

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

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

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

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

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

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

20 WHEREAS, to reduce online sex sales, federal and state prosecutors must prosecute
21 not only those who use the Internet to advertise sex with victims of sex trafficking, but
22 also providers and users of interactive computer services who facilitate such advertising;
23 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 and users of interactive computer services
27 who accept payment for carrying ads "in reckless disregard of the fact" that the ads offer

1 sex with victims of sex trafficking; and

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

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

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

18 NOW, THEREFORE,

19 ***Be it resolved by the Senate of the General Assembly of the Commonwealth of***
20 ***Kentucky:***

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

25 ➔Section 2. That the Congress of the United States is respectfully requested to
26 amend 47 U.S.C. sec. 230 to clarify that it does not immunize providers and users of
27 interactive computer services from state criminal liability, or federal or state civil liability,

1 for carrying ads they know or have reason to know offer sex with sex trafficking victims.
2 ➔Section 3. The Clerk of the Senate is directed to transmit a copy of this
3 Resolution to the Speaker of the United States House of Representatives, the Majority
4 Leader of the United States Senate, and each member of the Kentucky congressional
5 delegation.