

115TH CONGRESS  
1ST SESSION

# H. R. 4447

To amend title 18, United States Code, to make certain changes to the reporting requirement of certain service providers regarding child sexual exploitation visual depictions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2017

Mr. SENSENBRENNER (for himself and Mr. RATCLIFFE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to make certain changes to the reporting requirement of certain service providers regarding child sexual exploitation visual depictions, 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 “CyberTipline Mod-  
5 ernization Act of 2017”.

1 **SEC. 2. ALTERATIONS TO REPORTING REQUIREMENTS FOR**  
2 **ELECTRONIC SERVICE PROVIDERS AND RE-**  
3 **MOTE COMPUTING SERVICE PROVIDERS.**

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

6 (1) in the heading, by striking “**ELECTRONIC**  
7 **COMMUNICATION SERVICE PROVIDERS AND**  
8 **REMOTE COMPUTING SERVICE PROVIDERS**”  
9 and inserting “**PROVIDERS**”;

10 (2) by striking “ the National Center for Miss-  
11 ing and Exploited Children” each place such term  
12 appears and inserting “NCMEC”;

13 (3) in subsection (a)—

14 (A) by amending paragraph (1) to read as  
15 follows:

16 “(1) IN GENERAL.—

17 “(A) DUTY.—In order to reduce the pro-  
18 liferation of online child sexual exploitation and  
19 to prevent the online sexual exploitation of chil-  
20 dren, a provider—

21 “(i) shall, as soon as reasonably pos-  
22 sible after obtaining actual knowledge of  
23 any facts or circumstances described in  
24 paragraph (2)(A), take the actions de-  
25 scribed in subparagraph (B); and

1           “(ii) may, after obtaining actual  
2           knowledge of any facts or circumstances  
3           described in paragraph (2)(B), take the ac-  
4           tions described in subparagraph (B).

5           “(B) ACTIONS DESCRIBED.—The actions  
6           described in this subparagraph are—

7           “(i) providing to the CyberTipline of  
8           NCMEC, or any successor to the Cyber-  
9           Tipline operated by NCMEC, the mailing  
10          address, telephone number, facsimile num-  
11          ber, electronic mailing address of, and indi-  
12          vidual point of contact for, such provider;  
13          and

14          “(ii) making a report of such facts or  
15          circumstances to the CyberTipline, or any  
16          successor to the CyberTipline operated by  
17          NCMEC.”; and

18          (B) by amending paragraph (2) to read as  
19          follows:

20          “(2) FACTS OR CIRCUMSTANCES.—

21          “(A) APPARENT VIOLATIONS.—The facts  
22          or circumstances described in this subparagraph  
23          are any facts or circumstances from which there  
24          is an apparent violation of section 2251,

1           2251A, 2252, 2252A, 2252B, or 2260 that in-  
2           volves child pornography.

3           “(B) IMMINENT VIOLATIONS.—The facts  
4           or circumstances described in this subparagraph  
5           are any facts or circumstances which indicate a  
6           violation of any of the sections described in sub-  
7           paragraph (A) involving child pornography may  
8           be planned or imminent.”;

9           (4) in subsection (b)—

10           (A) in the matter preceding paragraph  
11           (1)—

12           (i) by striking “To the extent” and in-  
13           serting “In an effort to prevent the future  
14           sexual victimization of children, and to the  
15           extent”;

16           (ii) by striking “an electronic commu-  
17           nication service provider or a remote com-  
18           puting service provider” and inserting “a  
19           provider”; and

20           (iii) by striking “may include” and in-  
21           serting “may, at the sole discretion of the  
22           provider, include”;

23           (B) in paragraph (1)—

24           (i) by inserting “or plans to violate”  
25           after “who appears to have violated”; and

1 (ii) by inserting “payment information  
2 (excluding personally identifiable informa-  
3 tion),” after “uniform resource locator,”;

4 (C) in paragraph (2)—

5 (i) by striking “an electronic commu-  
6 nication service provider or a remote com-  
7 puting service provider” and inserting “a  
8 provider”;

9 (ii) by striking “apparent child por-  
10 nography” each place it appears and in-  
11 sserting “content relating to the report”;  
12 and

13 (iii) by striking “the electronic com-  
14 munication service provider or a remote  
15 computing service provider” and inserting  
16 “the provider”;

17 (D) by amending paragraph (3) to read as  
18 follows:

19 “(3) GEOGRAPHIC LOCATION INFORMATION.—  
20 Information relating to the geographic location of  
21 the involved individual or website, which may include  
22 the Internet Protocol address or verified address, or,  
23 if not reasonably available, at least one form of geo-  
24 graphic identifying information, including area code

1 or zip code, provided by the customer or subscriber,  
2 or stored or obtained by the provider.”;

3 (E) in paragraph (4)—

4 (i) in the heading by striking “IM-  
5 AGES” and inserting “VISUAL DEPIC-  
6 TIONS”;

7 (ii) by striking “image” and inserting  
8 “visual depiction”; and

9 (iii) by inserting “or other content”  
10 after “apparent child pornography”; and

11 (F) in paragraph (5)—

12 (i) by striking “image” and inserting  
13 “visual depiction”;

14 (ii) by inserting “or other content”  
15 after “apparent child pornography”; and

16 (iii) by striking “images” and insert-  
17 ing “visual depictions”;

18 (5) by amending subsection (c) to read as fol-  
19 lows:

20 “(c) Pursuant to its clearinghouse role as a private,  
21 nonprofit organization, and at the conclusion of its non-  
22 profit review, NCMEC shall make available each report  
23 made under subsection (a)(1) to one or more of the fol-  
24 lowing law enforcement agencies:

1           “(1) Any Federal law enforcement agency that  
2 is involved in the investigation of child sexual exploi-  
3 tation.

4           “(2) Any State or local law enforcement agency  
5 that is involved in the investigation of child sexual  
6 exploitation.

7           “(3) A foreign law enforcement agency des-  
8 igned by the Attorney General under subsection  
9 (d)(3) or a foreign law enforcement agency that has  
10 an established relationship with the Federal Bureau  
11 of Investigation, Immigration and Customs Enforce-  
12 ment, or INTERPOL, and is involved in the inves-  
13 tigation of child sexual exploitation, kidnapping, or  
14 enticement crimes.”;

15           (6) in subsection (d)—

16           (A) in paragraph (2), by striking “shall  
17 designate promptly the” and inserting “may  
18 designate a”;

19           (B) in paragraph (3)—

20           (i) in the matter preceding subpara-  
21 graph (A), by striking “shall promptly”  
22 and inserting “may”; and

23           (ii) in subparagraph (A), by striking  
24 “designate the” and inserting “designate”;

25           (C) in paragraph (4)—

1 (i) by striking “shall” and inserting  
2 “may”;

3 (ii) by striking “electronic commu-  
4 nication service providers, remote com-  
5 puting service providers” and inserting  
6 “providers”;

7 (D) by striking paragraph (5);

8 (E) by redesignating paragraph (6) as  
9 paragraph (5); and

10 (F) in paragraph (5) (as so redesi-  
11 gnated)—

12 (i) in the matter preceding subpara-  
13 graph (A)—

14 (I) by striking “an electronic  
15 communication service provider or re-  
16 mote computing service provider” and  
17 inserting “a provider”;

18 (II) by striking “the electronic  
19 communication service provider or re-  
20 mote computing service provider” and  
21 inserting “the provider”; and

22 (III) by striking “shall” and in-  
23 serting “may”;

24 (ii) in subparagraph (A)—



1 (I) by striking “the Center” and  
2 inserting “NCMEC”;

3 (II) by inserting after “des-  
4 ignated by the Attorney General  
5 under paragraph (3)” the following:  
6 “or that has an established relation-  
7 ship with the Federal Bureau of In-  
8 vestigation, Immigration and Customs  
9 Enforcement, or INTERPOL, and is  
10 involved in the investigation of child  
11 sexual exploitation, kidnapping, or en-  
12 tice ment crimes”; and

13 (III) by striking “electronic com-  
14 munication service provider or remote  
15 computing service provider” and in-  
16 serting “provider”;

17 (iii) by amending subparagraph (B) to  
18 read as follows:

19 “(B) notify the provider if NCMEC was  
20 unable to forward the report.”;

21 (7) in subsection (e), by striking “An electronic  
22 communication service provider or remote computing  
23 service provider” and inserting “A provider”;

24 (8) in subsection (f)—

1 (A) in the matter preceding paragraph (1),  
2 by striking “an electronic communication serv-  
3 ice provider or remote computing service pro-  
4 vider” and inserting “a provider”;

5 (B) in paragraph (3), by striking “seek”  
6 and inserting “search, screen, or scan for”;

7 (9) in subsection (g)—

8 (A) in paragraph (2)—

9 (i) in subparagraph (A)(vi), by strik-  
10 ing “an electronic communication service  
11 provider or remote computing service pro-  
12 vider” and inserting “a provider”; and

13 (ii) by amending subparagraph (B) to  
14 read as follows:

15 “(B) LIMITATION.—Nothing in subpara-  
16 graph (A)(vi) authorizes a law enforcement  
17 agency to provide visual depictions of apparent  
18 child pornography to a provider.”;

19 (B) in paragraph (3)—

20 (i) in the matter preceding subpara-  
21 graph (A)—

22 (I) by inserting after “may dis-  
23 close” the following: “by mail, elec-  
24 tronic transmission, or other reason-  
25 able means,”; and

1 (II) by striking “only” and in-  
2 serting “only to”;

3 (ii) in subparagraph (A)—

4 (I) by striking “ to any Federal  
5 law enforcement agency” and insert-  
6 ing “any Federal law enforcement  
7 agency”; and

8 (II) by inserting before the semi-  
9 colon at the end the following: “or  
10 that is involved in the investigation of  
11 child sexual exploitation, kidnapping,  
12 or enticement crimes”;

13 (iii) in subparagraph (B)—

14 (I) by striking “to any State”  
15 and inserting “any State”; and

16 (II) by striking “child pornog-  
17 raphy, child exploitation” and insert-  
18 ing “child sexual exploitation”;

19 (iv) in subparagraph (C)—

20 (I) by striking “to any foreign  
21 law enforcement agency” and insert-  
22 ing “any foreign law enforcement  
23 agency”; and

24 (II) by striking “; and” and in-  
25 serting “or that has an established re-

1 relationship with the Federal Bureau of  
2 Investigation, Immigration and Customs  
3 Enforcement, or INTERPOL,  
4 and is involved in the investigation of  
5 child sexual exploitation, kidnapping,  
6 or enticement crimes;”;

7 (v) in subparagraph (D)—

8 (I) by striking “to an electronic  
9 communication service provider or re-  
10 mote computing service provider” and  
11 inserting “a provider”; and

12 (II) by striking the period at the  
13 end and inserting “; and”; and

14 (vi) by adding after subparagraph (D)  
15 the following:

16 “(E) respond to legal process, as nec-  
17 essary.”; and

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

19 “(4) PERMITTED DISCLOSURE BY A PRO-  
20 VIDER.—A provider that submits a report under  
21 subsection (a)(1) may disclose by mail, electronic  
22 transmission, or other reasonable means, informa-  
23 tion, including visual depictions contained in the re-  
24 port, in a manner consistent with permitted disclo-  
25 sures under paragraphs (3) through (8) of section

1 2702(b) only to a law enforcement agency described  
2 in subparagraph (A), (B), or (C), of paragraph (3),  
3 to NCMEC, or as necessary to respond to legal proc-  
4 ess.”; and

5 (10) in subsection (h)—

6 (A) in paragraph (1)—

7 (i) by striking “the notification to an  
8 electronic communication service provider  
9 or a remote computing service provider by  
10 the CyberTipline” and inserting “a com-  
11 pleted submission by a provider of a report  
12 to the CyberTipline”; and

13 (ii) by striking “, as if such request  
14 was made pursuant to section 2703(f)”  
15 and inserting “the contents provided in the  
16 report for 90 days after the submission to  
17 the CyberTipline”;

18 (B) by striking paragraph (2);

19 (C) by redesignating paragraphs (3)  
20 through (5) as paragraphs (2) through (4), re-  
21 spectively;

22 (D) in paragraph (2) (as so redesign-  
23 nated)—

24 (i) in the heading, by striking “IM-  
25 AGES” and inserting “CONTENT”;

1 (ii) by striking “an electronic commu-  
2 nication service provider or a remote com-  
3 puting service” and inserting “a provider”;

4 (iii) by inserting “videos,” after “im-  
5 ages,”; and

6 (iv) by striking “commingled or inter-  
7 spersed among the images of apparent  
8 child pornography within a particular com-  
9 munication or user created folder or direc-  
10 tory” and inserting “reasonably accessible  
11 and may provide context or additional in-  
12 formation about the reported material or  
13 person”; and

14 (E) in paragraph (3) (as so redesignated),  
15 by striking “An electronic communication serv-  
16 ice provider or a remote computing service” and  
17 inserting “A provider”.

18 **SEC. 3. LIMITED LIABILITY FOR PROVIDERS OR DOMAIN**

19 **NAME REGISTRARS.**

20 Section 2258B of title 18, United States Code, is  
21 amended—

22 (1) in the heading—

23 (A) by striking “**electronic commu-**  
24 **nication service providers, remote**

1           **computing service providers,”** and in-  
2           serting “**providers**”; and

3                   (B) by striking “**registrar**” and insert-  
4           ing “**registrars**”;

5           (2) in subsection (a)—

6                   (A) by striking “an electronic communica-  
7           tion service provider, remote computing service  
8           provider,” and inserting “a provider”; and

9                   (B) by striking “such electronic commu-  
10          nication service provider, remote computing  
11          service provider,” and inserting “such pro-  
12          vider”;

13          (3) in subsection (b), by striking “electronic  
14          communication service provider, remote computing  
15          service provider,” each place it appears and inserting  
16          “provider”; and

17          (4) in subsection (c)—

18                   (A) by striking “image” each place it ap-  
19           pears and inserting “visual depiction”;

20                   (B) in the matter preceding paragraph (1),  
21           by striking “An electronic communication serv-  
22           ice provider, a remote computing service pro-  
23           vider,” and inserting “A provider”.

1 **SEC. 4. USE TO COMBAT CHILD PORNOGRAPHY OF TECH-**  
2 **NICAL ELEMENTS RELATING TO REPORTS**  
3 **MADE TO CYBERTIPLINE.**

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

6 (1) in the heading, by striking “**to images**  
7 **reported to**” and inserting “**to reports made**  
8 **to**”;

9 (2) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) by striking “The National Center  
12 for Missing and Exploited Children” and  
13 inserting “NCMEC”;

14 (ii) by striking “apparent child por-  
15 nography image of an identified child” and  
16 inserting “CyberTipline report”;

17 (iii) by striking “an electronic commu-  
18 nication service provider or a remote com-  
19 puting service provider” and inserting “a  
20 provider”;

21 (iv) by striking “that electronic com-  
22 munication service provider or remote com-  
23 puting service provider” and inserting  
24 “that provider”; and



1 (v) by striking “further transmission  
2 of images” and inserting “online sexual ex-  
3 ploitation of children”;

4 (B) in paragraph (2), by striking “specific  
5 image, Internet location of images, and other  
6 technological elements that can be used to iden-  
7 tify and stop the transmission of child pornog-  
8 raphy” and inserting “specific visual depiction,  
9 including an Internet location and any other  
10 elements provided in a CyberTipline report that  
11 can be used to identify, prevent, curtail, or stop  
12 the transmission of child pornography and pre-  
13 vent the online sexual exploitation of children”;  
14 and

15 (C) in paragraph (3), by striking “actual  
16 images” and inserting “actual visual depictions  
17 of apparent child pornography”;

18 (3) in subsection (b)—

19 (A) in the heading, by striking “**elec-**  
20 **tronic communication service pro-**  
21 **viders and remote computing service**  
22 **providers**” and inserting “**providers**”;

23 (B) by striking “electronic communication  
24 service provider or remote computing service

1 provider” each place it appears and inserting  
2 “provider”;

3 (C) by striking “apparent child pornog-  
4 raphy image of an identified child from the Na-  
5 tional Center for Missing and Exploited Chil-  
6 dren” and inserting “CyberTipline report from  
7 NCMEC”;

8 (D) by striking “shall not relieve that” and  
9 inserting “shall not affect the”; and

10 (E) by striking “its reporting obligations”  
11 and inserting “reporting”;

12 (4) in subsection (c)—

13 (A) by striking “electronic communication  
14 service providers or remote computing service  
15 providers” and inserting “providers”;

16 (B) by striking “apparent child pornog-  
17 raphy image of an identified child from the Na-  
18 tional Center for Missing and Exploited Chil-  
19 dren” and inserting “CyberTipline report from  
20 NCMEC”; and

21 (C) by striking “further transmission of  
22 the images” and inserting “online sexual exploi-  
23 tation of children”;

24 (5) in subsection (d)—

1 (A) by striking “The National Center for  
2 Missing and Exploited Children shall” and in-  
3 serting “NCMEC may”;

4 (B) by inserting after “local law enforce-  
5 ment” the following: “, and to foreign law en-  
6 forcement agencies described in section  
7 2258A(c)(3)”;

8 (C) by striking “investigation of child por-  
9 nography” and inserting “investigation of child  
10 sexual exploitation”;

11 (D) by striking “image of an identified  
12 child” and inserting “visual depiction”; and

13 (E) by striking “reported to the National  
14 Center for Missing and Exploited Children”  
15 and inserting “reported to the CyberTipline”;  
16 and

17 (6) in subsection (e)—

18 (A) by inserting before “Federal” the fol-  
19 lowing: “foreign,”;

20 (B) by striking “image of an identified  
21 child from the National Center for Missing and  
22 Exploited Children” and inserting “visual depic-  
23 tion from NCMEC”;

1 (C) by striking “child pornography crimes”  
2 and inserting “child sexual exploitation  
3 crimes,”; and

4 (D) by inserting before the period at the  
5 end the following: “and prevent future sexual  
6 victimization of children”.

7 **SEC. 5. LIMITED LIABILITY FOR NCMEC.**

8 Section 2258D of title 18, United States Code, is  
9 amended—

10 (1) in the heading, by striking “**the National**  
11 **Center for Missing and Exploited Chil-**  
12 **dren**” and inserting “**NCMEC**”;

13 (2) in subsection (a)—

14 (A) by striking “Except as provided” and  
15 inserting “Pursuant to its clearinghouse role as  
16 a private, nonprofit organization and its mis-  
17 sion to help find missing children, reduce online  
18 sexual exploitation of children and prevent fu-  
19 ture victimization, and except as provided”;

20 (B) by striking “the National Center for  
21 Missing and Exploited Children” and inserting  
22 “NCMEC”;

23 (C) by striking “(42 U.S.C. 5773)” and  
24 inserting “(34 U.S.C. 11293)”;

1 (D) by striking “such center” each place it  
2 appears and inserting “NCMEC”; and

3 (E) by striking “from the effort” and in-  
4 serting “from the efforts”;

5 (3) in subsection (b)—

6 (A) by striking “the National Center for  
7 Missing and Exploited Children” and inserting  
8 “NCMEC”;

9 (B) by striking “such center” and insert-  
10 ing “NCMEC”; and

11 (C) by striking “(42 U.S.C. 5773)” and  
12 inserting “(34 U.S.C. 11293)”; and

13 (4) in subsection (d)—

14 (A) in the matter preceding paragraph (1),  
15 by striking “The National Center for Missing  
16 and Exploited Children” and inserting  
17 “NCMEC”; and

18 (B) by striking “image” each place it ap-  
19 pears and inserting “visual depiction”.

20 **SEC. 6. DEFINITIONS.**

21 Section 2258E of title 18, United States Code, is  
22 amended—

23 (1) in paragraph (5), by striking “and” at the  
24 end;

1           (2) in paragraph (6), by striking the period at  
2           the end and inserting a semicolon; and

3           (3) by inserting after paragraph (6) the fol-  
4           lowing:

5           “(7) the term ‘provider’ means an electronic  
6           communication service provider or remote computing  
7           service;

8           “(8) the term ‘NCMEC’ means the National  
9           Center for Missing & Exploited Children; and

10          “(9) the term ‘visual depiction’ has the meaning  
11          given such term in section 1466A(f).”.

○