

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve rights to relief for individuals affected by non-consensual activities involving intimate digital forgeries, and for other purposes.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S. 2296

To authorize appropriations for fiscal year 2026 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

1 At the end of subtitle F of title X, insert the fol-
2 lowing:

3 **SEC. 1067. DEFIANCE ACT OF 2025.**

4 (a) **SHORT TITLE.**—This section may be cited as the
5 “Disrupt Explicit Forged Images and Non-Consensual
6 Edits Act of 2025” or the “DEFIANCE Act of 2025”.

7 (b) **FINDINGS.**—Congress finds the following:

8 (1) Digital forgeries, often called deepfakes, are
9 synthetic images and videos that look realistic. The
10 technology to create digital forgeries is now ubiq-

1 uitous and easy to use. Hundreds of apps are avail-
2 able that can quickly generate digital forgeries with-
3 out the need for any technical expertise.

4 (2) Digital forgeries can be wholly fictitious but
5 can also manipulate images of real people to depict
6 sexually intimate conduct that did not occur. For ex-
7 ample, some digital forgeries will paste the face of
8 an individual onto the body of a real or fictitious in-
9 dividual who is nude or who is engaging in sexual
10 activity. Another example is a photograph of an indi-
11 vidual that is manipulated to digitally remove the
12 clothing of the individual so that the person appears
13 to be nude.

14 (3) The individuals depicted in such digital for-
15 geries are profoundly harmed when the content is
16 produced with intent to disclose, disclosed, or ob-
17 tained without the consent of those individuals.
18 These harms are not mitigated through labels or
19 other information that indicates that the depiction is
20 fake.

21 (4) It can be destabilizing to victims whenever
22 those victims are depicted in intimate digital for-
23 geries against their will, as the privacy of those vic-
24 tims is violated and the victims lose control over
25 their likeness and identity.

1 (5) Victims can feel helpless because the vic-
2 tims—

3 (A) may not be able to determine who has
4 created the content; and

5 (B) do not know how to prevent further
6 disclosure of the intimate digital forgery or how
7 to prevent more forgeries from being made.

8 (6) Victims may be fearful of being in public
9 out of concern that individuals the victims encounter
10 have seen the digital forgeries. This leads to social
11 rupture through the loss of the ability to trust, stig-
12 matization, and isolation.

13 (7) Victims of non-consensual, sexually intimate
14 digital forgeries may experience depression, anxiety,
15 and suicidal ideation. These victims may also experi-
16 ence the “silencing effect” in which the victims with-
17 draw from online spaces and public discourse to
18 avoid further abuse.

19 (8) Digital forgeries are often used to—

20 (A) harass victims, interfering with their
21 employment, education, reputation, or sense of
22 safety; or

23 (B) commit extortion, sexual assault, do-
24 mestic violence, and other crimes.

1 (9) Because of the harms caused by non-con-
2 sensual, sexually intimate digital forgeries, such dig-
3 ital forgeries are considered to be a form of image-
4 based sexual abuse.

5 (c) CIVIL ACTION RELATING TO DISCLOSURE OF IN-
6 TIMATE IMAGES.—

7 (1) DEFINITIONS.—Section 1309 of the Con-
8 solidated Appropriations Act, 2022 (15 U.S.C.
9 6851) is amended—

10 (A) in the section heading, by inserting
11 “**OR NONCONSENSUAL ACTIVITY INVOLV-**
12 **ING DIGITAL FORGERIES**” after “**INTIMATE**
13 **IMAGES**”; and

14 (B) in subsection (a)—

15 (i) in paragraph (2), by inserting
16 “competent,” after “conscious,”;

17 (ii) by striking paragraph (3);

18 (iii) by redesignating paragraph (4) as
19 paragraph (3);

20 (iv) by redesignating paragraphs (5)
21 and (6) as paragraphs (6) and (7), respec-
22 tively;

23 (v) by inserting after paragraph (3)
24 the following:

1 “(4) IDENTIFIABLE INDIVIDUAL.—The term
2 ‘identifiable individual’ means an individual whose
3 body appears in whole or in part in an intimate vis-
4 ual depiction or intimate digital forgery and who is
5 identifiable by virtue of the individual’s face, like-
6 ness, or other distinguishing characteristic, such as
7 a unique birthmark or other recognizable feature, or
8 from information displayed in connection with the
9 intimate visual depiction or intimate digital forgery.

10 “(5) INTIMATE DIGITAL FORGERY.—

11 “(A) IN GENERAL.—The term ‘intimate
12 digital forgery’ means any intimate visual depic-
13 tion of an identifiable individual that—

14 “(i) falsely represents, in whole or in
15 part—

16 “(I) the identifiable individual; or

17 “(II) the conduct or content that
18 makes the visual depiction intimate;

19 “(ii) is created through the use of
20 software, machine learning, artificial intel-
21 ligence, or any other computer-generated
22 or technological means, including by adapt-
23 ing, modifying, manipulating, or altering
24 an authentic visual depiction; and

1 “(iii) is indistinguishable from an au-
2 thentic visual depiction of the identifiable
3 individual when viewed as a whole by a
4 reasonable person.

5 “(B) LABELS, DISCLOSURE, AND CON-
6 TEXT.—Any visual depiction described in sub-
7 paragraph (A) constitutes an intimate digital
8 forgery for purposes of this paragraph regard-
9 less of whether a label, information disclosed
10 with the visual depiction, or the context or set-
11 ting in which the visual depiction is disclosed
12 states or implies that the visual depiction is not
13 authentic.”; and

14 (vi) in paragraph (6)(A), as so redес-
15 ignated—

16 (I) in clause (i), by striking “or”
17 at the end;

18 (II) in clause (ii)—

19 (aa) in subclause (I), by
20 striking “individual;” and insert-
21 ing “individual; or”; and

22 (bb) by striking subclause
23 (III); and

24 (III) by adding at the end the
25 following:

1 “(iii) an identifiable individual engag-
2 ing in sexually explicit conduct; and”.

3 (2) CIVIL ACTION.—Section 1309(b) of the
4 Consolidated Appropriations Act, 2022 (15 U.S.C.
5 6851(b)) is amended—

6 (A) in paragraph (1)—

7 (i) by striking subparagraph (A) and
8 inserting the following:

9 “(A) IN GENERAL.—Except as provided in
10 paragraph (5)—

11 “(i) an identifiable individual whose
12 intimate visual depiction is disclosed, in or
13 affecting interstate or foreign commerce or
14 using any means or facility of interstate or
15 foreign commerce, without the consent of
16 the identifiable individual, where such dis-
17 closure was made by a person who knows
18 or recklessly disregards that the identifi-
19 able individual has not consented to such
20 disclosure, may bring a civil action against
21 that person in an appropriate district court
22 of the United States for relief as set forth
23 in paragraph (3);

24 “(ii) an identifiable individual who is
25 the subject of an intimate digital forgery

1 may bring a civil action in an appropriate
2 district court of the United States for re-
3 lief as set forth in paragraph (3) against
4 any person that knowingly produced or
5 possessed the intimate digital forgery with
6 intent to disclose it, knowingly disclosed
7 the intimate digital forgery, or knowingly
8 solicited and received the intimate digital
9 forgery, if—

10 “(I) the identifiable individual
11 did not consent to such production or
12 possession with intent to disclose, dis-
13 closure, or solicitation and receipt;

14 “(II) the person knew or reck-
15 lessly disregarded that the identifiable
16 individual did not consent to such pro-
17 duction or possession with intent to
18 disclose, disclosure, or solicitation and
19 receipt; and

20 “(III) such production or posses-
21 sion with intent to disclose, disclosure,
22 or solicitation and receipt, is in or af-
23 fects interstate or foreign commerce
24 or uses any means or facility of inter-
25 state or foreign commerce; and

1 “(iii) an identifiable individual who is
2 the subject of an intimate digital forgery
3 may bring a civil action in an appropriate
4 district court of the United States for re-
5 lief as set forth in paragraph (3) against
6 any person that knowingly produced the
7 intimate digital forgery if—

8 “(I) the identifiable individual
9 did not consent to such production;

10 “(II) the person knew or reck-
11 lessly disregarded that the identifiable
12 individual—

13 “(aa) did not consent to
14 such production; and

15 “(bb) was harmed, or was
16 reasonably likely to be harmed,
17 by the production; and

18 “(III) such production is in or
19 affects interstate or foreign commerce
20 or uses any means or facility of inter-
21 state or foreign commerce.”; and

22 (ii) in subparagraph (B)—

23 (I) in the subparagraph heading,
24 by inserting “IDENTIFIABLE” before
25 “INDIVIDUALS”; and

1 (II) by striking “an individual
2 who is under 18 years of age, incom-
3 petent, incapacitated, or deceased, the
4 legal guardian of the individual” and
5 inserting “an identifiable individual
6 who is under 18 years of age, incom-
7 petent, incapacitated, or deceased, the
8 legal guardian of the identifiable indi-
9 vidual”;

10 (B) in paragraph (2)—

11 (i) in subparagraph (A)—

12 (I) by inserting “identifiable” be-
13 fore “individual”;

14 (II) by striking “depiction” and
15 inserting “intimate visual depiction or
16 intimate digital forgery”; and

17 (III) by striking “distribution”
18 and inserting “disclosure, solicitation,
19 or possession”; and

20 (ii) in subparagraph (B)—

21 (I) by inserting “identifiable” be-
22 fore “individual”;

23 (II) by inserting “or intimate
24 digital forgery” after “depiction” each
25 place it appears; and

1 (III) by inserting “, solicitation,
2 or possession” after “disclosure”;

3 (C) by redesignating paragraph (4) as
4 paragraph (5);

5 (D) by striking paragraph (3) and insert-
6 ing the following:

7 “(3) RELIEF.—

8 “(A) IN GENERAL.—In a civil action filed
9 under this section, an identifiable individual
10 may recover—

11 “(i) damages as provided under sub-
12 paragraph (C); and

13 “(ii) the cost of the action, including
14 reasonable attorney fees and other litiga-
15 tion costs reasonably incurred.

16 “(B) PUNITIVE DAMAGES AND OTHER RE-
17 LIEF.—The court may, in addition to any other
18 relief available at law, award punitive damages
19 or order equitable relief, including a temporary
20 restraining order, a preliminary injunction, or a
21 permanent injunction ordering the defendant to
22 delete, destroy, or cease to display or disclose
23 the intimate visual depiction or intimate digital
24 forgery.

1 “(C) DAMAGES.—For purposes of subpara-
2 graph (A)(i), the identifiable individual may re-
3 cover—

4 “(i) liquidated damages in the amount
5 of—

6 “(I) \$150,000; or

7 “(II) \$250,000 if the conduct at
8 issue in the claim was—

9 “(aa) committed in relation
10 to actual or attempted sexual as-
11 sault, stalking, or harassment of
12 the identifiable individual by the
13 defendant; or

14 “(bb) the direct and proxi-
15 mate cause of actual or at-
16 tempted sexual assault, stalking,
17 or harassment of the identifiable
18 individual by any person; or

19 “(ii) actual damages sustained by the
20 individual, which shall include any profits
21 of the defendant that are attributable to
22 the conduct at issue in the claim that are
23 not otherwise taken into account in com-
24 puting the actual damages.

1 “(D) CALCULATION OF DEFENDANT’S
2 PROFIT.—For purposes of subparagraph (C)(ii),
3 to establish the defendant’s profits, the identifi-
4 able individual shall be required to present
5 proof only of the gross revenue of the defend-
6 ant, and the defendant shall be required to
7 prove the deductible expenses of the defendant
8 and the elements of profit attributable to fac-
9 tors other than the conduct at issue in the
10 claim.

11 “(4) PRESERVATION OF PRIVACY.—In a civil
12 action filed under this section, the court may issue
13 an order to protect the privacy of a plaintiff, includ-
14 ing by—

15 “(A) permitting the plaintiff to use a pseu-
16 donym;

17 “(B) requiring the parties to redact the
18 personal identifying information of the plaintiff
19 from any public filing, or to file such documents
20 under seal; and

21 “(C) issuing a protective order for pur-
22 poses of discovery, which may include an order
23 indicating that any intimate visual depiction or
24 intimate digital forgery shall remain in the
25 care, custody, and control of the court.”;

1 (E) in paragraph (5)(A), as so redesignated—
2

3 (i) by striking “image” and inserting
4 “visual depiction or intimate digital for-
5 gery”; and

6 (ii) by striking “depicted” and insert-
7 ing “identifiable”; and

8 (F) by adding at the end the following:

9 “(6) STATUTE OF LIMITATIONS.—Any action
10 commenced under this section shall be barred unless
11 the complaint is filed not later than 10 years from
12 the later of—

13 “(A) the date on which the identifiable in-
14 dividual reasonably discovers the violation that
15 forms the basis for the claim; or

16 “(B) the date on which the identifiable in-
17 dividual reaches 18 years of age.

18 “(7) DUPLICATIVE RECOVERY BARRED.—No re-
19 lief may be ordered under paragraph (3) against a
20 person who is subject to a judgment under section
21 2255 of title 18, United States Code, for the same
22 conduct involving the same identifiable individual
23 and the same intimate visual depiction or intimate
24 digital forgery.”.

1 (d) CONTINUED APPLICABILITY OF FEDERAL,
2 STATE, AND TRIBAL LAW.—

3 (1) IN GENERAL.—This section shall not be
4 construed to impair, supersede, or limit a provision
5 of Federal, State, or Tribal law.

6 (2) NO PREEMPTION.—Nothing in this section
7 shall prohibit a State or Tribal government from
8 adopting and enforcing a provision of law governing
9 disclosure of intimate images or nonconsensual activ-
10 ity involving an intimate digital forgery, as defined
11 in section 1309(a) of the Consolidated Appropria-
12 tions Act, 2022 (15 U.S.C. 6851(a)), as amended by
13 this section, that is at least as protective of the
14 rights of a victim as this section.

15 (e) SEVERABILITY; RULE OF CONSTRUCTION.—

16 (1) SEVERABILITY.—If any provision of this
17 section, an amendment made by this section, or the
18 application of such a provision or amendment to any
19 person or circumstance, is held to be unconstitu-
20 tional, the remaining provisions of and amendments
21 made by this section, and the application of the pro-
22 vision or amendment held to be unconstitutional to
23 any other person or circumstance, shall not be af-
24 fected thereby.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 section, or an amendment made by this section, shall
3 be construed to limit or expand any law pertaining
4 to intellectual property.