

**18 USC 2258D: Limited liability for NCMEC**

Text contains those laws in effect on July 19, 2020

**From Title 18-CRIMES AND CRIMINAL PROCEDURE**

PART I-CRIMES

CHAPTER 110-SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

**Jump To:**

[Source Credit](#)

[Amendments](#)

**§2258D. Limited liability for NCMEC**

(a) IN GENERAL.-Pursuant to its clearinghouse role as a private, nonprofit organization and its mission to help find missing children, reduce online sexual exploitation of children and prevent future victimization, and except as provided in subsections (b) and (c), a civil claim or criminal charge against NCMEC, including any director, officer, employee, or agent of NCMEC, arising from the performance of the CyberTipline responsibilities or functions of NCMEC, as described in this section, section 2258A or 2258C of this title, or section 404 of the Missing **Children's** Assistance Act (34 U.S.C. 11293), or from the efforts of NCMEC to identify child victims may not be brought in any Federal or State court.

(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.-Subsection (a) shall not apply to a claim or charge if NCMEC, or a director, officer, employee, or agent of NCMEC-

(1) engaged in intentional misconduct; or

(2) acted, or failed to act-

(A) with actual malice;

(B) with reckless disregard to a substantial risk of causing injury without legal justification; or

(C) for a purpose unrelated to the performance of any responsibility or function under this section, section 2258A or 2258C of this title, or section 404 of the Missing **Children's** Assistance Act (34 U.S.C. 11293).

(c) ORDINARY BUSINESS ACTIVITIES.-Subsection (a) shall not apply to an act or omission relating to an ordinary business activity, including general administration or operations, the use of motor vehicles, or personnel management.

(d) MINIMIZING ACCESS.-NCMEC shall-

(1) minimize the number of employees that are provided access to any visual depiction provided under section 2258A; and

(2) ensure that any such visual depiction is permanently destroyed upon notification from a law enforcement agency.

(Added Pub. L. 110-401, [title V, §501\(a\)](#), [Oct. 13, 2008](#), 122 Stat. 4250 ; amended Pub. L. 115-395, [§5](#), [Dec. 21, 2018](#), 132 Stat. 5294 .)

**AMENDMENTS**

**2018**-Pub. L. 115-395, [§5\(1\)](#), substituted "NCMEC" for "the National Center for Missing and Exploited Children" in section catchline.

Subsec. (a). Pub. L. 115-395, [§5\(2\)](#), substituted "Pursuant to its clearinghouse role as a private, nonprofit organization and its mission to help find missing children, reduce online sexual exploitation of children and prevent future victimization, and except as provided" for "Except as provided", "against NCMEC" for "against the National Center for Missing and Exploited Children", "(34 U.S.C. 11293)" for "(42 U.S.C. 5773)", "of NCMEC" for "of such center" wherever appearing, and "from the efforts" for "from the effort".

Subsec. (b). Pub. L. 115-395, [§5\(3\)](#), substituted "if NCMEC" for "if the National Center for Missing and Exploited Children", "of NCMEC" for "of such center", and "(34 U.S.C. 11293)" for "(42 U.S.C. 5773)".

Subsec. (d). Pub. L. 115-395, [§5\(4\)](#), substituted "NCMEC" for "The National Center for Missing and Exploited Children" in introductory provisions and "visual depiction" for "image" in pars. (1) and (2).