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.

IN THE HOUSE OF REPRESENTATIVES
MARCH 3, 2022

Mr. KHANNA (for himself, Ms. LEE of California, Mr. McGOVERN, Ms. NORTON, Ms. TLAIB, Mr. STANTON, Mr. COHEN, Mrs. WATSON COLEMAN, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 traf-
fucking investigations and prosecutions in connection with the same, and for other purposes.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

The Congress finds the following:

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

(2) Widespread discrimination against popu-
lations, including LGBTQIA+ individuals, particu-
larly transgender women of color, prevents many from accessing formal employment resources, tradi-
tional financial services, and educational opportuni-
ties.
(3) In the 2015 United States Transgender Survey conducted by the National Center for Transgender Equality, 19 percent of respondents reported having exchanged sex for resources, such as for money, food, or a place to sleep. Transgender women of color, including Black (42 percent), American Indian (28 percent), multiracial (27 percent), Latina (23 percent), and Asian (22 percent) respondents were more likely to have participated in sex work than the overall sample.

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

(5) On a broader scale, internet platforms foster connections between people and play an integral part in American society. Access to digital platforms has been essential for activists, distribution of harm reduction information and reproductive and sexual health information, and fostering connections between people who face geographic barriers. Meaningful regulation of internet platforms must take into account the role they play in the health, safety, and privacy of all people’s lives.
(6) While policymakers, representatives of internet platforms, and some advocates have discussed ways to mitigate the use of internet platforms to decrease exploitation, people who consensually trade sex are rarely involved in the drafting of legislation or policies, or in assessing their impact, despite being amongst the populations who are impacted by legislation and policies related to the regulation of these internet platforms.

(7) On February 27, 2018, the House of Representatives passed the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (commonly known as “SESTA/FOSTA”). While SESTA/FOSTA holds websites liable for user-generated content that facilitates sex trafficking, it also impacts online platforms where users discuss consensual sex work and related topics.

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

(9) One week before President Donald Trump signed SESTA/FOSTA into law, the Department of Justice seized Backpage.com and arrested Backpage employees, citing promotion of prostitution and
money laundering charges, similar to the Department of Homeland Security’s seizure of Rentboy.com only a few years prior.

(10) While these websites and individual accounts have been closing down, there has been no national investigation rigorously examining the impact of losing access to these platforms on the health and safety of people in consensual, transactional sex work. Regional and anecdotal information from health and safety service providers and sex workers has pointed to significant impacts on the health and safety of people who engage in consensual, transactional sex.

(11) Community organizations have reported increased homelessness of sex workers, including of sex workers who are caretakers for their families and have lost the economic stability provided by access to online platforms.

(12) Sex workers have reported a reduced ability to screen potential clients for safety, and negotiate for boundaries such as condom use, resulting in reports of physical and sexual violence.

(13) Many sex workers have turned to street-based work, which has historically involved higher rates of violence than other forms of transactional
sex. Street-based sex workers have frequently noted practices which harm their health and safety, such as the confiscation of condoms by police, or use of condoms as evidence of arrest for prostitution.

(14) With this new level of precarity, isolation, and vulnerability, there is substantial anecdotal evidence that members of the sex work community are more frequently being contacted by third parties seeking to engage in management activities. This includes both sex workers who had always worked independently, as well as those who have previously experienced violence and exploitation by a third party.

(15) The Federal Government has long discussed the importance of assessing collateral consequences when looking at other industries. Comprehensive studies are essential to evaluate the impact on human trafficking investigations and prosecutions, and the health and safety of those involved in consensual, transactional sex, who are increasingly losing access to digital platforms, which have been used for harm reduction information and techniques, and to screen clients. Informed government policies begin with seeking out relevant information to better guide our actions moving forward.
SEC. 3. STUDY ON UNINTENDED IMPACTS ON HEALTH AND SAFETY OF PEOPLE ENGAGED IN TRANSACTIONAL SEX AS A RESULT OF THE LOSS OF CERTAIN ONLINE RESOURCES.

(a) STUDY.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), in consultation, as appropriate, with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and the Assistant Secretary for Mental Health and Substance Use, shall study the impacts on the health and safety of people engaged in transactional sex resulting from the loss of access to interactive computer services (as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f))) in connection with the closure of websites (including Backpage.com) that host information related to consensual sexual exchange, on or after February 27, 2018, in anticipation of, or in response to, the enactment of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (Public Law 115–164).

(b) INTERVIEWS AND SURVEYS.—The study under subsection (a) shall include interviews with, and surveys conducted by, nonprofit and community-based organizations that provide direct services to people engaged in transactional sex.
(c) Topics.—The study under subsection (a) shall include assessment of the following impacts on people engaged in transactional sex:

(1) Changes in access to technology-related harm reduction services, including social media services.

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

(3) Changes in experiences of violence from clients.

(4) Changes in interactions with law enforcement officials, including changes in police surveillance, stops, and arrests.

(5) Changes in contact from third parties.

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

(7) Changes in experiences of exploitation and trafficking.

(8) Impacts on access to economic resources.

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

(10) Impacts on homelessness and housing stability.

(11) Impacts on mental health.
(12) Impacts on vulnerability to the transmission of HIV and other sexually transmitted infections.

(13) Changes in participation in other criminalized behavior.

(14) Disparities in the effects described in paragraphs (1) through (13) on key populations typically underserved by service providers, including LGBTQIA+ individuals, people living in rural areas, racial and ethnic minorities, Tribal communities, people experiencing exploitation and trafficking, and undocumented and documented foreign nationals.

(15) Any other impacts on people engaged in transactional sex, as determined appropriate by the Secretary.

(d) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a) and make such report available to the public.

SEC. 4. REPORT ON IMPACTS ON HUMAN TRAFFICKING AS A RESULT OF THE LOSS OF CERTAIN ONLINE RESOURCES.

(a) Report.—The Attorney General shall report on the impacts on human trafficking investigations and prosecutions resulting from the loss of access to interactive
computer services (as defined in section 230(f) of the
Communications Act of 1934 (47 U.S.C. 230(f))) in con-
nection with the closure of websites (including
Backpage.com) that host information related to consen-
sual sexual exchange, on or after February 27, 2018, in
anticipation of, or in response to, the enactment of the
Allow States and Victims to Fight Online Sex Trafficking
Act of 2017 (Public Law 115–164).

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

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

(1) Impact on access to online communication
technologies, including social media services.
(2) Impact on investigations into trafficking in persons.

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

(4) Impact on the ability of law enforcement agencies to find and prosecute individuals who violate section 1591(a) of title 18, United States Code.

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

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

(7) Disparities in the impacts described in paragraphs (1) through (6) on key populations typically underserved by service providers, specifically LGBTQIA+ individuals, people living in rural areas, racial and ethnic minorities, Tribal communities,
people experiencing exploitation and trafficking, and
undocumented and documented foreign nationals.

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

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