

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 and users of interactive computer services who facilitate such advertising;
24 and

25 WHEREAS, what now prevents federal prosecutors from doing all in their
26 constitutional power to curb online sex trafficking is language in 18 U.S.C. sec. 1591,
27 which exempts from prosecution providers and users of interactive computer services

1 who accept payment for carrying ads "in reckless disregard of the fact" that the ads offer
2 sex with victims of sex trafficking; and

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

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

14 WHEREAS, what 47 U.S.C. sec. 230 was not intended to provide is immunity from
15 prosecution under state criminal laws, or blanket protection from civil liability under 18
16 U.S.C. sec. 1591 or other federal and state laws, for providers or users of an interactive
17 computer service who carry ads knowing or having reason to know that the ads offer sex
18 with victims of sex trafficking;

19 NOW, THEREFORE,

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

22 ➔Section 1. That the Congress of the United States is respectfully requested to
23 amend 18 U.S.C. sec. 1591 to permit prosecution of providers and users of interactive
24 computer services who distribute ads in reckless disregard of the fact that the ads offer
25 sex with sex trafficking victims.

26 ➔Section 2. That the Congress of the United States is respectfully requested to
27 amend 47 U.S.C. sec. 230 to clarify that it does not immunize providers and users of

1 interactive computer services from state criminal liability, or federal or state civil liability,
2 for carrying ads they know or have reason to know offer sex with sex trafficking victims.

3 ➔Section 3. The Clerk of the Senate is directed to transmit a copy of this
4 Resolution to the Speaker of the United States House of Representatives, the Majority
5 Leader of the United States Senate, and each member of the Kentucky congressional
6 delegation.