

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 633
OFFERED BY MR. AUCHINCLOSS OF
MASSACHUSETTS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Intimate Privacy Pro-
3 tection Act”.

4 SEC. 2. CYBERSTALKING, INTIMATE PRIVACY VIOLATIONS,
5 AND DIGITAL FORGERIES.

6 (a) DUTY OF CARE.—Section 230(c)(1) of the Com-
7 munications Act of 1934 (47 U.S.C. 230(c)(1)) is amend-
8 ed—

9 (1) by striking “No provider” and inserting the
10 following:

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), no provider”; and

13 (2) by adding at the end the following:

14 “(B) CYBERSTALKING, INTIMATE PRIVACY
15 VIOLATIONS, AND DIGITAL FORGERIES.—

16 “(i) DUTY OF CARE.—Subparagraph
17 (A) only applies to a provider of an inter-

1 active computer service if such provider is
2 implementing, with respect to the inter-
3 active computer service of the provider, a
4 reasonable process for addressing
5 cyberstalking, intimate privacy violations,
6 and digital forgeries that includes, at a
7 minimum, the following:

8 “(I) A process to prevent, to the
9 extent practicable, cyberstalking, inti-
10 mate privacy violations, and digital
11 forgeries.

12 “(II) A clear and accessible proc-
13 ess to report cyberstalking, intimate
14 privacy violations, and digital for-
15 gerics.

16 “(III) A process for investigating
17 each report of cyberstalking, an inti-
18 mate privacy violation, or a digital
19 forgery.

20 “(IV) A process to remove (or
21 otherwise make unavailable), within
22 24 hours, information the provider
23 knows, or has reason to know, is
24 cyberstalking, an intimate privacy vio-
25 lation, or a digital forgery.

1 “(V) Minimum data logging re-
2 quirements that—

3 “(aa) preserve data nec-
4 essary for legal proceedings re-
5 lated to cyberstalking, an inti-
6 mate privacy violation, or a dig-
7 ital forgery; and

8 “(bb) ensure that preserved
9 data is not transferred or other-
10 wise used for a purpose other
11 than a legal proceeding related to
12 cyberstalking, an intimate pri-
13 vacy violation, or a digital for-
14 gery.

15 “(VI) A process to remove or
16 block content that has been deter-
17 mined unlawful by a court.

18 “(VII) Any other process or re-
19 quirement determined necessary by
20 the Commission to address
21 cyberstalking, intimate privacy viola-
22 tions, and digital forgeries.

23 “(ii) DEFINITIONS.—In this subpara-
24 graph:

1 “(I) CYBERSTALKING.—The term
2 ‘cyberstalking’ means a course of con-
3 duct—

4 “(aa) directed at a specific
5 individual; and

6 “(bb) that causes the indi-
7 vidual, or would cause a reason-
8 able individual, to suffer substan-
9 tial emotional distress or the fear
10 of bodily harm.

11 “(II) DIGITAL FORGERY.—The
12 term ‘digital forgery’ means digital
13 audiovisual material—

14 “(aa) created, manipulated,
15 or altered to be virtually indistin-
16 guishable from an authentic
17 record of the speech, conduct, or
18 appearance of an individual de-
19 spite not being an authentic
20 record of such speech, conduct,
21 or appearance; and

22 “(bb) that is reasonably like-
23 ly to cause harm.

24 “(III) INTIMATE VISUAL DEPIC-
25 TION.—The term ‘intimate visual de-

1 piction’ has the meaning given that
2 term in section 1309(a) of division W
3 of the Consolidated Appropriations
4 Act, 2022 (15 U.S.C. 6851(a)).

5 “(IV) INTIMATE PRIVACY VIOLA-
6 TION.—The term ‘intimate privacy
7 violation’ means the following:

8 “(aa) An intimate visual de-
9 piction obtained or shared with-
10 out the consent of an individual
11 portrayed in the depiction.

12 “(bb) A digital forgery of an
13 intimate visual depiction made or
14 shared without the consent of an
15 individual portrayed in the depic-
16 tion.”.

17 (b) INFORMATION CONTENT PROVIDER DEFINED.—
18 Section 230(f)(3) of the Communications Act of 1934 (47
19 U.S.C. 230(f)(3)) is amended by striking “creation or de-
20 velopment” and inserting “creation or development (in-
21 cluding through solicitation or encouragement)”.

22 (c) REGULATIONS.—Not later than 180 days after
23 the date of the enactment of this Act, the Federal Trade
24 Commission, in consultation with the Federal Communica-
25 tions Commission, shall promulgate regulations under sec-

1 tion 553 of title 5, United States Code, to implement the
2 amendments made by this Act.

3 (d) APPLICABILITY.—The amendments made by this
4 Act shall apply to information made available on an inter-
5 active computer service on or after the date of the enact-
6 ment of this Act.

7 (e) RULE OF CONSTRUCTION.—The amendments
8 made by this Act may not be construed to infringe upon
9 any right protected under the First Amendment to the
10 Constitution.

Amend the title so as to read: “A bill to amend sec-
tion 230 of the Communications Act of 1934 to combat
cyberstalking, intimate privacy violations, and digital for-
geries, and for other purposes.”.

