



The EARN IT Act Puts Our Kids At Risk.

The latest version of the EARN IT Act fails again to appreciate the bill's fundamental pitfalls.

By ignoring its significant constitutional, security, and privacy issues, this bill doesn't help America's kids. It actively harms them.



The bill's Fourth Amendment problems let child predators off the hook by making it harder to use child sexual abuse material (CSAM) as evidence.

This bill provides a get-out-of-jail-free card for child predators as it upsets the delicate balance by which child sexual abuse material (CSAM) is given to law enforcement.

The bill allows all 50 states to establish their own criteria for when a platform is liable for CSAM—creating a race to the bottom as platforms must adjust their policies and practices to comply with the strictest state law. When the government—state or federal—“encourages” private parties to search for criminal content, that search is then subject to the Fourth Amendment. And under the Exclusionary Rule, evidence obtained without a warrant is generally inadmissible, meaning child predators could have CSAM thrown out of court.

This get-out-jail-free card doesn't only jeopardize future prosecutions. It also destroys the constitutionally delicate process that exists now, under which private platforms may report suspected CSAM to NCMEC without violating the Fourth Amendment because their searches are considered entirely voluntarily.

Under EARN IT online services are punished for using encryption to protect our children's privacy and security.

The bill undermines end-to-end encryption by a digital service by treating platforms that give us this security as a “willful blindness” to bad actors that abuse the tech.

This equates secure and private conversations with illegal activity. The EARN IT Act will punish online services for protecting user privacy and security. When services stop using encryption to protect their users, we all become more vulnerable to hacking and data breaches. This degradation in children's privacy makes them more vulnerable to targeting from predators. The bill's intent to protect children online is a good one. The flaws inherent in the EARN It Act will bring harm to our kids instead. It should be fiercely opposed.

