

104TH CONGRESS
1ST SESSION

S. 1237

To amend certain provisions of law relating to child pornography, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13 (legislative day, SEPTEMBER 5), 1995

Mr. HATCH (for himself, Mr. ABRAHAM, Mr. GRASSLEY, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend certain provisions of law relating to child pornography, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Pornography
5 Prevention Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the use of children in the production of sex-
9 ually explicit material, including photographs, films,
10 videos, computer images, and other visual depictions,

1 is a form of sexual abuse which can result in phys-
2 ical or psychological harm, or both, to the children
3 involved;

4 (2) child pornography permanently records the
5 victim's abuse, and its continued existence causes
6 the child victims of sexual abuse continuing harm by
7 haunting those children in future years;

8 (3) child pornography is often used as part of
9 a method of seducing other children into sexual ac-
10 tivity; a child who is reluctant to engage in sexual
11 activity with an adult, or to pose for sexually explicit
12 photographs, can sometimes be convinced by viewing
13 depictions of other children "having fun" participat-
14 ing in such activity;

15 (4) prohibiting the possession and viewing of
16 child pornography encourages the possessors of such
17 material to destroy them, thereby helping to protect
18 the victims of child pornography and to eliminate
19 the market for the sexually exploitative use of chil-
20 dren; and

21 (5) the elimination of child pornography and
22 the protection of children from sexual exploitation
23 provide a compelling governmental interest for pro-
24 hibiting the production, distribution, possession, or
25 viewing of child pornography.

1 **SEC. 3. DEFINITIONS.**

2 Section 2256 of title 18, United States Code, is
3 amended—

4 (1) in paragraph (2)(E), by inserting before the
5 semicolon the following: “, or the buttocks of any
6 minor, or the breast of any female minor”;

7 (2) in paragraph (5), by inserting before the
8 semicolon the following: “, and data stored on com-
9 puter disk or by electronic means which is capable
10 of conversion into a visual image”;

11 (3) in paragraph (6), by striking “and”;

12 (4) in paragraph (7), by striking the period and
13 inserting “; and”; and

14 (5) by adding at the end the following new
15 paragraph:

16 “(8) ‘child pornography’ means any visual de-
17 piction, including any photograph, film, video, pic-
18 ture, drawing, or computer or computer-generated
19 image or picture, whether made or produced by elec-
20 tronic, mechanical, or other means, of sexually ex-
21 plicit conduct, where—

22 “(A) the production of such visual depic-
23 tion involves the use of a minor engaging in
24 sexually explicit conduct;

1 “(B) such visual depiction is, or appears to
2 be, of a minor engaging in sexually explicit con-
3 duct; or

4 “(C) such visual depiction is advertised,
5 promoted, presented, described, or distributed
6 in such a manner that conveys the impression
7 that the material is or contains a visual depic-
8 tion of a minor engaging in sexually explicit
9 conduct.”.

10 **SEC. 4. PROHIBITED ACTIVITIES RELATING TO MATERIAL**
11 **CONSTITUTING OR CONTAINING CHILD POR-**
12 **NOGRAPHY.**

13 (a) IN GENERAL.—Section 2252 of title 18, United
14 States Code, is amended to read as follows:

15 **“§ 2252. Certain activities relating to material con-**
16 **stituting or containing child pornography**

17 “(a) Any person who—

18 “(1) knowingly mails, transports, or ships in
19 interstate or foreign commerce by any means, in-
20 cluding by computer, any child pornography;

21 “(2) knowingly receives or distributes—

22 “(A) any child pornography that has been
23 mailed, shipped, or transported in interstate or
24 foreign commerce by any means, including by
25 computer; or

1 “(B) any material that contains child por-
2 nography that has been mailed, shipped, or
3 transported in interstate or foreign commerce
4 by any means, including by computer;

5 “(3) knowingly reproduces any child pornog-
6 raphy for distribution through the mails, or in inter-
7 state or foreign commerce by any means, including
8 by computer;

9 “(4) either—

10 “(A) in the maritime and territorial juris-
11 diction of the United States, or on any land or
12 building owned by, leased to, or otherwise used
13 by or under the control of the United States
14 Government, or in the Indian country (as de-
15 fined in section 1151), knowingly sells or pos-
16 sesses with the intent to sell any child pornog-
17 raphy; or

18 “(B) knowingly sells or possesses with the
19 intent to sell any child pornography that has
20 been mailed, shipped, or transported in inter-
21 state or foreign commerce by any means, in-
22 cluding by computer, or that was produced
23 using materials that have been mailed, shipped,
24 or transported in interstate or foreign com-
25 merce by any means, including by computer; or

1 “(5) either—

2 “(A) in the maritime and territorial juris-
3 diction of the United States, or on any land or
4 building owned by, leased to, or otherwise used
5 by or under the control of the United States
6 Government, or in the Indian country (as de-
7 fined in section 1151), knowingly possesses 3 or
8 more books, magazines, periodicals, films, vid-
9 eotapes, computer disks, or any other material
10 that contains any child pornography; or

11 “(B) knowingly possesses 3 or more books,
12 magazines, periodicals, films, videotapes, com-
13 puter disks, or any other material that contains
14 any child pornography that has been mailed,
15 shipped, or transported in interstate or foreign
16 commerce by any means, including by com-
17 puter,

18 shall be punished as provided in subsection (b).

19 “(b)(1) Whoever violates, or attempts or conspires to
20 violate, paragraphs (1), (2), (3), or (4) of subsection (a)
21 shall be fined under this title or imprisoned not more than
22 10 years, or both, but, if such person has a prior convic-
23 tion under this chapter or chapter 109A, such person shall
24 be fined under this title and imprisoned for not less than
25 5 years nor more than 15 years.

1 “(2) Whoever violates paragraph (5) of subsection (a)
 2 shall be fined under this title or imprisoned for not more
 3 than 5 years, or both.”.

4 (b) TECHNICAL AMENDMENT.—The table of sections
 5 for chapter 110 of title 18, United States Code, is amend-
 6 ed by amending the item relating to section 2252 to read
 7 as follows:

“2252. Certain activities relating to material constituting or containing child
 pornography.”.

8 **SEC. 5. PRIVACY PROTECTION ACT AMENDMENTS.**

9 Section 101 of the Privacy Protection Act of 1980
 10 (42 U.S.C. 2000aa) is amended—

11 (1) in subsection (a)(1), by inserting before the
 12 semicolon at the end the following: “, or if the of-
 13 fense involves the production, possession, receipt,
 14 mailing, sale, distribution, shipment, or transpor-
 15 tation of child pornography, the sexual exploitation
 16 of children, or the sale or purchase of children under
 17 section 2251, 2251A, or 2252 of title 18, United
 18 States Code”; and

19 (2) in subsection (b)(1), by inserting before the
 20 semicolon at the end the following: “, or if the of-
 21 fense involves the production, possession, receipt,
 22 mailing, sale, distribution, shipment, or transpor-
 23 tation of child pornography, the sexual exploitation
 24 of children, or the sale or purchase of children under

1 section 2251, 2251A, or 2252 of title 18, United
2 States Code”.

3 **SEC. 6. SEVERABILITY.**

4 If any provision of this Act, an amendment made by
5 this Act, or the application of such provision or amend-
6 ment to any person or circumstance is held to be unconsti-
7 tutional, the remainder of this Act, the amendments made
8 by this Act, and the application of such to any other per-
9 son or circumstance shall not be affected thereby.

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