

(3) Document

The term “document” means any information in any form.

(4) Financial institution**(A) In general**

The term “financial institution” means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) Certain financial institutions specifically included

The term “financial institution” includes any depository institution (as defined in section 461(b)(1)(A) of title 12), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 1681a(p) of this title).

(C) Securities institutions

For purposes of subparagraph (B)—

(i) the terms “broker” and “dealer” have the same meanings as given in section 78c of this title;

(ii) the term “investment adviser” has the same meaning as given in section 80b-2(a)(11) of this title; and

(iii) the term “investment company” has the same meaning as given in section 80a-3 of this title.

(D) Certain persons and entities specifically excluded

The term “financial institution” does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act [7 U.S.C. 1 et seq.] and does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 [12 U.S.C. 2001 et seq.].

(E) Further definition by regulation

The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subchapter.

(Pub. L. 106-102, title V, §527, Nov. 12, 1999, 113 Stat. 1449.)

Editorial Notes

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in par. (4)(D), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

The Farm Credit Act of 1971, referred to in par. (4)(D), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, which is

classified generally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

CHAPTER 94A—VISUAL DEPICTION PRIVACY

Sec.

6851. Civil action relating to disclosure of intimate images.

§ 6851. Civil action relating to disclosure of intimate images**(a) Definitions**

In this section:

(1) Commercial pornographic content

The term “commercial pornographic content” means any material that is subject to the record keeping requirements under section 2257 of title 18.

(2) Consent

The term “consent” means an affirmative, conscious, and voluntary authorization made by the individual free from force, fraud, misrepresentation, or coercion.

(3) Depicted individual

The term “depicted individual” means an individual whose body appears in whole or in part in an intimate visual depiction and who is identifiable by virtue of the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature, or from information displayed in connection with the visual depiction.

(4) Disclose

The term “disclose” means to transfer, publish, distribute, or make accessible.

(5) Intimate visual depiction

The term “intimate visual depiction”—

(A) means a visual depiction, as that term is defined in section 2256(5) of title 18, that depicts—

(i) the uncovered genitals, pubic area, anus, or post-pubescent female nipple of an identifiable individual; or

(ii) the display or transfer of bodily sexual fluids—

(I) on to any part of the body of an identifiable individual;

(II) from the body of an identifiable individual; or

(III) an identifiable individual engaging in sexually explicit conduct and¹

(B) includes any visual depictions described in subparagraph (A) produced while the identifiable individual was in a public place only if the individual did not—

(i) voluntarily display the content depicted; or

(ii) consent to the sexual conduct depicted.

(6) Sexually explicit conduct

The term “sexually explicit conduct” has the meaning given the term in subparagraphs (A) and (B) of section 2256(2) of title 18.

¹ So in original.

(b) Civil action

(1) Right of action

(A) In general

Except as provided in paragraph (4), an individual whose intimate visual depiction is disclosed, in or affecting interstate or foreign commerce or using any means or facility of interstate or foreign commerce, without the consent of the individual, where such disclosure was made by a person who knows that, or recklessly disregards whether, the individual has not consented to such disclosure, may bring a civil action against that person in an appropriate district court of the United States for relief as set forth in paragraph (3).

(B) Rights on behalf of certain individuals

In the case of an individual who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the individual or representative of the identifiable individual's estate, another family member, or any other person appointed as suitable by the court, may assume the identifiable individual's¹ rights under this section, but in no event shall the defendant be named as such representative or guardian.

(2) Consent

For purposes of an action under paragraph (1)—

(A) the fact that the individual consented to the creation of the depiction shall not establish that the person consented to its distribution; and

(B) the fact that the individual disclosed the intimate visual depiction to someone else shall not establish that the person consented to the further disclosure of the intimate visual depiction by the person alleged to have violated paragraph (1).

(3) Relief

(A) In general

In a civil action filed under this section—

(i) an individual may recover the actual damages sustained by the individual or liquidated damages in the amount of \$150,000, and the cost of the action, including reasonable attorney's fees and other litigation costs reasonably incurred; and

(ii) the court may, in addition to any other relief available at law, order equitable relief, including a temporary restraining order, a preliminary injunction, or a permanent injunction ordering the defendant to cease display or disclosure of the visual depiction.

(B) Preservation of anonymity

In ordering relief under subparagraph (A), the court may grant injunctive relief maintaining the confidentiality of a plaintiff using a pseudonym.

(4) Exceptions

An identifiable individual may not bring an action for relief under this section relating to—

(A) an intimate image that is commercial pornographic content, unless that content

- was produced by force, fraud, misrepresentation, or coercion of the depicted individual;
- (B) a disclosure made in good faith—
 - (i) to a law enforcement officer or agency;
 - (ii) as part of a legal proceeding;
 - (iii) as part of medical education, diagnosis, or treatment; or
 - (iv) in the reporting or investigation of—
 - (I) unlawful content; or
 - (II) unsolicited or unwelcome conduct;
- (C) a matter of public concern or public interest; or
- (D) a disclosure reasonably intended to assist the identifiable individual.

(Pub. L. 117–103, div. W, title XIII, § 1309, Mar. 15, 2022, 136 Stat. 929.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117–103, div. W, § 4, Mar. 15, 2022, 136 Stat. 846, provided that:

“(a) **IN GENERAL.**—Except as provided in subsection (b), this Act [div. W of Pub. L. 117–103, see Tables for classification] and the amendments made by this Act shall not take effect until October 1 of the first fiscal year beginning after the date of enactment of this Act [Mar. 15, 2022].

“(b) **EFFECTIVE ON DATE OF ENACTMENT.**—Sections 106, 107, 304, 606, 803, and 1306 [amending section 2265 of Title 18, Crimes and Criminal Procedure, section 1302a of Title 25, Indians, and section 21308 of Title 34, Crime Control and Law Enforcement] and any amendments made by such sections shall take effect on the date of enactment of this Act.”

SEVERABILITY

Pub. L. 117–103, div. W, § 6, Mar. 15, 2022, 136 Stat. 846, provided that: “If any provision of this Act [div. W of Pub. L. 117–103, see Tables for classification], an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of the provisions or amendment to any other person or circumstance, shall not be affected.”

DEFINITIONS

For definitions of terms used in this section, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34.

CHAPTER 95—MICROENTERPRISE TECHNICAL ASSISTANCE AND CAPACITY BUILDING PROGRAM

Sec.	
6901.	Definitions.
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§ 6901. Definitions

For purposes of this chapter, the following definitions shall apply:

(1) Administration

The term “Administration” means the Small Business Administration.