

## TAKE IT DOWN ACT, 47 U.S.C. 223(h)

**(h) Intentional disclosure of nonconsensual intimate visual depictions****(1) Definitions**

In this subsection:

**(A) Consent**

The term "consent" means an affirmative, conscious, and voluntary authorization made by an individual free from force, fraud, duress, misrepresentation, or coercion.

**(B) Digital forgery**

The term "digital forgery" means any intimate visual depiction of an identifiable individual created through the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, including by adapting, modifying, manipulating, or altering an authentic visual depiction, that, when viewed as a whole by a reasonable person, is indistinguishable from an authentic visual depiction of the individual.

**(C) Identifiable individual**

The term "identifiable individual" means an individual-

- (i) who appears in whole or in part in an intimate visual depiction; and
- (ii) whose face, likeness, or other distinguishing characteristic (including a unique birthmark or other recognizable feature) is displayed in connection with such intimate visual depiction.

**(D) Interactive computer service**

The term "interactive computer service" has the meaning given the term in section 230 of this title.

**(E) Intimate visual depiction**

The term "intimate visual depiction" has the meaning given such term in section 6851 of title 15.

**(F) Minor**

The term "minor" means any individual under the age of 18 years.

**(2) Offense involving authentic intimate visual depictions****(A) Involving adults**

Except as provided in subparagraph (C), it shall be unlawful for any person, in interstate or foreign commerce, to use an interactive computer service to knowingly publish an intimate visual depiction of an identifiable individual who is not a minor if-

- (i) the intimate visual depiction was obtained or created under circumstances in which the person knew or reasonably should have known the identifiable individual had a reasonable expectation of privacy;
- (ii) what is depicted was not voluntarily exposed by the identifiable individual in a public or commercial setting;
- (iii) what is depicted is not a matter of public concern; and
- (iv) publication of the intimate visual depiction-
  - (I) is intended to cause harm; or
  - (II) causes harm, including psychological, financial, or reputational harm, to the identifiable individual.

**(B) Involving minors**

Except as provided in subparagraph (C), it shall be unlawful for any person, in interstate or foreign commerce, to use an interactive computer service to knowingly publish an intimate visual depiction of an identifiable individual who is a minor with intent to-

- (i) abuse, humiliate, harass, or degrade the minor; or
- (ii) arouse or gratify the sexual desire of any person.

**(C) Exceptions**

Subparagraphs (A) and (B) shall not apply to-

- (i) a lawfully authorized investigative, protective, or intelligence activity of-
  - (I) a law enforcement agency of the United States, a State, or a political subdivision of a State; or
  - (II) an intelligence agency of the United States;
- (ii) a disclosure made reasonably and in good faith-
  - (I) to a law enforcement officer or agency;
  - (II) as part of a document production or filing associated with a legal proceeding;
  - (III) as part of medical education, diagnosis, or treatment or for a legitimate medical, scientific, or education purpose;
  - (IV) in the reporting of unlawful content or unsolicited or unwelcome conduct or in pursuance of a legal, professional, or other lawful obligation; or

(V) to seek support or help with respect to the receipt of an unsolicited intimate visual depiction;

(iii) a disclosure reasonably intended to assist the identifiable individual;

(iv) a person who possesses or publishes an intimate visual depiction of himself or herself engaged in nudity or sexually explicit conduct (as that term is defined in section 2256(2)(A) of title 18); or

(v) the publication of an intimate visual depiction that constitutes-

(I) child pornography (as that term is defined in section 2256 of title 18); or

(II) a visual depiction described in subsection (a) or (b) of section 1466A of title 18 (relating to obscene visual representations of the sexual abuse of children).

### **(3) Offense involving digital forgeries**

#### **(A) Involving adults**

Except as provided in subparagraph (C), it shall be unlawful for any person, in interstate or foreign commerce, to use an interactive computer service to knowingly publish a digital forgery of an identifiable individual who is not a minor if-

(i) the digital forgery was published without the consent of the identifiable individual;

(ii) what is depicted was not voluntarily exposed by the identifiable individual in a public or commercial setting;

(iii) what is depicted is not a matter of public concern; and

(iv) publication of the digital forgery-

(I) is intended to cause harm; or

(II) causes harm, including psychological, financial, or reputational harm, to the identifiable individual.

#### **(B) Involving minors**

Except as provided in subparagraph (C), it shall be unlawful for any person, in interstate or foreign commerce, to use an interactive computer service to knowingly publish a digital forgery of an identifiable individual who is a minor with intent to-

(i) abuse, humiliate, harass, or degrade the minor; or

(ii) arouse or gratify the sexual desire of any person.

#### **(C) Exceptions**

Subparagraphs (A) and (B) shall not apply to-

(i) a lawfully authorized investigative, protective, or intelligence activity of-

(I) a law enforcement agency of the United States, a State, or a political subdivision of a State; or

(II) an intelligence agency of the United States;

(ii) a disclosure made reasonably and in good faith-

(I) to a law enforcement officer or agency;

(II) as part of a document production or filing associated with a legal proceeding;

(III) as part of medical education, diagnosis, or treatment or for a legitimate medical, scientific, or education purpose;

(IV) in the reporting of unlawful content or unsolicited or unwelcome conduct or in pursuance of a legal, professional, or other lawful obligation; or

(V) to seek support or help with respect to the receipt of an unsolicited intimate visual depiction;

(iii) a disclosure reasonably intended to assist the identifiable individual;

(iv) a person who possesses or publishes a digital forgery of himself or herself engaged in nudity or sexually explicit conduct (as that term is defined in section 2256(2)(A) of title 18); or

(v) the publication of an intimate visual depiction that constitutes-

(I) child pornography (as that term is defined in section 2256 of title 18); or

(II) a visual depiction described in subsection (a) or (b) of section 1466A of title 18 (relating to obscene visual representations of the sexual abuse of children).

### **(4) Penalties**

#### **(A) Offenses involving adults**

Any person who violates paragraph (2)(A) or (3)(A) shall be fined under title 18, imprisoned not more than 2 years, or both.

#### **(B) Offenses involving minors**

Any person who violates paragraph (2)(B) or (3)(B) shall be fined under title 18, imprisoned not more than 3 years, or both.

### **(5) Rules of construction**

For purposes of paragraphs (2) and (3)-

- (A) the fact that the identifiable individual provided consent for the creation of the intimate visual depiction shall not establish that the individual provided consent for the publication of the intimate visual depiction; and
- (B) the fact that the identifiable individual disclosed the intimate visual depiction to another individual shall not establish that the identifiable individual provided consent for the publication of the intimate visual depiction by the person alleged to have violated paragraph (2) or (3), respectively.

## **(6) Threats**

### **(A) Threats involving authentic intimate visual depictions**

Any person who intentionally threatens to commit an offense under paragraph (2) for the purpose of intimidation, coercion, extortion, or to create mental distress shall be punished as provided in paragraph (4).

### **(B) Threats involving digital forgeries**

#### **(i) Threats involving adults**

Any person who intentionally threatens to commit an offense under paragraph (3)(A) for the purpose of intimidation, coercion, extortion, or to create mental distress shall be fined under title 18, imprisoned not more than 18 months, or both.

#### **(ii) Threats involving minors**

Any person who intentionally threatens to commit an offense under paragraph (3)(B) for the purpose of intimidation, coercion, extortion, or to create mental distress shall be fined under title 18, imprisoned not more than 30 months, or both.

## **(7) Forfeiture**

### **(A) In general**

The court, in imposing a sentence on any person convicted of a violation of paragraph (2) or (3), shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that the person forfeit to the United States-

- (i) any material distributed in violation of that paragraph;
- (ii) the person's interest in property, real or personal, constituting or derived from any gross proceeds of the violation, or any property traceable to such property, obtained or retained directly or indirectly as a result of the violation; and
- (iii) any personal property of the person used, or intended to be used, in any manner or part, to commit or to facilitate the commission of the violation.

### **(B) Procedures**

Section 853 of title 21, with the exception of subsections (a) and (d), shall apply to the criminal forfeiture of property under subparagraph (A).

## **(8) Restitution**

The court shall order restitution for an offense under paragraph (2) or (3) in the same manner as under section 2264 of title 18.

## **(9) Rule of construction**

Nothing in this subsection shall be construed to limit the application of any other relevant law, including section 2252 of title 18.

## **(i) Definitions**

For purposes of this section-

(1) The use of the term "telecommunications device" in this section-

(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this chapter;

(B) does not include an interactive computer service; and

(C) in the case of subparagraph (C) of subsection (a)(1), includes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet (as such term is defined in section 1104 <sup>1</sup> of the Internet Tax Freedom Act (47 U.S.C. 151 note)).

(2) The term "interactive computer service" has the meaning provided in section 230(f)(2) of this title.

(3) The term "access software" means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

(A) filter, screen, allow, or disallow content;

(B) pick, choose, analyze, or digest content; or

(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(4) The term "institution of higher education" has the meaning provided in section 1001 of title 20.

(5) The term "library" means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).

(June 19, 1934, ch. 652, title II, §223, as added Pub. L. 90–299, §1, May 3, 1968, 82 Stat. 112 ; amended Pub. L. 98–214, §8(a), (b), Dec. 8, 1983, 97 Stat. 1469 , 1470; Pub. L. 100–297, title VI, §6101, Apr. 28, 1988, 102 Stat. 424 ; Pub. L. 100–690, title VII, §7524, Nov. 18, 1988, 102 Stat. 4502 ; Pub. L. 101–166, title V, §521(1), Nov. 21, 1989, 103 Stat. 1192 ; Pub. L. 103–414, title III, §303(a)(9), Oct. 25, 1994, 108 Stat. 4294 ; Pub. L. 104–104, title V, §502, Feb. 8, 1996, 110 Stat. 133 ; Pub. L. 105–244, title I, §102(a)(14), Oct. 7, 1998, 112 Stat. 1621 ; Pub. L. 105–277, div. C, title XIV, §1404(b), Oct. 21, 1998, 112 Stat. 2681–739 ; Pub. L. 108–21, title VI, §603, Apr. 30, 2003, 117 Stat. 687 ; Pub. L. 109–162, title I, §113(a), Jan. 5, 2006, 119 Stat. 2987 ; Pub. L. 113–4, title XI, §1102, Mar. 7, 2013, 127 Stat. 135 ; Pub. L. 119–12, §2, May 19, 2025, 139 Stat. 55 .)