DISCUSSION DRAFT

114TH CONGRESS
1ST SESSION

H. R. ______

To amend title 18, United States Code, to provide that it is unlawful to reproduce, distribute, exhibit, publish, transmit, or otherwise disseminate a visual depiction of a person who is nude or partially nude or who is engaging in sexually explicit conduct, regardless of whether the depicted person consented to the capture of the image, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Speier introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend title 18, United States Code, to provide that it is unlawful to reproduce, distribute, exhibit, publish, transmit, or otherwise disseminate a visual depiction of a person who is nude or partially nude or who is engaging in sexually explicit conduct, regardless of whether the depicted person consented to the capture of the image, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Intimate Privacy Protection Act of 2015”.

SEC. 2. CERTAIN ACTIVITIES RELATING TO VISUAL DEPICTIONS OF THE PRIVATE AREA OF AN INDIVIDUAL OR OF AN INDIVIDUAL ENGAGED IN SEXUALLY EXPLICIT CONDUCT.

(a) IN GENERAL.—Chapter 88 of title 18, United States Code, is amended by adding at the end the following:

“§ 1802. Certain activities relating to visual depictions of the private area of an individual or of an individual engaged in sexually explicit conduct

“(a) IN GENERAL.—Whoever knowingly presents or distributes through the mails, or using any means of facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including a computer, a visual depiction of a person who is identifiable from the image itself or information displayed in connection with the image and who is engaging in sexually explicit conduct, or of the naked genitals or post-pubescent female nipple of a person, with the knowledge that the person did not consent or with reckless disregard as to whether the person depicted consented to the distribution,
shall be fined under this title or imprisoned not more than
5 years, or both.

“(b) EXCEPTIONS.—

“(1) LAW ENFORCEMENT.—This section—

“(A) does not prohibit any lawful law enforce-
ment, correctional, or intelligence activity;

“(B) shall not apply in the case of an indi-
vidual reporting unlawful activity; and

“(C) shall not apply to a subpoena or court
order for use in a legal proceeding.

“(2) VOLUNTARY PUBLIC OR COMMERCIAL EX-
POSURE.—This section does not apply in the case of
an individual who voluntarily exposes the naked
 genitals or post-pubescent female nipple of that indi-
vidual or voluntarily engages in sexually explicit con-
duct in public or in a commercial setting.

“(3) CERTAIN CATEGORIES OF VISUAL DEPI-
TIONS EXCEPTED.—This section shall not apply in
the case of a visual depiction, the disclosure of which
is in the bona fide public interest.

“(4) TELECOMMUNICATIONS AND INTERNET
SERVICE PROVIDERS.—This section shall not apply
to any provider or user of an interactive computer
service as defined in section 230(f)(2) of the Com-
munications Act of 1934 (47 U.S.C. 230 (f)(2)) with
regard to content provided by another information content provider, as defined in section 230(f)(3) of the Communications Act of 1934 (47 U.S.C. 230(f)(3)) unless such provider or user itself purposely characterizes the content as being in violation of this section.”.