A BILL FOR AN ACT ENTITLED: “AN ACT ESTABLISHING THE PROTECTING CHILDREN ON THE INTERNET ACT; REQUIRING CONSUMERS TO CHOOSE WHETHER TO RECEIVE HARD-CORE PORNOGRAPHY OVER THE INTERNET; REQUIRING INTERNET SERVICES PROVIDERS TO OFFER INTERNET SERVICE THAT DOES NOT CONTAIN HARD-CORE PORNOGRAPHY; PROVIDING DEFINITIONS; AND PROVIDING AN EFFECTIVE DATE.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 4] may be cited as the "Protecting Children on the Internet Act".

NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 4] is to protect minors from hard-core pornography distributed over the internet by providing consumers with the ability to choose whether to receive content that contains hard-core pornography.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 4], the following definitions apply:

1. "Consumer" means a person or business with a billing address in this state that purchases internet or cellular service through any means or purchases an internet-enabled device.

2. (a) "Hard-core pornography" means material that:
   (i) would be considered obscenity under 45-8-201; or
   (ii) is sexual in nature and explicitly depicts genitals or genital contact involving a person or an object.

   (b) The term does not include:
   (i) nudity of an artistic nature that does not depict genital contact; or
   (ii) content that is equivalent to content in a film rated "R" by the motion picture association.
"Internet services provider" has the meaning provided in 2-17-602.

"Internet-enabled device" means equipment that allows a consumer in this state to access the internet and view or download content from the internet.

"Minor" means a person under 18 years of age.

NEW SECTION. Section 4. Limitations on internet access to hard-core pornography -- penalty.

(1) (a) An internet services provider operating in this state shall provide to a consumer an option to opt in or opt out of receiving hard-core pornography through the internet service.

(b) The option to opt in or opt out of receiving hard-core pornography must be provided:

(i) within 60 days of [the effective date of this act], to a consumer who purchased internet service from an internet services provider prior to [the effective date of this act]; and

(ii) on or after [the effective date of this act], to a consumer whenever the consumer purchases or renews internet service.

(2) To opt in to receiving hard-core pornography, a consumer must:

(a) be 18 years of age or older; and

(b) attest that the internet service or internet-enabled device is not intended for use by a minor.

(3) A consumer who opts out of receiving hard-core pornography must be provided with internet service that does not contain hard-core pornography. The internet service must be provided at the same quality and speed as the service provided to a consumer who has chosen to receive hard-core pornography.

(4) An internet services provider shall consider a person who declines to opt in or opt out of receiving hard-core pornography to have opted out of receiving hard-core pornography. The consumer may not receive hard-core pornography unless the consumer makes a declaration in accordance with subsection (2).

(5) An internet services provider may not:

(a) charge a consumer a higher rate or fee for opting out of receiving hard-core pornography;

(b) use information about a consumer's decision under this section for any purpose other than compliance with this section; or

(c) share the information with a third party.

(6) (a) An internet services provider that purposely or knowingly violates this section is guilty of a
misdemeanor and on conviction may be fined an amount not to exceed $5,000 or be imprisoned for a term not to exceed 6 months, or both.

(b) An internet services provider that had reasonable cause to believe a consumer was 18 years of age or older is not considered in violation of this section.

(c) For the purposes of this section, the following definitions apply:

(i) "Knowingly" has the meaning provided in 45-2-101.

(ii) "Purposely" has the meaning provided in 45-2-101.

(iii) "Reasonable cause" has the meaning provided in 45-8-206.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 through 4].

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2021.