in clause (i).

4 “(E) CULTURE OF SAFETY.—

5 “(i) The measures and technologies
6 that the provider deploys to protect chil-
7 dren from sexual exploitation and abuse
8 using the provider’s product or service.

9 “(ii) The measures and technologies
10 that the provider deploys to prevent the
11 use of the provider’s product or service by
12 individuals seeking to commit child sexual
13 exploitation and abuse.

14 “(iii) Factors that interfere with the
15 provider’s ability to detect or evaluate in-
16 stances of child sexual exploitation and
17 abuse.

18 “(iv) An assessment of the efficacy of
19 the measures and technologies described in
20 clauses (i) and (ii) and the impact of the
21 factors described in clause (iii).

22 “(F) SAFETY BY DESIGN.—The measures
23 that the provider takes before launching a new
24 product or service to assess—

1 “(i) the safety risks for children with
2 respect to sexual exploitation and abuse;
3 and

4 “(ii) whether and how individuals
5 could use the new product or service to
6 commit child sexual exploitation and abuse.

7 “(G) TRENDS AND PATTERNS.—Any infor-
8 mation concerning emerging trends and chang-
9 ing patterns with respect to the commission of
10 online child sexual exploitation and abuse.

11 “(2) AVOIDING DUPLICATION.—Notwith-
12 standing the requirement under the matter pre-
13 ceding paragraph (1) that information be submitted
14 annually, in the case of any report submitted under
15 that paragraph after the initial report, a provider
16 shall submit information described in subparagraphs
17 (D) through (G) of that paragraph not less fre-
18 quently than once every 3 years or when new infor-
19 mation is available, whichever is more frequent.

20 “(3) LIMITATION.—Nothing in paragraph (1)
21 shall require the disclosure of trade secrets or other
22 proprietary information.

23 “(4) PUBLICATION.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), the Attorney General and the Chair

1 of the Federal Trade Commission shall publish
2 the reports received under this subsection.

3 “(B) REDACTION.—

4 “(i) IN GENERAL.—The Attorney
5 General and Chair of the Federal Trade
6 Commission shall redact from a report
7 published under subparagraph (A) any in-
8 formation as necessary to avoid—

9 “(I) undermining the efficacy of
10 a safety measure described in the re-
11 port; or

12 “(II) revealing how a product or
13 service of a provider may be used to
14 commit online child sexual exploi-
15 tation and abuse.

16 “(ii) ADDITIONAL REDACTION.—

17 “(I) REQUEST.—In addition to
18 information redacted under clause (i),
19 a provider may request the redaction,
20 from a report published under sub-
21 paragraph (A), of any information
22 that is law enforcement sensitive or
23 otherwise not suitable for public dis-
24 tribution.

1 “(II) AGENCY DISCRETION.—The
2 Attorney General and Chair of the
3 Federal Trade Commission—

4 “(aa) shall consider a re-
5 quest made under subclause (I);
6 and

7 “(bb) may, in their discre-
8 tion, redact from a report pub-
9 lished under subparagraph (A)
10 any information that is law en-
11 forcement sensitive or otherwise
12 not suitable for public distribu-
13 tion, whether or not requested.”;

14 (2) in section 2258B—

15 (A) by striking subsection (a) and insert-
16 ing the following:

17 “(a) IN GENERAL.—

18 “(1) LIMITED LIABILITY.—Except as provided
19 in subsection (b), a civil claim or criminal charge de-
20 scribed in paragraph (2) may not be brought in any
21 Federal or State court.

22 “(2) COVERED CLAIMS AND CHARGES.—A civil
23 claim or criminal charge referred to in paragraph
24 (1) is a civil claim or criminal charge against a pro-
25 vider or domain name registrar, including any direc-

1 tor, officer, employee, or agent of such provider or
2 domain name registrar, that is directly attributable
3 to—

4 “(A) the performance of the reporting or
5 preservation responsibilities of such provider or
6 domain name registrar under this section, sec-
7 tion 2258A, or section 2258C;

8 “(B) transmitting, distributing, or mailing
9 child pornography to any Federal, State, or
10 local law enforcement agency, or giving such
11 agency access to child pornography, in response
12 to a search warrant, court order, or other legal
13 process issued or obtained by such agency; or

14 “(C) the use by the provider or domain
15 name registrar of any material being preserved
16 under section 2258A(h) by such provider or
17 registrar for research conducted voluntarily and
18 in good faith for the sole and exclusive purpose
19 of—

20 “(i) improving or facilitating reporting
21 under this section, section 2258A, or sec-
22 tion 2258C; or

23 “(ii) stopping the online sexual exploi-
24 tation of children.”; and

25 (B) in subsection (b)—

1 (i) in paragraph (1), by striking “;
2 or” and inserting “or knowingly failed to
3 comply with a requirement under section
4 2258A;”;

5 (ii) in paragraph (2)(C)—

6 (I) by striking “this section, sec-
7 tions” and inserting “this section or
8 section”; and

9 (II) by striking the period and
10 inserting “; or”; and

11 (iii) by adding at the end the fol-
12 lowing:

13 “(3) for purposes of subsection (a)(2)(C),
14 knowingly distributed or transmitted the material, or
15 made the material available, except as required by
16 law, to—

17 “(A) any other entity;

18 “(B) any person not employed by the pro-
19 vider or domain name registrar; or

20 “(C) any person employed by the provider
21 or domain name registrar who is not conducting
22 any research described in that subsection.”;

23 (3) in section 2258C—

1 (A) in the section heading, by striking
2 **“the CyberTipline”** and inserting
3 **“NCMEC”**;

4 (B) in subsection (a)—

5 (i) in the subsection heading, by strik-
6 ing **“ELEMENTS”** and inserting **“PROVI-**
7 **SION TO PROVIDERS AND NONPROFIT EN-**
8 **TITIES”**;

9 (ii) in paragraph (1)—

10 (I) by striking **“to a provider”**
11 and inserting the following: **“or sub-**
12 **mission to the child victim identifica-**
13 **tion program to—**

14 **“(A) a provider”**;

15 (II) in subparagraph (A), as so
16 designated—

17 (aa) by inserting **“use of the**
18 **provider’s products or services to**
19 **commit”** after **“stop the”**; and

20 (bb) by striking the period
21 at the end and inserting **“; or”**;
22 and

23 (III) by adding at the end the
24 following:

1 “(B) a nonprofit entity for the sole and ex-
2 clusive purpose of preventing and curtailing the
3 online sexual exploitation of children.”; and

4 (iii) in paragraph (2)—

5 (I) in the heading, by striking
6 “INCLUSIONS” and inserting “ELE-
7 MENTS”;

8 (II) by striking “unique identi-
9 fiers” and inserting “similar technical
10 identifiers”; and

11 (III) by inserting “or submission
12 to the child victim identification pro-
13 gram” after “CyberTipline report”;

14 (C) in subsection (b)—

15 (i) in the heading, by inserting “OR
16 NONPROFIT ENTITIES” after “PRO-
17 VIDERS”;

18 (ii) by striking “Any provider” and in-
19 serting the following:

20 “(1) IN GENERAL.—Any provider or nonprofit
21 entity”;

22 (iii) in paragraph (1), as so des-
23 ignated—

24 (I) by striking “receives” and in-
25 serting “obtains”; and

1 (II) by inserting “or submission
2 to the child victim identification pro-
3 gram” after “CyberTipline report”;
4 and
5 (iv) by adding at the end the fol-
6 lowing:

7 “(2) LIMITATION ON SHARING WITH OTHER EN-
8 TITIES.—A provider or nonprofit entity that obtains
9 elements under subsection (a)(1) may not distribute
10 those elements, or make those elements available, to
11 any other entity, except for the sole and exclusive
12 purpose of stopping the online sexual exploitation of
13 children.”;

14 (D) in subsection (c)—

15 (i) by striking “subsections” and in-
16 serting “subsection”;

17 (ii) by striking “providers receiving”
18 and inserting “a provider to obtain”;

19 (iii) by inserting “or submission to the
20 child victim identification program” after
21 “CyberTipline report”; and

22 (iv) by striking “to use the elements
23 to stop the online sexual exploitation of
24 children”; and

1 (E) in subsection (d), by inserting “or to
2 the child victim identification program” after
3 “CyberTipline”;

4 (4) in section 2258E—

5 (A) in paragraph (6), by striking “elec-
6 tronic communication service provider” and in-
7 serting “electronic communication service”;

8 (B) in paragraph (7), by striking “and” at
9 the end;

10 (C) in paragraph (8), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (D) by adding at the end the following:

13 “(9) the term ‘publicly available’, with respect
14 to a visual depiction on a provider’s service, means
15 the visual depiction can be viewed by or is accessible
16 to all users of the service, regardless of the steps, if
17 any, a user must take to create an account or to
18 gain access to the service in order to access or view
19 the visual depiction; and

20 “(10) the term ‘child victim identification pro-
21 gram’ means the program described in section
22 404(b)(1)(K)(ii) of the Juvenile Justice and Delin-
23 quency Prevention Act of 1974 (34 U.S.C.
24 11293(b)(1)(K)(ii)).”;

1 (5) in section 2259B(a), by inserting “, any
2 fine or penalty collected under section 2258A(e) or
3 subparagraph (A) of section 6(g)(24) of the STOP
4 CSAM Act of 2024 (except as provided in clauses (i)
5 and (ii)(I) of subparagraph (B) of such section
6 6(g)(24)),” after “2259A”; and

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

8 **“§ 2260B. Liability for certain child exploitation of-**
9 **fenses**

10 “(a) OFFENSE.—It shall be unlawful for a provider
11 of an interactive computer service, as that term is defined
12 in section 230 of the Communications Act of 1934 (47
13 U.S.C. 230), that operates through the use of any facility
14 or means of interstate or foreign commerce or in or affect-
15 ing interstate or foreign commerce, through such service
16 to—

17 “(1) intentionally host or store child pornog-
18 raphy or make child pornography available to any
19 person; or

20 “(2) knowingly promote or facilitate a violation
21 of section 2251, 2251A, 2252, 2252A, or 2422(b).

22 “(b) PENALTY.—A provider of an interactive com-
23 puter service that violates subsection (a)—

24 “(1) subject to paragraph (2), shall be fined not
25 more than \$1,000,000; and

1 “(2) if the offense involves a conscious or reck-
2 less risk of serious personal injury or an individual
3 is harmed as a direct and proximate result of the
4 violation, shall be fined not more than \$5,000,000.

5 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed to apply to any good faith action
7 by a provider of an interactive computer service that is
8 necessary to comply with a valid court order, subpoena,
9 search warrant, statutory obligation, or preservation re-
10 quest from law enforcement.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 for chapter 110 of title 18, United States Code, is amend-
13 ed by adding at the end the following:

 “2260B. Liability for certain child exploitation offenses.”.

14 (c) EFFECTIVE DATE FOR AMENDMENTS TO RE-
15 PORTING REQUIREMENTS OF PROVIDERS.—The amend-
16 ments made by subsection (a)(1) of this section shall take
17 effect on the date that is 120 days after the date of enact-
18 ment of this Act.

19 **SEC. 5. EXPANDING CIVIL REMEDIES FOR VICTIMS OF ON-**
20 **LINE CHILD SEXUAL EXPLOITATION.**

21 (a) STATEMENT OF INTENT.—Nothing in this section
22 shall be construed to abrogate or narrow any case law con-
23 cerning section 2255 of title 18, United States Code.

24 (b) CIVIL REMEDY FOR PERSONAL INJURIES.—Sec-
25 tion 2255(a) of title 18, United States Code, is amended—

1 (1) by striking “IN GENERAL.—Any person
2 who, while a minor, was a victim of a violation of
3 section 1589, 1590, 1591, 2241(e), 2242, 2243,
4 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or
5 2423 of this title and who suffers personal injury as
6 a result of such violation, regardless of whether the
7 injury occurred while such person was a minor, may
8 sue” and inserting the following: “PRIVATE RIGHT
9 OF ACTION.—

10 “(1) IN GENERAL.—Any person described in
11 subparagraph (A), (B), or (C) of paragraph (2) who
12 suffers personal injury as a result of a violation de-
13 scribed in that subparagraph, regardless of whether
14 the injury occurred while such person was a minor,
15 may bring a civil action”; and

16 (2) by adding at the end the following:

17 “(2) ELIGIBLE PERSONS.—Paragraph (1) shall
18 apply to any person—

19 “(A) who, while a minor, was a victim of—

20 “(i) a violation of section 1589, 1590,
21 1591, 2241, 2242, 2243, 2251, 2251A,
22 2260(a), 2421, 2422, or 2423;

23 “(ii) an attempt to violate section
24 1589, 1590, or 1591 under section
25 1594(a);

1 “(iii) a conspiracy to violate section
2 1589 or 1590 under section 1594(b); or

3 “(iv) a conspiracy to violate section
4 1591 under section 1594(c);

5 “(B) who—

6 “(i) is depicted as a minor in child
7 pornography; and

8 “(ii) is a victim of a violation of 2252,
9 2252A, or 2260(b) (regardless of when the
10 violation occurs); or

11 “(C) who—

12 “(i) is depicted as an identifiable
13 minor in a visual depiction described in
14 section 1466A; and

15 “(ii) is a victim of a violation of that
16 section (regardless of when the violation
17 occurs).”.

18 (c) CIVIL REMEDY AGAINST ONLINE PLATFORMS
19 AND APP STORES.—

20 (1) IN GENERAL.—Chapter 110 of title 18,
21 United States Code, is amended by inserting after
22 section 2255 the following:

23 **“§ 2255A. Civil remedy against online platforms and**
24 **app stores**

25 “(a) IN GENERAL.—

1 “(1) PROMOTION OR AIDING AND ABETTING OF
2 CERTAIN VIOLATIONS.—Any person who is a victim
3 of the intentional or knowing promotion, or aiding
4 and abetting, of a violation of section 1591 or
5 1594(e) (involving a minor), or section 2251, 2251A,
6 2252, 2252A, or 2422(b), where such promotion, or
7 aiding and abetting, is by a provider of an inter-
8 active computer service or an app store, and who
9 suffers personal injury as a result of such promotion
10 or aiding and abetting, regardless of when the injury
11 occurred, may bring a civil action in any appropriate
12 United States District Court for relief set forth in
13 subsection (b).

14 “(2) ACTIVITIES INVOLVING CHILD PORNOG-
15 RAPHY.—Any person who is a victim of the inten-
16 tional or knowing hosting or storing of child pornog-
17 raphy or making child pornography available to any
18 person by a provider of an interactive computer serv-
19 ice, and who suffers personal injury as a result of
20 such hosting, storing, or making available, regard-
21 less of when the injury occurred, may bring a civil
22 action in any appropriate United States District
23 Court for relief set forth in subsection (b).

24 “(b) RELIEF.—In a civil action brought by a person
25 under subsection (a)—

1 “(1) the person shall recover the actual dam-
2 ages the person sustains or liquidated damages in
3 the amount of \$300,000, and the cost of the action,
4 including reasonable attorney fees and other litiga-
5 tion costs reasonably incurred; and

6 “(2) the court may, in addition to any other re-
7 lief available at law, award punitive damages and
8 such other preliminary and equitable relief as the
9 court determines to be appropriate, including a tem-
10 porary restraining order, a preliminary injunction, or
11 a permanent injunction ordering the defendant to
12 cease the offending conduct.

13 “(c) STATUTE OF LIMITATIONS.—There shall be no
14 time limit for the filing of a complaint commencing an
15 action under subsection (a).

16 “(d) VENUE; SERVICE OF PROCESS.—

17 “(1) VENUE.—Any action brought under sub-
18 section (a) may be brought in the district court of
19 the United States that meets applicable require-
20 ments relating to venue under section 1391 of title
21 28.

22 “(2) SERVICE OF PROCESS.—In an action
23 brought under subsection (a), process may be served
24 in any district in which the defendant—

25 “(A) is an inhabitant; or

1 “(B) may be found.

2 “(e) RELATION TO SECTION 230 OF THE COMMU-
3 NICATIONS ACT OF 1934.—Nothing in section 230 of the
4 Communications Act of 1934 (47 U.S.C. 230) shall be
5 construed to impair or limit any claim brought under sub-
6 section (a).

7 “(f) RULES OF CONSTRUCTION.—

8 “(1) APPLICABILITY TO LEGAL PROCESS OR OB-
9 LIGATION.—Nothing in this section shall be con-
10 strued to apply to any good faith action that is nec-
11 essary to comply with a valid court order, subpoena,
12 search warrant, statutory obligation, or preservation
13 request from law enforcement.

14 “(2) KNOWLEDGE WITH RESPECT TO EACH
15 ITEM REQUIRED.—For purposes of a claim brought
16 under subsection (a)(2), the term ‘knowing’ shall be
17 construed to mean knowledge of each item of child
18 pornography that the provider hosted, stored, or
19 made available.

20 “(g) ENCRYPTION TECHNOLOGIES.—

21 “(1) IN GENERAL.—None of the following ac-
22 tions or circumstances shall serve as an independent
23 basis for liability under subsection (a):

1 “(A) Utilizing full end-to-end encrypted
2 messaging services, device encryption, or other
3 encryption services.

4 “(B) Not possessing the information nec-
5 essary to decrypt a communication.

6 “(C) Failing to take an action that would
7 otherwise undermine the ability to offer full
8 end-to-end encrypted messaging services, device
9 encryption, or other encryption services.

10 “(2) CONSIDERATION OF EVIDENCE.—

11 “(A) PERMITTED USE.—Evidence of ac-
12 tions or circumstances described in paragraph
13 (1) shall be admissible in a civil action brought
14 under subsection (a) only if—

15 “(i) the actions or circumstances are
16 relevant under rules 401 and 402 of the
17 Federal Rules of Evidence to—

18 “(I) prove motive, intent, prepa-
19 ration, plan, absence of mistake, or
20 lack of accident; or

21 “(II) rebut any evidence or fac-
22 tual or legal claim; and

23 “(ii) the actions or circumstances are
24 not subject to exclusion under rule 403 of
25 the Federal Rules of Evidence.

1 “(B) NOTICE.—In a civil action brought
2 under subsection (a), a plaintiff seeking to in-
3 troduce evidence of actions or circumstances
4 under subparagraph (A) of this paragraph
5 shall—

6 “(i) provide reasonable notice—

7 “(I) in writing before trial; or

8 “(II) in any form during trial if
9 the court, for good cause, excuses lack
10 of pretrial notice; and

11 “(ii) articulate in the notice described
12 in clause (i) the permitted purpose for
13 which the plaintiff intends to offer the evi-
14 dence and the reasoning that supports the
15 purpose.

16 “(h) DEFENSE.—In a claim under subsection (a)(2)
17 involving knowing conduct, it shall be a defense, which the
18 provider of an interactive computer service must establish
19 by a preponderance of the evidence, that—

20 “(1) the provider disabled access to or removed
21 the child pornography within a reasonable time-
22 frame, and in any event not later than 48 hours
23 after obtaining knowledge that the child pornog-
24 raphy was being hosted, stored, or made available by
25 the provider (or, in the case of a provider that, for

1 the most recent calendar year, averaged fewer than
2 10,000,000 active users on a monthly basis in the
3 United States, within a reasonable timeframe, and
4 in any event not later than 2 business days after ob-
5 taining such knowledge); or

6 “(2) the provider—

7 “(A) exercised a reasonable, good faith ef-
8 fort to disable access to or remove the child
9 pornography but was unable to do so for rea-
10 sons outside the provider’s control; and

11 “(B) determined it is technologically im-
12 possible for the provider to disable access to or
13 remove the child pornography without compro-
14 mising encryption technologies.

15 “(i) SANCTIONS FOR REPEATED BAD FAITH CIVIL
16 ACTIONS.—

17 “(1) IN GENERAL.—In the case of a civil action
18 brought under subsection (a), the court may impose
19 sanctions on—

20 “(A) the party bringing the civil action if
21 the court finds that the party has brought 2 or
22 more bad faith civil actions (which may include
23 the instant civil action); or

24 “(B) an attorney or law firm representing
25 the party bringing the civil action if the court

1 finds that the attorney or law firm has rep-
2 resented—

3 “(i) a party who has brought 2 or
4 more bad faith civil actions (which may in-
5 clude the instant civil action); or

6 “(ii) 2 or more parties who have each
7 brought a bad faith civil action (which may
8 include the instant civil action).

9 “(2) DEFINITION OF BAD FAITH CIVIL AC-
10 TION.—For purposes of paragraph (1), the term
11 ‘bad faith civil action’ means a civil action brought
12 under subsection (a) in bad faith where the finder
13 of fact determined that at the time the civil action
14 was filed, the party, attorney, or law firm described
15 in paragraph (1) had actual knowledge that the al-
16 leged conduct—

17 “(A) did not involve any minor; or

18 “(B) did not involve any child pornog-
19 raphy.

20 “(3) IMPLEMENTATION.—Rule 11(c) of the
21 Federal Rules of Civil Procedure shall apply to sanc-
22 tions imposed under this subsection in the same
23 manner as that Rule applies to sanctions imposed
24 for a violation of Rule 11(b) of those Rules.

25 “(4) RULES OF CONSTRUCTION.—

1 “(A) RULE 11.—This subsection shall not
2 be construed to limit or expand the application
3 of Rule 11 of the Federal Rules of Civil Proce-
4 dure.

5 “(B) DEFINITION CHANGE.—Paragraph
6 (2)(B) shall not be construed to apply to a civil
7 action affected by a contemporaneous change in
8 the law with respect to the definition of ‘child
9 pornography’.

10 “(j) DEFINITIONS.—In this section:

11 “(1) APP.—The term ‘app’ means a software
12 application or electronic service that may be run or
13 directed by a user on a computer, a mobile device,
14 or any other general purpose computing device.

15 “(2) APP STORE.—The term ‘app store’ means
16 a publicly available website, software application, or
17 other electronic service that—

18 “(A) distributes apps from third-party de-
19 velopers to users of a computer, a mobile de-
20 vice, or any other general purpose computing
21 device; and

22 “(B) operates—

23 “(i) through the use of any means or
24 facility of interstate or foreign commerce;
25 or

1 “(ii) in or affecting interstate or for-
2 eign commerce.

3 “(3) INTERACTIVE COMPUTER SERVICE.—The
4 term ‘interactive computer service’ means an inter-
5 active computer service, as defined in section 230(f)
6 of the Communications Act of 1934 (47 U.S.C.
7 230(f)), that operates—

8 “(A) through the use of any means or fa-
9 cility of interstate or foreign commerce; or

10 “(B) in or affecting interstate or foreign
11 commerce.”.

12 (2) CONFORMING AMENDMENT.—The table of
13 sections for chapter 110 of title 18, United States
14 Code, is amended by inserting after the item relating
15 to section 2255 the following:

 “2255A. Civil remedy against online platforms and app stores.”.

16 **SEC. 6. REPORTING AND REMOVAL OF CHILD SEXUAL**
17 **ABUSE MATERIAL; ESTABLISHMENT OF**
18 **CHILD ONLINE PROTECTION BOARD.**

19 (a) FINDINGS.—Congress finds the following:

20 (1) Over 40 years ago, the Supreme Court of
21 the United States ruled in *New York v. Ferber*, 458
22 U.S. 747 (1982), that child sexual abuse material
23 (referred to in this subsection as “CSAM”) is a
24 “category of material outside the protections of the
25 First Amendment”. The Court emphasized that chil-

1 dren depicted in CSAM are harmed twice: first
2 through the abuse and exploitation inherent in the
3 creation of the materials, and then through the con-
4 tinued circulation of the imagery, which inflicts its
5 own emotional and psychological injury.

6 (2) The Supreme Court reiterated this point 10
7 years ago in *Paroline v. United States*, 572 U.S.
8 434 (2014), when it explained that CSAM victims
9 suffer “continuing and grievous harm as a result of
10 [their] knowledge that a large, indeterminate num-
11 ber of individuals have viewed and will in the future
12 view images of the sexual abuse they endured”.

13 (3) In these decisions, the Supreme Court noted
14 that the distribution of CSAM invades the privacy
15 interests of the victims.

16 (4) The co-mingling online of CSAM with other,
17 non-explicit depictions of the victims links the vic-
18 tim’s identity with the images of their abuse. This
19 further invades a victim’s privacy and disrupts their
20 sense of security, thwarting what the Supreme Court
21 has described as “the individual interest in avoiding
22 disclosure of personal matters”.

23 (5) The internet is awash with child sexual
24 abuse material. In 2022, the CyberTipline, operated
25 by the National Center for Missing & Exploited Chil-

1 dren to combat online child sexual exploitation, re-
2 ceived reports about 49,400,000 images and
3 37,700,000 videos depicting child sexual abuse.

4 (6) Since 2017, Project Arachnid, operated by
5 the Canadian Centre for Child Protection, has sent
6 over 38,000,000 notices to online providers about
7 CSAM and other exploitive material found on their
8 platforms. According to the Canadian Centre, some
9 providers are slow to remove the material, or take it
10 down only for it to be reposted again a short time
11 later.

12 (7) This legislation is needed to create an easy-
13 to-use and effective procedure to get CSAM and
14 harmful related imagery quickly taken offline and
15 kept offline to protect children, stop the spread of il-
16 legal and harmful content, and thwart the continued
17 invasion of the victims' privacy.

18 (b) IMPLEMENTATION.—

19 (1) IMPLEMENTATION.—Except as provided in
20 paragraph (2), not later than 1 year after the date
21 of enactment of this Act, the Child Online Protec-
22 tion Board established under subsection (d), shall
23 begin operations, at which point providers shall
24 begin receiving notifications as set forth in sub-
25 section (c)(2).

1 (2) EXTENSION.—The Commission may extend
2 the deadline under paragraph (1) by not more than
3 180 days if the Commission provides notice of the
4 extension to the public and to Congress.

5 (3) PUBLIC NOTICE.—The Commission shall
6 provide notice to the public of the date that the
7 Child Online Protection Board established under
8 subsection (d) is scheduled to begin operations on—

9 (A) the date that is 60 days before such
10 date that the Board is scheduled to begin oper-
11 ations; and

12 (B) the date that is 30 days before such
13 date that the Board is scheduled to begin oper-
14 ations.

15 (c) REPORTING AND REMOVAL OF CHILD SEXUAL
16 ABUSE MATERIAL.—

17 (1) IN GENERAL.—If a provider receives a com-
18 plete notification as set forth in paragraph (2)(A)
19 that the provider is hosting child sexual abuse mate-
20 rial, as soon as possible, but in any event not later
21 than 48 hours after such notification is received by
22 the provider (or, in the case of a small provider, not
23 later than 2 business days after such notification is
24 received by the small provider), the provider shall—

1 (A)(i) remove the child sexual abuse mate-
2 rial; and

3 (ii) notify the complainant that it has done
4 so; or

5 (B) notify the complainant that the pro-
6 vider—

7 (i) has determined that the visual de-
8 picture referenced in the notification does
9 not constitute child sexual abuse material;

10 (ii) is unable to remove the child sex-
11 ual abuse material using reasonable means;

12 or

13 (iii) has determined that the notifica-
14 tion is duplicative under paragraph
15 (2)(C)(i).

16 (2) NOTIFICATIONS.—

17 (A) IN GENERAL.—To be complete under
18 this subsection, a notification must be a written
19 communication to the designated reporting sys-
20 tem of the provider (or, if the provider does not
21 have a designated reporting system, a written
22 communication that is served on the provider in
23 accordance with subparagraph (F)) that in-
24 cludes the following:

1 (i) An identification of, and informa-
2 tion reasonably sufficient to permit the
3 provider to locate, the child sexual abuse
4 material. Such information may include, at
5 the option of the complainant, a copy of
6 the child sexual abuse material or the uni-
7 form resource locator where such child sex-
8 ual abuse material is located.

9 (ii) The complainant's name and con-
10 tact information, to include a mailing ad-
11 dress, telephone number, and an electronic
12 mail address, except that, if the complain-
13 ant is the victim depicted in the child sex-
14 ual abuse material, the complainant may
15 elect to use an alias, including for purposes
16 of the signed statement described in clause
17 (v), and omit a mailing address.

18 (iii) If applicable, a statement indi-
19 cating that the complainant has previously
20 notified the provider about the child sexual
21 abuse material which may, at the option of
22 the complainant, include a copy of the pre-
23 vious notification.

24 (iv) A statement indicating that the
25 complainant has a good faith belief that

1 the information in the notification is accu-
2 rate.

3 (v) A signed statement under penalty
4 of perjury indicating that the notification
5 is submitted by—

6 (I) the victim depicted in the
7 child sexual abuse material;

8 (II) an authorized representative
9 of the victim depicted in the child sex-
10 ual abuse material; or

11 (III) a qualified organization.

12 (B) INCLUSION OF ADDITIONAL VISUAL
13 DEPICTIONS IN A NOTIFICATION.—

14 (i) MULTIPLE ITEMS OF CHILD SEX-
15 UAL ABUSE MATERIAL IN SAME NOTIFICA-
16 TION.—A notification may contain infor-
17 mation about more than one item of child
18 sexual abuse material, but shall only be ef-
19 fective with respect to each item of child
20 sexual abuse material included in the noti-
21 fication to the extent that the notification
22 includes sufficient information to identify
23 and locate such item of child sexual abuse
24 material.

1 (ii) RELATED EXPLOITIVE VISUAL DE-
2 PICTIONS.—

3 (I) IN GENERAL.—A notification
4 may contain information about any
5 related exploitive visual depictions as-
6 sociated with the child sexual abuse
7 material described in the notification,
8 along with the information described
9 in subparagraph (A)(i) for each re-
10 lated exploitive visual depiction. Such
11 notification shall clearly indicate
12 which visual depiction is a related
13 exploitive visual depiction. Such notifi-
14 cation shall include a statement indi-
15 cating that the complainant acknowl-
16 edges that the provider may, but is
17 not required to, remove the related
18 exploitive visual depiction, and that
19 the complainant cannot file a petition
20 with the Child Online Protection
21 Board concerning any alleged failure
22 to remove a related exploitive visual
23 depiction.

24 (II) NO OBLIGATION.—A pro-
25 vider shall not be required to take any

1 action under this section concerning a
2 related exploitive visual depiction. A
3 provider may, in its sole discretion, re-
4 move a related exploitive visual depic-
5 tion. The procedure set forth in sub-
6 section (g)(1) shall not apply to re-
7 lated exploitive visual depictions.

8 (C) LIMITATION ON DUPLICATIVE NOTIFI-
9 CATIONS.—

10 (i) IN GENERAL.—After a complain-
11 ant has submitted a notification to a pro-
12 vider, the complainant may submit addi-
13 tional notifications at any time only if the
14 subsequent notifications involve—

15 (I) a different item of child sex-
16 ual abuse material;

17 (II) the same item of child sexual
18 abuse material relating to a minor
19 that is in a different location; or

20 (III) recidivist hosting.

21 (ii) NO OBLIGATION.—A provider who
22 receives any additional notifications that
23 do not comply with clause (i) shall not be
24 required to take any additional action ex-
25 cept—

1 (I) as may be required with re-
2 spect to the original notification; and

3 (II) to notify the complainant as
4 provided in paragraph (1)(B)(iii).

5 (D) INCOMPLETE OR MISDIRECTED NOTI-
6 FICATION.—

7 (i) REQUIREMENT TO CONTACT COM-
8 PLAINANT REGARDING INSUFFICIENT IN-
9 FORMATION.—

10 (I) REQUIREMENT TO CONTACT
11 COMPLAINANT.—If a notification that
12 is submitted to a provider under this
13 subsection does not contain sufficient
14 information under subparagraph
15 (A)(i) to identify or locate the child
16 sexual abuse material that is the sub-
17 ject of the notification but does con-
18 tain the complainant contact informa-
19 tion described in subparagraph
20 (A)(ii), the provider shall, not later
21 than 48 hours after receiving the noti-
22 fication (or, in the case of a small
23 provider, not later than 2 business
24 days after such notification is received
25 by the small provider), contact the

1 complainant via electronic mail ad-
2 dress to obtain such information.

3 (II) EFFECT OF COMPLAINANT
4 PROVIDING SUFFICIENT INFORMA-
5 TION.—If the provider is able to con-
6 tact the complainant and obtain suffi-
7 cient information to identify or locate
8 the child sexual abuse material that is
9 the subject of the notification, the
10 provider shall then proceed as set
11 forth in paragraph (1), except that
12 the applicable timeframes described in
13 such paragraph shall commence on
14 the day the provider receives the in-
15 formation needed to identify or locate
16 the child sexual abuse material.

17 (III) EFFECT OF COMPLAINANT
18 INABILITY TO PROVIDE SUFFICIENT
19 INFORMATION.—If the provider is able
20 to contact the complainant but does
21 not obtain sufficient information to
22 identify or locate the child sexual
23 abuse material that is the subject of
24 the notification, the provider shall so
25 notify the complainant not later than

1 48 hours after the provider deter-
2 mines that it is unable to identify or
3 locate the child sexual abuse material
4 (or, in the case of a small provider,
5 not later than 2 business days after
6 the small provider makes such deter-
7 mination), after which no further ac-
8 tion by the provider is required and
9 receipt of the notification shall not be
10 considered in determining whether the
11 provider has actual knowledge of any
12 information described in the notifica-
13 tion.

14 (IV) EFFECT OF COMPLAINANT
15 FAILURE TO RESPOND.—If the com-
16 plainant does not respond to the pro-
17 vider’s attempt to contact the com-
18 plainant under this clause within 14
19 days of such attempt, no further ac-
20 tion by the provider is required and
21 receipt of the notification shall not be
22 considered in determining whether the
23 provider has actual knowledge of any
24 information described in the notifica-
25 tion.

1 (ii) TREATMENT OF INCOMPLETE NO-
2 TIFICATION WHERE COMPLAINANT CANNOT
3 BE CONTACTED.—If a notification that is
4 submitted to a provider under this sub-
5 section does not contain sufficient informa-
6 tion under subparagraph (A)(i) to identify
7 or locate the child sexual abuse material
8 that is the subject of the notification and
9 does not contain the complainant contact
10 information described in subparagraph
11 (A)(ii) (or if the provider is unable to con-
12 tact the complainant using such informa-
13 tion), no further action by the provider is
14 required and receipt of the notification
15 shall not be considered in determining
16 whether the provider has actual knowledge
17 of any information described in the notifi-
18 cation.

19 (iii) TREATMENT OF NOTIFICATION
20 NOT SUBMITTED TO DESIGNATED REPORT-
21 ING SYSTEM.—If a provider has a des-
22 ignated reporting system, and a complain-
23 ant submits a notification under this sub-
24 section to the provider without using such

1 system, the provider shall not be consid-
2 ered to have received the notification.

3 (E) OPTION TO CONTACT COMPLAINANT
4 REGARDING THE CHILD SEXUAL ABUSE MATE-
5 RIAL.—

6 (i) CONTACT WITH COMPLAINANT.—If
7 the provider believes that the child sexual
8 abuse material referenced in the notifica-
9 tion does not meet the definition of such
10 term as provided in subsection (r)(10), the
11 provider may, not later than 48 hours
12 after receiving the notification (or, in the
13 case of a small provider, not later than 2
14 business days after such notification is re-
15 ceived by the small provider), contact the
16 complainant via electronic mail address to
17 so indicate.

18 (ii) FAILURE TO RESPOND.—If the
19 complainant does not respond to the pro-
20 vider within 14 days after receiving the no-
21 tification, no further action by the provider
22 is required and receipt of the notification
23 shall not be considered in determining
24 whether the provider has actual knowledge

1 of any information described in the notifi-
2 cation.

3 (iii) COMPLAINANT RESPONSE.—If the
4 complainant responds to the provider with-
5 in 14 days after receiving the notification,
6 the provider shall then proceed as set forth
7 in paragraph (1), except that the applica-
8 ble timeframes described in such para-
9 graph shall commence on the day the pro-
10 vider receives the complainant’s response.

11 (F) SERVICE OF NOTIFICATION WHERE
12 PROVIDER HAS NO DESIGNATED REPORTING
13 SYSTEM; PROCESS WHERE COMPLAINANT CAN-
14 NOT SERVE PROVIDER.—

15 (i) NO DESIGNATED REPORTING SYS-
16 TEM.—If a provider does not have a des-
17 ignated reporting system, a complainant
18 may serve the provider with a notification
19 under this subsection to the provider in the
20 same manner that petitions are required to
21 be served under subsection (g)(4).

22 (ii) COMPLAINANT CANNOT SERVE
23 PROVIDER.—If a provider does not have a
24 designated reporting system and a com-
25 plainant cannot reasonably serve the pro-

1 vider with a notification as described in
2 clause (i), the complainant may bring a pe-
3 tition under subsection (g)(1) without serv-
4 ing the provider with the notification.

5 (G) RECIDIVIST HOSTING.—If a provider
6 engages in recidivist hosting of child sexual
7 abuse material, in addition to any action taken
8 under this section, a complainant may submit a
9 report concerning such recidivist hosting to the
10 CyberTipline operated by the National Center
11 for Missing and Exploited Children, or any suc-
12 cessor to the CyberTipline operated by the Na-
13 tional Center for Missing and Exploited Chil-
14 dren.

15 (H) PRESERVATION.—A provider that re-
16 ceives a complete notification under this sub-
17 section shall preserve the information in such
18 notification in accordance with the requirements
19 of sections 2713 and 2258A(h) of title 18,
20 United States Code. For purposes of this sub-
21 paragraph, the period for which providers shall
22 be required to preserve information in accord-
23 ance with such section 2258A(h) may be ex-
24 tended in 90-day increments on written request
25 by the complainant or order of the Board.

1 (I) NON-DISCLOSURE.—Except as other-
2 wise provided in subsection (g)(19)(C), for 120
3 days following receipt of a notification under
4 this subsection, a provider may not disclose the
5 existence of the notification to any person or
6 entity except to an attorney for purposes of ob-
7 taining legal advice, the Board, the Commis-
8 sion, a law enforcement agency described in
9 subparagraph (A), (B), or (C) of section
10 2258A(g)(3) of title 18, United States Code,
11 the National Center for Missing and Exploited
12 Children, or as necessary to respond to legal
13 process. Nothing in the preceding sentence shall
14 be construed to infringe on the provider’s abil-
15 ity to communicate general information about
16 terms of service violations.

17 (d) ESTABLISHMENT OF CHILD ONLINE PROTEC-
18 TION BOARD.—

19 (1) IN GENERAL.—There is established in the
20 Federal Trade Commission a Child Online Protec-
21 tion Board, which shall administer and enforce the
22 requirements of subsection (e) in accordance with
23 this section.

24 (2) OFFICERS AND STAFF.—The Board shall be
25 composed of 3 full-time Child Online Protection Of-

1 ficers who shall be appointed by the Commission in
2 accordance with paragraph (5)(A). A vacancy on the
3 Board shall not impair the right of the remaining
4 Child Online Protection Officers to exercise the
5 functions and duties of the Board.

6 (3) CHILD ONLINE PROTECTION ATTORNEYS.—

7 Not fewer than 2 full-time Child Online Protection
8 Attorneys shall be hired to assist in the administra-
9 tion of the Board.

10 (4) TECHNOLOGICAL ADVISER.—One or more

11 technological advisers may be hired to assist with
12 the handling of digital evidence and consult with the
13 Child Online Protection Officers on matters con-
14 cerning digital evidence and technological issues.

15 (5) QUALIFICATIONS.—

16 (A) OFFICERS.—

17 (i) IN GENERAL.—Each Child Online
18 Protection Officer shall be an attorney
19 duly licensed in at least 1 United States
20 jurisdiction who has not fewer than 7 years
21 of legal experience concerning child sexual
22 abuse material and technology-facilitated
23 crimes against children.

24 (ii) EXPERIENCE.—Two of the Child
25 Online Protection Officers shall have sub-

1 stantial experience in the evaluation, litiga-
2 tion, or adjudication of matters relating to
3 child sexual abuse material or technology-
4 facilitated crimes against children.

5 (B) ATTORNEYS.—Each Child Online Pro-
6 tection Attorney shall be an attorney duly li-
7 censed in at least 1 United States jurisdiction
8 who has not fewer than 3 years of substantial
9 legal experience concerning child sexual abuse
10 material and technology-facilitated crimes
11 against children.

12 (C) TECHNOLOGICAL ADVISER.—A techno-
13 logical adviser shall have at least one year of
14 specialized experience with digital forensic anal-
15 ysis.

16 (6) COMPENSATION.—

17 (A) CHILD ONLINE PROTECTION OFFI-
18 CERS.—

19 (i) DEFINITION.—In this subpara-
20 graph, the term “senior level employee of
21 the Federal Government” means an em-
22 ployee, other than an employee in the Sen-
23 ior Executive Service, the position of whom
24 is classified above GS–15 of the General
25 Schedule.

1 (ii) PAY RANGE.—Each Child Online
2 Protection Officer shall be compensated at
3 a rate of pay that is not less than the min-
4 imum, and not more than the maximum,
5 rate of pay payable for senior level employ-
6 ees of the Federal Government, including
7 locality pay, as applicable.

8 (B) CHILD ONLINE PROTECTION ATTOR-
9 NEYS.—Each Child Online Protection Attorney
10 shall be compensated at a rate of pay that is
11 not more than the maximum rate of pay pay-
12 able for level 10 of GS–15 of the General
13 Schedule, including locality pay, as applicable.

14 (C) TECHNOLOGICAL ADVISER.—A techno-
15 logical adviser of the Board shall be com-
16 pensated at a rate of pay that is not more than
17 the maximum rate of pay payable for level 10
18 of GS–14 of the General Schedule, including lo-
19 cality pay, as applicable.

20 (7) VACANCY.—If a vacancy occurs in the posi-
21 tion of Child Online Protection Officer, the Commis-
22 sion shall act expeditiously to appoint an Officer for
23 that position.

24 (8) SANCTION OR REMOVAL.—Subject to sub-
25 section (e)(2), the Chair of the Commission or the

1 Commission may sanction or remove a Child Online
2 Protection Officer.

3 (9) ADMINISTRATIVE SUPPORT.—The Commis-
4 sion shall provide the Child Online Protection Offi-
5 cers and Child Online Protection Attorneys with nec-
6 essary administrative support, including techno-
7 logical facilities, to carry out the duties of the Offi-
8 cers and Attorneys under this section. The Depart-
9 ment of Justice may provide equipment for and
10 guidance on the storage and handling of child sexual
11 abuse material.

12 (10) LOCATION OF BOARD.—The offices and fa-
13 cilities of the Child Online Protection Officers and
14 Child Online Protection Attorneys shall be located at
15 the headquarters or other office of the Commission.

16 (e) AUTHORITY AND DUTIES OF THE BOARD.—

17 (1) FUNCTIONS.—

18 (A) OFFICERS.—Subject to the provisions
19 of this section and applicable regulations, the
20 functions of the Officers of the Board shall be
21 as follows:

22 (i) To render determinations on peti-
23 tions that may be brought before the Offi-
24 cers under this section.

1 (ii) To ensure that petitions and re-
2 sponses are properly asserted and other-
3 wise appropriate for resolution by the
4 Board.

5 (iii) To manage the proceedings before
6 the Officers and render determinations
7 pertaining to the consideration of petitions
8 and responses, including with respect to
9 scheduling, discovery, evidentiary, and
10 other matters.

11 (iv) To request, from participants and
12 nonparticipants in a proceeding, the pro-
13 duction of information and documents rel-
14 evant to the resolution of a petition or re-
15 sponse.

16 (v) To conduct hearings and con-
17 ferences.

18 (vi) To facilitate the settlement by the
19 parties of petitions and responses.

20 (vii) To impose fines as set forth in
21 subsection (g)(24).

22 (viii) To provide information to the
23 public concerning the procedures and re-
24 quirements of the Board.

1 (ix) To maintain records of the pro-
2 ceedings before the Officers, certify official
3 records of such proceedings as needed,
4 and, as provided in subsection (g)(19)(A),
5 make the records in such proceedings
6 available to the public.

7 (x) To carry out such other duties as
8 are set forth in this section.

9 (xi) When not engaged in performing
10 the duties of the Officers set forth in this
11 section, to perform such other duties as
12 may be assigned by the Chair of the Com-
13 mission or the Commission.

14 (B) ATTORNEYS.—Subject to the provi-
15 sions of this section and applicable regulations,
16 the functions of the Attorneys of the Board
17 shall be as follows:

18 (i) To provide assistance to the Offi-
19 cers of the Board in the administration of
20 the duties of those Officers under this sec-
21 tion.

22 (ii) To provide assistance to complain-
23 ants, providers, and members of the public
24 with respect to the procedures and require-
25 ments of the Board.

1 (iii) When not engaged in performing
2 the duties of the Attorneys set forth in this
3 section, to perform such other duties as
4 may be assigned by the Commission.

5 (C) DESIGNATED SERVICE AGENTS.—The
6 Board may maintain a publicly available direc-
7 tory of service agents designated to receive serv-
8 ice of petitions filed with the Board.

9 (2) INDEPENDENCE IN DETERMINATIONS.—

10 (A) IN GENERAL.—The Board shall render
11 the determinations of the Board in individual
12 proceedings independently on the basis of the
13 records in the proceedings before it and in ac-
14 cordance with the provisions of this section, ju-
15 dicial precedent, and applicable regulations of
16 the Commission.

17 (B) PERFORMANCE APPRAISALS.—Not-
18 withstanding any other provision of law or any
19 regulation or policy of the Commission, any per-
20 formance appraisal of an Officer or Attorney of
21 the Board may not consider the substantive re-
22 sult of any individual determination reached by
23 the Board as a basis for appraisal except to the
24 extent that result may relate to any actual or

1 alleged violation of an ethical standard of con-
2 duct.

3 (3) DIRECTION BY COMMISSION.—Subject to
4 paragraph (2), the Officers and Attorneys shall, in
5 the administration of their duties, be under the su-
6 pervision of the Chair of the Commission.

7 (4) INCONSISTENT DUTIES BARRED.—An Offi-
8 cer or Attorney of the Board may not undertake any
9 duty that conflicts with the duties of the Officer or
10 Attorney in connection with the Board, to include
11 the obligation to render impartial determinations on
12 petitions considered by the Board under this section.

13 (5) RECUSAL.—An Officer or Attorney of the
14 Board shall recuse himself or herself from participa-
15 tion in any proceeding with respect to which the Of-
16 ficer or Attorney, as the case may be, has reason to
17 believe that he or she has a conflict of interest.

18 (6) EX PARTE COMMUNICATIONS.—Except as
19 may otherwise be permitted by applicable law, any
20 party or interested owner involved in a proceeding
21 before the Board shall refrain from ex parte commu-
22 nications with the Officers of the Board and the
23 Commission relevant to the merits of such pro-
24 ceeding before the Board.

1 (7) JUDICIAL REVIEW.—Actions of the Officers
2 and the Commission under this section in connection
3 with the rendering of any determination are subject
4 to judicial review as provided under subsection
5 (g)(28).

6 (f) CONDUCT OF PROCEEDINGS OF THE BOARD.—

7 (1) IN GENERAL.—Proceedings of the Board
8 shall be conducted in accordance with this section
9 and regulations established by the Commission
10 under this section, in addition to relevant principles
11 of law.

12 (2) RECORD.—The Board shall maintain
13 records documenting the proceedings before the
14 Board.

15 (3) CENTRALIZED PROCESS.—Proceedings be-
16 fore the Board shall—

17 (A) be conducted at the offices of the
18 Board without the requirement of in-person ap-
19 pearances by parties or others;

20 (B) take place by means of written submis-
21 sions, hearings, and conferences carried out
22 through internet-based applications and other
23 telecommunications facilities, except that, in
24 cases in which physical or other nontestimonial
25 evidence material to a proceeding cannot be fur-

1 nished to the Board through available tele-
2 communications facilities, the Board may make
3 alternative arrangements for the submission of
4 such evidence that do not prejudice any party
5 or interested owner; and

6 (C) be conducted and concluded in an ex-
7 peditious manner without causing undue preju-
8 dice to any party or interested owner.

9 (4) REPRESENTATION.—

10 (A) IN GENERAL.—A party or interested
11 owner involved in a proceeding before the Board
12 may be, but is not required to be, represented
13 by—

14 (i) an attorney; or

15 (ii) a law student who is qualified
16 under applicable law governing representa-
17 tion by law students of parties in legal pro-
18 ceedings and who provides such represen-
19 tation on a pro bono basis.

20 (B) REPRESENTATION OF VICTIMS.—

21 (i) IN GENERAL.—A petition involving
22 a victim under the age of 16 at the time
23 the petition is filed shall be filed by an au-
24 thorized representative, qualified organiza-

1 tion, or a person described in subpara-
2 graph (A).

3 (ii) NO REQUIREMENT FOR QUALI-
4 FIED ORGANIZATIONS TO HAVE CONTACT
5 WITH, OR KNOWLEDGE OF, VICTIM.—A
6 qualified organization may submit a notifi-
7 cation to a provider or file a petition on be-
8 half of a victim without regard to whether
9 the qualified organization has contact with
10 the victim or knows the identity, location,
11 or contact information of the victim.

12 (g) PROCEDURES TO CONTEST A FAILURE TO RE-
13 MOVE CHILD SEXUAL ABUSE MATERIAL OR A NOTIFICA-
14 TION REPORTING CHILD SEXUAL ABUSE MATERIAL.—

15 (1) PROCEDURE TO CONTEST A FAILURE TO
16 REMOVE.—

17 (A) COMPLAINANT PETITION.—A com-
18 plainant may file a petition to the Board claim-
19 ing that, as applicable—

20 (i) the complainant submitted a com-
21 plete notification to a provider concerning
22 alleged child sexual abuse material, and
23 that—

24 (I) the provider—

1 (aa) did not remove the al-
2 leged child sexual abuse material
3 within the timeframe required
4 under subsection (c)(1)(A)(i); or

5 (bb) incorrectly claimed
6 that—

7 (AA) the alleged child
8 sexual abuse material at
9 issue could not be located or
10 removed through reasonable
11 means;

12 (BB) the notification
13 was incomplete; or

14 (CC) the notification
15 was duplicative under sub-
16 section (c)(2)(C)(i); and

17 (II) did not file a timely petition
18 to contest the notification with the
19 Board under paragraph (2); or

20 (ii) a provider is hosting alleged child
21 sexual abuse material, does not have a des-
22 ignated reporting system, and the com-
23 plainant was unable to serve a notification
24 on the provider under this subsection de-
25 spite reasonable efforts.

1 (B) ADDITIONAL CLAIM.—As applicable, a
2 petition filed under subparagraph (A) may also
3 claim that the alleged child sexual abuse mate-
4 rial at issue in the petition involves recidivist
5 hosting.

6 (C) TIMEFRAME.—

7 (i) IN GENERAL.—A petition under
8 this paragraph shall be considered timely if
9 it is filed within 30 days of the applicable
10 start date, as defined under clause (ii).

11 (ii) APPLICABLE START DATE.—For
12 purposes of clause (i), the term “applicable
13 start date” means—

14 (I) in the case of a petition under
15 subparagraph (A)(i) claiming that the
16 alleged child sexual abuse material
17 was not removed or that the provider
18 made an incorrect claim relating to
19 the alleged child sexual abuse material
20 or notification, the day that the pro-
21 vider’s option to file a petition has ex-
22 pired under paragraph (2)(B); and

23 (II) in the case of a petition
24 under subparagraph (A)(ii) related to
25 a notification that could not be

1 served, the last day of the 2-week pe-
2 riod that begins on the day on which
3 the complainant first attempted to
4 serve a notification on the provider in-
5 volved.

6 (D) IDENTIFICATION OF VICTIM.—Any pe-
7 tition filed to the Board by the victim or an au-
8 thorized representative of the victim shall in-
9 clude the victim’s legal name. A petition filed to
10 the Board by a qualified organization may, but
11 is not required to, include the victim’s legal
12 name. Any petition containing the victim’s legal
13 name shall be filed under seal. The victim’s
14 legal name shall be redacted from any docu-
15 ments served on the provider and interested
16 owner or made publicly available.

17 (E) FAILURE TO REMOVE CHILD SEXUAL
18 ABUSE MATERIAL IN TIMELY MANNER.—A com-
19 plainant may file a petition under subparagraph
20 (A)(i) claiming that alleged child sexual abuse
21 material was not removed even if the alleged
22 child sexual abuse material was removed prior
23 to the petition being filed, so long as the peti-
24 tion claims that the alleged child sexual abuse

1 material was not removed within the timeframe
2 specified in subsection (c)(1).

3 (2) PROCEDURE TO CONTEST A NOTIFICA-
4 TION.—

5 (A) PROVIDER PETITION.—If a provider
6 receives a complete notification as described in
7 subsection (c)(2) through its designated report-
8 ing system or in accordance with subsection
9 (c)(2)(F)(i), the provider may file a petition to
10 the Board claiming that the provider has a
11 good faith belief that, as applicable—

12 (i) the visual depiction that is the sub-
13 ject of the notification does not constitute
14 child sexual abuse material;

15 (ii) the notification is frivolous or was
16 submitted with an intent to harass the pro-
17 vider or any person;

18 (iii) the alleged child sexual abuse ma-
19 terial cannot reasonably be located by the
20 provider;

21 (iv) for reasons beyond the control of
22 the provider, the provider cannot remove
23 the alleged child sexual abuse material
24 using reasonable means; or

1 (v) the notification was duplicative
2 under subsection (c)(2)(C)(i).

3 (B) TIMEFRAME.—

4 (i) IN GENERAL.—Subject to clauses
5 (ii) and (iii), a petition contesting a notifi-
6 cation under this paragraph shall be con-
7 sidered timely if it is filed by a provider
8 not later than 14 days after the day on
9 which the provider receives the notification
10 or the notification is made complete under
11 subsection (c)(2)(D)(i).

12 (ii) NO DESIGNATED REPORTING SYS-
13 TEM.—Subject to clause (iii), if a provider
14 does not have a designated reporting sys-
15 tem, a petition contesting a notification
16 under this paragraph shall be considered
17 timely if it is filed by a provider not later
18 than 7 days after the day on which the
19 provider receives the notification or the no-
20 tification is made complete under sub-
21 section (c)(2)(D)(i).

22 (iii) SMALL PROVIDERS.—In the case
23 of a small provider, each of the timeframes
24 applicable under clauses (i) and (ii) shall
25 be increased by 48 hours.

1 (3) COMMENCEMENT OF PROCEEDING.—

2 (A) IN GENERAL.—In order to commence
3 a proceeding under this section, a petitioning
4 party shall, subject to such additional require-
5 ments as may be prescribed in regulations es-
6 tablished by the Commission, file a petition
7 with the Board, that includes a statement of
8 claims and material facts in support of each
9 claim in the petition. A petition may set forth
10 more than one claim. A petition shall also in-
11 clude information establishing that it has been
12 filed within the applicable timeframe.

13 (B) REVIEW OF PETITIONS BY CHILD ON-
14 LINE PROTECTION ATTORNEYS.—Child Online
15 Protection Attorneys may review petitions to
16 assess whether they are complete. The Board
17 may permit a petitioning party to refile a defec-
18 tive petition. The Attorney may assist the peti-
19 tioning party in making any corrections.

20 (C) DISMISSAL.—The Board may dismiss,
21 with or without prejudice, any petition that fails
22 to comply with subparagraph (A).

23 (4) SERVICE OF PROCESS REQUIREMENTS FOR
24 PETITIONS.—

1 (A) IN GENERAL.—For purposes of peti-
2 tions under paragraphs (1) and (2), the peti-
3 tioning party shall, at or before the time of fil-
4 ing a petition, serve a copy on the other party.
5 A corporation, partnership, or unincorporated
6 association that is subject to suit in courts of
7 general jurisdiction under a common name shall
8 be served by delivering a copy of the petition to
9 its service agent, if one has been so designated.

10 (B) MANNER OF SERVICE.—

11 (i) SERVICE BY NONDIGITAL
12 MEANS.—Service by nondigital means may
13 be any of the following:

14 (I) Personal, including delivery to
15 a responsible person at the office of
16 counsel.

17 (II) By priority mail.

18 (III) By third-party commercial
19 carrier for delivery within 3 days.

20 (ii) SERVICE BY DIGITAL MEANS.—
21 Service of a paper may be made by sending
22 it by any digital means, including through
23 a provider’s designated reporting system.

24 (iii) WHEN SERVICE IS COM-
25 PLETED.—Service by mail or by commer-

1 cial carrier is complete 3 days after the
2 mailing or delivery to the carrier. Service
3 by digital means is complete on filing or
4 sending, unless the party making service is
5 notified that the paper was not received by
6 the party served.

7 (C) PROOF OF SERVICE.—A petition filed
8 under paragraph (1) or (2) shall contain—

9 (i) an acknowledgment of service by
10 the person served;

11 (ii) proof of service consisting of a
12 statement by the person who made service
13 certifying—

14 (I) the date and manner of serv-
15 ice;

16 (II) the names of the persons
17 served; and

18 (III) their mail or electronic ad-
19 dresses, facsimile numbers, or the ad-
20 dresses of the places of delivery, as
21 appropriate for the manner of service;
22 or

23 (iii) a statement indicating that serv-
24 ice could not reasonably be completed.

1 (D) ATTORNEY FEES AND COSTS.—Except
2 as otherwise provided in this subsection, all par-
3 ties to a petition shall bear their own attorney
4 fees and costs.

5 (5) SERVICE OF OTHER DOCUMENTS.—Docu-
6 ments submitted or relied upon in a proceeding,
7 other than the petition, shall be served in accordance
8 with regulations established by the Commission.

9 (6) NOTIFICATION OF RIGHT TO OPT OUT.—In
10 order to effectuate service on a responding party,
11 the petition shall notify the responding party of their
12 right to opt out of the proceeding before the Board,
13 and the consequences of opting out and not opting
14 out, including a prominent statement that by not
15 opting out the respondent—

16 (A) loses the opportunity to have the dis-
17 pute decided by a court created under article
18 III of the Constitution of the United States;
19 and

20 (B) waives the right to a jury trial regard-
21 ing the dispute.

22 (7) INITIAL PROCEEDINGS.—

23 (A) CONFERENCE.—Within 1 week of com-
24 pletion of service of a petition under paragraph
25 (4), 1 or more Officers of the Board shall hold

1 a conference to address the matters described
2 in subparagraphs (B) and (C).

3 (B) OPT-OUT PROCEDURE.—At the con-
4 ference, an Officer of the Board shall explain
5 that the responding party has a right to opt out
6 of the proceeding before the Board, and de-
7 scribe the consequences of opting out and not
8 opting out as described in paragraph (6). A re-
9 sponding party shall have a period of 30 days,
10 beginning on the date of the conference, in
11 which to provide written notice of such choice
12 to the petitioning party and the Board. If the
13 responding party does not submit an opt-out
14 notice to the Board within that 30-day period,
15 the proceeding shall be deemed an active pro-
16 ceeding and the responding party shall be
17 bound by the determination in the proceeding.
18 If the responding party opts out of the pro-
19 ceeding during that 30-day period, the pro-
20 ceeding shall be dismissed without prejudice.

21 (C) DISABLING ACCESS.—At the con-
22 ference, except for petitions setting forth claims
23 described in clauses (iii) and (iv) of paragraph
24 (2)(A), an Officer of the Board shall order the
25 provider involved to disable public and user ac-

1 cess to the alleged child sexual abuse material
2 at issue in the petition for the pendency of the
3 proceeding, including judicial review as provided
4 in subsection (g)(28), unless the Officer of the
5 Board finds that—

6 (i) it is likely that the Board will find
7 that the petition is frivolous or was filed
8 with an intent to harass any person;

9 (ii) there is a probability that dis-
10 abling public and user access to such al-
11 leged child sexual abuse material will cause
12 irreparable harm;

13 (iii) the balance of equities weighs in
14 favor of preserving public and user access
15 to the alleged child sexual abuse material;
16 and

17 (iv) disabling public and user access
18 to the alleged child sexual abuse material
19 is contrary to the public interest.

20 (D) EFFECT OF FAILURE TO DISABLE AC-
21 CESS.—

22 (i) PROVIDER PETITION.—If the peti-
23 tion was filed by a provider, and the pro-
24 vider fails to comply with an order issued

1 pursuant to subparagraph (B), the Board
2 may—

3 (I) dismiss the petition with prej-
4 udice; and

5 (II) refer the matter to the At-
6 torney General.

7 (ii) EFFECT OF DISMISSAL.—If a pro-
8 vider’s petition is dismissed under clause
9 (i)(I), the complainant may bring a peti-
10 tion under paragraph (1) as if the provider
11 did not file a petition within the timeframe
12 specified in paragraph (2)(B). For pur-
13 poses of paragraph (1)(C)(ii), the applica-
14 ble start date shall be the date the pro-
15 vider’s petition was dismissed.

16 (iii) COMPLAINANT PETITION.—If the
17 petition was filed by a complainant, and
18 the provider fails to comply with an order
19 issued pursuant to subparagraph (B), the
20 Board—

21 (I) shall—

22 (aa) expedite resolution of
23 the petition; and

24 (bb) refer the matter to the
25 Attorney General; and

1 (II) may apply an adverse infer-
2 ence with respect to disputed facts
3 against such provider.

4 (8) SCHEDULING.—Upon receipt of a complete
5 petition and at the conclusion of the opt out proce-
6 dure described in paragraph (7), the Board shall
7 issue a schedule for the future conduct of the pro-
8 ceeding. A schedule issued by the Board may be
9 amended by the Board in the interests of justice.

10 (9) CONFERENCES.—One or more Officers of
11 the Board may hold a conference to address case
12 management or discovery issues in a proceeding,
13 which shall be noted upon the record of the pro-
14 ceeding and may be recorded or transcribed.

15 (10) PARTY SUBMISSIONS.—A proceeding of the
16 Board may not include any formal motion practice,
17 except that, subject to applicable regulations and
18 procedures of the Board—

19 (A) the parties to the proceeding and an
20 interested owner may make requests to the
21 Board to address case management and dis-
22 covery matters, and submit responses thereto;
23 and

24 (B) the Board may request or permit par-
25 ties and interested owners to make submissions

1 addressing relevant questions of fact or law, or
2 other matters, including matters raised sua
3 sponte by the Officers of the Board, and offer
4 responses thereto.

5 (11) DISCOVERY.—

6 (A) IN GENERAL.—Discovery in a pro-
7 ceeding shall be limited to the production of rel-
8 evant information and documents, written inter-
9 rogatories, and written requests for admission,
10 as provided in regulations established by the
11 Commission, except that—

12 (i) upon the request of a party, and
13 for good cause shown, the Board may ap-
14 prove additional relevant discovery, on a
15 limited basis, in particular matters, and
16 may request specific information and docu-
17 ments from parties in the proceeding, con-
18 sistent with the interests of justice;

19 (ii) upon the request of a party or in-
20 terested owner, and for good cause shown,
21 the Board may issue a protective order to
22 limit the disclosure of documents or testi-
23 mony that contain confidential informa-
24 tion;

1 (iii) after providing notice and an op-
2 portunity to respond, and upon good cause
3 shown, the Board may apply an adverse in-
4 ference with respect to disputed facts
5 against a party or interested owner who
6 has failed to timely provide discovery mate-
7 rials in response to a proper request for
8 materials that could be relevant to such
9 facts; and

10 (iv) an interested owner shall only
11 produce or receive discovery to the extent
12 it relates to whether the visual depiction at
13 issue constitutes child sexual abuse mate-
14 rial.

15 (B) PRIVACY.—Any alleged child sexual
16 abuse material received by the Board or the
17 Commission as part of a proceeding shall be
18 filed under seal and shall remain in the care,
19 custody, and control of the Board or the Com-
20 mission. For purposes of discovery, the Board
21 or Commission shall make the alleged child sex-
22 ual abuse material reasonably available to the
23 parties and interested owner but shall not pro-
24 vide copies. The privacy protections described in
25 section 3509(d) of title 18, United States Code,

1 shall apply to the Board, Commission, provider,
2 complainant, and interested owner.

3 (12) RESPONSES.—The responding party may
4 refute any of the claims or factual assertions made
5 by the petitioning party, and may also claim that the
6 petition was not filed in the applicable timeframe or
7 is barred under subsection (h). If a complainant is
8 the petitioning party, a provider may additionally
9 claim in response that the notification was incom-
10 plete and could not be made complete under sub-
11 section (c)(2)(D)(i). The petitioning party may re-
12 fute any responses submitted by the responding
13 party.

14 (13) INTERESTED OWNER.—An individual noti-
15 fied under paragraph (19)(C)(ii) may, within 14
16 days of being so notified, file a motion to join the
17 proceeding for the limited purpose of claiming that
18 the visual depiction at issue does not constitute child
19 sexual abuse material. The Board shall serve the
20 motion on both parties. Such motion shall include a
21 factual basis and a signed statement, submitted
22 under penalty of perjury, indicating that the indi-
23 vidual produced or created the visual depiction at
24 issue. The Board shall dismiss any motion that does
25 not include the signed statement or that was sub-

1 mitted by an individual who did not produce or cre-
2 ate the visual depiction at issue. If the motion is
3 granted, the interested owner may also claim that
4 the notification and petition were filed with an in-
5 tent to harass the interested owner. Any party may
6 refute the claims and factual assertions made by the
7 interested owner.

8 (14) EVIDENCE.—The Board may consider the
9 following types of evidence in a proceeding, and such
10 evidence may be admitted without application of for-
11 mal rules of evidence:

12 (A) Documentary and other nontestimonial
13 evidence that is relevant to the petitions or re-
14 sponses in the proceeding.

15 (B) Testimonial evidence, submitted under
16 penalty of perjury in written form or in accord-
17 ance with paragraph (15), limited to statements
18 of the parties and nonexpert witnesses, that is
19 relevant to the petitions or responses in a pro-
20 ceeding, except that, in exceptional cases, expert
21 witness testimony or other types of testimony
22 may be permitted by the Board for good cause
23 shown.

24 (15) HEARINGS.—Unless waived by all parties,
25 the Board shall conduct a hearing to receive oral

1 presentations on issues of fact or law from parties
2 and witnesses to a proceeding, including oral testi-
3 mony, subject to the following:

4 (A) Any such hearing shall be attended by
5 not fewer than two of the Officers of the Board.

6 (B) The hearing shall be noted upon the
7 record of the proceeding and, subject to sub-
8 paragraph (C), may be recorded or transcribed
9 as deemed necessary by the Board.

10 (C) A recording or transcript of the hear-
11 ing shall be made available to any Officer of the
12 Board who is not in attendance.

13 (16) VOLUNTARY DISMISSAL.—

14 (A) BY PETITIONING PARTY.—Upon the
15 written request of a petitioning party, the
16 Board shall dismiss the petition, with or with-
17 out prejudice.

18 (B) BY RESPONDING PARTY OR INTER-
19 ESTED OWNER.—Upon written request of a re-
20 sponding party or interested owner, the Board
21 shall dismiss any responses to the petition, and
22 shall consider all claims and factual assertions
23 in the petition to be true.

24 (17) FACTUAL FINDINGS.—Subject to para-
25 graph (11)(A)(iii), the Board shall make factual

1 findings based upon a preponderance of the evi-
2 dence.

3 (18) DETERMINATIONS.—

4 (A) NATURE AND CONTENTS.—A deter-
5 mination rendered by the Board in a proceeding
6 shall—

7 (i) be reached by a majority of the
8 Board;

9 (ii) be in writing, and include an ex-
10 planation of the factual and legal basis of
11 the determination; and

12 (iii) include a clear statement of all
13 fines, costs, and other relief awarded.

14 (B) DISSENT.—An Officer of the Board
15 who dissents from a decision contained in a de-
16 termination under subparagraph (A) may ap-
17 pend a statement setting forth the grounds for
18 that dissent.

19 (19) PUBLICATION AND DISCLOSURE.—

20 (A) PUBLICATION.—Each final determina-
21 tion of the Board shall be made available on a
22 publicly accessible website, except that the final
23 determination shall be redacted to protect con-
24 fidential information that is the subject of a
25 protective order under paragraph (11)(A)(ii) or

1 information protected pursuant to paragraph
2 (11)(B) and any other information protected
3 from public disclosure under the Federal Trade
4 Commission Act or any other applicable provi-
5 sion of law.

6 (B) FREEDOM OF INFORMATION ACT.—All
7 information relating to proceedings of the
8 Board under this section is exempt from disclo-
9 sure to the public under section 552(b)(3) of
10 title 5, except for determinations, records, and
11 information published under subparagraph (A).
12 Any information that is disclosed under this
13 subparagraph shall have redacted any informa-
14 tion that is the subject of a protective order
15 under paragraph (11)(A)(ii) or protected pursu-
16 ant to paragraph (11)(B).

17 (C) EFFECT OF PETITION ON NON-DISCLO-
18 SURE PERIOD.—

19 (i) Submission of a petition extends
20 the non-disclosure period under subsection
21 (c)(2)(I) for the pendency of the pro-
22 ceeding. The provider may submit an ob-
23 jection to the Board that nondisclosure is
24 contrary to the interests of justice. The
25 complainant may, but is not required to,

1 respond to the objection. The Board should
2 sustain the objection unless there is reason
3 to believe that the circumstances in section
4 3486(a)(6)(B) of title 18, United States
5 Code, exist and outweigh the interests of
6 justice.

7 (ii) If the Board sustains an objection
8 to the nondisclosure period, the provider or
9 the Board may notify the apparent owner
10 of the visual depiction at issue about the
11 proceeding, and include instructions on
12 how the owner may move to join the pro-
13 ceeding under paragraph (13).

14 (iii) If applicable, the nondisclosure
15 period expires 120 days after the Board's
16 determination becomes final, except it shall
17 expire immediately upon the Board's deter-
18 mination becoming final if the Board finds
19 that the visual depiction at issue is not
20 child sexual abuse material.

21 (iv) The interested owner of a visual
22 depiction at issue may not bring any legal
23 action against any party related to the al-
24 leged child sexual abuse material until the
25 Board's determination is final. Once the

1 determination is final, the interested owner
2 of the visual depiction may pursue any
3 legal relief available under the law, subject
4 to subsections (h), (k), and (l).

5 (20) RESPONDING PARTY'S DEFAULT.—If the
6 Board finds that service of the petition on the re-
7 sponding party could not reasonably be completed,
8 or the responding party has failed to appear or has
9 ceased participating in a proceeding, as dem-
10 onstrated by the responding party's failure, without
11 justifiable cause, to meet one or more deadlines or
12 requirements set forth in the schedule adopted by
13 the Board, the Board may enter a default deter-
14 mination, including the dismissal of any responses
15 asserted by the responding party, as follows and in
16 accordance with such other requirements as the
17 Commission may establish by regulation:

18 (A) The Board shall require the petitioning
19 party to submit relevant evidence and other in-
20 formation in support of the petitioning party's
21 claims and, upon review of such evidence and
22 any other requested submissions from the peti-
23 tioning party, shall determine whether the ma-
24 terials so submitted are sufficient to support a
25 finding in favor of the petitioning party under

1 applicable law and, if so, the appropriate relief
2 and damages, if any, to be awarded.

3 (B) If the Board makes an affirmative de-
4 termination under subparagraph (A), the Board
5 shall prepare a proposed default determination,
6 and shall provide written notice to the respond-
7 ing party at all addresses, including electronic
8 mail addresses, reflected in the records of the
9 proceeding before the Board, of the pendency of
10 a default determination by the Board and of
11 the legal significance of such determination.
12 Such notice shall be accompanied by the pro-
13 posed default determination and shall provide
14 that the responding party has a period of 30
15 days, beginning on the date of the notice, to
16 submit any evidence or other information in op-
17 position to the proposed default determination.

18 (C) If the responding party responds to the
19 notice provided under subparagraph (B) within
20 the 30-day period provided in such subpara-
21 graph, the Board shall consider responding par-
22 ty's submissions and, after allowing the peti-
23 tioning party to address such submissions,
24 maintain, or amend its proposed determination

1 as appropriate, and the resulting determination
2 shall not be a default determination.

3 (D) If the respondent fails to respond to
4 the notice provided under subparagraph (B),
5 the Board shall proceed to issue the default de-
6 termination. Thereafter, the respondent may
7 only challenge such determination to the extent
8 permitted under paragraph (28).

9 (21) PETITIONING PARTY OR INTERESTED
10 OWNER'S FAILURE TO PROCEED.—If a petitioning
11 party or interested owner who has joined the pro-
12 ceeding fails to proceed, as demonstrated by the fail-
13 ure, without justifiable cause, to meet one or more
14 deadlines or requirements set forth in the schedule
15 adopted by the Board, the Board may, upon pro-
16 viding written notice to the petitioning party or in-
17 terested owner and a period of 30 days, beginning
18 on the date of the notice, to respond to the notice,
19 and after considering any such response, issue a de-
20 termination dismissing the claims made by the peti-
21 tioning party or interested owner. The Board may
22 order the petitioning party to pay attorney fees and
23 costs under paragraph (26)(B), if appropriate.
24 Thereafter, the petitioning party may only challenge

1 such determination to the extent permitted under
2 paragraph (28).

3 (22) REQUEST FOR RECONSIDERATION.—A
4 party or interested owner may, within 30 days after
5 the date on which the Board issues a determination
6 under paragraph (18), submit to the Board a writ-
7 ten request for reconsideration of, or an amendment
8 to, such determination if the party or interested
9 owner identifies a clear error of law or fact material
10 to the outcome, or a technical mistake. After pro-
11 viding the other parties an opportunity to address
12 such request, the Board shall either deny the request
13 or issue an amended determination.

14 (23) REVIEW BY COMMISSION.—If the Board
15 denies a party or interested owner a request for re-
16 consideration of a determination under paragraph
17 (22), the party or interested owner may, within 30
18 days after the date of such denial, request review of
19 the determination by the Commission in accordance
20 with regulations established by the Commission.
21 After providing the other party or interested owner
22 an opportunity to address the request, the Commis-
23 sion shall either deny the request for review, or re-
24 mand the proceeding to the Board for reconsider-
25 ation of issues specified in the remand and for

1 issuance of an amended determination. Such amend-
2 ed determination shall not be subject to further con-
3 sideration or review, other than under paragraph
4 (28).

5 (24) FAVORABLE RULING ON COMPLAINANT PE-
6 TITION.—

7 (A) IN GENERAL.—If the Board grants a
8 complainant’s petition filed under this section,
9 notwithstanding any other law, the Board
10 shall—

11 (i) order the provider to immediately
12 remove the child sexual abuse material,
13 and to permanently delete all copies of the
14 child sexual abuse material known to and
15 under the control of the provider unless
16 the Board orders the provider to preserve
17 the child sexual abuse material;

18 (ii) impose a fine of \$50,000 per item
19 of child sexual abuse material covered by
20 the determination, but if the Board finds
21 that—

22 (I) the provider removed the
23 child sexual abuse material after the
24 period set forth in subsection
25 (c)(1)(A)(i), but before the complain-

1 ant filed a petition, such fine shall be
2 \$25,000;

3 (II) the provider has engaged in
4 recidivist hosting for the first time
5 with respect to the child sexual abuse
6 material at issue, such fine shall be
7 \$100,000 per item of child sexual
8 abuse material; or

9 (III) the provider has engaged in
10 recidivist hosting of the child sexual
11 abuse material at issue 2 or more
12 times, such fine shall be \$200,000 per
13 item of child sexual abuse material;

14 (iii) order the provider to pay reason-
15 able costs to the complainant; and

16 (iv) refer any matters involving inten-
17 tional or willful conduct by a provider with
18 respect to child sexual abuse material, or
19 recidivist hosting, to the Attorney General
20 for prosecution under any applicable laws.

21 (B) PROVIDER PAYMENT OF FINE AND
22 COSTS.—Notwithstanding any other law, the
23 Board shall direct a provider to promptly pay
24 fines and costs imposed under subparagraph
25 (A) as follows:

1 (i) If the petition was filed by a vic-
2 tim, such fine and costs shall be paid to
3 the victim.

4 (ii) If the petition was filed by an au-
5 thorized representative of a victim—

6 (I) 30 percent of such fine shall
7 be paid to the authorized representa-
8 tive and 70 percent of such fine paid
9 to the victim; and

10 (II) costs shall be paid to the au-
11 thorized representative.

12 (iii) If the petition was filed by a
13 qualified organization—

14 (I) the fine shall be paid to the
15 Child Pornography Victims Reserve as
16 provided in section 2259B of title 18,
17 United States Code; and

18 (II) costs shall be paid to the
19 qualified organization.

20 (25) EFFECT OF DENIAL OF PROVIDER PETI-
21 TION.—

22 (A) IN GENERAL.—If the Board denies a
23 provider's petition to contest a notification filed
24 under paragraph (2), it shall order the provider
25 to immediately remove the child sexual abuse

1 material, and to permanently delete all copies of
2 the child sexual abuse material known to and
3 under the control of the provider unless the
4 Board orders the provider to preserve the child
5 sexual abuse material.

6 (B) REFERRAL FOR FAILURE TO REMOVE
7 MATERIAL.—If a provider does not remove and,
8 if applicable, permanently delete child sexual
9 abuse material within 48 hours of the Board
10 issuing a determination under subparagraph
11 (A), or not later than 2 business days of the
12 Board issuing a determination under subpara-
13 graph (A) concerning a small provider, the
14 Board shall refer the matter to the Attorney
15 General for prosecution under any applicable
16 laws.

17 (C) COSTS FOR FRIVOLOUS PETITION.—If
18 the Board finds that a provider filed a petition
19 under paragraph (2) for a harassing or im-
20 proper purpose or without reasonable basis in
21 law or fact, the Board shall order the provider
22 to pay the reasonable costs of the complainant.

23 (26) EFFECT OF DENIAL OF COMPLAINANT'S
24 PETITION OR FAVORABLE RULING ON PROVIDER'S
25 PETITION.—

1 (A) RESTORATION.—If the Board grants a
2 provider’s petition filed under paragraph (2) or
3 if the Board denies a petition filed by the com-
4 plainant under paragraph (1), the provider may
5 restore access to any visual depiction that was
6 at issue in the proceeding.

7 (B) COSTS FOR INCOMPLETE OR FRIVO-
8 LOUS NOTIFICATION AND HARASSMENT.—If, in
9 granting or denying a petition as described in
10 subparagraph (A), the Board finds that the no-
11 tification contested in the petition could not be
12 made complete under subsection (c)(2)(D), is
13 frivolous, or is duplicative under subsection
14 (c)(2)(C)(i), the Board may order the complain-
15 ant to pay costs to the provider and any inter-
16 ested owner, which shall not exceed a total of
17 \$10,000, or, if the Board finds that the com-
18 plainant filed the notification with an intent to
19 harass the provider or any person, a total of
20 \$15,000.

21 (27) CIVIL ACTION; OTHER RELIEF.—

22 (A) IN GENERAL.—Whenever any provider
23 or complainant fails to comply with a final de-
24 termination of the Board issued under para-
25 graph (18), the Department of Justice may

1 commence a civil action in a district court of
2 the United States to enforce compliance with
3 such determination.

4 (B) SAVINGS CLAUSE.—Nothing in this
5 section shall be construed to limit the authority
6 of the Commission or Department of Justice
7 under any other provision of law.

8 (28) CHALLENGES TO THE DETERMINATION.—

9 (A) BASES FOR CHALLENGE.—Not later
10 than 45 days after the date on which the Board
11 issues a determination or amended determina-
12 tion in a proceeding, or not later than 45 days
13 after the date on which the Board completes
14 any process of reconsideration or the Commis-
15 sion completes a review of the determination,
16 whichever occurs later, a party may seek an
17 order from a district court, located where the
18 provider or complainant conducts business or
19 resides, vacating, modifying, or correcting the
20 determination of the Board in the following
21 cases:

22 (i) If the determination was issued as
23 a result of fraud, corruption, misrepresen-
24 tation, or other misconduct.

1 (ii) If the Board exceeded its author-
2 ity or failed to render a determination con-
3 cerning the subject matter at issue.

4 (iii) In the case of a default deter-
5 mination or determination based on a fail-
6 ure to prosecute, if it is established that
7 the default or failure was due to excusable
8 neglect.

9 (B) PROCEDURE TO CHALLENGE.—

10 (i) NOTICE OF APPLICATION.—Notice
11 of the application to challenge a determina-
12 tion of the Board shall be provided to all
13 parties to the proceeding before the Board,
14 in accordance with the procedures applica-
15 ble to service of a motion in the court
16 where the application is made.

17 (ii) STAYING OF PROCEEDINGS.—For
18 purposes of an application under this para-
19 graph, any judge who is authorized to
20 issue an order to stay the proceedings in
21 an any other action brought in the same
22 court may issue an order, to be served with
23 the notice of application, staying pro-
24 ceedings to enforce the award while the
25 challenge is pending.

1 (29) FINAL DETERMINATION.—A determination
2 of the Board shall be final on the date that all op-
3 portunities for a party or interested owner to seek
4 reconsideration or review of a determination under
5 paragraph (22) or (23), or for a party to challenge
6 the determination under paragraph (28), have ex-
7 pired or are exhausted.

8 (h) EFFECT OF PROCEEDING.—

9 (1) SUBSEQUENT PROCEEDINGS.—The issuance
10 of a final determination by the Board shall preclude
11 the filing by any party of any subsequent petition
12 that is based on the notification at issue in the final
13 determination. This paragraph shall not limit the
14 ability of any party to file a subsequent petition
15 based on any other notification.

16 (2) DETERMINATION.—Except as provided in
17 paragraph (1), the issuance of a final determination
18 by the Board, including a default determination or
19 determination based on a failure to prosecute, shall
20 preclude relitigation of any allegation, factual claim,
21 or response in any subsequent legal action or pro-
22 ceeding before any court, tribunal, or the Board, and
23 may be relied upon for such purpose in a future ac-
24 tion or proceeding arising from the same specific ac-
25 tivity, subject to the following:

1 (A) No party or interested owner may re-
2 litigate any allegation, factual claim, or re-
3 sponse that was properly asserted and consid-
4 ered by the Board in any subsequent proceeding
5 before the Board involving the same parties or
6 interested owner and the same child sexual
7 abuse material.

8 (B) A finding by the Board that a visual
9 depiction constitutes child sexual abuse mate-
10 rial—

11 (i) may not be relitigated in any civil
12 proceeding brought by an interested owner;
13 and

14 (ii) may not be relied upon, and shall
15 not have preclusive effect, in any other ac-
16 tion or proceeding involving any party be-
17 fore any court or tribunal other than the
18 Board.

19 (C) A determination by the Board shall
20 not preclude litigation or relitigation as between
21 the same or different parties before any court
22 or tribunal other than the Board of the same
23 or similar issues of fact or law in connection
24 with allegations or responses not asserted or
25 not finally determined by the Board.

1 (D) Except to the extent permitted under
2 this subsection, any final determination of the
3 Board may not be cited or relied upon as legal
4 precedent in any other action or proceeding be-
5 fore any court or tribunal other than the
6 Board.

7 (3) OTHER MATERIALS IN PROCEEDING.—A
8 submission or statement of a party, interested
9 owner, or witness made in connection with a pro-
10 ceeding before the Board, including a proceeding
11 that is dismissed, may not serve as the basis of any
12 action or proceeding before any court or tribunal ex-
13 cept for any legal action related to perjury or for
14 conduct described in subsection (k)(2). A statement
15 of a party, interested owner, or witness may be re-
16 ceived as evidence, in accordance with applicable
17 rules, in any subsequent legal action or proceeding
18 before any court, tribunal, or the Board.

19 (4) FAILURE TO ASSERT RESPONSE.—Except
20 as provided in paragraph (1), the failure or inability
21 to assert any allegation, factual claim, or response in
22 a proceeding before the Board shall not preclude the
23 assertion of that response in any subsequent legal
24 action or proceeding before any court, tribunal, or
25 the Board.

1 (i) ADMINISTRATION.—The Commission may issue
2 regulations in accordance with section 553 of title 5,
3 United States Code, to implement this section.

4 (j) STUDY.—

5 (1) IN GENERAL.—Not later than 3 years after
6 the date on which Child Online Protection Board
7 issues the first determination under this section, the
8 Commission shall conduct, and report to Congress
9 on, a study that addresses the following:

10 (A) The use and efficacy of the Child On-
11 line Protection Board in expediting the removal
12 of child sexual abuse material and resolving dis-
13 putes concerning alleged child sexual abuse ma-
14 terial, including the number of proceedings the
15 Child Online Protection Board could reasonably
16 administer with current allocated resources.

17 (B) Whether adjustments to the authority
18 of the Child Online Protection Board are nec-
19 essary or advisable, including with respect to
20 permissible claims, responses, fines, costs, and
21 joinder by interested parties.

22 (C) Whether the Child Online Protection
23 Board should be permitted to expire, be ex-
24 tended, or be expanded.

1 (D) Such other matters as the Commission
2 believes may be pertinent concerning the Child
3 Online Protection Board.

4 (2) CONSULTATION.—In conducting the study
5 and completing the report required under paragraph
6 (1), the Commission shall, to the extent feasible,
7 consult with complainants, victims, and providers to
8 include their views on the matters addressed in the
9 study and report.

10 (k) LIMITED LIABILITY.—

11 (1) IN GENERAL.—Except as provided in para-
12 graph (2), a civil claim or criminal charge against
13 the Board, a provider, a complainant, interested
14 owner, or representative under subsection (f)(4), for
15 distributing, receiving, accessing, or possessing child
16 sexual abuse material for the sole and exclusive pur-
17 pose of complying with the requirements of this sec-
18 tion, or for the sole and exclusive purpose of seeking
19 or providing legal advice in order to comply with this
20 section, may not be brought in any Federal or State
21 court.

22 (2) INTENTIONAL, RECKLESS, OR OTHER MIS-
23 CONDUCT.—Paragraph (1) shall not apply to a claim
24 against the Board, a provider, a complainant, inter-

1 ested owner, or representative under subsection
2 (f)(4)—

3 (A) for any conduct unrelated to compli-
4 ance with the requirements of this section;

5 (B) if the Board, provider, complainant,
6 interested owner, or representative under sub-
7 section (f)(4) (as applicable)—

8 (i) engaged in intentional misconduct;

9 or

10 (ii) acted, or failed to act—

11 (I) with actual malice; or

12 (II) with reckless disregard to a
13 substantial risk of causing physical in-
14 jury without legal justification; or

15 (C) in the case of a claim against a com-
16 plainant, if the complainant falsely claims to be
17 a victim, an authorized representative of a vic-
18 tim, or a qualified organization.

19 (3) MINIMIZING ACCESS.—The Board, a pro-
20 vider, a complainant, an interested owner, or a rep-
21 resentative under subsection (f)(4) shall—

22 (A) minimize the number of individuals
23 that are provided access to any alleged, con-
24 tested, or actual child sexual abuse material
25 under this section;

1 (B) ensure that any alleged, contested, or
2 actual child sexual abuse material is trans-
3 mitted and stored in a secure manner and is
4 not distributed to or accessed by any individual
5 other than as needed to implement this section;
6 and

7 (C) ensure that all copies of any child sex-
8 ual abuse material are permanently deleted
9 upon a request from the Board, Commission, or
10 the Federal Bureau of Investigation.

11 (l) PROVIDER IMMUNITY FROM CLAIMS BASED ON
12 REMOVAL OF VISUAL DEPICTION.—A provider shall not
13 be liable to any person for any claim based on the pro-
14 vider’s good faith removal of any visual depiction that is
15 alleged to be child sexual abuse material pursuant to a
16 notification under this section, regardless of whether the
17 visual depiction involved is found to be child sexual abuse
18 material by the Board. A provider shall not be liable to
19 any person for any claim based on the provider’s good
20 faith discretionary removal of any alleged related
21 exploitive visual depictions pursuant to a notification
22 under this section.

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

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

4 (2) NO PREEMPTION.—Nothing in this section
5 shall prohibit a State or Tribal government from
6 adopting and enforcing a provision of law governing
7 child sex abuse material that is at least as protective
8 of the rights of a victim as this section.

9 (n) DISCOVERY.—Nothing in this section affects dis-
10 covery, a subpoena or any other court order, or any other
11 judicial process otherwise in accordance with Federal or
12 State law.

13 (o) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to relieve a provider from any obli-
15 gation imposed on the provider under section 2258A of
16 title 18, United States Code.

17 (p) FUNDING.—There are authorized to be appro-
18 priated to pay the costs incurred by the Commission under
19 this section, including the costs of establishing and main-
20 taining the Board and its facilities, \$40,000,000 for each
21 year during the period that begins with the year in which
22 this Act is enacted and ends with the year in which certain
23 subsections of this section expire under subsection (q).

24 (q) SUNSET.—Except for subsections (a), (h), (k),
25 (l), (m), (n), (o), and (r), this section shall expire 5 years

1 after the date on which the Child Online Protection Board
2 issues its first determination under this section.

3 (r) DEFINITIONS.—In this section:

4 (1) BOARD.—The term “Board” means the
5 Child Online Protection Board established under
6 subsection (d).

7 (2) CHILD SEXUAL ABUSE MATERIAL.—The
8 term “child sexual abuse material” has the meaning
9 provided in section 2256(8) of title 18, United
10 States Code.

11 (3) COMMISSION.—The term “Commission”
12 means the Federal Trade Commission.

13 (4) COMPLAINANT.—The term “complainant”
14 means—

15 (A) the victim appearing in the child sex-
16 ual abuse material;

17 (B) an authorized representative of the vic-
18 tim appearing in the child sexual abuse mate-
19 rial; or

20 (C) a qualified organization.

21 (5) DESIGNATED REPORTING SYSTEM.—The
22 term “designated reporting system” means a digital
23 means of submitting a notification to a provider
24 under this subsection that is publicly and promi-
25 nently available, easily accessible, and easy to use.

1 (6) HOST.—The term “host” means to store or
2 make a visual depiction available or accessible to the
3 public or any users through digital means or on a
4 system or network controlled or operated by or for
5 a provider.

6 (7) IDENTIFIABLE PERSON.—The term “identi-
7 fiable person” means a person who is recognizable
8 as an actual person by the person’s face, likeness, or
9 other distinguishing characteristic, such as a unique
10 birthmark or other recognizable feature.

11 (8) INTERESTED OWNER.—The term “inter-
12 ested owner” means an individual who has joined a
13 proceeding before the Board under subsection
14 (g)(13).

15 (9) PARTY.—The term “party” means the com-
16 plainant or provider.

17 (10) PROVIDER.—The term “provider” means a
18 provider of an interactive computer service, as that
19 term is defined in section 230 of the Communica-
20 tions Act of 1934 (47 U.S.C. 230), and for purposes
21 of subsections (k) and (l), includes any director, offi-
22 cer, employee, or agent of such provider.

23 (11) QUALIFIED ORGANIZATION.—The term
24 “qualified organization” means an organization de-
25 scribed in section 501(c)(3) of the Internal Revenue

1 Code of 1986 that is exempt from tax under section
2 501(a) of that Code that works to address child sex-
3 ual abuse material and to support victims of child
4 sexual abuse material.

5 (12) RECIDIVIST HOSTING.—The term “recidi-
6 vist hosting” means, with respect to a provider, that
7 the provider removes child sexual abuse material
8 pursuant to a notification or determination under
9 this subsection, and then subsequently hosts a visual
10 depiction that has the same hash value or other
11 technical identifier as the child sexual abuse material
12 that had been so removed.

13 (13) RELATED EXPLOITIVE VISUAL DEPIC-
14 TION.—The term “related exploitive visual depic-
15 tion” means a visual depiction of an identifiable per-
16 son of any age where—

17 (A) such visual depiction does not con-
18 stitute child sexual abuse material, but is pub-
19 lished with child sexual abuse material depict-
20 ing that person while under 18 years of age;
21 and

22 (B) there is a connection between such vis-
23 ual depiction and the child sexual abuse mate-
24 rial depicting that person while under 18 years
25 of age that is readily apparent from—

1 (i) the content of such visual depiction
2 and the child sexual abuse material; or

3 (ii) the context in which such visual
4 depiction and the child sexual abuse mate-
5 rial appear.

6 (14) SMALL PROVIDER.—The term “small pro-
7 vider” means a provider that, for the most recent
8 calendar year, averaged less than 10,000,000 active
9 users on a monthly basis in the United States.

10 (15) VICTIM.—

11 (A) IN GENERAL.—The term “victim”
12 means an individual of any age who is depicted
13 in child sexual abuse material while under 18
14 years of age.

15 (B) ASSUMPTION OF RIGHTS.—In the case
16 of a victim who is under 18 years of age, in-
17 competent, incapacitated, or deceased, the legal
18 guardian of the victim or representative of the
19 victim’s estate, another family member, or any
20 other person appointed as suitable by a court,
21 may assume the victim’s rights to submit a no-
22 tification or file a petition under this section,
23 but in no event shall an individual who pro-
24 duced or conspired to produce the child sexual

1 abuse material depicting the victim be named as
2 such representative or guardian.

3 (16) VISUAL DEPICTION.—The term “visual de-
4 piction” has the meaning provided in section
5 2256(5) of title 18, United States Code.

6 **SEC. 7. SEVERABILITY.**

7 If any provision of this Act, an amendment made by
8 this Act, or the application of such provision or amend-
9 ment to any person or circumstance is held to be unconsti-
10 tutional, the remainder of this Act and the amendments
11 made by this Act, and the application of the provision or
12 amendment to any other person or circumstance, shall not
13 be affected.

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