2015 SENATE JUDICIARY

SCR 4017

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SCR 4017
2/3/2015
23044 & 23056
☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature DRenose

Minutes: 1,2

Recording job: 23044

Ch. Hogue: We will open the hearing on SCR 4017.

Wayne Stenehjem, Attorney General: Support. As we mentioned last week during the extensive hearings on human trafficking, one of the prime concerns has to do with the methods by which individuals who are engaged in human trafficking advertise their services. The most notorious and uncooperative of them all is a business known as "backpage.com". When we run a sting operation, typically we will do the advertising on backpage.com because we know that provides a ready clientele and market for individuals interested in finding somebody online to engage in sexual trade. As Attorneys General, all of us in the United States, have tried to work with backpage.com to get them to cooperate and at a minimum attempt to do something to verify the identity and age of the persons that they are advertising escort services for. They have proven to be uncooperative. Last fall, 53 Attorneys General in the US sent a letter to the US Senate encouraging them to pass the Stop Advertising Victims of Exploitation Act, which will require that people who are placing these advertisements need to take actions to verify the age and circumstances of those who are engaged in making and placing these advertisements. This resolution encourages the U.S. Senate to pass that particular act. I am going to pass around an example of this kind of advertising that we see here in North Dakota for people who are looking for people to participate in sexual acts. It is graphic and irresponsible. You can't advertise to sell cigarettes to anybody without attempting to make some kind of effort to determine that the person, for whom you are selling them, is not a minor. I think, that it is equally responsible, that the people who are advertising these specifically to backpage.com take some kind of effort to make sure that the people they are advertising as a product, are of age. One of our agents conducted a sting operation, looked at the backpage.com ads

for Minot and Williston. There were more ads on backpage.com for escort services, that's the euphemism they used, in Minot and Williston than there were, at that time, in the Twin Cities of Minneapolis, MN. It is big business; these people like to pretend that they want to cooperate but they don't. They make millions and millions of dollars on these advertisements and this is their business model. I have included a letter to the U.S. Senate (see attached 1) and a copy of the Federal Save Act (see attached 2). I encourage passage of this Resolution and hopefully this will give the Attorneys General, in cooperation with the U.S. Dept of Justice an additional tool to work on this problem.

Sen. Casper: Are these web sites foreign based.

Wayne Stenehjem: Backpage.com is not foreign based. It is an American company.

Ch. Hogue: What is the arrangement between the two parties, how do they make their money, they charge the escort that's wanting to get a listing on their service, or advertising.

Wayne Stenehjem: I don't know how it is that they make their money. I know it is millions of dollars and I assume through backpage.com they have some kind of pricing mechanism, I don't know what that is.

Sen. Armstrong: Didn't Craig's list quit this voluntarily. Was it through civil litigation?

Wayne Stenehjem: They did. The Attorneys General have an internet sex trafficking committee that works on this very issue and we did sit down with Craig's List and to their credit, were willing to work with us and they shut down their escort service following pressure from the Attorneys General. I am hopeful that we can bring that same kind of pressure to bear when 53 Attorneys General work together. When you see this letter signed by all the AG's and they are all agreeing on this issue that is something that is significant.

Sen. Armstrong: I think the difference between Craig's List and backpage.com, is that backpage.com is only doing the escort services.

Sen. Nelson: You said you sometimes advertise your stings on backpage.com. Do you have to pay then?

Wayne Stenehjem: I am going to have to get you some information about how they make their money. I don't think we paid to put it on the website.

Sen. Grabinger: In light of that, if you are successful in stopping this, is this going to hamper our efforts to catch these people.

Wayne Stenehjem: We hope that it will hamper the advertisement and reduce the supply and demand.

Sen. Grabinger: You said that you use that site as a technique to catch the people.

Wayne Stenehjem: There are other ways through advertisements and, of course, in person. It's not uncommon to go to the bars and areas around ND and find people who are plying this trade and we'll continue to do that and continue to find those who are advertising, notwithstanding the prohibition that the Save Act would provide. There will be those who will attempt to get around it one way or the other. We will find a way to continue our sting operations.

Sen. Luick: If there is advertising on that site, would pay for the site itself. Is that possible.

Wayne Stenehjem: I will find out how it is used. I am told that they are making millions of dollars a day.

Ch. Hogue: Thank you. Further testimony in support.

Christina Sambor, Coordinator of FUSE: I wanted to speak to your question. My understanding is that backpage.com does charge fees to the advertisements when they are posted. That's where the revenue is attached to those. One of the things that I think has assisted law enforcement when they are investigating at times is seeing the same credit card information on multiple ads, which shows you that there is coordination and someone paying for the ads. It shows the presence of that controlled pimping activity. That is one of the things that shows up and they are able to link some of those ads with the credit card information. There is a fee associated with posting the ads; backpage.com takes profit from those fees. There was some news this weekend on WDAY about sentencing that is going for a pair of folks that were charged with trafficking a 13 year old in Moorhead and they had advertised that 13 year old as a 21 year old on backpage. When law enforcement answered that ad, it was the 13 year old that they recovered at the hotel. This kind of activity is taking place in North Dakota, where false ages are being

attached to minors and that is a really significant age difference, from 13 to 21. It is pretty bold of the pimps. I've been told at trainings that there are code words that they often use in these ads to indicate what they are trying to sell. For example, they won't put "young" in an ad because that would flag law enforcement, but they'll advertise someone as "fresh" meaning that the person in the ad is a minor. There are lots of different ways that this website it utilized to communicate in subtle ways to people who are in the know about what they are looking for.

Ch. Hogue: Did the story report where the 13 year old was from.

Christina Sambor: The Twin Cities area, north Minneapolis.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing. Job #23044 ends.

Action taken in the afternoon session, Job #23056, SB 2284, 2/3/2015.

Ch. Hogue: What are the committee's wishes?

Sen. Grabinger: I move a Do Pass.

Sen. Nelson: Second the motion.

Ch. Hogue: The clerk will take the roll.

6 YES 0 NO 0 ABSENT DO PASS CARRIER: Sen. Nelson

Date: 2/3/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 4017

Senate **JUDICIARY** Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Grabinger Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No Ø

Absent Ø

Floor Assignment Sen. Nelson

REPORT OF STANDING COMMITTEE

SCR 4017: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4017 was placed on the Eleventh order on the calendar.

2015 HOUSE JUDICIARY

SCR 4017

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SCR 4017
3/24/2015
25349

☐ Subcommittee
☐ Conference Committee

Amanda Muscha

Explanation or reason for introduction of bill/resolution:

Urging the US Senate Committee on the Judiciary to support S.2536, SAVE Act, to provide for more stringent inquiry into the age and circumstances of those whose availability is being advertised on websites that facilitate human trafficking.

Minutes: Handout #1

Vice Chairman Karls: Opened the committee hearing on SCR 4017

Attorney General Wayne Stenehjem: This is an additional piece of the human trafficking puzzle. Maybe not the most significant because it is a resolution urging Congress to pass the Save Act: the stop advertising victims of exploitation act. That is a bill that has passed the US House of Representatives. It was referred to the Senate Judiciary Committee. I have visited with our US senators about this and I believe they are in favor of the measure. This will urge congress to pass this act, which will amend the federal criminal code to prohibit anyone knowingly advertising commercial sex acts involving a minor or an individual who is engaged in such act in a force, fraud, or cohesion; or benefitting financially or otherwise from such advertising knowing the individual involved was a minor or a victim of force, fraud, or cohesion. It is an important piece of the puzzle. It is a federal one but it is useful. I mentioned, in response to a question from the chair yesterday, that the attorney's general across the country and there are 53 that signed a letter to the US Congress urging enactment of this bill (testimony 1). It notes that everyday children in the US are sold for sex, the use of adult services sections on websites such as backpage.com has created virtual brothels where children are bought and sold using euphemistic labels such as 'escorts'. The involvement of these advertising companies is not accidental. These companies have constructed their business models around income gain from those participating in commercial sex. In just one week, this June, law enforcement arrested 281 alleged sex traffickers that took 168 children out of prostitution. Nationwide FBI cracked down where many child victims were offered for sale on these escort or other adult services websites, organized crime groups as well. Many of these perpetrators use the internet to sell their victims and so, the attorney's general asked the US Senate Judiciary Committee to pass the save act so these websites will have to take steps to verify the identity of the individuals posting ads and the age of those who appear in those advertisements. The back page is one that has been frequently mentioned and when our agents do stings (posing as

children or as individuals willing to offer services in the sexual trade). It is back page where those advertisements are placed by us. Whenever that happens we get a huge number of people who respond to those ads who think there are children involved. In addition to that, our agents have gone to backpage.com and look at other ads and there are dozens and dozens of those ads around ND. I have attained through BCI a series of some of the ads that you can see advertising the sexual trade in ND and if you are sensitive about these kinds of things I recommend you do not look; but I think it is important that I pass this around and then collect it so that you can see the advertisements that are on backpage.com in ND. This is an important piece of legislation on the federal level and I hope that you will take favorable action toward it as the senate did.

Rep. L. Klemin: This resolution says that it is estimated that human trafficking generates almost 150 billion each year in the illegal profits. I don't know where that came from?

Attorney General Stenehjem: We don't. We know that the sex trade is very active in ND and that whatever we place in ad on backpage or elsewhere many people respond to it which tells me that those people have reason to believe that there are services that are available. They aren't all cops. There are actual people advertising these services. It is so hard to get a handle on this because it is a new focus for us. Nationally we know that those statistics that were referenced are from the FBI.

Rep. L. Klemin: When money is confiscated from when somebody has committed a crime- most likely in the drug cases. Money can be used for law enforcement purposes. Can we do the same thing with money that is in the hands of human traffickers when they are arrested?

Attorney General Stenehjem: You are referring to the RICO-recitation influence corrupt organization act. It does allow law enforcement through court order profits or other assets that are being used by criminal enterprises. We do that all the time with some good success. It allows us to have funds available for other law enforcement activities. As we work our way up the ladder and find human traffickers that have money on them related to that activity, we will attempt to cease it.

Rep. L. Klemin: We have some other bills providing for grants from the attorney general's office- 2107- which will probable amended into 2199. Those moneys that are ceased could be used for grants from your office to those service providers that provide services to victims?

Attorney General Stenehjem: Yes- the law already provides that if we do a RICO action and cease assets that our office gets a share of it. It depends on who is involved in the actual operation- there is a percentage that is worked out. The amount of money we collect doesn't approach a million dollars; it is relatively a small amount of money. Finding that amount of money would be pretty difficult.

Rep. L. Klemin: I am thinking this could be another source of funds no matter how much it is. It is still something.

Attorney General Stenehjem: I hope you won't use that as a potential not reason not to appropriate the money. I know we have to go through the appropriations and we will make our case there. If we do collect the sum of money as I mentioned I want to emphasize it will never be that much. It comes in over the course of many months too.

Rep. L. Klemin: But what you do get could be used as part of those grants.

Attorney General Stenehjem: I could get you figures of what it is that are our asset forfeiture fund has and then how much we have been able to accumulate over the last biennium. It's not near a million or half a million.

Rep. Brabandt: What all does RICO do and when was it enacted?

Attorney General Stenehjem: The RICO law was enacted in the 1970s and it permits law enforcement to cease assets from organized criminal activity, racketeer influence, corrupt organizations. It has to be a conspiracy that involves more than just one person and then you can cease assets that were collected and distribute those to law enforcement for law enforcement activity.

Rep. Brabandt: Did it also authorize wire taps?

Attorney General Stenehjem: RICO law doesn't have anything to do with wire taps. There are separate statutes that talk about when wire taps are permitted.

Rep. Lois Delmore: Is BCI using these sites?

Attorney General Stenehjem: When we do a sting operation we typically place the ad on backpage.com and they cost about $5 per ad. We did one in Dickinson and within the last year we had a team at a hotel where people were expected to show up and we detained 13 people and had to shut down the operation early because the holding room nearby where we were putting all the people got too full. Whenever you see that there is an advertised supply one can also supply there is a demand and that is exactly what we are seeing.

Rep. Lois Delmore: If the federal legislation is passed, will that limit some of those things that you are trying to do to try work your way up on some of the networks?

Attorney General Stenehjem: It will and I think it is not unreasonable to expect backpage who by some estimates are making 45-50 million dollars and of course oppose this kind of legislation; they have a responsibility to do more than nothing to ascertain the aids of the people that they are offering for sale on their sights. We worked with craigslist and they shut down their escort service and so that is not as much of a source as backpage is. Backpage is by far the most common place people go.

Senator Hogue: I don't have anything to add to what the Attorney General said. One of the things I recall on our testimony is the bill has unanimous support of all 50 attorney generals I thought which is quite rare. The senate hardly passed this measure and I urge its adoption.

Christina Sambor: I am the coordinator of the statewide anti-trafficking collation FUSE. I am in support of this bill.

Chairman K. Koppelman: Do we feel this is an effective way to have congress take part in this?

Christina Sambor: I understand it adds advertising to the list of prohibited activities. For people who are advertising human trafficking it adds them to the list of people that can be punished for these activities I think that is appropriate. I don't think there is any legitimate interstate commerce to be had in advertising the sale of sex of minors.

Chairman K. Koppelman: Is this targeting the specific one sight or are there others doing other things but also taking part in this kind of activity?

Christina Sambor: I think it is aimed at back page and I think it is worded so it could apply to others engaging in this activity.

Christopher Dodson, Catholic Collation: Some things should not be a commercial activity. Exploiting human beings for commercial purposes is wrong and should be prohibited. We encouraged the passage of this act.

Rep. Kretschmar: Under the wording shouldn't we be urging the senate to pass it?

Attorney General Stenehjem: That is fine, but the bill is now and there are hearing comings up shortly before the senate judiciary committee. The reason we addressed it to them and the resolution because that's where it is.

Chairman K. Koppelman: Are you aware of other sites that do this kind of thing?

Attorney General Stenehjem: Yes and it would apply to all.

Chairman K. Koppelman: Is there a hold up in Congress?

Attorney General Stenehjem: They argue and people bring in their first amendment right arguments. They also argue where this is some place where people know where it is not being driven underground or not being forced back out into the street and all those arguments that don't hold much. We can't leave it unturned just because we may find another. We need to take every step we can.

Chairman K. Koppelman: Is it not illegal to advertise any illegal activity?

Attorney General Stenehjem: The communications decency act has been interpreted to apply only to violations of federal law and copy right law and intellectual property. Courts have said that states don't have any authority to do anything. By adding this it would then authorize states to work on this because it wouldn't affect only federal criminal violations where only the federal authorities can pursue these actions and they are busy too. It would be helpful for us to all work together.

Rep. Lois Delmore: This is a stand-alone bill?

Attorney General Stenehjem: Yes it is.

Opposition: None

Neutral: None

Hearing closed.

Do Pass Motion Made by Representative Delmore.

Seconded by Representative Anderson.

Rep. Koppelman: I don't know if you know but for the past 30 plus years I have been involved in the advertising business. I am a big defender of freedom of speech and those kinds of things but I don't condone this kind of activity. That's why you see my name on the bill and allow our attorney generals to work together on this.

Roll Call Vote Was Taken: Yes 13, No 0, Absent 0

Motion carries

Representative Delmore will carry the bill

Date: 3-24-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4017

House **JUDICIARY** Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Delmore Seconded By Rep Anderson

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Delmore

If the vote is on an amendment, briefly indicate intent:

Consent
Calendar

REPORT OF STANDING COMMITTEE

SCR 4017: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4017 was placed on the Tenth order on the calendar.

2015 TESTIMONY

SCR 4017

#1-1
SCR 4017
2-3-15

National Association of Attorneys General

PRESIDENT
Jim Hood
Mississippi Attorney General

PRESIDENT-ELECT
Marty Jackley
South Dokota Attorney General

VICE PRESIDENT
George Jepsen
Connecticut Attorney General

IMMEDIATE PAST PRESIDENT
J.B. Van Hollen
Wisconsin Attorney General

EXECUTIVE DIRECTOR
James McPherson

2030 M Street, NW
Eighth Floor
Washington, DC 20036
Phone: (202) 326-6000
http://www.naag.org/

October 20, 2014

The Honorable Patrick Leahy, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley, Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

We, the undersigned state and territorial attorneys general, urge you to join us in the fight against human trafficking in the United States. We commend your recent action to pass legislation to increase federal penalties and victim restitution and encourage you to act to protect children from being trafficked on the Internet by passing S. 2536, the Stop Advertising Victims of Exploitation Act (SAVE Act).

Human trafficking is tied as the second largest and is the fastest growing criminal industry in the world, generating roughly $150 billion each year. According to a study of Department of Justice human trafficking task force cases, 83 percent of sex trafficking victims identified in the United States were U.S. citizens. Shockingly, there are numerous cases nationally of children being used in prostitution as young as 12.

Every day, children in the United States are sold for sex. The use of the "adult services sections" on websites such as Backpage.com has created virtual brothels where children are bought and sold using euphemistic labels such as "escorts." The involvement of these advertising companies is not accidental—these companies have constructed their business models around income gained from those participating in commercial sex. In just one week this June, law enforcement arrested 281 alleged sex traffickers and took 168 children out of prostitution in a nationwide FBI crackdown where many child victims were offered for sale on "escort" and other "adult services" websites.[1] Organized crime groups as well as street gangs are involved with human trafficking, and many of these perpetrators use the Internet to sell their victims.

The undersigned attorneys general respectfully request that the Senate Judiciary Committee pass the SAVE Act so that these websites that are facilitating trafficking through their very business model will have to take

[1] http://www.fbi.gov/news/pressrel/press-releases/168-juveniles-recovered-in-nationwide-operation-targeting-commercial-child-sex-trafficking

steps to verify the identity of individuals posting advertisements and the age of those who appear in these advertisements.

We thank you in advance for your continued dedication to the eradication of human trafficking.

Greg Zoeller
Indiana Attorney General

Robert W. Ferguson
Washington Attorney General

Luther Strange
Alabama Attorney General

Michael Geraghty
Alaska Attorney General

Tom Horne
Arizona Attorney General

Dustin McDaniel
Arkansas Attorney General

Kamala Harris
California Attorney General

John W. Suthers
Colorado Attorney General

George Jepsen
Connecticut Attorney General

Joseph R. "Beau" Biden III
Delaware Attorney General

Irvin Nathan
District of Columbia Attorney General

Pamela Jo Bondi
Florida Attorney General

SCR 4017
2/3/15

Samuel S. Olens
Georgia Attorney General

Lenny Rapadas
Guam Attorney General

David Louie
Hawaii Attorney General

Lawrence Wasden
Idaho Attorney General

Lisa Madigan
Illinois Attorney General

Tom Miller
Iowa Attorney General

Derek Schmidt
Kansas Attorney General

Jack Conway
Kentucky Attorney General

James "Buddy" Caldwell
Louisiana Attorney General

Janet Mills
Maine Attorney General

Douglas F. Gansler
Maryland Attorney General

Martha Coakley
Massachusetts Attorney General

Bill Schuette
Michigan Attorney General

Lori Swanson
Minnesota Attorney General

SCR 4017
2/3/15

Jim Hood
Mississippi Attorney General

Chris Koster
Missouri Attorney General

Tim Fox
Montana Attorney General

Jon Bruning
Nebraska Attorney General

Catherine Cortez Masto
Nevada Attorney General

Joseph Foster
New Hampshire Attorney General

John Hoffman
New Jersey Attorney General

Gary King
New Mexico Attorney General

Eric T. Schneiderman
New York Attorney General

Roy Cooper
North Carolina Attorney General

Wayne Stenehjem
North Dakota Attorney General

Joey Patrick San Nicolas
Northern Mariana Islands Attorney General

Michael DeWine
Ohio Attorney General

Scott Pruitt
Oklahoma Attorney General

SCR 4017
2/3/15

Ellen F. Rosenblum
Oregon Attorney General

Kathleen Kane
Pennsylvania Attorney General

César R. Miranda Rodriguez
Puerto Rico Attorney General

Peter Kilmartin
Rhode Island Attorney General

Alan Wilson
South Carolina Attorney General

Marty J. Jackley
South Dakota Attorney General

Herbert H. Slatery, III
Tennessee Attorney General

Greg Abbott
Texas Attorney General

Sean Reyes
Utah Attorney General

William H. Sorrell
Vermont Attorney General

Mark R. Herring
Virginia Attorney General

Patrick Morrisey
West Virginia Attorney General

Peter K. Michael
Wyoming Attorney General

SB 4017
2/3/15

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

2-1

113TH CONGRESS
2D SESSION

S. 2536

To amend title 18, United States Code, to provide for enhanced criminal and civil remedies in the protection of children and other victims of commercial sexual exploitation and related crimes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2014

Mr. KIRK (for himself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To amend title 18, United States Code, to provide for enhanced criminal and civil remedies in the protection of children and other victims of commercial sexual exploitation and related crimes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Advertising Victims of Exploitation Act of 2014" or the "SAVE Act".

SEC. 2. FINDINGS AND CONSTRUCTION OF PROVISIONS.

Congress finds that—

SCR 4017
2/3/15

2-2

(1) sex trafficking is modern day slavery and violates the Thirteenth Amendment to the Constitution of the United States;

(2) this Act and the amendments made by this Act are enacted as an exercise of the authority of Congress to enforce the Thirteenth Amendment to the Constitution of the United States by appropriate legislation;

(3) this Act and the amendments made by this Act are also enacted as an exercise of the authority of Congress under the commerce clause of section 8 of article I of the Constitution of the United States to regulate, by appropriate legislation, the instrumentalities of interstate and foreign commerce, as well as that which directly and materially affects interstate and foreign commerce; and

(4) this Act and the amendments made by this Act should be liberally construed to effectuate its remedial purposes to the full extent permitted by the First Amendment to the Constitution of the United States, including the commercial speech doctrine.

SCR 4017
2/3/15

2-3

SEC. 3. PROTECTION OF CHILDREN AND OTHER VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION.

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by inserting after section 1591 the following:

"§ 1591A. Commercial sexual exploitation

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADULT ADVERTISEMENT.—The term 'adult advertisement' means any advertisement that—

"(A) is subject to the recordkeeping requirements under section 2257; or

"(B) is designed, in whole or in part, to induce a lawful or unlawful commercial exchange for—

"(i) a sexual act or sexual contact, as those terms are defined in section 2246;

"(ii) sexually explicit conduct, as defined in section 2256;

"(iii) a commercial sex act, as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102); or

"(iv) the goods or services of an adult escort or erotic performer involving any

SCR 4017
2/3/15

1 commercial exchange described in clause
2 (i), (ii), or (iii).
3 "(2) ADVERTISEMENT.—The term 'advertise-
4 ment' includes any written or verbal statement, illus-
5 tration, or depiction in any medium which is de-
6 signed, in whole or in part, to induce a lawful or un-
7 lawful commercial exchange of a good or service for
8 money, property, or another item of value, including
9 another good or service.
10 "(3) COMMERCIALLY PROMOTE.—The term
11 'commercially promote' means to aid, abet, counsel,
12 command, induce, procure, or cause the creation,
13 placement, distribution, publication, or maintenance
14 of any advertisement, or any series of advertise-
15 ments, in exchange for any financial gain, property,
16 or other item of value, obtained from any informa-
17 tion content provider of any such advertisement or
18 any series of advertisements.
19 "(4) COMMON CARRIER; TELECOMMUNICATIONS
20 CARRIER.—The terms 'common carrier' and 'tele-
21 communications carrier' have the meanings given
22 those terms in section 3 of the Communications Act
23 of 1934 (47 U.S.C. 153).
24 "(5) INFORMATION CONTENT PROVIDER.—The
25 term 'information content provider' has the meaning

given the term in section 230 of the Communications Act (47 U.S.C. 230).

"(6) INTERACTIVE ADVERTISING NETWORK SERVICE PROVIDER.—The term 'interactive advertising network service provider' means an independent, third party broker of online, wireless, or interactive television advertising, including banners, sponsorships, email, keyword searches, slotting fees, and interactive television commercials, and not including classified advertising or a website referral link.

"(7) INTERNET ACCESS SERVICE; INTERNET INFORMATION LOCATION TOOL.—The terms 'Internet access service' and 'Internet information location tool' have the meanings given those terms in section 231 of the Communications Act of 1934 (47 U.S.C. 231).

"(8) PERSON.—The term 'person' includes any individual or entity that is capable of holding legal or beneficial interest in property.

"(9) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any political

SCR 4017
2/3/15

1 subdivision, department, agency, or instrumentality
2 of any such entity.
3 "(b) OFFENSE.—
4 "(1) IN GENERAL.—It shall be unlawful for a
5 person to use any means or facility of interstate or
6 foreign commerce to—
7 "(A) knowingly sell, commercially promote,
8 place, or maintain an adult advertisement, or
9 any series of adult advertisements in a medium
10 whose predominant purpose or use is to facili-
11 tate commercial transactions; and
12 "(B) act with reckless disregard of the fact
13 that the adult advertisement, or the series of
14 adult advertisements, facilitates or is designed
15 to facilitate—
16 "(i) an offense under paragraph (1)
17 or (2) of section 1591(a) in which the per-
18 son recruited, enticed, harbored, trans-
19 ported, provided, obtained, or maintained
20 has not attained the age of 18 years at the
21 time of such offense; or
22 "(ii) an offense in violation of any
23 provision of State law prohibiting felony
24 offenses relating to child pimping, child

SCR 4017
2/3/15

1 prostitution, child sexual abuse, assault on
2 children, or the sex trafficking of children.
3 "(2) CRIMINAL PENALTY.—Any person who vio-
4 lates paragraph (1) shall be fined under this title,
5 imprisoned not more than 10 years, or both, for
6 each such violation.
7 "(3) LIMITATIONS ON LIABILITY.—
8 "(A) GENERIC SEARCH OR UTILITY SERV-
9 ICES.—An Internet access service provider,
10 Internet browser or mobile browser provider,
11 external search engine provider, external Inter-
12 net information location tool provider (including
13 a domain name registry or other domain name
14 or root zone service provider), interactive adver-
15 tising network service provider, common carrier,
16 telecommunications carrier, or other such ge-
17 neric search or utility provider shall not incur
18 any criminal or civil liability under this sub-
19 section or be subject to the recordkeeping re-
20 quirements under subsection (c) solely based on
21 providing such generic search or utility services.
22 "(B) VICTIMS YOUNGER THAN 18 YEARS
23 OF AGE.—For the purposes of paragraph (1),
24 any defendant in full compliance with sub-
25 section (c) may not be found reckless as to the

1 fact of the age element of a minor victim of a
2 predicate offense specified in paragraph (1).
3 "(4) ESTOPPEL.—A final judgment or decree
4 rendered in favor of the United States in any crimi-
5 nal proceeding brought by the United States under
6 this section shall estop the defendant from denying
7 the essential allegations of the criminal offense in
8 any subsequent civil proceeding, but a prior criminal
9 proceeding is not a prerequisite to the commence-
10 ment of any civil action under this chapter or any
11 other provision of law.
12 "(c) RECORDKEEPING FOR ADULT ADVERTISE-
13 MENTS.—
14 "(1) ADULT ADVERTISING VERIFICATION RE-
15 QUIREMENTS.—Subject to subsection (b)(3)(A), any
16 person who uses any means or facility of interstate
17 or foreign commerce to sell, commercially promote,
18 place, or maintain an adult advertisement, or a se-
19 ries of adult advertisements, shall—
20 "(A) before selling, commercially pro-
21 moting, or placing the adult advertisement, or
22 series of adult advertisements—
23 "(i) verify the identity of each person
24 purchasing advertisement space to post

1 such adult advertisement, or series of adult
2 advertisements, by—
3 "(I) obtaining confirmation of
4 the identity of the person;
5 "(II) obtaining a copy of a gov-
6 ernment-issued document containing a
7 photograph, the name, and the date of
8 birth of the person; and
9 "(III) obtaining such other indi-
10 cia of the identity of the person as
11 may be required by regulation; and
12 "(ii) create and maintain for not less
13 than 7 years individually identifiable
14 records pertaining to each person described
15 in clause (i) that include the information
16 described in clause (i) and such other iden-
17 tifying information as may be required by
18 regulation;
19 "(B) before selling, commercially pro-
20 moting, or placing the adult advertisement, or
21 series of adult advertisements—
22 "(i) verify the identity of each person
23 depicted within such adult advertisement,
24 or series of adult advertisements, by taking

1 the actions described in subclauses (I)
2 through (III) of subparagraph (A)(i); and
3 "(ii) create and maintain for not less
4 than 7 years individually identifiable
5 records pertaining to each person described
6 in clause (i) that include the information
7 described in subparagraph (A)(i) and such
8 other identifying information as may be re-
9 quired by regulation; and
10 "(C) before selling, commercially pro-
11 moting, or placing the adult advertisement, or
12 series of adult advertisements—
13 "(i) verify that each person whose
14 goods or services are advertised by such
15 adult advertisement, or series of adult ad-
16 vertisements, is not less than 18 years of
17 age by obtaining such indicia of the iden-
18 tity of the person as may be required by
19 regulation; and
20 "(ii) create and maintain for not less
21 than 7 years individually identifiable
22 records pertaining to information described
23 in clause (i) that include such identifying
24 information as may be required by regula-
25 tion.

SCR 4017
2/3/15

1 "(2) RECORDKEEPING.—Any person to whom
2 paragraph (1) applies shall—
3 "(A) maintain the records required under
4 paragraph (1) at the business premises of the
5 person, or at such other place as the Attorney
6 General may by regulation prescribe; and
7 "(B) make the records available to the At-
8 torney General, any designee of the Attorney
9 General, the attorney general of a State, and
10 any designee of the attorney general of a State
11 for inspection at all reasonable times.
12 "(3) USE OF INFORMATION.—
13 "(A) IN GENERAL.—No information or evi-
14 dence obtained from a record required to be
15 created or maintained by an individual under
16 this subsection shall be used, directly or indi-
17 rectly, as evidence against that individual in a
18 criminal proceeding where such use would vio-
19 late that individual's constitutional privilege
20 against compulsory self-incrimination.
21 "(B) EXCEPTION.—Information or evi-
22 dence obtained from a record required to be
23 created or maintained by an individual under
24 this subsection may be used against the indi-
25 vidual in a prosecution or other action for a vio-

SCR 4017
2/3/15

1 lation of this subsection or for a violation of
2 any applicable provision of law relating to the
3 furnishing of false information.
4 "(4) NOTICE REQUIREMENT.—
5 "(A) IN GENERAL.—Any person to whom
6 paragraph (1) applies shall cause to be affixed
7 to each adult advertisement sold, commercially
8 promoted, placed, or maintained by the person,
9 in such manner and in such form as the Attor-
10 ney General shall by regulation establish, a
11 statement describing where the records required
12 by this subsection may be located with respect
13 to each person depicted or advertised within
14 such adult advertisement or series of adult ad-
15 vertisements.
16 "(B) ORGANIZATIONS.—If the person to
17 whom paragraph (1) applies is an organization,
18 the statement required by this paragraph shall
19 include the name, title, and business address of
20 the individual employed by the organization re-
21 sponsible for maintaining the records required
22 by this subsection.
23 "(5) REGULATIONS.—The Attorney General
24 shall issue appropriate regulations to carry out this
25 section, which shall include regulations directing any

SCR 4017
2/3/15

2-13

1 person to whom paragraph (1) applies to take rea-
2 sonable measures to ensure the means or facility of
3 interstate or foreign commerce used by the person is
4 not being used to facilitate prostitution or sexual ex-
5 ploitation of children by—
6 "(A) reviewing postings before they are
7 published to ensure the postings do not offer
8 minors for commercial sex or contain sexually
9 explicit images of minors, and immediately re-
10 moving such postings;
11 "(B) prohibiting the use of euphemisms
12 and code words for, or used as a part of, a com-
13 mercial exchange described in subsection
14 (a)(1)(B);
15 "(C) preventing the reposting of previously
16 banned or removed postings or postings by per-
17 sons who repeatedly post inappropriate content;
18 "(D) requiring a person who posts an
19 adult advertisement to provide a valid telephone
20 number and credit card number (regardless of
21 whether a fee is charged for the posting);
22 "(E) if a fee is charged for posting an
23 adult advertisement, prohibiting the use of
24 anonymous payment methods, including algo-

SCR 4017
2/3/15

1 rithm currencies, virtual currencies, prepaid
2 cards, and gift cards;
3 "(F) requiring the reporting of any in-
4 stances of apparent child sexual exploitation or
5 online enticement of children to law enforce-
6 ment agencies and the National Center for
7 Missing and Exploited Children;
8 "(G) including information in the means or
9 facility of interstate or foreign commerce direct-
10 ing users to report information about the pros-
11 titution of children to the National Center for
12 Missing and Exploited Children and the Na-
13 tional Human Trafficking Resource Center; and
14 "(H) affixing to each adult advertisement
15 placed or maintained on the means or facility of
16 interstate or foreign commerce, in such manner
17 and in such form as the Attorney General shall
18 by regulation establish, contact information re-
19 garding how to contact the CyberTipline of the
20 National Center for Missing and Exploited Chil-
21 dren.
22 "(6) CRIMINAL PENALTY.—
23 "(A) IN GENERAL.—Any person to whom
24 paragraph (1) applies, shall be fined not less
25 than $250,000 and not more than $350,000 for

1 each violation, imprisoned not more than 5
2 years, or both, if such person—
3 "(i) fails to create or maintain the
4 records as required by this subsection or
5 by any regulation promulgated under this
6 subsection;
7 "(ii) knowingly makes any false entry
8 in or knowingly fails to make an appro-
9 priate entry in, any record required by this
10 subsection or any regulation promulgated
11 under this section;
12 "(iii) knowingly fails to comply with
13 the provisions of this subsection or any
14 regulation promulgated under this section;
15 or
16 "(iv) refuses to permit the Attorney
17 General, a designee of the Attorney Gen-
18 eral, the attorney general of a State, or a
19 designee of the attorney general of a State
20 to conduct an inspection under this sub-
21 section.
22 "(B) CRIMINAL PENALTY FOR REPEAT OF-
23 FENDERS.—In the case of a second or subse-
24 quent conviction of a violation described in sub-
25 paragraph (A) by a person to whom paragraph

1 (1) applies, the person shall be fined not less
2 than $350,000 and not more than $500,000 for
3 each such violation, imprisoned for not more
4 than 15 years, or both.".
5 (b) CRIMINAL FORFEITURE.—Section 982(a) of title
6 18, United States Code, is amended by adding at the end
7 the following:
8 "(9) The court, in sentencing a defendant con-
9 victed of an offense under section 1591A, shall order
10 that the defendant forfeit to the United States any
11 real or personal property—
12 "(A) used or intended to be used to com-
13 mit, to facilitate, or to promote the commission
14 of such offense; and
15 "(B) constituting, derived from, or trace-
16 able to the gross proceeds that the defendant
17 obtained directly or indirectly as a result of the
18 offense.".
19 (c) CIVIL ACTION.—Section 1595(a) of title 18,
20 United States Code, is amended by inserting "or person
21 (as defined in section 1591A)" after "individual".
22 (d) EXTRATERRITORIAL JURISDICTION.—Section
23 1596(a) of title 18, United States Code, is amended by
24 striking "or 1591" and inserting "1591, or 1591A".

SCR 4017
2/3/15

1 (e) DUTY TO REPORT.—Section 2258A of title 18,
2 United States Code, is amended—
3 (1) by striking subsection (a)(2) and inserting
4 the following:
5 "(2) FACTS OR CIRCUMSTANCES.—The facts or
6 circumstances described in this paragraph are any
7 facts or circumstances—
8 "(A) from which there is an apparent vio-
9 lation of—
10 "(i) section 1466A;
11 "(ii) section 2251, 2251A, 2252,
12 2252A, 2252B, or 2260 that involves child
13 pornography; or
14 "(iii) section 2422(b); or
15 "(B) that involve commercial sexual exploi-
16 tation of children or online enticement of chil-
17 dren.";
18 (2) in subsection (b)(1), by striking "violated a
19 Federal law described in subsection (a)(2)" and in-
20 serting "violated a Federal law described in sub-
21 section (a)(2)(A) or engaged in conduct described in
22 subsection (a)(2)(B)"; and
23 (3) by striking subsection (e) and inserting the
24 following:

"(e) FAILURE TO REPORT.—An electronic communication service provider or remote computing service provider that fails to make a report required under subsection (a)(1), with reckless disregard of the requirement to make a report required under subsection (a)(1), shall be fined—

"(1) in the case of an initial such failure to make a report, not more than $250,000; and

"(2) in the case of any second or subsequent such failure to make a report, not more than $500,000.".

(f) FALSE STATEMENTS.—Section 1001(a) of title 18, United States Code, is amended, in the matter following paragraph (3), by adding at the end the following: "If the matter relates to an offense under section 1591A, the term of imprisonment imposed under this section shall be not more than 15 years.".

(g) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 18, United States Code, is amended by inserting, after the item relating to section 1591, the following:

"1591A. Commercial sexual exploitation.".

SEC. 4. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and

SCR 4017
2/3/15

1 the amendments made by this Act and the application of
2 the provision or amendment to any other person or cir-
3 cumstance shall not be affected.

○

#1
SCR 4017
3-24-15

National Association of Attorneys General

PRESIDENT
Jim Hood
Mississippi Attorney General

PRESIDENT-ELECT
Marty Jackley
South Dakota Attorney General

VICE PRESIDENT
George Jepsen
Connecticut Attorney General

IMMEDIATE PAST PRESIDENT
J.B. Van Hollen
Wisconsin Attorney General

EXECUTIVE DIRECTOR
James McPherson

2030 M Street, NW
Eighth Floor
Washington, DC 20036
Phone: (202) 326-6000
http://www.naag.org/

October 20, 2014

The Honorable Patrick Leahy, Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Chuck Grassley, Ranking Member
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

We, the undersigned state and territorial attorneys general, urge you to join us in the fight against human trafficking in the United States. We commend your recent action to pass legislation to increase federal penalties and victim restitution and encourage you to act to protect children from being trafficked on the Internet by passing S. 2536, the Stop Advertising Victims of Exploitation Act (SAVE Act).

Human trafficking is tied as the second largest and is the fastest growing criminal industry in the world, generating roughly $150 billion each year. According to a study of Department of Justice human trafficking task force cases, 83 percent of sex trafficking victims identified in the United States were U.S. citizens. Shockingly, there are numerous cases nationally of children being used in prostitution as young as 12.

Every day, children in the United States are sold for sex. The use of the "adult services sections" on websites such as Backpage.com has created virtual brothels where children are bought and sold using euphemistic labels such as "escorts." The involvement of these advertising companies is not accidental—these companies have constructed their business models around income gained from those participating in commercial sex. In just one week this June, law enforcement arrested 281 alleged sex traffickers and took 168 children out of prostitution in a nationwide FBI crackdown where many child victims were offered for sale on "escort" and other "adult services" websites.[1] Organized crime groups as well as street gangs are involved with human trafficking, and many of these perpetrators use the Internet to sell their victims.

The undersigned attorneys general respectfully request that the Senate Judiciary Committee pass the SAVE Act so that these websites that are facilitating trafficking through their very business model will have to take

[1] http://www.fbi.gov/news/pressrel/press-releases/168-juveniles-recovered-in-nationwide-operation-targeting-commercial-child-sex-trafficking

steps to verify the identity of individuals posting advertisements and the age of those who appear in these advertisements.

We thank you in advance for your continued dedication to the eradication of human trafficking.

Greg Zoeller
Indiana Attorney General

Robert W. Ferguson
Washington Attorney General

Luther Strange
Alabama Attorney General

Michael Geraghty
Alaska Attorney General

Tom Horne
Arizona Attorney General

Dustin McDaniel
Arkansas Attorney General

Kamala Harris
California Attorney General

John W. Suthers
Colorado Attorney General

George Jepsen
Connecticut Attorney General

Joseph R. "Beau" Biden III
Delaware Attorney General

Irvin Nathan
District of Columbia Attorney General

Pamela Jo Bondi
Florida Attorney General

Samuel S. Olens
Georgia Attorney General

Lenny Rapadas
Guam Attorney General

David Louie
Hawaii Attorney General

Lawrence Wasden
Idaho Attorney General

Lisa Madigan
Illinois Attorney General

Tom Miller
Iowa Attorney General

Derek Schmidt
Kansas Attorney General

Jack Conway
Kentucky Attorney General

James "Buddy" Caldwell
Louisiana Attorney General

Janet Mills
Maine Attorney General

Douglas F. Gansler
Maryland Attorney General

Martha Coakley
Massachusetts Attorney General

Bill Schuette
Michigan Attorney General

Lori Swanson
Minnesota Attorney General

Jim Hood
Mississippi Attorney General

Chris Koster
Missouri Attorney General

Tim Fox
Montana Attorney General

Jon Bruning
Nebraska Attorney General

Catherine Cortez Masto
Nevada Attorney General

Joseph Foster
New Hampshire Attorney General

John Jay Hoffman
New Jersey Attorney General (Acting)

Gary King
New Mexico Attorney General

Eric T. Schneiderman
New York Attorney General

Roy Cooper
North Carolina Attorney General

Wayne Stenehjem
North Dakota Attorney General

Gilbert Birnbrich
Northern Mariana Islands Attorney General (Acting)

Michael DeWine
Ohio Attorney General

Scott Pruitt
Oklahoma Attorney General

Ellen F. Rosenblum
Oregon Attorney General

Kathleen Kane
Pennsylvania Attorney General

César R. Míranda Rodriguez
Puerto Rico Attorney General

Peter Kilmartin
Rhode Island Attorney General

Alan Wilson
South Carolina Attorney General

Marty J. Jackley
South Dakota Attorney General

Herbert H. Slatery, III
Tennessee Attorney General

Greg Abbott
Texas Attorney General

Sean Reyes
Utah Attorney General

William H. Sorrell
Vermont Attorney General

Mark R. Herring
Virginia Attorney General

Patrick Morrisey
West Virginia Attorney General

Peter K. Michael
Wyoming Attorney General