

HOUSE No. 4153

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to reduce the incidence and sharing of child sexual abuse material (CSAM).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/19/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>2/22/2021</i>

HOUSE No. 4153

By Mr. Kearney of Scituate, a petition (accompanied by bill, House, No. 4153) of Patrick Joseph Kearney and David F. DeCoste for legislation to reduce the incidence and sharing of child sexual abuse material. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to reduce the incidence and sharing of child sexual abuse material (CSAM).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 93L the
2 following chapter:-

3 Chapter 93M

4 Reduced Transmission of Child Sexual Abuse Material

5 Section 1. As used in this chapter the following terms shall, unless the context clearly
6 requires otherwise, have the following meanings:

7 “Child pornography”, as defined in 18 U.S.C. § 2256(8).

8 “Content-sharing platform”, (i) an online medium accessed within the commonwealth by
9 which content, including, but not limited to images, videos, messages and sound files, is shared
10 with or capable of being shared with the general public or a significant section of the general

public; or (ii) a cloud-based application and platform service available to the public, that is accessed within the commonwealth.

“Hash”, a unique digital signature of an image.

“Hashing”, comparison of a hash against hashes of other photographs to find copies of the same image.

“Qualifying software”, software that shall: (i) contain a database of hashes of child pornography images and videos; (ii) discover child pornography without the need for a human viewer; (iii) share and receive all existing and newly identified hashes of child pornography images with other databases, including the database maintained by the National Center for Missing & Exploited Children, in compliance with all applicable state and federal law; and (iv) immediately report all identified child pornography to the National Center for Missing & Exploited Children, which shall work with district attorneys and law enforcement to identify the location of the uploaded or shared child pornography.

“Undersecretary”, the undersecretary of consumer affairs and business regulation.

Section 2. A content-sharing platform shall utilize qualifying software to evaluate all images and videos uploaded to or shared on the platform.

Section 3. (a) The attorney general, in conjunction with the undersecretary, shall identify or develop qualifying software.

(b) There shall be a department within the office of consumer affairs and business regulation responsible for ensuring implementation of and compliance with this chapter. The department shall serve as a reference for content-sharing platforms to ensure timely and

productive installation of qualifying software. The department shall communicate and work in conjunction with the attorney general and the Internet Crimes Against Children task force of the department of state police.

(c) A content-sharing platform may utilize the qualifying software described in subsection (a) or comparable qualifying software approved by the undersecretary.

Section 4. Each content-sharing platform shall demonstrate use of qualifying software to the undersecretary at an annual audit. The undersecretary shall randomly audit content-sharing platforms to ensure compliance with this chapter.

Section 5. (a) A content-sharing platform found to be in violation of this chapter during an annual or random audit pursuant to section 4 shall be subject to a fine of not less than \$10,000 for a first offense and \$25,000 for a second or subsequent offense. In addition to annual and random audits, the content-sharing platform shall demonstrate compliance with this chapter to the undersecretary not less than 2 times per year for 2 years subsequent to the violation.

(b) If federal or state law enforcement agency has found that child pornography has been previously shared on a content-sharing platform and the content-sharing platform is found to be in violation of this chapter during an annual or random audit, the content-sharing shall be subject to a fine of not less than \$25,000 for a first offense and \$50,000 for a second or subsequent offense. In addition to annual and random audits, the content-sharing platform shall demonstrate compliance with this chapter to the undersecretary in a manner to be determined by the undersecretary: (i) not less than 2 times per year for 2 years subsequent to the first violation or (ii) monthly for 2 years subsequent to the second or subsequent violation; provided, that for each

month the content-sharing platform is found not to be in compliance with this chapter, the content-sharing platform shall be subject to a fine of \$10,000.

(c) A content-sharing platform that: (1) violates this chapter and (2) (i) promotes child pornography, (ii) knowingly shares child pornography or (iii) knowingly allows the sharing of child pornography shall be subject to section 29B of chapter 272.

Section 6. The attorney general, in conjunction with the undersecretary, shall promulgate rules and regulations necessary to implement this chapter.

SECTION 2. Not later than 1 year after the effective date of this act, the attorney general, in conjunction with the undersecretary, shall: (i) promulgate regulations necessary to implement section 1 and (ii) identify or develop qualifying software, as described in subsection (a) of section 3 of chapter 93M of the General Laws.

SECTION 3. (a) All content-sharing platforms, as that term is defined in section 1 of chapter 93M of the General Laws, shall comply with said chapter 93M within 1 year of the publication of regulations promulgated pursuant to clause (i) of section 2. A content-sharing platform that violates this subsection shall be punished by a fine of not less than \$5000.

(b) A content-sharing platform made available to the public after the publication of regulations promulgated pursuant to clause (i) of section 2 shall comply with said chapter 93M at the time the content-sharing platform is made available to the public.