

## **The Take it Down Act: Combating Non-Consensual Intimate Imagery and Sexual Exploitation**

By Robert Hugh Farley M.S.

### **Preview:**

The TAKE IT DOWN Act itself criminalizes the publication of non-consensual intimate imagery (NCII), including AI-generated NCII, and requires social media and similar websites to have protective procedures in place.

### **Article:**

#### **Introduction**

Consider a situation in which a child abuser, named "Jerry," who, as part of the grooming process, manipulates a 14-year-old girl named "Sarah," to create and then text him sexually explicit images of herself. Later, when Sarah refuses to meet him for sex, Jerry threatens her and retaliates by deliberately posting her intimate images on various social media platforms and websites. In many situations, this scheme ultimately can result in the child capitulating and meeting with the adult in person, or providing monetary payment to prevent additional retaliation. In some situations, the resulting stress and shame of the retaliation culminates in the child taking his or her own life.

However, there are actions that can be taken to address this type of Non-Consensual Intimate Imagery (NCII) abuse for victims like Sarah, that can remove these images and protect her before further harm can occur.

NCII abuse can be perpetrated by anyone and can affect individuals regardless of age and gender. Even though, in Sarah's case, it might lend the appearance that she consensually distributed her own sexualized images, the reality is that children cannot truly consent to their own sexual exploitation. In any case, regardless of *how* the offender obtained the intimate material, the victim's fear of the images being shared and/or further viewed and leave the victims feeling ashamed, powerlessness and violated. While the reported cases of NCII provide some insight into this crisis, the reports represent only a fraction of the full picture. Many victims do not make official reports of their abuse for numerous reasons, including the extreme manipulation of the abuser, threats, coercion, shame, etc.

#### **Initial legal response**

Following widespread outcry from victims and activists, most states have passed laws explicitly criminalizing the nonconsensual distribution of intimate images or what is more commonly known as "revenge porn."

The terms Non-Consensual Intimate Imagery (NCII) abuse and self-generated Child Sexual Abuse Material (CSAM), are often used interchangeably when discussing intimate images involving minors under 18 years of age. While self-generated material can refer to both consensually and non-consensually produced intimate images, NCII can refer to any scenario in which intimate content is being produced, published or reproduced without consent.

In 2022, Congress established a federal civil right of action for victims of nonconsensual pornography as part of the reauthorization of the Violence Against Women Act (VAWA). The law generally authorizes depicted individuals to sue the disclosing party in federal court for monetary damages or injunctive relief.

While some jurisdictions (e.g., New York) expressly include digitally created or altered images in their nonconsensual pornography laws, the federal civil action, as originally enacted, did not explicitly address such images. As a result, it was initially uncertain whether VAWA's right of action encompassed such digitally modified depictions. Since then, Congress has discussed bills to expand the existing cause of action for images created or altered using artificial intelligence (AI) or other digital technologies.

### **A new federal law**

To remedy the shortcomings of previous legislation, in 2025, the *Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks Act*, known as the TAKE IT DOWN Act, was passed in both houses, by near unanimous votes and signed into law.

The term “deepfake” is defined as an artificial image or video (of a series of images) that is generated by a special kind of machine learning called “deep” learning, hence the name, “deepfake.”

The TAKE IT DOWN Act itself criminalizes the publication of non-consensual intimate imagery (NCII), including AI-generated NCII, and requires social media and similar websites to have protective procedures in place.

The TAKE IT DOWN Act protects and empowers victims of real and deepfake NCII while respecting free speech by:

- Criminalizing the publication of NCII in interstate commerce. It is now unlawful for a person to knowingly publish, or threaten to publish, NCII on social media and other online platforms. NCII is defined to include realistic, computer-generated pornographic images and videos that depict identifiable, real people. The Act also clarifies that a victim's consent to create an intimate image does not equate to consent to publish it.
- Protecting good-faith efforts to assist victims. For instance, the Act permits the good-faith disclosure of NCII, such as to law enforcement.
- Requiring websites to take down NCII upon notice from the victim. Social media and other websites are required to have in place procedures to remove NCII, pursuant to a valid request from a victim or their advocate, within 48 hours. Websites must also make reasonable efforts to remove copies of the images. The FTC is charged with enforcement of this section.

### **Resources**

Safe and caring adults can share this information with colleagues and friends, so that children can have hope even after the negative experience of sexual exploitation.

Additionally, if you become aware of, or suspect, that a minor has been sexually exploited online or through technology, you can make a report to the National Center for Missing and Exploited Children's (NCMEC) CyberTipline at <https://report.cybertip.org/>.

You can also contact law enforcement.

Below are two key resources available to help NCII victims pursue the removal of harmful content as quickly as possible. It is helpful to share and spread this information to colleagues and friends, so that people are aware of what they can do in advance of these types of situations:

- **The National Center for Missing and Exploited Children (NCMEC; <https://www.missingkids.org/home>)** provides a free service called, "Take It Down," that can help one remove or stop the online sharing of nude, partially nude, or sexually explicit images or videos of minor who are under the age of eighteen. Adults appearing in such explicit content (if they were minors at the time) can also use the service. The service was initially launched in late 2022.

NCMEC's service shares the intimate image's "hash" (the digital fingerprint) with participating online platforms, so that the platform can detect any copies of the images or video(s) and can take action to remove the content or limit the spread. This all happens without the image or video ever being viewed by a reviewer, and one doesn't have to share any personal information, either. The link for this resource is: <https://takeitdown.ncmec.org/>

- **Stop Non-Consensual Intimate Image Abuse (SNCII; <https://stopncii.org/>)** also provides a free service that is designed to support victims of NCII abuse. This service generates a hash from a submitted intimate image. Any duplicate copies of the image will possess the exact same hash value. By sharing the hash value with participating companies, they can help detect and work to remove the images from being posted or shared online within their own platforms.

## Conclusion

The TAKE IT DOWN Act is a landmark law criminalizing the posting of non-consensual sexual imagery and AI-generated deepfakes. The Act mandates the timely removal of the images and establishes clear federal enforcement standards. NCMEC's Take It Down service empowers minors and other survivors with a safe, private method to flag harmful content across multiple platforms. Together, they strengthen legal and technical countermeasures against the crimes of revenge porn, sextortion, AI-generated deepfakes, and child sexual exploitation.