To amend title 18, United States Code, to strengthen reporting to the CyberTipline related to online sexual exploitation of children, to modernize liabilities for such reports, to preserve the contents of such reports for 1 year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Lee of Florida introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend title 18, United States Code, to strengthen reporting to the CyberTipline related to online sexual exploitation of children, to modernize liabilities for such reports, to preserve the contents of such reports for 1 year, and for other purposes.

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 the “Revising Existing Procedures On Reporting via Technology Act” or the “REPORT Act”.
SEC. 2. LIMITED LIABILITY MODERNIZATION.

(a) Amendments.—Section 2258B of title 18, United States Code, is amended—

(1) in the section heading, by striking “providers or domain name registrars” and inserting “the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing & Exploited Children”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “or charge” after “a claim”; and

(B) in paragraph (2)(C), by striking “this section,”; and

(3) by adding at the end the following:

“(d) LIMITED LIABILITY FOR NCMEC-CONTRACTED VENDORS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a civil claim or criminal charge may not be brought in any Federal or State court against a vendor contractually retained and designated by NCMEC to support the duties of NCMEC under section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)).
“(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
CONDUCT.—Paragraph (1) shall not apply to a claim
or charge if the vendor—

“(A) engaged in—

“(i) intentional misconduct; or

“(ii) negligent conduct; or

“(B) acted, or failed to act—

“(i) with actual malice;

“(ii) with reckless disregard to a sub-
stantial risk of causing injury without legal
justification; or

“(iii) for a purpose unrelated to the
performance of any responsibility or func-
tion—

“(I) set forth in paragraph (1);

or

“(II) pursuant to sections
2258A, 2258C, 2702, or 2703.

“(3) MINIMIZING ACCESS BY VENDOR.—With
respect to any visual depiction provided pursuant to
the duties of NCMEC under section 404(b)(1)(K) of
the Juvenile Justice and Delinquency Prevention Act
of 1974 (34 U.S.C. 11293(b)(1)(K)) that is stored
or transferred by a vendor contractually retained
and designated by NCMEC to support such duties
of NCMEC, a vendor shall—

“(A) minimize the number of employees
that may be able to obtain access to such visual
depiction; and

“(B) employ end-to-end encryption for
data storage and transfer functions, or an
equivalent technological standard.

“(e) LIMITED LIABILITY FOR REPORTING APPARENT
CHILD PORNOGRAPHY BY AN INDIVIDUAL DEPICTED IN
THE CHILD PORNOGRAPHY AS A MINOR, OR A REP-
RESENTATIVE OF SUCH INDIVIDUAL.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), a civil claim or criminal charge may not
be brought in any Federal or State court against an
individual depicted in child pornography as a minor,
or a representative of such individual, arising from
a report to the NCMEC CyberTipline by the indi-

dividual, or the representative of such individual, of
information that relates to the child pornography in
which the individual is depicted as a minor, includ-
ing a copy of the child pornography.

“(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
CONDUCT.—Paragraph (1) shall not apply to a claim
or charge if the individual, or the representative of
such individual—

“(A) engaged in—

“(i) intentional misconduct;

“(ii) negligent conduct; or

“(iii) any activity which constitutes a
violation of section 2251; or

“(B) acted, or failed to act—

“(i) with actual malice; or

“(ii) with reckless disregard to a sub-
stantial risk of causing injury without legal
justification.

“(3) MINIMIZING ACCESS.—With respect to any
child pornography reported to the NCMEC
CyberTipline by an individual depicted in the child
pornography as a minor, or a representative of such
individual, NCMEC shall minimize access to the
child pornography and ensure the appropriate dele-
tion of the child pornography, as set forth in section
2258D.

“(4) DEFINITION.—For purposes of this sub-
section, the term ‘representative’, with respect to an
individual depicted in child pornography—

“(A) means—
“(i) the parent or legal guardian of
the individual, if the individual is under 18
years of age;

“(ii) the legal guardian or other per-
son appointed by a court to represent the
individual;

“(iii) a legal representative retained
by the individual;

“(iv) a representative of the estate of
the individual; or

“(v) a person who is a mandated re-
porter under section 226(a)(1) of the Vic-
tims of Child Abuse Act of 1990 (34
U.S.C. 20341(a)(1)); and

“(B) does not include a person who en-
gaged in any activity which constitutes a viola-
tion of section 2251.”.

(b) APPLICABILITY.—The amendments made by sub-
section (a) shall apply with respect to a civil claim or
criminal charge that is filed on or after the date of enact-
ment of this Act.

(c) TABLE OF SECTIONS AMENDMENT.—The table of
sections for chapter 110 of title 18, United States Code,
is amended by striking the item relating to section 2258B
and inserting the following:
SEC. 3. PRESERVATION OF REPORTS TO CYBERTIPLINE RELATED TO ONLINE SEXUAL EXPLOITATION OF CHILDREN.

Section 2258A(h) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “90 days” and inserting “1 year”; and

(2) by adding at the end the following:

“(5) EXTENSION OF PRESERVATION.—A provider of a report to the CyberTipline under subsection (a)(1) may voluntarily preserve the contents provided in the report (including any comingled content described in paragraph (2)) for longer than 1 year after the submission to the CyberTipline for the purpose of reducing the proliferation of online child sexual exploitation or preventing the online sexual exploitation of children.

“(6) METHOD OF PRESERVATION.—Not later than 1 year after the date of enactment of this paragraph, a provider of a report to the CyberTipline under subsection (a)(1) shall preserve materials under this subsection in a manner that is consistent with the most recent version of the Cybersecurity Framework developed by the National Institute of
Standards and Technology, or any successor there-
to.”.

SEC. 4. STRENGTHENING OF DUTY TO REPORT APPARENT
VIOLATIONS TO CYBERTIPLINE RELATED TO
ONLINE EXPLOITATION OF CHILDREN.

(a) AMENDMENTS.—Section 2258A of title 18,
United States Code, is amended—

(1) in subsection (a)(2)(A), by inserting “, of
section 1591 (if the violation involves a minor), or
of 2422(b)” after “child pornography”; and

(2) in subsection (e)—

(A) in paragraph (1), by striking
“$150,000” and inserting “$850,000 in the
case of a provider with not less than
100,000,000 monthly active users or $600,000
in the case of a provider with less than
100,000,000 monthly active users”; and

(B) in paragraph (2), by striking
“$300,000” and inserting “$1,000,000 in the
case of a provider with not less than
100,000,000 monthly active users or $850,000
in the case of a provider with less than
100,000,000 monthly active users”.

(b) GUIDELINES.—Not later than 180 days after the
date of enactment of this Act, the National Center for
Missing & Exploited Children may issue guidelines, as appropriate, to providers required or permitted to take actions described in section 2258A(a)(1)(B) of title 18, United States Code, on the relevant identifiers for content that may indicate sex trafficking of children, as described in section 1591 of that title, or enticement, as described in section 2422(b) of that title.