

119TH CONGRESS
1ST SESSION

S. _____

To limit liability for certain entities storing child sexual abuse material for law enforcement agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. BLACKBURN (for herself, Ms. KLOBUCHAR, Mr. CORNYN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To limit liability for certain entities storing child sexual abuse material for law enforcement agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Cloud Storage
5 Act”.

6 **SEC. 2. STORAGE OF CHILD SEXUAL ABUSE MATERIAL.**

7 (a) IN GENERAL.—Title II of the PROTECT Our
8 Children Act of 2008 (34 U.S.C. 21101 et seq.) is amend-
9 ed by inserting after section 201 the following:

1 **“SEC. 202. MODERNIZING LAW ENFORCEMENT’S ABILITY TO**
2 **STORE CHILD PORNOGRAPHY AND CHILD OB-**
3 **SCENITY AND LIMITED LIABILITY FOR AP-**
4 **PROVED VENDORS.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) APPROVED VENDOR.—The term ‘approved
7 vendor’ means an organization, corporation, or enti-
8 ty that—

9 “(A) offers digital storage services, includ-
10 ing remote or cloud-based storage, and analyt-
11 ical and forensic tool processing support; and

12 “(B) has been contractually retained and
13 designated by a law enforcement or prosecu-
14 torial agency based in the United States to sup-
15 port the duties of such agency by—

16 “(i) storing digital child pornography
17 or child obscenity;

18 “(ii) making such child pornography
19 or child obscenity available to the con-
20 tracting agency, or any law enforcement or
21 prosecutorial agency designated by the
22 contracting agency, upon request; and

23 “(iii) providing maintenance, technical
24 and analytical assistance, and forensic tool
25 processing support upon request by the
26 contracting agency.

1 “(2) CHILD PORNOGRAPHY.—The term ‘child
2 pornography’ has the meaning given that term in
3 section 2256 of title 18, United States Code.

4 “(b) LIMITED LIABILITY FOR APPROVED VEN-
5 DORS.—

6 “(1) LIMITED LIABILITY FOR LAW ENFORCE-
7 MENT APPROVED VENDORS.—Except as provided in
8 paragraph (2), a civil claim or criminal charge may
9 not be brought in any Federal or State court against
10 an approved vendor relating to the approved ven-
11 dor’s performance of any contractual obligation or
12 service described in subsection (a)(1).

13 “(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
14 CONDUCT.—A civil claim or criminal charge may be
15 brought in any Federal or State court against an ap-
16 proved vendor if the approved vendor—

17 “(A) engaged in—

18 “(i) intentional misconduct; or

19 “(ii) negligent conduct;

20 “(B) acted, or failed to act—

21 “(i) with actual malice;

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

1 “(iii) for a purpose unrelated to the
2 performance of any responsibility or func-
3 tion described in subsection (a)(1)(B).

4 “(c) **VENDOR CYBERSECURITY REQUIREMENTS.—**
5 With respect to any visual depiction stored and available
6 for analysis in the cloud storage service of an approved
7 vendor, and pursuant to the duties of law enforcement in
8 the investigation of the sexual exploitation of children, an
9 approved vendor shall—

10 “(1) secure such visual depiction in a manner
11 that is consistent with the most recent version of the
12 Cybersecurity Framework developed by the National
13 Institute of Standards and Technology, or any suc-
14 cessor thereto;

15 “(2) only access the visual depictions upon con-
16 sent of the law enforcement or prosecutorial agency
17 contracting the service and for the purpose of pro-
18 viding maintenance, technical assistance, and foren-
19 sic tool processing support in the cloud;

20 “(3) minimize the number of employees that
21 may be able to obtain access to such visual depic-
22 tion;

23 “(4) employ end-to-end encryption for data
24 storage and transfer functions, or an equivalent
25 technological standard;

1 “(5) undergo an independent annual cybersecu-
2 rity audit to determine whether such visual depiction
3 is secured as required under paragraph (1); and

4 “(6) promptly address all issues identified by
5 an audit described in paragraph (5).

6 “(d) EVIDENCE STORAGE.—Any law enforcement or
7 prosecutorial agency that stores evidence of child pornog-
8 raphy and child obscenity using cloud-based or remote
9 storage services shall retain such evidence—

10 “(1) in compliance with the security policy of
11 the Criminal Justice Information Services of the
12 Federal Bureau of Investigation;

13 “(2) for a period consistent with the evidence
14 retention requirements applicable to the inves-
15 tigating or prosecuting agency under the relevant
16 Federal, State, or local law, rule of criminal proce-
17 dure, or prosecutorial policy; or

18 “(3) in the absence of such law, rule, or policy,
19 for a period not less than the applicable statute of
20 limitations or the duration of any sentence imposed,
21 including the period of post-conviction review.

22 “(e) ADDITIONAL REQUIREMENTS FOR APPROVED
23 VENDORS.—

24 “(1) IN GENERAL.—Each approved vendor shall
25 ensure that cloud-based storage and analytics of

1 child pornography and child obscenity under this
2 section remain in the United States.

3 “(2) NOTIFICATION LETTER.—

4 “(A) IN GENERAL.—Approved vendors
5 shall file a notification letter with the Depart-
6 ment of Justice not later than 30 days after en-
7 tering into a contract described in subsection
8 (a)(1)(B).

9 “(B) CONTENTS.—The notification letter
10 shall include the entity name and point of con-
11 tact information of the approved vendor, the
12 name of the contracting agency, the period of
13 performance of the contract, and an acknowl-
14 edgment by the approved vendor that the ap-
15 proved vendor will notify the Department of
16 Justice of any changes to the information in the
17 letter.

18 “(3) BREACH OF CONTRACT.—

19 “(A) IN GENERAL.—If a law enforcement
20 or prosecutorial agency fails to make required
21 payment under a contract, breaches any mate-
22 rial term of such contract, or otherwise termi-
23 nates such contract without establishing lawful
24 transfer of the evidence, the approved vendor
25 shall, not later than 30 days after the failure,

1 breach, or termination, notify the Department
2 of Justice, or in the case of a State or local
3 agency, the appropriate State attorney general.

4 “(B) MAINTENANCE OF EVIDENCE.—Upon
5 making a notification under subparagraph (A),
6 the approved vendor shall continue to preserve
7 and maintain the integrity of the evidence until
8 a lawful transfer of custody occurs to the De-
9 partment of Justice or another Federal, State,
10 or local law enforcement agency with jurisdic-
11 tion.”.

12 (b) CLERICAL AMENDMENT.—Section 1(b) of the
13 PROTECT Our Children Act of 2008 (Public Law 110–
14 401; 122 Stat. 4229) is amended by inserting after the
15 item relating to section 201 the following:

“Sec. 202. Modernizing law enforcement’s ability to store child pornography
and child obscenity and limited liability for approved vendors.”.