

DISCUSSION DRAFT114TH CONGRESS
2^D SESSION**H. R.** _____

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute a private, visual depiction of a person's intimate parts or of a person engaging in sexually explicit conduct, with reckless disregard for the person's lack of consent to the distribution, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. SPEIER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 18, United States Code, to provide that it is unlawful to knowingly distribute a private, visual depiction of a person's intimate parts or of a person engaging in sexually explicit conduct, with reckless disregard for the person's lack of consent to the distribution, 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 "Intimate Privacy Pro-
5 tection Act of 2016".

1 **SEC. 2. CERTAIN ACTIVITIES RELATING TO VISUAL DEPIC-**
2 **TIONS OF THE INTIMATE PARTS OF AN INDI-**
3 **VIDUAL OR OF AN INDIVIDUAL ENGAGED IN**
4 **SEXUALLY EXPLICIT CONDUCT.**

5 (a) IN GENERAL.—Chapter 88 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 1802. Certain activities relating to visual depic-**
9 **tions of the intimate parts of an indi-**
10 **vidual or of an individual engaged in sex-**
11 **ually explicit conduct**

12 “(a) IN GENERAL.—Whoever knowingly uses the
13 mail, any interactive computer service or electronic com-
14 munication service or electronic communication system of
15 interstate commerce, or any other facility of interstate or
16 foreign commerce to distribute a visual depiction of a per-
17 son who is identifiable from the image itself or information
18 displayed in connection with the image and who is engag-
19 ing in sexually explicit conduct, or of the naked genitals
20 or post-pubescent female nipple of a person, with reckless
21 disregard for the person’s lack of consent to the distribu-
22 tion, shall be fined under this title or imprisoned not more
23 than 5 years, or both.

24 “(b) EXCEPTIONS.—

25 “(1) LAW ENFORCEMENT AND OTHER LEGAL
26 PROCEEDINGS.—This section—

1 “(A) does not prohibit any lawful law en-
2 forcement, correctional, or intelligence activity;

3 “(B) shall not apply in the case of an indi-
4 vidual reporting unlawful activity; and

5 “(C) shall not apply to a subpoena or court
6 order for use in a legal proceeding.

7 “(2) VOLUNTARY PUBLIC OR COMMERCIAL EX-
8 POSURE.—This section does not apply to a visual de-
9 piction of a voluntary exposure of an individual’s
10 own naked genitals or post-pubescent female nipple
11 or an individual’s voluntary engagement in sexually
12 explicit conduct if such exposure takes place in pub-
13 lic or in a lawful commercial setting.

14 “(3) CERTAIN CATEGORIES OF VISUAL DEPIC-
15 TIONS EXCEPTED.—This section shall not apply in
16 the case of a visual depiction, the disclosure of which
17 is in the bona fide public interest.

18 “(4) TELECOMMUNICATIONS AND INTERNET
19 SERVICE PROVIDERS.—This section shall not apply
20 to any provider of an interactive computer service as
21 defined in section 230(f)(2) of the Communications
22 Act of 1934 (47 U.S.C. 230 (f)(2)) with regard to
23 content provided by another information content
24 provider, as defined in section 230(f)(3) of the Com-
25 munications Act of 1934 (47 U.S.C. 230(f)(3)) un-

1 less such provider of an interactive computer service
2 intentionally promotes or solicits content that it
3 knows to be in violation of this section.

4 “(c) DEFINITIONS.—In this section:

5 “(1) Except as otherwise provided, any term
6 used in this section has the meaning given that term
7 in section 1801.

8 “(2) The term ‘visual depiction’ means any pho-
9 tograph, film, or video, whether produced by elec-
10 tronic, mechanical, or other means.

11 “(3) The term ‘sexually explicit conduct’ has
12 the meaning given that term in section
13 2256(2)(A).”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 of chapter 88 of title 18, United States Code, is amended
16 by inserting after the item relating to section 1801 the
17 following:

“1802. Certain activities relating to visual depictions of the intimate parts of
an individual or of an individual engaged in sexually explicit
conduct.”.