H. R. 2052

To amend the Uniform Code of Military Justice to prohibit the wrongful broadcast or distribution of intimate visual images.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Ms. McSally (for herself, Ms. Stefanik, Mr. Jones, Mr. Russell, Mr. Knight, Mr. Bacon, Mrs. Comstock, Mrs. Mimi Walters of California, Ms. Speier, Ms. Tsongas, Mr. Turner, and Ms. Gabbard) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend the Uniform Code of Military Justice to prohibit the wrongful broadcast or distribution of intimate visual images.

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 “Protecting the Rights of Individuals Against Technological Exploitation Act” or the “PRIVATE Act”.

SEC. 2. PROHIBITION ON WRONGFUL BROADCAST OR DISTRIBUTION OF INTIMATE VISUAL IMAGES.

(a) Prohibition.—Subchapter X of chapter 47 of title 10, United States Code, is amended by inserting after section 917 (article 117 of the Uniform Code of Military Justice) the following new section (article):

“§ 917a. Art. 117a. Wrongful broadcast or distribution of intimate visual images

“(a) Prohibition.—Any person subject to this chapter who—

“(1) knowingly and wrongfully broadcasts or distributes an intimate visual image of a private area of another person who—

“(A) is at least 18 years of age at the time the intimate visual image was created;

“(B) is identifiable from the image itself or from information displayed in connection with the image; and

“(C) does not explicitly consent to the broadcast or distribution of the intimate visual image;

“(2) knows or reasonably should have known that the intimate visual image was made under circumstances in which the person depicted in the intimate visual image retained a reasonable expectation
of privacy regarding any broadcast or distribution of
the intimate visual image; and

“(3) knows or reasonably should have known
that the broadcast or distribution of the intimate
visual image is likely—

“(A) to cause harm, harassment, intimidation, emotional distress, or financial loss for the
person depicted in the intimate visual image; or

“(B) to harm substantially the depicted
person with respect to that person’s health,
safety, business, calling, career, financial condi-
tion, reputation, or personal relationships,
is guilty of wrongful distribution of intimate visual images
and shall by punished as a court-martial may direct.

“(b) DEFINITIONS.—In this section (article):

“(1) BROADCAST.—The term ‘broadcast’ means
to electronically transmit a visual image with the in-
tent that it be viewed by a person or persons.

“(2) DISTRIBUTE.—The term ‘distribute’
means to deliver to the actual or constructive posses-
sion of another person, including transmission by
mail or electronic means.

“(3) INTIMATE VISUAL IMAGE.—The term ‘inti-
mate visual image’ means a photograph, video, film,
or recording made by any means that depicts a private area of a person.

“(4) **PRIVATE AREA.**—The term ‘private area’ means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.

“(5) **REASONABLE EXPECTATION OF PRIVACY.**—The term ‘reasonable expectation of privacy’ refers to circumstances in which a reasonable person would believe that an intimate visual image of a private area of the person would not be broadcast or distributed to another person.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 917 (article 117) the following new item:

“917a. 117a. Wrongful broadcast or distribution of intimate visual images.”.