

# OPPOSE THE EARN IT ACT OF 2020 (SB. 3398)

THE EARN IT ACT OF 2020, A BILL THAT'S SHORT ON DETAILS  
BUT LONG ON CONSEQUENCES.

EARN IT ERODES ONLINE PRIVACY AND MAKES ONLINE  
PLATFORMS LESS ACCESSIBLE TO ALREADY-MARGINALIZED  
COMMUNITIES.

## WHAT WE KNOW ABOUT EARN IT IS **BAD NEWS.**

- EARN IT creates a nineteen person commission, headed by Attorney General William Barr, that would be to create online speech rules for websites, apps & listservs
  - The Committee's mandate is overly broad and may lead to private companies reviewing and controlling all communication on their platform
  - Requirements for companies created by the Committee get fast tracked through Congress - **meaning your office gets no oversight or no debate.**

EARN IT is part of a trend of incentivizing private companies to surveil the public in ways that would be constitutionally prohibited if done by state actors.

- Websites, apps, listservs and an interactive computer service will have to follow new rules or face ruinous civil liability.
- When online platforms faced a similar choice under FOSTA, they chose to crack down on legal speech, removing all kinds of sexual content as well as non-adult content written by sex workers and people profiled as sex workers.
  - Sex workers and erotic laborers lost access to community, organizing and safety tools. **Life for sex workers got more dangerous.**
- Automated censorship, loss of online privacy, and platform exclusion that EARN IT promotes would impact access to legal support, sexual health information, journalism, and other areas which depend on privacy in communication

"Harm to sex workers is not just about criminalization, it's also about being kicked off of platforms. It's about losing your account, it's the way that we marginalize and surveil and control and chill behaviors.

Criminalization begins long before anyone gets handcuffs put on them and extends long after anyone gets a charge"

"Not being able to post sexual material would mean chilling free speech for adult artists. Many queer people rely on adult content creation—by that I mean porn drawings, animations, etc—to make ends' meet. SESTA-FOSTA significantly harmed their income. EARN IT could make things worse."

## EARN IT DOESN'T USE THE WORD **ENCRYPTION**, BUT IT COULD BE A DEATH KNEEL FOR SECURITY ONLINE.

- Sex workers moved to encrypted services to exchange bad date information, negotiate with clients and share harm reduction information after regularly being kicked off of other platforms. Losing these platforms means losing the ability to reduce harm.

Even if websites do not turn this information over to law enforcement directly, platforms will be knowingly exposed to liability around additional laws which have long been used to displace and disenfranchise sex workers, contributing to the vulnerability of isolation and inability to use harm reduction techniques.

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- AG Barr has expressed a desire to get rid of end-to-end encryption.
- It is not technologically possible to grant access to just “good guys.” Undermining encryption will make communication less safe for everyone, and create significant risks for sex workers, who are often already at higher risk of being stalked, harassed, outed or having their personal information shared.
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- Losing encryption makes websites less safe to hackers and people looking to access sex workers' information. Sex workers are regularly targeted for online harassment, doxxing, and outing at non-adult jobs, increasing their reliance on sex work to survive.

### EARN IT IS THE WRONG APPROACH

- Online platforms can already be prosecuted under federal criminal law for child sexual abuse materials.
- Age rating systems, automated censorship, and loss of encryption provide tools for racial profiling by both police and private companies, both of whom, when given discretionary tools, have demonstrated a pattern of using those tools to target racial minorities as well as LGBTQ+ communities.
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- EARN IT ignores prevention, victims' support, investment in services, and other methods of identification and intervention.

**We know what prevents exploitation: robust support for families and communities, access to housing, emergency shelter, domestic violence prevention programs, and non-punitive interventions when people need support.**

“Encryption protects my conversations with clients, fellow sex workers, and loved ones. Removing it would absolutely put me at danger from stalkers.”

“I am a survivor of violence. I needed non-judgmental support, more resources, a place to reach out to and someone to talk to on my terms - not surveillance.”

“Losing access to encryption would mean I have to speak even more in code with clients which breaks down my abilities to uphold my personal sexual boundaries.”