

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To direct the Secretary of Health and Human Services to conduct a study to assess the unintended impacts on the health and safety of people engaged in transactional sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 and the loss of interactive computer services that host information related to sexual exchange, to direct the Attorney General to submit a report on human trafficking investigations and prosecutions in connection with the same, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Ms. WARREN (for herself, Mr. WYDEN, Mr. SANDERS, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To direct the Secretary of Health and Human Services to conduct a study to assess the unintended impacts on the health and safety of people engaged in transactional sex, in connection with the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 and the loss of interactive computer services that host information related to sexual exchange, to direct the Attorney General to submit a report on human trafficking investigations and prosecutions in connection with the same, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “SESTA/FOSTA Ex-  
5 amination of Secondary Effects for Sex Workers Study  
6 Act” or the “SAFE SEX Workers Study Act”.

7 **SEC. 2. FINDINGS.**

8        The Congress finds the following:

9            (1) People who engage in consensual, trans-  
10        actional sex utilize online platforms to protect their  
11        health, safety, and independence. This use includes  
12        building community connections, distribution of  
13        harm reduction information and techniques, identi-  
14        fication and screening of potential clients, sale of  
15        media and remote services and negotiating the terms  
16        of consensual, transactional sex services, including  
17        condom use and other harm reduction strategies.

18            (2) Widespread discrimination against popu-  
19        lations, including LGBTQIA+ individuals, particu-  
20        larly transgender women of color, prevents many  
21        from accessing formal employment resources, tradi-  
22        tional financial services, and educational opportuni-  
23        ties.

24            (3) In the 2015 United States Transgender  
25        Survey conducted by the National Center for

1 Transgender Equality, 19 percent of respondents re-  
2 ported having exchanged sex for resources, such as  
3 for money, food, or a place to sleep. Transgender  
4 women of color, including Black (42 percent), Amer-  
5 ican Indian (28 percent), multiracial (27 percent),  
6 Latina (23 percent), and Asian (22 percent) re-  
7 spondents were more likely to have participated in  
8 sex work than the overall sample.

9 (4) In the 2015 United States Transgender  
10 Survey, respondents who experienced homelessness  
11 in the past year (17 percent) were more than 3  
12 times as likely to have participated in sex work dur-  
13 ing that year compared to the overall sample.

14 (5) On a broader scale, internet platforms fos-  
15 ter connections between people and play an integral  
16 part in American society. Access to digital platforms  
17 has been essential for activists, distribution of harm  
18 reduction information and reproductive and sexual  
19 health information, and fostering connections be-  
20 tween people who face geographic barriers. Meaning-  
21 ful regulation of internet platforms must take into  
22 account the role they play in the health, safety, and  
23 privacy of all people's lives.

24 (6) While policymakers, representatives of inter-  
25 net platforms, and some advocates have discussed

1 ways to mitigate the use of internet platforms to de-  
2 crease exploitation, people who consensually trade  
3 sex are rarely involved in the drafting of legislation  
4 or policies, or in assessing their impact, despite  
5 being amongst the populations who are impacted by  
6 legislation and policies related to the regulation of  
7 these internet platforms.

8 (7) On February 27, 2018, the House of Rep-  
9 resentatives passed the Allow States and Victims to  
10 Fight Online Sex Trafficking Act of 2017, (com-  
11 monly known as “SESTA/FOSTA”). While SESTA/  
12 FOSTA holds websites liable for user-generated con-  
13 tent that facilitates sex trafficking, it also impacts  
14 online platforms where users discuss consensual sex  
15 work and related topics.

16 (8) Contemporaneously with the passage of  
17 SESTA/FOSTA in the Senate on March 21, 2018,  
18 websites preemptively shut down, some directly cit-  
19 ing the law’s passage as the rationale for closure.

20 (9) One week before President Donald Trump  
21 signed SESTA/FOSTA into law, the Department of  
22 Justice seized Backpage.com and arrested Backpage  
23 employees, citing promotion of prostitution and  
24 money laundering charges, similar to the Depart-

1       ment of Homeland Security’s seizure of Rentboy.com  
2       only a few years prior.

3           (10) While these websites and individual ac-  
4       counts have been closing down, there has been no  
5       national investigation rigorously examining the im-  
6       pact of losing access to these platforms on the health  
7       and safety of people in consensual, transactional sex  
8       work. Regional and anecdotal information from  
9       health and safety service providers and sex workers  
10      has pointed to significant impacts on the health and  
11      safety of people who engage in consensual, trans-  
12      actional sex.

13          (11) Community organizations have reported  
14      increased homelessness of sex workers, including of  
15      sex workers who are caretakers for their families  
16      and have lost the economic stability provided by ac-  
17      cess to online platforms.

18          (12) Sex workers have reported a reduced abil-  
19      ity to screen potential clients for safety, and nego-  
20      tiate for boundaries such as condom use, resulting in  
21      reports of physical and sexual violence.

22          (13) Many sex workers have turned to street-  
23      based work, which has historically involved higher  
24      rates of violence than other forms of transactional  
25      sex. Street-based sex workers have frequently noted

1 practices which harm their health and safety, such  
2 as the confiscation of condoms by police, or use of  
3 condoms as evidence of arrest for prostitution.

4 (14) With this new level of precarity, isolation,  
5 and vulnerability, there is substantial anecdotal evi-  
6 dence that members of the sex work community are  
7 more frequently being contacted by third parties  
8 seeking to engage in management activities. This in-  
9 cludes both sex workers who had always worked  
10 independently, as well as those who have previously  
11 experienced violence and exploitation by a third  
12 party.

13 (15) The Federal Government has long dis-  
14 cussed the importance of assessing collateral con-  
15 sequences when looking at other industries. Com-  
16 prehensive studies are essential to evaluate the im-  
17 pact on human trafficking investigations and pros-  
18 ecutions, and the health and safety of those involved  
19 in consensual, transactional sex, who are increas-  
20 ingly losing access to digital platforms, which have  
21 been used for harm reduction information and tech-  
22 niques, and to screen clients. Informed government  
23 policies begin with seeking out relevant information  
24 to better guide our actions moving forward.

1 **SEC. 3. STUDY ON UNINTENDED IMPACTS ON HEALTH AND**  
2 **SAFETY OF PEOPLE ENGAGED IN TRANS-**  
3 **ACTIONAL SEX AS A RESULT OF THE LOSS OF**  
4 **CERTAIN ONLINE RESOURCES.**

5 (a) STUDY.—The Secretary of Health and Human  
6 Services (referred to in this section as the “Secretary”),  
7 in consultation, as appropriate, with the Director of the  
8 Centers for Disease Control and Prevention, the Director  
9 of the National Institutes of Health, and the Assistant  
10 Secretary for Mental Health and Substance Use, shall  
11 study the impacts on the health and safety of people en-  
12 gaged in transactional sex resulting from the loss of access  
13 to interactive computer services (as defined in section  
14 230(f) of the Communications Act of 1934 (47 U.S.C.  
15 230(f))) in connection with the closure of websites (includ-  
16 ing Backpage.com) that host information related to con-  
17 sensual sexual exchange, on or after February 27, 2018,  
18 in anticipation of, or in response to, the enactment of the  
19 Allow States and Victims to Fight Online Sex Trafficking  
20 Act of 2017 (Public Law 115–164).

21 (b) INTERVIEWS AND SURVEYS.—The study under  
22 subsection (a) shall include interviews with, and surveys  
23 conducted by, nonprofit and community-based organiza-  
24 tions that provide direct services to people engaged in  
25 transactional sex.

1 (c) TOPICS.—The study under subsection (a) shall in-  
2 clude assessment of the following impacts on people en-  
3 gaged in transactional sex:

4 (1) Changes in access to technology-related  
5 harm reduction services, including social media serv-  
6 ices.

7 (2) Changes in ability to negotiate terms with  
8 potential clients.

9 (3) Changes in experiences of violence from cli-  
10 ents.

11 (4) Changes in interactions with law enforce-  
12 ment officials, including changes in police surveil-  
13 lance, stops, and arrests.

14 (5) Changes in contact from third parties.

15 (6) Changes in relationship to and reliance on  
16 third parties.

17 (7) Changes in experiences of exploitation and  
18 trafficking.

19 (8) Impacts on access to economic resources.

20 (9) Impacts on access to banking and financial  
21 technology tools.

22 (10) Impacts on homelessness and housing sta-  
23 bility.

24 (11) Impacts on mental health.





1 computer services (as defined in section 230(f) of the  
2 Communications Act of 1934 (47 U.S.C. 230(f))) in con-  
3 nection with the closure of websites (including  
4 Backpage.com) that host information related to consen-  
5 sual sexual exchange, on or after February 27, 2018, in  
6 anticipation of, or in response to, the enactment of the  
7 Allow States and Victims to Fight Online Sex Trafficking  
8 Act of 2017 (Public Law 115–164).

9 (b) INTERVIEWS AND SURVEYS.—The report under  
10 subsection (a) shall include interviews with nonprofit and  
11 community-based organizations that provide direct serv-  
12 ices to survivors of human trafficking or people engaged  
13 in transactional sex.

14 (c) TOPICS.—The report under subsection (a) shall  
15 include an assessment of the following impacts of the clo-  
16 sure of Backpage.com and other seized websites, the pre-  
17 emptive closure of other websites associated with commer-  
18 cial and non-commercial sex, the changes to civil liability  
19 for websites, and moderation or other operational changes  
20 in relation to the changes in liability pursuant to the Allow  
21 States and Victims to Fight Online Sex Trafficking Act  
22 of 2017 (Public Law 115–164) (or any amendments made  
23 by such Act):

24 (1) Impact on access to online communication  
25 technologies, including social media services.

1           (2) Impact on investigations into trafficking in  
2 persons.

3           (3) Impact on prosecution of individuals under  
4 section 1591(a) of title 18, United States Code.

5           (4) Impact on the ability of law enforcement  
6 agencies to find and prosecute individuals who vio-  
7 late section 1591(a) of title 18, United States Code.

8           (5) Impact of changes made by the Allow  
9 States and Victims to Fight Online Sex Trafficking  
10 Act of 2017 (Public Law) (commonly known as  
11 “SESTA/FOSTA”) to section 230 of the Commu-  
12 nications Decency Act on State law enforcement  
13 agencies and victims of human trafficking seeking  
14 civil redress against websites engaged in trafficking  
15 of children in violation of section 1591(a) of title 18,  
16 United States Code.

17           (6) Impact on other policies of the Department  
18 of Justice with respect to the prosecution of websites  
19 under section 1591 or 2421A of title 18, United  
20 States Code.

21           (7) Disparities in the impacts described in  
22 paragraphs (1) through (6) on key populations typi-  
23 cally underserved by service providers, specifically  
24 LGBTQIA+ individuals, people living in rural areas,  
25 racial and ethnic minorities, Tribal communities,

1 people experiencing exploitation and trafficking, and  
2 undocumented and documented foreign nationals.

3 (8) Any other impacts on people engaged in  
4 transactional sex, as determined appropriate by the  
5 Attorney General.

6 (d) REPORT.—Not later than 1 year after the date  
7 of enactment of this Act, the Attorney General shall sub-  
8 mit to Congress the report required under subsection (a)  
9 and make such report available to the public.