

The TAKE IT DOWN Act

Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Network

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The Problem

The internet is awash in non-consensual intimate imagery (NCII)—A.K.A. “revenge porn”—in large part from new generative artificial intelligence (AI) tools that can create lifelike, but fake, NCII depicting real people. Disturbingly, this trend is increasingly affecting minors. A number of [high-profile cases](#) have involved young girls targeted by their classmates with deepfake NCII. Up to 95 percent of all internet deepfake videos [depict NCII](#), with the vast majority targeting women and girls. The spread of these images—possibly in perpetuity if allowed to remain online—is having a profoundly traumatic impact on victims.

Why Is Legislation Needed?

While nearly every state has a law protecting people from NCII, including 20 states with laws explicitly [covering](#) deepfake NCII, these state laws vary in classification of crime and penalty and have uneven criminal prosecution. Further, victims struggle to have images depicting them removed from websites, increasing the likelihood the images are continuously spread and victims are retraumatized.

In 2022, Congress passed legislation creating a civil cause of action for victims to sue individuals responsible for publishing NCII. However, bringing a civil action can be incredibly impractical. It is time-consuming, expensive, and may force victims to relive trauma. Further exacerbating the problem, it is not always clear who is responsible for publishing the NCII.

The Solution: The TAKE IT DOWN Act

The legislation would protect and empower victims of real and deepfake NCII, while protecting lawful speech:

1. **Criminalizes the publication of NCII or the threat to publish NCII in interstate commerce.** The bill makes it unlawful for a person to knowingly publish or threaten to publish NCII on social media and other online platforms. NCII is defined to include realistic, computer-generated pornographic images and videos that depict identifiable, real people. The bill also clarifies that a victim consenting to the creation of an authentic image does not mean that the victim has consented to its publication.
2. **Protects good faith efforts to assist victims.** The bill permits the good faith disclosure of NCII, such as to law enforcement or for medical treatment.
3. **Requires websites to take down NCII upon notice from the victim.** Social media and other websites would be required to have in place procedures to remove NCII, pursuant to a valid request from a victim, within 48 hours. Websites must also make reasonable efforts to remove copies of the images. The FTC is charged with enforcement of this section.
4. **Protects lawful speech.** The bill is narrowly tailored to criminalize knowingly publishing NCII without chilling lawful speech. The bill conforms to current first amendment jurisprudence by requiring that computer-generated NCII meet a “reasonable person” test for appearing to realistically depict an individual.