

Union Calendar No. 86

115TH CONGRESS
1ST SESSION

H. R. 1761

[Report No. 115–137]

To amend title 18, United States Code, to criminalize the knowing consent of the visual depiction, or live transmission, of a minor engaged in sexually explicit conduct, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2017

Mr. JOHNSON of Louisiana introduced the following bill; which was referred to the Committee on the Judiciary

MAY 22, 2017

Additional sponsors: Mr. POE of Texas, Mr. SCALISE, Mr. BIGGS, Mr. SESSIONS, Mr. ROE of Tennessee, and Ms. TENNEY

MAY 22, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 28, 2017]

A BILL

To amend title 18, United States Code, to criminalize the knowing consent of the visual depiction, or live transmission, of a minor engaged in sexually explicit conduct, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Protecting Against Child*
5 *Exploitation Act of 2017”.*

6 **SEC. 2. SEXUAL EXPLOITATION OF CHILDREN.**

7 *Section 2251 of title 18, United States Code, is amend-*
8 *ed—*

9 *(1) by amending subsections (a) and (b) to read*
10 *as follows:*

11 *“(a) Any person who, in a circumstance described in*
12 *subsection (f), knowingly—*

13 *“(1) employs, uses, persuades, induces, entices, or*
14 *coerces a minor to engage in any sexually explicit*
15 *conduct for the purpose of producing any visual de-*
16 *scription of such conduct, or transmitting a live visual*
17 *depiction of such conduct;*

18 *“(2) produces or causes to be produced a visual*
19 *depiction of a minor engaged in any sexually explicit*
20 *conduct where the production of such visual depiction*
21 *involves the use of a minor engaging in sexually ex-*
22 *plicit conduct and such visual depiction is of such*
23 *conduct;*

1 “(3) transmits or causes to be transmitted a live
2 visual depiction of a minor engaged in any sexually
3 explicit conduct;

4 “(4) has a minor assist any other person to en-
5 gage in any sexually explicit conduct during the com-
6 mission of an offense set forth in paragraphs (1)
7 through (3) of this subsection; or

8 “(5) transports any minor in or affecting inter-
9 state or foreign commerce with the intent that such
10 minor be used in the production or live transmission
11 of a visual depiction of a minor engaged in any sexu-
12 ally explicit conduct,

13 shall be punished as provided under subsection (e).

14 “(b) Any parent, legal guardian, or person having cus-
15 tody or control of a minor who, in a circumstance described
16 in subsection (f), knowingly permits such minor to engage
17 in, or to assist any other person to engage in, sexually ex-
18 plicit conduct knowing that a visual depiction of such con-
19 duct will be produced or transmitted shall be punished as
20 provided under subsection (e).”;

21 (2) in subsection (c)—

22 (A) in paragraph (1)—

23 (i) by striking “employs, uses, per-
24 suades, induces, entices, or coerces any
25 minor to engage in, or who has a minor as-

1 *sist any other person to engage in, any sex-*
2 *ually explicit conduct” and inserting “en-*
3 *gages in any conduct described in para-*
4 *graphs (1) through (5) of subsection (a)”;*
5 *and*

6 *(ii) by striking “, for the purpose of*
7 *producing any visual depiction of such con-*
8 *duct,”;*

9 *(B) in paragraph (2)(A), by inserting after*
10 *“transported” the following: “or transmitted”;*
11 *and*

12 *(C) in paragraph (2)(B), by inserting after*
13 *“transports” the following; “or transmits”;*

14 *(3) by adding at the end the following:*

15 *“(f) The circumstances referred to in subsections (a)*
16 *and (b) are—*

17 *“(1) that the person knows or has reason to know*
18 *that such visual depiction will be—*

19 *“(A) transported or transmitted using any*
20 *means or facility of interstate or foreign com-*
21 *merce;*

22 *“(B) transported or transmitted in or af-*
23 *fecting interstate or foreign commerce; or*

24 *“(C) mailed;*

1 “(2) the visual depiction was produced or trans-
2 mitted using materials that have been mailed, or
3 shipped or transported in or affecting interstate or
4 foreign commerce by any means, including by com-
5 puter;

6 “(3) such visual depiction has actually been—

7 “(A) transported or transmitted using any
8 means or facility of interstate or foreign com-
9 merce;

10 “(B) transported or transmitted in or af-
11 fecting interstate or foreign commerce; or

12 “(C) mailed; or

13 “(4) any part of the offense occurred in a terri-
14 tory or possession of the United States or within the
15 special maritime and territorial jurisdiction of the
16 United States.

17 “(g) Notwithstanding any other provision of this sec-
18 tion, no criminal charge under subsection (a)(3) may be
19 brought against an electronic communication service pro-
20 vider or remote computing service provider unless such pro-
21 vider has intentionally transmitted or caused to be trans-
22 mitted a visual depiction with actual knowledge that such
23 depiction is of a minor engaged in sexually explicit conduct,
24 nor may any such criminal charge be brought if barred by
25 the provisions of section 2258B.”.

1 **SEC. 3. LIMITED LIABILITY FOR CERTAIN PERSONS WHEN**
2 **RESPONDING TO SEARCH WARRANTS OR**
3 **OTHER LEGAL PROCESS.**

4 *Section 2258B of title 18, United States Code, is*
5 *amended—*

6 *(1) in subsection (a), by inserting “from the re-*
7 *sponse to a search warrant or other legal process or”*
8 *before “from the performance”; and*

9 *(2) in subsection (b)(2)(C), by inserting “the re-*
10 *sponse to a search warrant or other legal process or*
11 *to” before “the performance of any responsibility”.*

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