

Description:

Stop Enabling Sex Traffickers Act of 2017

Legislation to Provide Criminal and Civil Remedies for Victims of Sex Trafficking

Sponsored by Senators Portman, Blumenthal, McCain, McCaskill, Cornyn, and Heitkamp

The Scourge of Online Sex Trafficking

For too long, courts around the country have ruled that websites like Backpage.com can continue to facilitate illegal sex trafficking online with no repercussions. In January 2017, after an 18-month investigation, the Senate Permanent Subcommittee on Investigations (PSI) issued a stunning report which found Congress put in place criminal penalties to guard against sex trafficking in the Trafficking Victims Protection Act. However, court rulings have made it clear that Congress must act to amend the Communications Decency Act to hold those who run sites that facilitate sex trafficking civilly and criminally accountable for their crimes.

Since 2007, the National Human Trafficking Hotline has received reports of 22,191 sex trafficking incidents. In 2016 alone, 5,551 incidents were reported across the country. The National Center for Missing and Exploited Children (known as NCMEC) reported an 846% increase in reports of suspected child sex trafficking from 2010 to 2015 – a spike the organization found to be “directly correlated to the increased use of the internet to sell children for sex.” The number of trafficking incidents reported is staggering, but understanding the stories of victims who have sought and been denied justice is the motivation behind this legislation.

A documentary film called “I am Jane Doe” chronicled the cases of three young women who brought cases against Backpage for contributing to their trafficking and profiting off of their suffering. In all three cases, Jane Doe was 15 year old when she became a victim of sex trafficking. The ads selling each Jane Doe promoted her youth and resulted in her being raped hundreds of times for money.

In 2014, the Jane Does filed suit against Backpage in federal court. But the First Circuit ruled against them in *Jane Doe 1 v. Backpage.com, LLC*, holding that the 20-year-old law known as Section 230 of the Communications Decency Act protects Backpage from any claims of liability. The court found that the Jane Does made a persuasive case that Backpage tailored its site to make underage sex trafficking easier. Nonetheless, websites that facilitate sex trafficking are immune from lawsuits brought by their victims, no matter how complicit the sites or how terrible the harm caused.

These Jane Does are among many thousands of victims trafficked for sex each year in the United States. It is time for Congress to act.

A Victim Focused and Carefully Crafted Solution

Section 230 of the Communications Decency Act was never intended to protect websites that knowingly or recklessly facilitate sex trafficking. The Stop Enabling Sex Traffickers Act of 2017 would clarify Section 230 of the Communications Decency Act and ensure that websites that knowingly or recklessly facilitate sex trafficking can be held liable and that victims can get

justice. This carefully crafted legislation offers three reforms to help sex trafficking victims. The proposed legislation would:

- Allow victims of sex trafficking to seek justice against websites that knowingly or recklessly facilitated their victimization;
- Make knowing, commercial conduct that assists, supports, or facilitates a violation of federal sex trafficking laws a crime; and
- Enable state law enforcement officials, not just the federal Department of Justice, to take action against individuals or businesses that violate federal sex trafficking laws.

Text:

Title: To amend the Communications Act of 1934 to clarify that section 230 of that Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sex trafficking.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as Stop Enabling Sex Trafficking Act of 2017

SEC. 2. FINDINGS.

Congress finds the following:

(1) Section 230 of the Communications Act of 1934 (47 U.S.C. 230) (as added by title V of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 133) (commonly known as the “Communications Decency Act of 1996”)) was never intended to provide legal protection to websites that facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims.

(2) Clarification of section 230 of the Communications Act of 1934 is warranted to ensure that that section does not provide such protection to such websites.

SEC. 3. ENSURING ABILITY TO ENFORCE FEDERAL AND STATE CRIMINAL AND CIVIL LAW RELATING TO SEX TRAFFICKING.

(a) In General.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period at the end and inserting “; and”;
and

(C) by adding at the end the following:

“(6) to ensure vigorous enforcement of Federal criminal and civil law relating to sex trafficking.”; and

(2) in subsection (e)—

(A) in paragraph (1)—

(i) by inserting “section 1591 (relating to sex trafficking) of that title,” after “title 18, United States Code,”;

(ii) by striking “impair the enforcement” and inserting the following: “impair—

“(A) the enforcement”;

(iii) by striking “statute.” and inserting the following: “statute; or

“(B) any State criminal prosecution or civil enforcement action targeting conduct that violates a Federal criminal law prohibiting—

“(i) sex trafficking of children; or

“(ii) sex trafficking by force, threats of force, fraud, or coercion.”; and

(B) by adding at the end the following:

“(5) No effect on civil law relating to sex trafficking.—Nothing in this section shall be construed to impair the enforcement or limit the application of section 1595 of title 18, United States Code.”.

(b) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act, and the amendment made by subsection (a)(2)(B) shall apply regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after such date of enactment.

SEC. 4. ENSURING FEDERAL LIABILITY FOR PUBLISHING INFORMATION DESIGNED TO FACILITATE SEX TRAFFICKING OR OTHERWISE FACILITATING SEX TRAFFICKING.

Section 1591(e) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following:

“(4) The term ‘participation in a venture’ includes knowing conduct by an individual or entity, by any means, that assists, supports, or facilitates the violation of subsection (a)(1).”.