

any foreign law enforcement agency” and “or that has an established relationship with the Federal Bureau of Investigation, Immigration and Customs Enforcement, or INTERPOL, and is involved in the investigation of child sexual exploitation, kidnapping, or enticement crimes;” for “; and”.

Subsec. (g)(3)(D). Pub. L. 115-395, §2(8)(B)(vi), substituted “a provider” for “an electronic communication service provider or remote computing service provider” and “; and” for period at end.

Subsec. (g)(3)(E). Pub. L. 115-395, §2(8)(B)(vii), added subpar. (E).

Subsec. (g)(4). Pub. L. 115-395, §2(8)(C), added par. (4).

Subsec. (h)(1). Pub. L. 115-395, §2(9)(A), substituted “a completed submission by a provider of a report to the CyberTipline under subsection (a)(1) shall be treated as a request to preserve the contents provided in the report for 90 days after the submission to the CyberTipline” for “the notification to an electronic communication service provider or a remote computing service provider by the CyberTipline of receipt of a report under subsection (a)(1) shall be treated as a request to preserve, as if such request was made pursuant to section 2703(f)”.

Subsec. (h)(2). Pub. L. 115-395, §2(9)(D), in heading, substituted “content” for “images” and, in text, substituted “a provider” for “an electronic communication service provider or a remote computing service”, “visual depictions” for “images”, and “reasonably accessible and may provide context or additional information about the reported material or person” for “commingled or interspersed among the images of apparent child pornography within a particular communication or user-created folder or directory”. Final substitution, which directed striking out text containing “user created”, was executed instead to text which contained “user-created”, to reflect the probable intent of Congress.

Pub. L. 115-395, §2(9)(B), (C), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve the contents of the report provided pursuant to subsection (b) for 90 days after such notification by the CyberTipline.”

Subsec. (h)(3). Pub. L. 115-395, §2(9)(E), which directed substitution of “A provider” for “An electronic communication service or remote computing service”, was executed by making the substitution for “An electronic communications service or remote computing service”, to reflect the probable intent of Congress.

Pub. L. 115-395, §2(9)(C), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (h)(4), (5). Pub. L. 115-395, §2(9)(C), redesignated pars. (4) and (5) as (3) and (4), respectively.

### § 2258B. Limited liability for providers or domain name registrars

(a) IN GENERAL.—Except as provided in subsection (b), a civil claim or criminal charge against a provider or domain name registrar, including any director, officer, employee, or agent of such provider or domain name registrar arising from the performance of the reporting or preservation responsibilities of such provider or domain name registrar under this section, section 2258A, or section 2258C may not be brought in any Federal or State court.

(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the provider or domain name registrar, or a director, officer, employee, or agent of that provider or domain name registrar—

(1) engaged in intentional misconduct; or

(2) acted, or failed to act—

(A) with actual malice;

(B) with reckless disregard to a substantial risk of causing physical injury without legal justification; or

(C) for a purpose unrelated to the performance of any responsibility or function under this section,<sup>1</sup> sections 2258A, 2258C, 2702, or 2703.

(c) MINIMIZING ACCESS.—A provider and domain name registrar shall—

(1) minimize the number of employees that are provided access to any visual depiction provided under section 2258A or 2258C; and

(2) ensure that any such visual depiction is permanently destroyed, upon a request from a law enforcement agency to destroy the visual depiction.

(Added Pub. L. 110-401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4248; amended Pub. L. 115-395, §3, Dec. 21, 2018, 132 Stat. 5292.)

#### AMENDMENTS

2018—Pub. L. 115-395, §3(1), substituted “providers, or domain name registrars” for “electronic communication service providers, remote computing service providers, or domain name registrar” in section catchline.

Subsec. (a). Pub. L. 115-395, §3(2), substituted “a provider” for “an electronic communication service provider, a remote computing service provider,” and substituted “such provider” for “such electronic communication service provider, remote computing service provider,” in two places.

Subsec. (b). Pub. L. 115-395, §3(3), substituted “provider” for “electronic communication service provider, remote computing service provider,” in two places in introductory provisions.

Subsec. (c). Pub. L. 115-395, §3(4), substituted “A provider” for “An electronic communication service provider, a remote computing service provider,” in introductory provisions and “visual depiction” for “image” wherever appearing in pars. (1) and (2).

### § 2258C. Use to combat child pornography of technical elements relating to reports made to the CyberTipline

(a) ELEMENTS.—

(1) IN GENERAL.—NCMEC may provide elements relating to any CyberTipline report to a provider for the sole and exclusive purpose of permitting that provider to stop the online sexual exploitation of children.

(2) INCLUSIONS.—The elements authorized under paragraph (1) may include hash values or other unique identifiers associated with a specific visual depiction, including an Internet location and any other elements provided in a CyberTipline report that can be used to identify, prevent, curtail, or stop the transmission of child pornography and prevent the online sexual exploitation of children.

(3) EXCLUSION.—The elements authorized under paragraph (1) may not include the actual visual depictions of apparent child pornography.

(b) USE BY PROVIDERS.—Any provider that receives elements relating to any CyberTipline report from NCMEC under this section may use such information only for the purposes described in this section, provided that such use shall not relieve the provider from reporting under section 2258A.

(c) LIMITATIONS.—Nothing in subsections<sup>1</sup> (a) or (b) requires providers receiving elements re-

<sup>1</sup> So in original. The comma probably should be “or”.

<sup>1</sup> So in original. Probably should be “subsection”.

lating to any CyberTipline report from NCMEC to use the elements to stop the online sexual exploitation of children.

(d) **PROVISION OF ELEMENTS TO LAW ENFORCEMENT.**—NCMEC may make available to Federal, State, and local law enforcement, and to foreign law enforcement agencies described in section 2258A(c)(3), involved in the investigation of child sexual exploitation crimes elements, including hash values, relating to any apparent child pornography visual depiction reported to the CyberTipline.

(e) **USE BY LAW ENFORCEMENT.**—Any foreign, Federal, State, or local law enforcement agency that receives elements relating to any apparent child pornography visual depiction from NCMEC under subsection (d) may use such elements only in the performance of the official duties of that agency to investigate child sexual exploitation crimes, and prevent future sexual victimization of children.

(Added Pub. L. 110–401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4249; amended Pub. L. 115–395, §4, Dec. 21, 2018, 132 Stat. 5292.)

#### AMENDMENTS

2018—Pub. L. 115–395, §4(1), substituted “to reports made to” for “to images reported to” in section catchline.

Subsec. (a)(1). Pub. L. 115–395, §4(2)(A), substituted “NCMEC may provide elements relating to any CyberTipline report to a provider” for “The National Center for Missing and Exploited Children may provide elements relating to any apparent child pornography image of an identified child to an electronic communication service provider or a remote computing service provider” and “that provider to stop the online sexual exploitation of children” for “that electronic communication service provider or remote computing service provider to stop the further transmission of images”.

Subsec. (a)(2). Pub. L. 115–395, §4(2)(B), substituted “specific visual depiction, including an Internet location and any other elements provided in a CyberTipline report that can be used to identify, prevent, curtail, or stop the transmission of child pornography and prevent the online sexual exploitation of children” for “specific image, Internet location of images, and other technological elements that can be used to identify and stop the transmission of child pornography”.

Subsec. (a)(3). Pub. L. 115–395, §4(2)(C), substituted “actual visual depictions of apparent child pornography” for “actual images”.

Subsec. (b). Pub. L. 115–395, §4(3), in heading, substituted “Providers” for “Electronic Communication Service Providers and Remote Computing Service Providers” and, in text, substituted “provider that receives elements relating to any CyberTipline report from NCMEC” for “electronic communication service provider or remote computing service provider that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children” and “shall not relieve the provider from reporting” for “shall not relieve that electronic communication service provider or remote computing service provider from its reporting obligations”.

Subsec. (c). Pub. L. 115–395, §4(4), substituted “providers” for “electronic communication service providers or remote computing service providers”, “CyberTipline report from NCMEC” for “apparent child pornography image of an identified child from the National Center for Missing and Exploited Children”, and “online sexual exploitation of children” for “further transmission of the images”.

Subsec. (d). Pub. L. 115–395, §4(5), substituted “NCMEC may” for “The National Center for Missing

and Exploited Children shall”, inserted “, and to foreign law enforcement agencies described in section 2258A(c)(3),” after “local law enforcement”, and substituted “investigation of child sexual exploitation” for “investigation of child pornography” and “visual depiction reported to the CyberTipline” for “image of an identified child reported to the National Center for Missing and Exploited Children”.

Subsec. (e). Pub. L. 115–395, §4(6), inserted “foreign,” before “Federal” and substituted “visual depiction from NCMEC under subsection (d)” for “image of an identified child from the National Center for Missing and Exploited Children under section (d)” and “child sexual exploitation crimes, and prevent future sexual victimization of children” for “child pornography crimes”.

#### § 2258D. Limited liability for NCMEC

(a) **IN GENERAL.**—Pursuant to its clearinghouse role as a private, nonprofit organization and its mission to help find missing children, reduce online sexual exploitation of children and prevent future victimization, and except as provided in subsections (b) and (c), a civil claim or criminal charge against NCMEC, including any director, officer, employee, or agent of NCMEC, arising from the performance of the CyberTipline responsibilities or functions of NCMEC, as described in this section, section 2258A or 2258C of this title, or section 404 of the Missing Children’s Assistance Act (34 U.S.C. 11293), or from the efforts of NCMEC to identify child victims may not be brought in any Federal or State court.

(b) **INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.**—Subsection (a) shall not apply to a claim or charge if NCMEC, or a director, officer, employee, or agent of NCMEC—

- (1) engaged in intentional misconduct; or
- (2) acted, or failed to act—

(A) with actual malice;

(B) with reckless disregard to a substantial risk of causing injury without legal justification; or

(C) for a purpose unrelated to the performance of any responsibility or function under this section, section 2258A or 2258C of this title, or section 404 of the Missing Children’s Assistance Act (34 U.S.C. 11293).

(c) **ORDINARY BUSINESS ACTIVITIES.**—Subsection (a) shall not apply to an act or omission relating to an ordinary business activity, including general administration or operations, the use of motor vehicles, or personnel management.

(d) **MINIMIZING ACCESS.**—NCMEC shall—

(1) minimize the number of employees that are provided access to any visual depiction provided under section 2258A; and

(2) ensure that any such visual depiction is permanently destroyed upon notification from a law enforcement agency.

(Added Pub. L. 110–401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4250; amended Pub. L. 115–395, §5, Dec. 21, 2018, 132 Stat. 5294.)

#### AMENDMENTS

2018—Pub. L. 115–395, §5(1), substituted “NCMEC” for “the National Center for Missing and Exploited Children” in section catchline.

Subsec. (a). Pub. L. 115–395, §5(2), substituted “Pursuant to its clearinghouse role as a private, nonprofit or-