The Take It Down Act.

This week the **Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks Act**, known as the Take It Down Act, was passed and signed into law. The legislation amends Section 223 of the Communications Act of 1934 (47 U.S.C. §223). The Act establishes a general prohibition against the nonconsensual publication of intimate visual depictions of individuals through online platforms, encompassing both authentic and computer-generated imagery. The Act requires certain online platforms to promptly remove such content upon receiving notice. Violators are subject to mandatory restitution and criminal penalties, including prison, fines, or both. Threats to publish such intimate depictions are also prohibited by the Act and carry similar criminal consequences.

Within one year of enactment, all covered platforms, defined as “public websites, online services, and mobile or online applications that primarily provide a forum for user-generated content or publish or make available content of nonconsensual intimate visual depictions in the regular course of trade or business,” must publish and implement a process for posting and receiving notice of removal and a process to effectuate the removal of nonconsensual intimate visual depictions. The Act requires that the removal notice a victim would use to request removal be clear and readily visible on the platform or be found on a clear and conspicuous link to another web page. The Act requires that individuals depicted in intimate visual material will be able to notify the platform of the nonconsensual content of the individual and request removal of the intimate visual depiction simply and directly. The written notification and request for removal must include the individual’s contact information, information to assist the platform in locating the intimate visual depiction, a brief statement that the individual has a good faith belief that the intimate visual depiction is not consensual, and the signature of the identifiable individual or an authorized person acting on behalf of the individual. Upon receiving notice, the platform must remove the identified material within 48 hours. The platform may be reported to the Federal Trade Commission if it does not reasonably comply with the notice and takedown obligations imposed by the Act. Violations shall be treated as an unfair or a deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act, which may result in monetary penalties against the platform.

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