

1 A CONCURRENT RESOLUTION requesting and petitioning the United States
2 Congress to amend sections of federal law to permit the prosecution of interactive
3 computer service providers and users which carry advertising offering sex trafficking
4 victims.

5 WHEREAS, the United States Supreme Court in *U.S. v Williams*, 553 U.S. 285,
6 297 (2008) stated, "Offers to engage in illegal transactions are categorically excluded
7 from First Amendment protection;" and

8 WHEREAS, advertising that offers sex with victims of sex trafficking is
9 unprotected by the First Amendment to the United States Constitution, and those who
10 facilitate such advertising can be held criminally and civilly liable; and

11 WHEREAS, criminologists from Michigan State University and Loyola University
12 Chicago found that "technology has reshaped the contours of prostitution, with an
13 estimated 80 percent of all sales of sex now occurring online"; and

14 WHEREAS, in 2015 more than 75 percent of cases identified by the National
15 Human Trafficking Resource Center as potential cases were related to sex trafficking, and
16 37 percent of the latter cases involved children; and

17 WHEREAS, the National Center for Missing and Exploited Children (NCMEC)
18 reported an 846 percent increase from 2010 to 2015 in reports of suspected child sex
19 trafficking, an increase NCMEC found to be "directly correlated to the increased use of
20 the Internet to sell children for sex"; and

21 WHEREAS, to reduce online sex sales, federal and state prosecutors must prosecute
22 not only those who use the Internet to advertise sex with victims of sex trafficking, but
23 also providers of interactive computer services who facilitate such advertising; and

24 WHEREAS, what now prevents federal prosecutors from doing all in their
25 constitutional power to curb online sex trafficking is language in 18 U.S.C. sec. 1591,
26 which exempts from prosecution providers of interactive computer services who accept
27 payment for carrying ads which knowingly facilitate the crime of sex trafficking; and

1 WHEREAS, what now prevents state prosecutors from doing all in their
2 constitutional power to curb online sex trafficking is language in 47 U.S.C. sec. 230,
3 which was interpreted by federal courts to immunize from prosecution providers of
4 interactive computer services who carry ads which knowingly offer sex with victims of
5 sex trafficking; and

6 WHEREAS, in a letter to members of Congress dated August 16, 2017, and signed
7 by Attorneys General from 48 states, the National Association of Attorneys General
8 stated, "[C]ertain federal courts have broadly interpreted the Communications Decency
9 Act (CDA). . .[S]ome state and local law enforcement agencies have been left powerless
10 to act against online classified ad services. . .which have constructed their business
11 models around advertising income gained from participants in the sex trade"; and

12 WHEREAS, what 47 U.S.C. sec. 230 was not intended to provide is immunity from
13 prosecution under state criminal laws, or blanket protection from civil liability under 18
14 U.S.C. sec. 1591 or other federal and state laws, for providers of an interactive computer
15 service who knowingly facilitate the crime of sex trafficking;

16 NOW, THEREFORE,

17 ***Be it resolved by the House of Representatives of the General Assembly of the***
18 ***Commonwealth of Kentucky, the Senate concurring therein:***

19 ➔Section 1. That the Congress of the United States is respectfully requested to
20 amend 18 U.S.C. sec. 1591 to permit prosecution of providers of interactive computer
21 services who knowingly facilitate the crime of sex trafficking.

22 ➔Section 2. That the Congress of the United States is respectfully requested to
23 amend 47 U.S.C. sec. 230 to clarify that it does not immunize providers of interactive
24 computer services from state criminal liability, or federal or state civil liability, for
25 knowingly facilitating the crime of sex trafficking.

26 ➔Section 3. The Clerk of the Senate is directed to transmit a copy of this
27 Resolution to the Speaker of the United States House of Representatives, the Majority

- 1 Leader of the United States Senate, and each member of the Kentucky congressional
- 2 delegation.