

109TH CONGRESS
1ST SESSION

H. R. 3132

[Report No. 109–218, Part 1]

To make improvements to the national sex offender registration program,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. SENSENBRENNER (for himself, Mr. GREEN of Wisconsin, Mr. DELAY, Mr. FOLEY, Mr. CHABOT, Mr. POE, Ms. GINNY BROWN-WAITE of Florida, Mr. GILLMOR, Mr. POMEROY, Mr. CRAMER, and Mr. GRAVES) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 9, 2005

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 9, 2005

Additional sponsors: Mr. ROYCE, Mr. PENCE, Mr. FRANKS of Arizona, Mr. FORBES, Mr. BURTON of Indiana, Mr. JINDAL, Mr. BACHUS, Mr. FEENEY, Mr. BOSWELL, Mr. BAKER, Miss MCMORRIS, Mr. JENKINS, Mr. KELLER, Mr. SMITH of Texas, Mr. PORTER, Mr. PETERSON of Minnesota, Mr. GALLEGLY, Mr. KENNEDY of Minnesota, Ms. HERSETH, Mr. BOUSTANY, Mr. TERRY, Mr. KUHL of New York, Ms. GRANGER, Mr. WILSON of South Carolina, Mr. SHAW, Ms. HART, Mr. GOODE, Mr. LATHAM, Mr. GARY G. MILLER of California, Ms. PRYCE of Ohio, Mr. GENE GREEN of Texas, Mr. OSBORNE, Mr. WOLF, Mr. REICHERT, Mr. REYNOLDS, Mrs. CAPITO, Mr. REHBERG, Mr. SMITH of New Jersey, Mr. CANNON, Mr. KLINE, Mr. CANTOR, Mr. ALEXANDER, Mr. ROSS, Mr. KING of New York, Mr. KING of Iowa, Mr. ROGERS of Alabama, Mr. CHANDLER, Mr. SCHIFF, Mr. WESTMORELAND, Ms. HARRIS, Mr. LOBIONDO, Mr. WELDON of Pennsylvania, Mr. SOUDER, Mr. PICKERING, Mr. COBLE, Mr. PRICE of Georgia, Mr. WHITFIELD, Mr. BOOZMAN, Mr. MCHUGH, Mrs. MILLER of Michigan, Mr. DAN LUNGREN of California, Mr. BOEHLERT, Ms. SCHAKOWSKY, Mr. PUTNAM, Mr. BARROW, Mr. GIB-

BONS, Mr. WALDEN of Oregon, Mr. MOORE of Kansas, Mr. NORWOOD, Mr. FOSSELLA, Mr. MCINTYRE, Mr. RYAN of Wisconsin, Mr. MCCAUL of Texas, Mr. HASTINGS of Washington, Ms. ZOE LOFGREN of California, Mr. CALVERT, Mr. SMITH of Washington, and Mr. SESSIONS

SEPTEMBER 9, 2005

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 30, 2005]

A BILL

To make improvements to the national sex offender registration program, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Children’s Safety Act of 2005”.*

6 (b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Sec. 101. Short title.

Sec. 102. Declaration of purpose.

Subtitle A—Jacob Wetterling Sex Offender Registration and Notification Program

Sec. 111. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators.

Sec. 112. Registry requirements for jurisdictions.

Sec. 113. Registry requirements for sex offenders.

Sec. 114. Information required in registration.

Sec. 115. Duration of registration requirement.

Sec. 116. In person verification.

Sec. 117. Duty to notify sex offenders of registration requirements and to register.

Sec. 118. Jessica Lunsford Address Verification Program.

Sec. 119. National Sex Offender Registry.

Sec. 120. Dru Sjojin National Sex Offender Public Website.

- Sec. 121. Public access to sex offender information through the Internet.*
Sec. 122. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.
Sec. 123. Actions to be taken when sex offender fails to comply.
Sec. 124. Immunity for good faith conduct.
Sec. 125. Development and availability of registry management software.
Sec. 126. Federal duty when State programs not minimally sufficient.
Sec. 127. Period for implementation by jurisdictions.
Sec. 128. Failure to comply.
Sec. 129. Sex Offender Management Assistance (SOMA) Program.
Sec. 130. Demonstration project for use of electronic monitoring devices.
Sec. 131. Bonus payments to States that implement electronic monitoring.
Sec. 132. National Center for Missing and Exploited Children access to Interstate Identification Index.
Sec. 133. Limited immunity for National Center for Missing and Exploited Children with respect to CyberTipline.

Subtitle B—Criminal law enforcement of registration requirements

- Sec. 151. Amendments to title 18, United States Code, relating to sex offender registration.*
Sec. 152. Investigation by United States Marshals of sex offender violations of registration requirements.
Sec. 153. Sex offender apprehension grants.
Sec. 154. Use of any controlled substance to facilitate sex offense.
Sec. 155. Repeal of predecessor sex offender program.

TITLE II—DNA FINGERPRINTING

- Sec. 201. Short title.*
Sec. 202. Expanding use of DNA to identify and prosecute sex offenders.
Sec. 203. Stopping Violent Predators Against Children.
Sec. 204. Model code on investigating missing persons and deaths.

TITLE III—PREVENTION AND DETERRENCE OF CRIMES AGAINST CHILDREN ACT OF 2005

- Sec. 301. Short title.*
Sec. 302. Assured punishment for violent crimes against children.
Sec. 303. Ensuring fair and expeditious Federal collateral review of convictions for killing a child.

TITLE IV—PROTECTION AGAINST SEXUAL EXPLOITATION OF CHILDREN ACT OF 2005

- Sec. 401. Short title.*
Sec. 402. Increased penalties for sexual offenses against children.

TITLE V—FOSTER CHILD PROTECTION AND CHILD SEXUAL PREDATOR DETERRENCE

- Sec. 501. Short title.*
Sec. 502. Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and state child abuse registries; suspension and subsequent elimination of opt-Out.

Sec. 503. Access to Federal crime information databases by child welfare agencies for certain purposes.

Sec. 504. Penalties for coercion and enticement by sex offenders.

Sec. 505. Penalties for conduct relating to child prostitution.

Sec. 506. Penalties for sexual abuse.

Sec. 507. Sex offender submission to search as condition of release.

Sec. 508. Kidnapping penalties and jurisdiction.

Sec. 509. Marital communication and adverse spousal privilege.

Sec. 510. Abuse and neglect of Indian children.

Sec. 511. Civil commitment.

Sec. 512. Mandatory penalties for sex-trafficking of children.

Sec. 513. Sexual abuse of wards.

1 **TITLE I—SEX OFFENDER REG-**
 2 **ISTRATION AND NOTIFICA-**
 3 **TION ACT**

4 **SEC. 101. SHORT TITLE.**

5 *This title may be cited as the “Sex Offender Registra-*
 6 *tion and Notification Act”.*

7 **SEC. 102. DECLARATION OF PURPOSE.**

8 *In response to the vicious attacks by violent sexual*
 9 *predators against the victims listed below, Congress in this*
 10 *Act establishes a comprehensive national system for the reg-*
 11 *istration of sex offenders:*

12 *(1) Jacob Wetterling, who was 11 years old, was*
 13 *abducted in 1989 in Minnesota, and remains missing.*

14 *(2) Megan Nicole Kanka, who was 7 years old,*
 15 *was abducted, sexually assaulted and murdered in*
 16 *1994, in New Jersey.*

17 *(3) Pam Lychner, who was 31 years old, was at-*
 18 *tacked by a career offender in Houston, Texas.*

1 (4) *Jetseta Gage, who was 10 years old, was kid-*
2 *napped, sexually assaulted, and murdered in 2005 in*
3 *Cedar Rapids, Iowa.*

4 (5) *Dru Sjodin, who was 22 years old, was sexu-*
5 *ally assaulted and murdered in 2003, in North Da-*
6 *kota.*

7 (6) *Jessica Lunsford, who was 9 years, was ab-*
8 *ducted, sexually assaulted, buried alive, and murdered*
9 *in 2005, in Homosassa, Florida.*

10 (7) *Sarah Lunde, who was 13 years old, was*
11 *strangled and murdered in 2005, in Ruskin, Florida.*

12 (8) *Amie Zyla, who was 8 years old, was sexu-*
13 *ally assaulted in 1996 by a juvenile offender in*
14 *Waukesha, Wisconsin, and has become an advocate for*
15 *child victims and protection of children from juvenile*
16 *sex offenders.*

17 (9) *Christy Ann Fornoff, who was 13 years old,*
18 *was abducted, sexually assaulted and murdered in*
19 *1984, in Tempe, Arizona.*

20 (10) *Alexandra Nicole Zapp, who was 30 years*
21 *old, was brutally attacked and murdered in a public*
22 *restroom by a repeat sex offender in 2002, in Bridge-*
23 *water, Massachusetts.*

1 ***Subtitle A—Jacob Wetterling Sex***
 2 ***Offender Registration and Noti-***
 3 ***fication Program***

4 ***SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA***
 5 ***EXPANSION OF SEX OFFENDER DEFINITION***
 6 ***AND EXPANDED INCLUSION OF CHILD PRED-***
 7 ***ATORS.***

8 *In this title the following definitions apply:*

9 (1) *SEX OFFENDER REGISTRY.*—*The term “sex*
 10 *offender registry” means a registry of sex offenders,*
 11 *and a notification program, maintained by a juris-*
 12 *isdiction.*

13 (2) *JURISDICTION.*—*The term jurisdiction means*
 14 *any of the following:*

15 (A) *A State.*

16 (B) *The District of Columbia.*

17 (C) *The Commonwealth of Puerto Rico.*

18 (D) *Guam.*

19 (E) *American Samoa.*

20 (F) *Northern Mariana Islands.*

21 (G) *The United States Virgin Islands.*

22 (H) *A federally recognized Indian tribe.*

23 (3) *AMIE ZYLA EXPANSION OF SEX OFFENDER*
 24 *DEFINITION.*—*The term “sex offender” means an in-*
 25 *dividual who, either before or after the enactment of*

1 *this Act, was convicted of, or adjudicated a juvenile*
2 *delinquent for, an offense (other than an offense in-*
3 *volving sexual conduct where the victim was at least*
4 *13 years old and the offender was not more than 4*
5 *years older than the victim and the sexual conduct*
6 *was consensual, or an offense consisting of consensual*
7 *sexual conduct with an adult) whether Federal, State,*
8 *local, tribal, foreign (other than an offense based on*
9 *conduct that would not be a crime if the conduct took*
10 *place in the United States), military, juvenile or*
11 *other, that is—*

- 12 *(A) a specified offense against a minor;*
13 *(B) a serious sex offense; or*
14 *(C) a misdemeanor sex offense against a*
15 *minor.*

16 *(4) EXPANSION OF DEFINITION OF OFFENSE TO*
17 *INCLUDE ALL CHILD PREDATORS.—The term “speci-*
18 *fied offense against a minor” means an offense*
19 *against a minor that involves any of the following:*

- 20 *(A) Kidnapping (unless committed by a*
21 *parent).*
22 *(B) False imprisonment (unless committed*
23 *by a parent).*
24 *(C) Solicitation to engage in sexual con-*
25 *duct.*

1 (D) *Use in a sexual performance.*

2 (E) *Solicitation to practice prostitution.*

3 (F) *Possession, production, or distribution*
4 *of child pornography.*

5 (G) *Criminal sexual conduct towards a*
6 *minor.*

7 (H) *Any conduct that by its nature is a*
8 *sexual offense against a minor.*

9 (I) *Any other offense designated by the At-*
10 *torney General for inclusion in this definition.*

11 (J) *Any attempt or conspiracy to commit*
12 *an offense described in this paragraph.*

13 (5) *SEX OFFENSE.—The term “sex offense”*
14 *means a criminal offense that has an element involv-*
15 *ing sexual act or sexual contact with another, or an*
16 *attempt or conspiracy to commit such an offense.*

17 (6) *SERIOUS SEX OFFENSE.—The term “serious*
18 *sex offense” means—*

19 (A) *a sex offense punishable under the law*
20 *of a jurisdiction by imprisonment for more than*
21 *one year;*

22 (B) *any Federal offense under chapter*
23 *109A, 110, 117, or section 1591 of title 18,*
24 *United States Code;*

1 (C) an offense in a category specified by the
2 Secretary of Defense under section 115(a)(8)(C)
3 of title I of Public Law 105–119 (10 U.S.C. 951
4 note);

5 (D) any other offense designated by the At-
6 torney General for inclusion in this definition.

7 (7) MISDEMEANOR SEX OFFENSE AGAINST A
8 MINOR.— The term “misdemeanor sex offense against
9 a minor” means a sex offense against a minor pun-
10 ishable by imprisonment for not more than one year.

11 (8) STUDENT.—The term “student” means an
12 individual who enrolls or attends an educational in-
13 stitution, including (whether public or private) a sec-
14 ondary school, trade or professional school, and insti-
15 tution of higher education.

16 (9) EMPLOYEE.—The term “employee” includes
17 an individual who is self-employed or works for any
18 other entity, whether compensated or not.

19 (10) RESIDES.—The term “resides” means, with
20 respect to an individual, the location of the individ-
21 ual’s home or other place where the individual lives.

22 (11) MINOR.—The term “minor” means an indi-
23 vidual who has not attained the age of 18 years.

1 **SEC. 112. REGISTRY REQUIREMENTS FOR JURISDICTIONS.**

2 *Each jurisdiction shall maintain a jurisdiction-wide*
3 *sex offender registry conforming to the requirements of this*
4 *title. The Attorney General shall issue and interpret guide-*
5 *lines to implement the requirements and purposes of this*
6 *title.*

7 **SEC. 113. REGISTRY REQUIREMENTS FOR SEX OFFENDERS.**

8 *(a) IN GENERAL.—A sex offender must register, and*
9 *keep the registration current, in each jurisdiction where the*
10 *offender resides, where the offender is an employee, and*
11 *where the offender is a student.*

12 *(b) INITIAL REGISTRATION.—The sex offender shall*
13 *initially register—*

14 *(1) before completing a sentence of imprisonment*
15 *with respect to the offense giving rise to the registra-*
16 *tion requirement; or*

17 *(2) not later than 5 days after being sentenced*
18 *for that offense, if the sex offender is not sentenced to*
19 *a term of imprisonment.*

20 *(c) KEEPING THE REGISTRATION CURRENT.—A sex of-*
21 *fender must inform each jurisdiction involved, not later*
22 *than 5 days after each change of residence, employment,*
23 *or student status.*

24 *(d) RETROACTIVE DUTY TO REGISTER.—The Attorney*
25 *General shall prescribe a method for the registration of sex*
26 *offenders convicted before the enactment of this Act.*

1 (e) *STATE PENALTY FOR FAILURE TO COMPLY.*—Each
2 *jurisdiction shall provide a criminal penalty, that includes*
3 *a maximum term of imprisonment that is greater than one*
4 *year, for the failure of a sex offender to comply with the*
5 *requirements of this title.*

6 **SEC. 114. INFORMATION REQUIRED IN REGISTRATION.**

7 (a) *PROVIDED BY THE OFFENDER.*—The sex offender
8 *must provide the following information to the appropriate*
9 *official for inclusion in the sex offender registry:*

10 (1) *The name of the sex offender (including any*
11 *alias used by the individual).*

12 (2) *The Social Security number of the sex of-*
13 *fender.*

14 (3) *The address and location of the residence at*
15 *which the sex offender resides or will reside.*

16 (4) *The place where the sex offender is employed*
17 *or will be employed.*

18 (5) *The place where the sex offender is a student*
19 *or will be a student.*

20 (6) *The license plate number of any vehicle*
21 *owned or operated by the sex offender.*

22 (7) *A photograph of the sex offender.*

23 (8) *A set of fingerprints and palm prints of the*
24 *sex offender, if the appropriate official determines*

1 *that the jurisdiction does not already have available*
2 *an accurate set.*

3 (9) *A DNA sample of the sex offender, if the ap-*
4 *propriate official determines that the jurisdiction does*
5 *not already have available an appropriate DNA sam-*
6 *ple.*

7 (10) *Any other information required by the At-*
8 *torney General.*

9 (b) *PROVIDED BY THE JURISDICTION.—The jurisdic-*
10 *tion in which the sex offender registers shall include the fol-*
11 *lowing information in the registry for that sex offender:*

12 (1) *A statement of the facts of the offense giving*
13 *rise to the requirement to register under this title.*

14 (2) *The criminal history of the sex offender.*

15 (3) *Any other information required by the Attor-*
16 *ney General.*

17 **SEC. 115. DURATION OF REGISTRATION REQUIREMENT.**

18 *A sex offender shall keep the registration current—*

19 (1) *for the life of the sex offender, if the offense*
20 *is a specified offense against a minor, a serious sex*
21 *offense, or a second misdemeanor sex offense against*
22 *a minor; and*

23 (2) *for a period of 20 years, in any other case.*

1 **SEC. 116. IN PERSON VERIFICATION.**

2 *A sex offender shall appear in person and verify the*
3 *information in each registry in which that offender is re-*
4 *quired to be registered not less frequently than once every*
5 *six months.*

6 **SEC. 117. DUTY TO NOTIFY SEX OFFENDERS OF REGISTRA-**
7 **TION REQUIREMENTS AND TO REGISTER.**

8 *An appropriate official shall, shortly before release*
9 *from custody of the sex offender, or, if the sex offender is*
10 *not in custody, immediately after the sentencing of the sex*
11 *offender, for the offense giving rise to the duty to register—*

12 *(1) inform the sex offender of the duty to register*
13 *and explain that duty;*

14 *(2) require the sex offender to read and sign a*
15 *form stating that the duty to register has been ex-*
16 *plained and that the sex offender understands the reg-*
17 *istration requirement; and*

18 *(3) ensure that the sex offender is registered.*

19 **SEC. 118. JESSICA LUNSFORD ADDRESS VERIFICATION**
20 **PROGRAM.**

21 *(a) ESTABLISHMENT.—There is established the Jessica*
22 *Lunsford Address Verification Program (hereinafter in this*
23 *section referred to as the “Program”).*

24 *(b) VERIFICATION.—In the Program, an appropriate*
25 *official shall verify the residence of each registered sex of-*
26 *fender not less than monthly or, in the case of a sex offender*

1 *required to register because of a misdemeanor sex offense*
2 *against a minor, not less than quarterly.*

3 (c) *USE OF MAILED FORM AUTHORIZED.*—Such
4 *verification may be achieved by mailing a nonforwardable*
5 *verification form to the last known address of the sex of-*
6 *fender. The date of the mailing may be selected at random.*
7 *The sex offender must return the form, including a nota-*
8 *rized signature, within a set period of time. A failure to*
9 *return the form as required may be a failure to register*
10 *for the purposes of this title.*

11 **SEC. 119. NATIONAL SEX OFFENDER REGISTRY.**

12 *The Attorney General shall maintain a national data-*
13 *base at the Federal Bureau of Investigation for each sex*
14 *offender and other person required to register in a jurisdic-*
15 *tion’s sex offender registry. The database shall be known as*
16 *the National Sex Offender Registry.*

17 **SEC. 120. DRU SJODIN NATIONAL SEX OFFENDER PUBLIC**
18 **WEBSITE.**

19 (a) *ESTABLISHMENT.*—*There is established the Dru*
20 *Sjodin National Sex Offender Public Website (hereinafter*
21 *referred to as the “Website”).*

22 (b) *INFORMATION TO BE PROVIDED.*—*The Attorney*
23 *General shall maintain the Website as a site on the Internet*
24 *which allows the public to obtain relevant information for*

1 *each sex offender by a single query in a form established*
2 *by the Attorney General.*

3 (c) *ELECTRONIC FORWARDING.*—*The Attorney General*
4 *shall ensure (through the National Sex Offender Registry*
5 *or otherwise) that updated information about a sex offender*
6 *is immediately transmitted by electronic forwarding to all*
7 *relevant jurisdictions, unless the Attorney General deter-*
8 *mines that each jurisdiction has so modified its sex offender*
9 *registry and notification program that there is no longer*
10 *a need for the Attorney General to do.*

11 **SEC. 121. PUBLIC ACCESS TO SEX OFFENDER INFORMATION**
12 **THROUGH THE INTERNET.**

13 *Each jurisdiction shall make available on the Internet*
14 *all information about each sex offender in the registry, ex-*
15 *cept for the offender’s Social Security number, the identity*
16 *of any victim, and any other information exempted from*
17 *disclosure by the Attorney General. The jurisdiction shall*
18 *provide this information in a manner that is readily acces-*
19 *sible to the public.*

20 **SEC. 122. MEGAN NICOLE KANKA AND ALEXANDRA NICOLE**
21 **ZAPP COMMUNITY NOTIFICATION PROGRAM.**

22 (a) *ESTABLISHMENT OF PROGRAM.*—*There is estab-*
23 *lished the Megan Nicole Kanka and Alexandra Nicole Zapp*
24 *Community Program (hereinafter in this section referred*
25 *to as the “Program”).*

1 (b) *NOTIFICATION.*—*In the Program, as soon as pos-*
2 *sible, and in any case not later than 5 days after a sex*
3 *offender registers or updates a registration, an appropriate*
4 *official in the jurisdiction shall provide the information in*
5 *the registry (other than information exempted from disclo-*
6 *sure by the Attorney General) about that offender to the*
7 *following:*

8 (1) *The Attorney General, who shall include that*
9 *information in the National Sex Offender Registry.*

10 (2) *Appropriate law enforcement agencies (in-*
11 *cluding probation agencies, if appropriate), and each*
12 *school and public housing agency, in each area in*
13 *which the individual resides, is employed, or is a stu-*
14 *dent.*

15 (3) *Each jurisdiction from or to which a change*
16 *of residence, work, or student status occurs.*

17 (4) *Any agency responsible for conducting em-*
18 *ployment-related background checks under section 3 of*
19 *the National Child Protection Act of 1993 (42 U.S.C.*
20 *5119a).*

21 (5) *Social service entities responsible for pro-*
22 *tecting minors in the child welfare system.*

23 (6) *Volunteer organizations in which contact*
24 *with minors or other vulnerable individuals might*
25 *occur.*

1 **SEC. 123. ACTIONS TO BE TAKEN WHEN SEX OFFENDER**
2 **FAILS TO COMPLY.**

3 *An appropriate official shall notify the Attorney Gen-*
4 *eral and appropriate State and local law enforcement agen-*
5 *cies of any failure by a sex offender to comply with the*
6 *requirements of a registry. The appropriate official, the At-*
7 *torney General, and each such State and local law*
8 *enforcement agency shall take any appropriate action to en-*
9 *sure compliance.*

10 **SEC. 124. IMMUNITY FOR GOOD FAITH CONDUCT.**

11 *Law enforcement agencies, employees of law enforce-*
12 *ment agencies and independent contractors acting at the*
13 *direction of such agencies, and officials of jurisdictions and*
14 *other political subdivisions shall not be civilly or criminally*
15 *liable for good faith conduct under this title.*

16 **SEC. 125. DEVELOPMENT AND AVAILABILITY OF REGISTRY**
17 **MANAGEMENT SOFTWARE.**

18 *The Attorney General shall develop and support soft-*
19 *ware for use to establish, maintain, publish, and share sex*
20 *offender registries.*

21 **SEC. 126. FEDERAL DUTY WHEN STATE PROGRAMS NOT**
22 **MINIMALLY SUFFICIENT.**

23 *If the Attorney General determines that a jurisdiction*
24 *does not have a minimally sufficient sex offender registra-*
25 *tion program, the Department of Justice shall, to the extent*

1 *practicable, carry out the duties imposed on that jurisdic-*
2 *tion by this title.*

3 **SEC. 127. PERIOD FOR IMPLEMENTATION BY JURISDIC-**
4 **TIONS.**

5 *Each jurisdiction shall implement this title not later*
6 *than 2 years after the date of the enactment of this Act.*
7 *However, the Attorney General may authorize a one-year*
8 *extension of the deadline.*

9 **SEC. 128. FAILURE TO COMPLY.**

10 *(a) IN GENERAL.—For any fiscal year after the end*
11 *of the period for implementation, a jurisdiction that fails*
12 *to implement this title shall not receive 10 percent of the*
13 *funds that would otherwise be allocated for that fiscal year*
14 *to the jurisdiction under each of the following programs:*

15 *(1) BYRNE.—Subpart 1 of part E of title I of the*
16 *Omnibus Crime Control and Safe Streets Act of 1968*
17 *(42 U.S.C. 3750 et seq.), whether characterized as the*
18 *Edward Byrne Memorial State and Local Law En-*
19 *forcement Assistance Programs, the Edward Byrne*
20 *Memorial Justice Assistance Grant Program, or oth-*
21 *erwise.*

22 *(2) LLEBG.—The Local Government Law En-*
23 *forcement Block Grants program.*

24 *(b) REALLOCATION.—Amounts not allocated under a*
25 *program referred to in paragraph (1) to a jurisdiction for*

1 *failure to fully implement this title shall be reallocated*
2 *under that program to jurisdictions that have not failed*
3 *to implement this title.*

4 **SEC. 129. SEX OFFENDER MANAGEMENT ASSISTANCE**
5 **(SOMA) PROGRAM.**

6 (a) *IN GENERAL.*—*The Attorney General shall estab-*
7 *lish and implement a Sex Offender Management Assistance*
8 *program (in this title referred to as the “SOMA program”)*
9 *under which the Attorney General may award a grant to*
10 *a jurisdiction to offset the costs of implementing this title.*

11 (b) *APPLICATION.*—*The chief executive of a jurisdic-*
12 *tion shall, on an annual basis, submit to the Attorney Gen-*
13 *eral an application in such form and containing such infor-*
14 *mation as the Attorney General may require.*

15 (c) *BONUS PAYMENTS FOR PROMPT COMPLIANCE.*—*A*
16 *jurisdiction that, as determined by the Attorney General,*
17 *has implemented this title not later than two years after*
18 *the date of the enactment of this Act is eligible for a bonus*
19 *payment. Such payment shall be made under the SOMA*
20 *program for the first fiscal year beginning after that deter-*
21 *mination. The amount of the payment shall be—*

22 (1) *10 percent of the total received by the jurisdic-*
23 *tion under the SOMA program for the preceding*
24 *fiscal year, if implementation is not later than one*
25 *year after the date of enactment of this Act; and*

1 (2) 5 percent of such total, if not later than two
2 years after that date.

3 (d) *AUTHORIZATION OF APPROPRIATIONS.*—In addi-
4 tion to any amounts otherwise authorized to be appro-
5 priated, there are authorized to be appropriated such sums
6 as may be necessary to the Attorney General, to be available
7 only for the SOMA program, for fiscal years 2006 through
8 2008.

9 **SEC. 130. DEMONSTRATION PROJECT FOR USE OF ELEC-**
10 **TRONIC MONITORING DEVICES.**

11 (a) *PROJECT REQUIRED.*—The Attorney General shall
12 carry out a demonstration project under which the Attorney
13 General makes grants to jurisdictions to demonstrate the
14 extent to which electronic monitoring devices can be used
15 effectively in a sex offender management program.

16 (b) *USE OF FUNDS.*—The jurisdiction may use grant
17 amounts under this section directly, or through arrange-
18 ments with public or private entities, to carry out programs
19 under which the whereabouts of sex offenders are monitored
20 by electronic monitoring devices.

21 (c) *PARTICIPANTS.*—Not more than 10 jurisdictions
22 may participate in the demonstration project at any one
23 time.

1 (d) *FACTORS.*—*In selecting jurisdictions to participate*
2 *in the demonstration project, the Attorney General shall*
3 *consider the following factors:*

4 (1) *The total number of sex offenders in the ju-*
5 *isdiction.*

6 (2) *The percentage of those sex offenders who fail*
7 *to comply with registration requirements.*

8 (3) *The threat to public safety posed by those sex*
9 *offenders who fail to comply with registration require-*
10 *ments.*

11 (4) *Any other factor the Attorney General con-*
12 *siders appropriate.*

13 (e) *DURATION.*—*The Attorney General shall carry out*
14 *the demonstration project for fiscal years 2007, 2008, and*
15 *2009.*

16 (f) *REPORTS.*—*The Attorney General shall submit to*
17 *Congress an annual report on the demonstration project.*
18 *Each such report shall describe the activities carried out*
19 *by each participant, assess the effectiveness of those activi-*
20 *ties, and contain any other information or recommenda-*
21 *tions that the Attorney General considers appropriate.*

22 (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
23 *authorized to be appropriated to carry out this section such*
24 *sums as may be necessary.*

1 **SEC. 131. BONUS PAYMENTS TO STATES THAT IMPLEMENT**
2 **ELECTRONIC MONITORING.**

3 (a) *IN GENERAL.*—A State that, within 3 years after
4 the date of the enactment of this Act, has in effect laws and
5 policies described in subsection (b) shall be eligible for a
6 bonus payment described in subsection (c), to be paid by
7 the Attorney General from any amounts available to the
8 Attorney General for such purpose.

9 (b) *ELECTRONIC MONITORING LAWS AND POLICIES.*—

10 (1) *IN GENERAL.*—Laws and policies referred to
11 in subsection (a) are laws and policies that ensure
12 that electronic monitoring is required of a person if
13 that person is released after being convicted of a State
14 sex offense in which an individual who has not at-
15 tained the age of 18 years is the victim.

16 (2) *MONITORING REQUIRED.*—The monitoring
17 required under paragraph (1) is a system that ac-
18 tively monitors and identifies the person's location
19 and timely reports or records the person's presence
20 near or within a crime scene or in a prohibited area
21 or the person's departure from specified geographic
22 limitations.

23 (3) *DURATION.*—The electronic monitoring re-
24 quired by paragraph (1) shall be required of the per-
25 son—

26 (A) for the life of the person, if—

1 (i) *an individual who has not attained*
2 *the age of 12 years is the victim; or*

3 (ii) *the person has a prior sex convic-*
4 *tion (as defined in section 3559(e) of title*
5 *18, United States Code); and*

6 (B) *for the period during which the person*
7 *is on probation, parole, or supervised release for*
8 *the offense, in any other case.*

9 (4) *STATE REQUIRED TO MONITOR ALL SEX OF-*
10 *FENDERS RESIDING IN STATE.—In addition, laws*
11 *and policies referred to in subsection (a) also includee*
12 *laws and policies that ensure that the State frequently*
13 *monitors each person residing in the State for whom*
14 *electronic monitoring is required, whether such moni-*
15 *toring is required under this section or under section*
16 *3563(a)(9) of title 18, United States Code.*

17 (c) *BONUS PAYMENTS.—The bonus payment referred*
18 *to in subsection (a) is a payment equal to 10 percent of*
19 *the funds that would otherwise be allocated for that fiscal*
20 *year to the jurisdiction under each of the following pro-*
21 *grams:*

22 (1) *BYRNE.—Subpart 1 of part E of title I of the*
23 *Omnibus Crime Control and Safe Streets Act of 1968*
24 *(42 U.S.C. 3750 et seq.), whether characterized as the*
25 *Edward Byrne Memorial State and Local Law En-*

1 *forcement Assistance Programs, the Edward Byrne*
2 *Memorial Justice Assistance Grant Program, or oth-*
3 *erwise.*

4 (2) *LLEBG.—The Local Government Law En-*
5 *forcement Block Grants program.*

6 (d) *DEFINITION.—In this section, the term “State sex*
7 *offense” means any criminal offense in a range of offenses*
8 *specified by State law which is comparable to or which ex-*
9 *ceeds the range of offenses encompassed by the following:*

10 (1) *A specified offense against a minor.*

11 (2) *A serious sex offense.*

12 **SEC. 132. NATIONAL CENTER FOR MISSING AND EXPLOITED**
13 **CHILDREN ACCESS TO INTERSTATE IDENTI-**
14 **FICATION INDEX.**

15 (a) *IN GENERAL.—Notwithstanding any other provi-*
16 *sion of law, the Attorney General shall ensure that the Na-*
17 *tional Center for Missing and Exploited Children has access*
18 *to the Interstate Identification Index, to be used by the Cen-*
19 *ter only within the scope of its duties and responsibilities*
20 *under Federal law. The access provided under this section*
21 *shall be authorized only to personnel of the Center that have*
22 *met all the requirements for access, including training, cer-*
23 *tification, and background screening.*

24 (b) *IMMUNITY.—Personnel of the Center shall not be*
25 *civilly or criminally liable for any use or misuse of infor-*

1 *mation in the Interstate Identification Index if in good*
2 *faith.*

3 **SEC. 133. LIMITED IMMUNITY FOR NATIONAL CENTER FOR**
4 **MISSING AND EXPLOITED CHILDREN WITH**
5 **RESPECT TO CYBERTIPLINE.**

6 *Section 227 of the Victims of Child Abuse Act of 1990*
7 *(42 U.S.C. 13032) is amended by adding at the end the*
8 *following new subsection:*

9 “(g) *LIMITATION ON LIABILITY.*—

10 “(1) *IN GENERAL.*—*Except as provided in para-*
11 *graphs (2) and (3), the National Center for Missing*
12 *and Exploited Children, including any of its direc-*
13 *tors, officers, employees, or agents, is not liable in any*
14 *civil or criminal action for damages directly related*
15 *to the performance of its CyberTipline responsibilities*
16 *and functions as defined by this section.*

17 “(2) *INTENTIONAL, RECKLESS, OR OTHER MIS-*
18 *CONDUCT.*—*Paragraph (1) does not apply in an ac-*
19 *tion in which a party proves that the National Center*
20 *for Missing and Exploited Children, or its officer, em-*
21 *ployee, or agent as the case may be, engaged in inten-*
22 *tional misconduct or acted, or failed to act, with ac-*
23 *tual malice, with reckless disregard to a substantial*
24 *risk of causing injury without legal justification, or*

1 *for a purpose unrelated to the performance of respon-*
 2 *sibilities or functions under this section.*

3 “(3) *ORDINARY BUSINESS ACTIVITIES.*—Para-
 4 *graph (1) does not apply to an act or omission re-*
 5 *lated to an ordinary business activity, such as an ac-*
 6 *tivity involving general administration or operations,*
 7 *the use of motor vehicles, or personnel management.”.*

8 ***Subtitle B—Criminal Law Enforce-***
 9 ***ment of Registration Require-***
 10 ***ments***

11 ***SEC. 151. AMENDMENTS TO TITLE 18, UNITED STATES***
 12 ***CODE, RELATING TO SEX OFFENDER REG-***
 13 ***ISTRATION.***

14 *(a) CRIMINAL PENALTIES FOR NONREGISTRATION.—*
 15 *Part I of title 18, United States Code, is amended by insert-*
 16 *ing after chapter 109A the following:*

17 ***“CHAPTER 109B—SEX OFFENDER AND***
 18 ***CRIMES AGAINST CHILDREN REGISTRY***

“*Sec.*
 “2250. *Failure to register.*”

19 ***“§ 2250. Failure to register***

20 *“Whoever receives a notice from an official that such*
 21 *person is required to register under the Sex Offender Reg-*
 22 *istration and Notification Act and—*

1 “(1) is a sex offender as defined for the purposes
2 of that Act by reason of a conviction under Federal
3 law; or

4 “(2) thereafter travels in interstate or foreign
5 commerce, or enters or leaves Indian country;
6 and knowingly fails to register as required shall be fined
7 under this title and imprisoned not less than 5 years nor
8 more than 20 years.”.

9 (b) *CLERICAL AMENDMENT.*—The table of chapters for
10 part I of title 18, United States Code, is amended by insert-
11 ing after the item relating to chapter 109A the following
12 new item:

“109B. Sex offender and crimes against children registry 2250”.

13 (c) *FALSE STATEMENT OFFENSE.*—Section 1001(a) of
14 title 18, United States Code, is amended by adding at the
15 end the following: “If the matter relates to an offense under
16 chapter 109A, 109B, 110, or 117, then the term of imprison-
17 ment imposed under this section shall be not less than 5
18 years nor more than 20 years.”

19 (d) *PROBATION.*—Paragraph (8) of section 3563(a) of
20 title 18, United States Code, is amended to read as follows:

21 “(8) for a person required to register under the
22 Sex Offender Registration and Notification Act, that
23 the person comply with the requirements of that Act;
24 and”.

1 (e) *SUPERVISED RELEASE*.—Section 3583 of title 18,
2 *United States Code*, is amended—

3 (1) in subsection (d), in the sentence beginning
4 with “The court shall order, as an explicit condition
5 of supervised release for a person described in section
6 4042(c)(4)”, by striking “described in section
7 4042(c)(4)” and all that follows through the end of the
8 sentence and inserting “required to register under the
9 *Sex Offender Registration and Notification Act* that
10 the person comply with the requirements of that Act.”

11 (2) in subsection (k)—

12 (A) by striking “2244(a)(1), 2244(a)(2)”
13 and inserting “2243, 2244, 2245, 2250”;

14 (B) by inserting “not less than 5,” after
15 “any term of years”; and

16 (C) by adding at the end the following: “If
17 a defendant required to register under the *Sex*
18 *Offender Registration and Notification Act* vio-
19 lates the requirements of that Act or commits
20 any criminal offense for which imprisonment for
21 a term longer than one year can be imposed, the
22 court shall revoke the term of supervised release
23 and require the defendant to serve a term of im-
24 prisonment under subsection (e)(3) without re-
25 gard to the exception contained therein. Such

1 *term shall be not less than 5 years, and if the*
2 *offense was an offense under chapter 109A, 109B,*
3 *110, or 117, not less than 10 years.” .*

4 *(f) DUTIES OF BUREAU OF PRISONS.—Paragraph (3)*
5 *of section 4042(c) of title 18, United States Code, is amend-*
6 *ed to read as follows:*

7 *“(3) The Director of the Bureau of Prisons shall in-*
8 *form a person who is released from prison and required*
9 *to register under the Sex Offender Registration and Notifi-*
10 *cation Act of the requirements of that Act as they apply*
11 *to that person and the same information shall be provided*
12 *to a person sentenced to probation by the probation officer*
13 *responsible for supervision of that person.”.*

14 *(g) CONFORMING AMENDMENT OF CROSS REF-*
15 *ERENCE.—Paragraph (1) of section 4042(c) of title 18,*
16 *United States Code, is amended by striking “(4)” and in-*
17 *serting “(3)”.*

18 *(h) CONFORMING REPEAL OF DEADWOOD.—Para-*
19 *graph (4) of section 4042(c) of title 18, United States Code,*
20 *is repealed.*

21 **SEC. 152. INVESTIGATION BY UNITED STATES MARSHALS**
22 **OF SEX OFFENDER VIOLATIONS OF REG-**
23 **ISTRATION REQUIREMENTS.**

24 *(a) IN GENERAL.—The Attorney General shall use the*
25 *authority provided in section 566(e)(1)(B) of title 28,*

1 *United States Code, to assist States and other jurisdictions*
2 *in locating and apprehending sex offenders who violate sex*
3 *offender registration requirements.*

4 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*
5 *authorized to be appropriated such sums as may be nec-*
6 *essary for fiscal years 2006 through 2008 to implement this*
7 *section.*

8 **SEC. 153. SEX OFFENDER APPREHENSION GRANTS.**

9 *Title I of the Omnibus Crime Control and Safe Streets*
10 *Act of 1968 is amended by adding at the end the following*
11 *new part:*

12 **“PART JJ—SEX OFFENDER APPREHENSION**
13 **GRANTS**

14 **“SEC. 3011. AUTHORITY TO MAKE SEX OFFENDER APPRE-**
15 **HENSION GRANTS.**

16 *“(a) IN GENERAL.—From amounts made available to*
17 *carry out this part, the Attorney General may make grants*
18 *to States, units of local government, Indian tribal govern-*
19 *ments, other public and private entities, and multi-jurisdic-*
20 *tional or regional consortia thereof for activities specified*
21 *in subsection (b).*

22 *“(b) COVERED ACTIVITIES.—An activity referred to in*
23 *subsection (a) is any program, project, or other activity to*
24 *assist a State in enforcing sex offender registration require-*
25 *ments.*

1 **“SEC. 3012. AUTHORIZATION OF APPROPRIATIONS.**

2 *“There are authorized to be appropriated such sums*
 3 *as may be necessary for fiscal years 2006 through 2008 to*
 4 *carry out this part.”.*

5 **SEC. 154. USE OF ANY CONTROLLED SUBSTANCE TO FACILI-**
 6 **TATE SEX OFFENSE.**

7 *(a) INCREASED PUNISHMENT.—Chapter 109A of title*
 8 *18, United States Code, is amended by adding at the end*
 9 *the following:*

10 **“§ 2249. Use of any controlled substance to facilitate**
 11 **sex offense**

12 *“(a) Whoever, knowingly uses a controlled substance*
 13 *to substantially impair the ability of a person to appraise*
 14 *or control conduct, in order to commit a sex offense, other*
 15 *than an offense where such use is an element of the offense,*
 16 *shall, in addition to the punishment provided for the sex*
 17 *offense, be imprisoned for any term of years not less than*
 18 *10, or for life.*

19 *“(b) As used in this section, the term ‘sex offense’*
 20 *means an offense under this chapter other than an offense*
 21 *under this section.”.*

22 *(b) AMENDMENT TO TABLE.—The table of sections at*
 23 *the beginning of chapter 109A of title 18, United States*
 24 *Code, is amended by adding at the end the following new*
 25 *item:*

“2249. Use of any controlled substance to facilitate sex offense.”.

1 **SEC. 155. REPEAL OF PREDECESSOR SEX OFFENDER PRO-**
2 **GRAM.**

3 *Sections 170101 (42 U.S.C. 14071) and 170102 (42*
4 *U.S.C. 14072) of the Violent Crime Control and Law En-*
5 *forcement Act of 1994, and section 8 of the Pam Lychner*
6 *Sexual Offender Tracking and Identification Act of 1996*
7 *(42 U.S.C. 14073), are repealed.*

8 **TITLE II—DNA FINGERPRINTING**

9 **SEC. 201. SHORT TITLE.**

10 *This title may be cited as the “DNA Fingerprinting*
11 *Act of 2005”.*

12 **SEC. 202. EXPANDING USE OF DNA TO IDENTIFY AND PROS-**
13 **ECUTE SEX OFFENDERS.**

14 *(a) EXPANSION OF NATIONAL DNA INDEX SYSTEM.—*
15 *Section 210304 of the DNA Identification Act of 1994 (42*
16 *U.S.C. 14132) is amended—*

17 *(1) in subsection (a)(1)(C), by striking “, pro-*
18 *vided” and all that follows through “System”; and*

19 *(2) by striking subsections (d) and (e).*

20 *(b) DNA SAMPLE COLLECTION FROM PERSONS AR-*
21 *RESTED OR DETAINED UNDER FEDERAL AUTHORITY.—*

22 *(1) IN GENERAL.—Section 3 of the DNA Anal-*
23 *ysis Backlog Elimination Act of 2000 (42 U.S.C.*
24 *14135a) is amended*

25 *(A) in subsection (a)—*

1 (i) in paragraph (1), by striking “The
2 Director” and inserting the following:

3 “(A) The Attorney General may, as pro-
4 vided by the Attorney General by regulation, col-
5 lect DNA samples from individuals who are ar-
6 rested, detained, or convicted under the authority
7 of the United States. The Attorney General may
8 delegate this function within the Department of
9 Justice as provided in section 510 of title 28,
10 United States Code, and may also authorize and
11 direct any other agency of the United States that
12 arrests or detains individuals or supervises indi-
13 viduals facing charges to carry out any function
14 and exercise any power of the Attorney General
15 under this section.

16 “(B) The Director”; and

17 (ii) in paragraphs (3) and (4), by
18 striking “Director of the Bureau of Prisons”
19 each place it appears and inserting “Attor-
20 ney General, the Director of the Bureau of
21 Prisons,”; and

22 (B) in subsection (b), by striking “Director
23 of the Bureau of Prisons” and inserting “Attor-
24 ney General, the Director of the Bureau of Pris-
25 ons,”.

1 (2) *CONFORMING AMENDMENT.*—Subsections (b)
2 and (c)(1)(A) of section 3142 of title 18, United
3 States Code, are each amended by inserting “and sub-
4 ject to the condition that the person cooperate in the
5 collection of a DNA sample from the person if the col-
6 lection of such a sample is authorized pursuant to
7 section 3 of the DNA Analysis Backlog Elimination
8 Act of 2000 (42 U.S.C. 14135a)” after “period of re-
9 lease”.

10 (c) *TOLLING OF STATUTE OF LIMITATIONS IN SEXUAL*
11 *ABUSE CASES.*—Section 3297 of title 18, United States
12 Code, is amended by striking “except for a felony offense
13 under chapter 109A,”.

14 **SEC. 203. STOPPING VIOLENT PREDATORS AGAINST CHIL-**
15 **DREN.**

16 *In carrying out Acts of Congress relating to DNA*
17 *databases, the Attorney General shall give appropriate con-*
18 *sideration to the need for the collection and testing of DNA*
19 *to stop violent predators against children.*

20 **SEC. 204. MODEL CODE ON INVESTIGATING MISSING PER-**
21 **SONS AND DEATHS.**

22 (a) *MODEL CODE REQUIRED.*—Not later than 60 days
23 after the date of the enactment of this Act, the Attorney
24 General shall publish a model code setting forth procedures
25 to be followed by law enforcement officers when inves-

1 *tigating a missing person or a death. The procedures shall*
2 *include the use of DNA analysis to help locate missing per-*
3 *sons and to help identify human remains.*

4 *(b) SENSE OF CONGRESS.—It is the sense of Congress*
5 *that each State should, not later than 1 year after the date*
6 *on which the Attorney General publishes the model code,*
7 *enact laws implementing the model code.*

8 *(c) GAO STUDY.—Not later than 2 years after the date*
9 *on which the Attorney General publishes the model code,*
10 *the Comptroller General shall submit to Congress a report*
11 *on the extent to which States have implemented the model*
12 *code. The report shall, for each State—*

13 *(1) describe the extent to which the State has im-*
14 *plemented the model code; and*

15 *(2) to the extent the State has not implemented*
16 *the model code, describe the reasons why the State has*
17 *not done so.*

18 **TITLE III—PREVENTION AND DE-**
19 **TERRENCE OF CRIMES**
20 **AGAINST CHILDREN ACT OF**
21 **2005**

22 **SEC. 301. SHORT TITLE.**

23 *This title may be cited as the “Prevention and Deter-*
24 *rence of Crimes Against Children Act of 2005”.*

1 **SEC. 302. ASSURED PUNISHMENT FOR VIOLENT CRIMES**
2 **AGAINST CHILDREN.**

3 (a) *SPECIAL SENTENCING RULE.*—Subsection (d) of
4 section 3559 of title 18, United States Code, is amended
5 to read as follows:

6 “(d) *MANDATORY MINIMUM TERMS OF IMPRISONMENT*
7 *FOR VIOLENT CRIMES AGAINST CHILDREN.*—A person who
8 is convicted of a felony crime of violence against the person
9 of an individual who has not attained the age of 18 years
10 shall, unless a greater mandatory minimum sentence of im-
11 prisonment is otherwise provided by law and regardless of
12 any maximum term of imprisonment otherwise provided
13 for the offense—

14 “(1) if the crime of violence results in the death
15 of a person who has not attained the age of 18 years,
16 be sentenced to death or life in prison;

17 “(2) if the crime of violence is kidnapping, ag-
18 gravated sexual abuse, sexual abuse, or maiming, or
19 results in serious bodily injury (as defined in section
20 2119(2)) be imprisoned for life or any term of years
21 not less than 30;

22 “(3) if the crime of violence results in bodily in-
23 jury (as defined in section 1365) or is an offense
24 under paragraphs (1), (2), or (5) of section 2244(a),
25 be imprisoned for life or for any term of years not
26 less than 20;

1 “(4) if a dangerous weapon was used during and
2 in relation to the crime of violence, be imprisoned for
3 life or for any term of years not less than 15; and

4 “(5) in any other case, be imprisoned for life or
5 for any term of years not less than 10.”.

6 **SEC. 303. ENSURING FAIR AND EXPEDITIOUS FEDERAL COL-**
7 **LATERAL REVIEW OF CONVICTIONS FOR KILL-**
8 **ING A CHILD.**

9 (a) *LIMITS ON CASES.*—Section 2254 of title 28,
10 *United States Code, is amended by adding at the end the*
11 *following:*

12 “(j)(1) *A court, justice, or judge shall not have jurisdic-*
13 *tion to consider any claim relating to the judgment or sen-*
14 *tence in an application described under paragraph (2), un-*
15 *less the applicant shows that the claim qualifies for consid-*
16 *eration on the grounds described in subsection (e)(2). Any*
17 *such application that is presented to a court, justice, or*
18 *judge other than a district court shall be transferred to the*
19 *appropriate district court for consideration or dismissal in*
20 *conformity with this subsection, except that a court of ap-*
21 *peals panel must authorize any second or successive appli-*
22 *cation in conformity with section 2244 before any consider-*
23 *ation by the district court.*

24 “(2) *This subsection applies to an application for a*
25 *writ of habeas corpus on behalf of a person in custody pur-*

1 *suant to the judgment of a State court for a crime that*
2 *involved the killing of a individual who has not attained*
3 *the age of 18 years.*

4 “(3) *For an application described in paragraph (2),*
5 *the following requirements shall apply in the district court:*

6 “(A) *Any motion by either party for an evi-*
7 *dentiary hearing shall be filed and served not later*
8 *than 90 days after the State files its answer or, if no*
9 *timely answer is filed, the date on which such answer*
10 *is due.*

11 “(B) *Any motion for an evidentiary hearing*
12 *shall be granted or denied not later than 30 days*
13 *after the date on which the party opposing such mo-*
14 *tion files a pleading in opposition to such motion or,*
15 *if no timely pleading in opposition is filed, the date*
16 *on which such pleading in opposition is due.*

17 “(C) *Any evidentiary hearing shall be—*

18 “(i) *convened not less than 60 days after the*
19 *order granting such hearing; and*

20 “(ii) *completed not more than 150 days*
21 *after the order granting such hearing.*

22 “(D) *A district court shall enter a final order,*
23 *granting or denying the application for a writ of ha-*
24 *beas corpus, not later than 15 months after the date*
25 *on which the State files its answer or, if no timely*

1 *answer is filed, the date on which such answer is due,*
2 *or not later than 60 days after the case is submitted*
3 *for decision, whichever is earlier.*

4 *“(E) If the district court fails to comply with the*
5 *requirements of this paragraph, the State may peti-*
6 *tion the court of appeals for a writ of mandamus to*
7 *enforce the requirements. The court of appeals shall*
8 *grant or deny the petition for a writ of mandamus*
9 *not later than 30 days after such petition is filed with*
10 *the court.*

11 *“(4) For an application described in paragraph (2),*
12 *the following requirements shall apply in the court of ap-*
13 *peals:*

14 *“(A) A timely filed notice of appeal from an*
15 *order issuing a writ of habeas corpus shall operate as*
16 *a stay of that order pending final disposition of the*
17 *appeal.*

18 *“(B) The court of appeals shall decide the appeal*
19 *from an order granting or denying a writ of habeas*
20 *corpus—*

21 *“(i) not later than 120 days after the date*
22 *on which the brief of the appellee is filed or, if*
23 *no timely brief is filed, the date on which such*
24 *brief is due; or*

1 “(i) if a cross-appeal is filed, not later
2 than 120 days after the date on which the appel-
3 lant files a brief in response to the issues pre-
4 sented by the cross-appeal or, if no timely brief
5 is filed, the date on which such brief is due.

6 “(C)(i) Following a decision by a panel of the
7 court of appeals under subparagraph (B), a petition
8 for panel rehearing is not allowed, but rehearing by
9 the court of appeals en banc may be requested. The
10 court of appeals shall decide whether to grant a peti-
11 tion for rehearing en banc not later than 30 days
12 after the date on which the petition is filed, unless a
13 response is required, in which case the court shall de-
14 cide whether to grant the petition not later than 30
15 days after the date on which the response is filed or,
16 if no timely response is filed, the date on which the
17 response is due.

18 “(ii) If rehearing en banc is granted, the court
19 of appeals shall make a final determination of the ap-
20 peal not later than 120 days after the date on which
21 the order granting rehearing en banc is entered.

22 “(D) If the court of appeals fails to comply with
23 the requirements of this paragraph, the State may pe-
24 tition the Supreme Court or a justice thereof for a
25 writ of mandamus to enforce the requirements.

1 “(5)(A) *The time limitations under paragraphs (3)*
2 *and (4) shall apply to an initial application described in*
3 *paragraph (2), any second or successive application de-*
4 *scribed in paragraph (2), and any redetermination of an*
5 *application described in paragraph (2) or related appeal*
6 *following a remand by the court of appeals or the Supreme*
7 *Court for further proceedings.*

8 “(B) *In proceedings following remand in the district*
9 *court, time limits running from the time the State files its*
10 *answer under paragraph (3) shall run from the date the*
11 *remand is ordered if further briefing is not required in the*
12 *district court. If there is further briefing following remand*
13 *in the district court, such time limits shall run from the*
14 *date on which a responsive brief is filed or, if no timely*
15 *responsive brief is filed, the date on which such brief is due.*

16 “(C) *In proceedings following remand in the court of*
17 *appeals, the time limit specified in paragraph (4)(B) shall*
18 *run from the date the remand is ordered if further briefing*
19 *is not required in the court of appeals. If there is further*
20 *briefing in the court of appeals, the time limit specified in*
21 *paragraph (4)(B) shall run from the date on which a re-*
22 *sponsive brief is filed or, if no timely responsive brief is*
23 *filed, from the date on which such brief is due.*

24 “(6) *The failure of a court to meet or comply with*
25 *a time limitation under this subsection shall not be a*

1 *ground for granting relief from a judgment of conviction*
2 *or sentence, nor shall the time limitations under this sub-*
3 *section be construed to entitle a capital applicant to a stay*
4 *of execution, to which the applicant would otherwise not*
5 *be entitled, for the purpose of litigating any application*
6 *or appeal.”.*

7 **(b) VICTIMS’ RIGHTS IN HABEAS CASES.**—Section
8 *3771(b) of title 18, United States Code, is amended by add-*
9 *ing at the end the following: “The rights established for*
10 *crime victims by this section shall also be extended in a*
11 *Federal habeas corpus proceeding arising out of a State*
12 *conviction to victims of the State offense at issue.”.*

13 **(c) APPLICATION TO PENDING CASES.**—

14 **(1) IN GENERAL.**—*The amendment made by this*
15 *section apply to cases pending on the date of the en-*
16 *actment of this Act as well as to cases commenced on*
17 *and after that date.*

18 **(2) SPECIAL RULE FOR TIME LIMITS.**—*In a case*
19 *pending on the date of the enactment of this Act, if*
20 *the amendment made by subsection (a) provides that*
21 *a time limit runs from an event or time that has oc-*
22 *curred before that date, the time limit shall instead*
23 *run from that date.*

1 **TITLE IV—PROTECTION AGAINST**
2 **SEXUAL EXPLOITATION OF**
3 **CHILDREN ACT OF 2005**

4 **SEC. 401. SHORT TITLE.**

5 *This title may be cited as the “Protection Against Sex-*
6 *ual Exploitation of Children Act of 2005”.*

7 **SEC. 402. INCREASED PENALTIES FOR SEXUAL OFFENSES**
8 **AGAINST CHILDREN.**

9 *(a) SEXUAL ABUSE AND CONTACT.—*

10 *(1) AGGRAVATED SEXUAL ABUSE OF CHIL-*
11 *DREN.—Section 2241(c) of title 18, United States*
12 *Code, is amended by striking “, imprisoned for any*
13 *term of years or life, or both.” and inserting “and im-*
14 *prisoned for not less than 30 years or for life.”.*

15 *(2) ABUSIVE SEXUAL CONTACT WITH CHIL-*
16 *DREN.—Section 2244 of chapter 109A of title 18,*
17 *United States Code, is amended—*

18 *(A) in subsection (a)—*

19 *(i) in paragraph (1), by inserting*
20 *“subsection (a) or (b) of” before “section*
21 *2241”;*

22 *(ii) by striking “or” at the end of*
23 *paragraph (3);*

24 *(iii) by striking the period at the end*
25 *of paragraph (4) and inserting “; or”; and*

1 (iv) by inserting after paragraph (4)
2 the following:

3 “(5) subsection (c) of section 2241 of this title
4 had the sexual contact been a sexual act, shall be
5 fined under this title and imprisoned for not less than
6 10 years and not more than 25 years.”; and

7 (B) in subsection (c), by inserting “(other
8 than subsection (a)(5))” after “violates this sec-
9 tion”.

10 (3) *SEXUAL ABUSE OF CHILDREN RESULTING IN*
11 *DEATH.*—Section 2245 of title 18, United States
12 Code, is amended—

13 (A) by inserting “, chapter 110, chapter
14 117, or section 1591” after “this chapter”;

15 (B) by striking “A person” and inserting
16 “(a) *IN GENERAL.*—A person”; and

17 (C) by adding at the end the following:

18 “(b) *OFFENSES INVOLVING YOUNG CHILDREN.*—A per-
19 son who, in the course of an offense under this chapter,
20 chapter 110, chapter 117, or section 1591 engages in con-
21 duct that results in the death of a person who has not at-
22 tained the age of 12 years, shall be punished by death or
23 imprisoned for not less than 30 years or for life.”.

24 (4) *DEATH PENALTY AGGRAVATING FACTOR.*—
25 Section 3592(c)(1) of title 18, United States Code, is

1 amended by inserting “section 2245 (sexual abuse re-
2 sulting in death),” after “(wrecking trains),”.

3 (b) *SEXUAL EXPLOITATION AND OTHER ABUSE OF*
4 *CHILDREN.*—

5 (1) *SEXUAL EXPLOITATION OF CHILDREN.*—*Sec-*
6 *tion 2251(e) of title 18, United States Code, is*
7 *amended—*

8 (A) by striking “15 years nor more than 30
9 years” and inserting “25 years or for life”;

10 (B) by inserting “section 1591,” after “this
11 chapter,” the first place it appears;

12 (C) by striking “the sexual exploitation of
13 children” the first place it appears and inserting
14 “aggravated sexual abuse, sexual abuse, abusive
15 sexual contact involving a minor or ward, or sex
16 trafficking of children, or the production, posses-
17 sion, receipt, mailing, sale, distribution, ship-
18 ment, or transportation of child pornography”;

19 (D) by striking “not less than 25 years nor
20 more than 50 years, but if such person has 2 or
21 more prior convictions under this chapter, chap-
22 ter 71, chapter 109A, or chapter 117, or under
23 section 920 of title 10 (article 120 of the Uni-
24 form Code of Military Justice), or under the laws
25 of any State relating to the sexual exploitation

1 *of children, such person shall be fined under this*
2 *title and imprisoned not less than 35 years nor*
3 *more than life.” and inserting “life.”; and*

4 *(E) by striking “any term of years or for*
5 *life” and inserting “not less than 30 years or for*
6 *life”.*

7 (2) *ACTIVITIES RELATING TO MATERIAL INVOLV-*
8 *ING THE SEXUAL EXPLOITATION OF CHILDREN.—Sec-*
9 *tion 2252(b) of title 18, United States Code, is*
10 *amended—*

11 *(A) in paragraph (1)—*

12 *(i) by striking “paragraphs (1)” and*
13 *inserting “paragraph (1)”;*

14 *(ii) by inserting “section 1591,” after*
15 *“this chapter,”;*

16 *(iii) by inserting “, or sex trafficking*
17 *of children” after “pornography”;*

18 *(iv) by striking “5 years and not more*
19 *than 20 years” and inserting “25 years or*
20 *for life”;* and

21 *(v) by striking “not less than 15 years*
22 *nor more than 40 years.” and inserting*
23 *“life.”; and*

24 *(B) in paragraph (2)—*

1 (i) by striking “or imprisoned not
2 more than 10 years” and inserting “and
3 imprisoned for not less than 10 nor more
4 than 30 years”;

5 (ii) by striking “, or both”; and

6 (iii) by striking “10 years nor more
7 than 20 years.” and inserting “30 years or
8 for life.”.

9 (3) *ACTIVITIES RELATING TO MATERIAL CONSTI-*
10 *TUTING OR CONTAINING CHILD PORNOGRAPHY.—Sec-*
11 *tion 2252A(b) of title 18, United States Code, is*
12 *amended—*

13 (A) in paragraph (1)—

14 (i) by inserting “section 1591,” after
15 “this chapter,”;

16 (ii) by inserting “, or sex trafficking of
17 children” after “pornography”;

18 (iii) by striking “5 years and not more
19 than 20 years” and inserting “25 years or
20 for life”; and

21 (iv) by striking “not less than 15 years
22 nor more than 40 years” and inserting
23 “life”; and

24 (B) in paragraph (2)—

1 (i) by striking “or imprisoned not
2 more than 10 years, or both” and inserting
3 “and imprisoned for not less than 10 nor
4 more than 30 years”; and

5 (ii) by striking “10 years nor more
6 than 20 years” and inserting “30 years or
7 for life”.

8 (4) *USING MISLEADING DOMAIN NAMES TO DI-*
9 *RECT CHILDREN TO HARMFUL MATERIAL ON THE*
10 *INTERNET.*—Section 2252B(b) of title 18, United
11 States Code, is amended by striking “or imprisoned
12 not more than 4 years, or both” and inserting “ and
13 imprisoned not less than 10 nor more than 30 years”.

14 (5) *PRODUCTION OF SEXUALLY EXPLICIT DEPIC-*
15 *TIONS OF CHILDREN.*—Section 2260(c) of title 18,
16 United States Code, is amended by striking para-
17 graphs (1) and (2) and inserting the following:

18 “(1) shall be fined under this title and impris-
19 oned for any term or years not less than 25 or for life;
20 and

21 “(2) if the person has a prior conviction under
22 this chapter, section 1591, chapter 71, chapter 109A,
23 or chapter 117, or under section 920 of title 10 (arti-
24 cle 120 of the Uniform Code of Military Justice),

1 *shall be fined under this title and imprisoned for*
2 *life.”.*

3 (c) *MANDATORY LIFE IMPRISONMENT FOR CERTAIN*
4 *REPEATED SEX OFFENSES AGAINST CHILDREN.—Section*
5 *3559(e)(2)(A) of title 18, United States Code, is amended—*

6 (1) *by striking “or 2423(a)” and inserting*
7 *“2423(a)”*; and

8 (2) *by inserting “, 2423(b) (relating to travel*
9 *with intent to engage in illicit sexual conduct),*
10 *2423(c) (relating to illicit sexual conduct in foreign*
11 *places), or 2425 (relating to use of interstate facilities*
12 *to transmit information about a minor)” after “mi-*
13 *nors)”.*

14 ***TITLE V—FOSTER CHILD PRO-***
15 ***TECTION AND CHILD SEXUAL***
16 ***PREDATOR DETERRENCE***

17 ***SEC. 501. SHORT TITLE.***

18 *This title may be cited as the “Foster Child Protection*
19 *and Child Sexual Predator Sentencing Act of 2005”.*

1 **SEC. 502. REQUIREMENT TO COMPLETE BACKGROUND**
2 **CHECKS BEFORE APPROVAL OF ANY FOSTER**
3 **OR ADOPTIVE PLACEMENT AND TO CHECK**
4 **NATIONAL CRIME INFORMATION DATABASES**
5 **AND STATE CHILD ABUSE REGISTRIES; SUS-**
6 **PENSION AND SUBSEQUENT ELIMINATION OF**
7 **OPT-OUT.**

8 *(a) REQUIREMENT TO COMPLETE BACKGROUND*
9 *CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE*
10 *PLACEMENT AND TO CHECK NATIONAL CRIME INFORMA-*
11 *TION DATABASES AND STATE CHILD ABUSE REGISTRIES;*
12 *SUSPENSION OF OPT-OUT.—*

13 *(1) REQUIREMENT TO CHECK NATIONAL CRIME*
14 *INFORMATION DATABASES AND STATE CHILD ABUSE*
15 *REGISTRIES.—Section 471(a)(20) of the Social Secu-*
16 *rity Act (42 U.S.C. 671(a)(20)) is amended—*

17 *(A) in subparagraph (A)—*

18 *(i) in the matter preceding clause (i)—*

19 *(I) by inserting “, including*
20 *checks of national crime information*
21 *databases (as defined in section*
22 *534(e)(3)(A) of title 28, United States*
23 *Code),” after “criminal records*
24 *checks”; and*

25 *(II) by striking “on whose behalf*
26 *foster care maintenance payments or*

1 *adoption assistance payments are to be*
2 *made” and inserting “regardless of*
3 *whether foster care maintenance pay-*
4 *ments or adoption assistance payments*
5 *are to be made on behalf of the child”;*
6 *and*

7 *(ii) in each of clauses (i) and (ii), by*
8 *inserting “involving a child on whose behalf*
9 *such payments are to be so made” after “in*
10 *any case”;* and

11 *(B) by adding at the end the following:*

12 *“(C) provides that the State shall—*

13 *“(i) check any child abuse and neglect reg-*
14 *istry maintained by the State for information on*
15 *any prospective foster or adoptive parent and on*
16 *any other adult living in the home of such a pro-*
17 *spective parent, and request any other State in*
18 *which any such prospective parent or other adult*
19 *has resided in the preceding 5 years, to enable*
20 *the State to check any child abuse and neglect*
21 *registry maintained by such other State for such*
22 *information, before the prospective foster or*
23 *adoptive parent may be finally approved for*
24 *placement of a child, regardless of whether foster*
25 *care maintenance payments or adoption assist-*

1 *ance payments are to be made on behalf of the*
2 *child under the State plan under this part;*

3 *“(ii) comply with any request described in*
4 *clause (i) that is received from another State;*
5 *and*

6 *“(iii) have in place safeguards to prevent*
7 *the unauthorized disclosure of information in*
8 *any child abuse and neglect registry maintained*
9 *by the State, and to prevent any such informa-*
10 *tion obtained pursuant to this subparagraph*
11 *from being used for a purpose other than the*
12 *conducting of background checks in foster or*
13 *adoptive placement cases;”.*

14 *(2) SUSPENSION OF OPT-OUT.—Section*
15 *471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B))*
16 *is amended—*

17 *(A) by inserting “, on or before September*
18 *30, 2005,” after “plan if”; and*

19 *(B) by inserting “, on or before such date,”*
20 *after “or if”.*

21 *(b) ELIMINATION OF OPT-OUT.—Section 471(a)(20) of*
22 *such Act (42 U.S.C. 671(a)(20)), as amended by subsection*
23 *(a) of this section, is amended—*

24 *(1) in subparagraph (A), in the matter preceding*
25 *clause (i), by striking “unless an election provided for*

1 *in subparagraph (B) is made with respect to the*
2 *State,”; and*

3 *(2) by striking subparagraph (B) and redesignating*
4 *subparagraph (C) as subparagraph (B).*

5 *(c) EFFECTIVE DATE.—*

6 *(1) IN GENERAL.—The amendments made by*
7 *subsection (a) shall take effect on October 1, 2005,*
8 *and shall apply with respect to payments under part*
9 *E of title IV of the Social Security Act for calendar*
10 *quarters beginning on or after such date, without re-*
11 *gard to whether regulations to implement the amend-*
12 *ments are promulgated by such date.*

13 *(2) ELIMINATION OF OPT-OUT.—The amend-*
14 *ments made by subsection (b) shall take effect on Oc-*
15 *tober 1, 2007, and shall apply with respect to pay-*
16 *ments under part E of title IV of the Social Security*
17 *Act for calendar quarters beginning on or after such*
18 *date, without regard to whether regulations to imple-*
19 *ment the amendments are promulgated by such date.*

20 *(3) DELAY PERMITTED IF STATE LEGISLATION*
21 *REQUIRED.—If the Secretary of Health and Human*
22 *Services determines that State legislation (other than*
23 *legislation appropriating funds) is required in order*
24 *for a State plan under section 471 of the Social Secu-*
25 *rity Act to meet the additional requirements imposed*

1 *by the amendments made by a subsection of this sec-*
2 *tion, the plan shall not be regarded as failing to meet*
3 *any of the additional requirements before the first day*
4 *of the first calendar quarter beginning after the first*
5 *regular session of the State legislature that begins*
6 *after the otherwise applicable effective date of the*
7 *amendments. If the State has a 2-year legislative ses-*
8 *sion, each year of the session is deemed to be a sepa-*
9 *rate regular session of the State legislature.*

10 **SEC. 503. ACCESS TO FEDERAL CRIME INFORMATION DATA-**
11 **BASES BY CHILD WELFARE AGENCIES FOR**
12 **CERTAIN PURPOSES.**

13 *(a) IN GENERAL.—The Attorney General shall, upon*
14 *request of the chief executive of a State, ensure that appro-*
15 *priate officers of child welfare agencies have the authority*
16 *for “read only” online access to the databases of the na-*
17 *tional crime information databases (as defined in section*
18 *534 of title 28, United States Code) to carry out criminal*
19 *history records checks, subject to subsection (b).*

20 *(b) LIMITATION.—An officer may use the authority*
21 *under subsection (a) only in furtherance of the purposes of*
22 *the agency and only on an individual relevant to casework*
23 *of the agency.*

24 *(c) PROTECTION OF INFORMATION.—An individual*
25 *having information derived as a result of a check under*

1 subsection (a) may release that information only to appro-
 2 priate officers of child welfare agencies or another person
 3 authorized by law to receive that information.

4 (d) *CRIMINAL PENALTIES.*—An individual who know-
 5 ingly exceeds the authority in subsection (a), or knowingly
 6 releases information in violation of subsection (c), shall be
 7 imprisoned not more than 10 years or fined under title 18,
 8 United States Code, or both.

9 (e) *CHILD WELFARE AGENCY DEFINED.*—In this sec-
 10 tion, the term “child welfare agency” means—

11 (1) the State or local agency responsible for ad-
 12 ministering the plan under part B or part E of title
 13 IV of the Social Security Act; and

14 (2) any other public agency, or any other private
 15 agency under contract with the State or local agency
 16 responsible for administering the plan under part B
 17 or part E of title IV of the Social Security Act, that
 18 is responsible for the placement of foster or adoptive
 19 children.

20 **SEC. 504. PENALTIES FOR COERCION AND ENTICEMENT BY**
 21 **SEX OFFENDERS.**

22 Section 2422(a) of title 18, United States Code, is
 23 amended by striking “or imprisoned not more than 20
 24 years, or both” and inserting “and imprisoned not less than
 25 10 years nor more than 30 years”.

1 **SEC. 505. PENALTIES FOR CONDUCT RELATING TO CHILD**
2 **PROSTITUTION.**

3 *Section 2423 of title 18, United States Code, is amend-*
4 *ed—*

5 (1) *in subsection (a), by striking “5 years and*
6 *not more than 30 years” and inserting “30 years or*
7 *for life”;*

8 (2) *in subsection (b), by striking “or imprisoned*
9 *not more than 30 years, or both” and inserting “and*
10 *imprisoned for not less than 10 years and not more*
11 *than 30 years”;*

12 (3) *in subsection (c), by striking “or imprisoned*
13 *not more than 30 years, or both” and inserting “and*
14 *imprisoned for not less than 10 years and not more*
15 *than 30 years”;* and

16 (4) *in subsection (d), by striking “imprisoned*
17 *not more than 30 years, or both” and inserting “and*
18 *imprisoned for not less than 10 nor more than 30*
19 *years”.*

20 **SEC. 506. PENALTIES FOR SEXUAL ABUSE.**

21 (a) *AGGRAVATED SEXUAL ABUSE.—Section 2241 of*
22 *title 18, United States Code, is amended—*

23 (1) *in subsection (a), by striking “, imprisoned*
24 *for any term of years or life, or both” and inserting*
25 *“and imprisoned for any term of years not less than*
26 *30 or for life”;* and

1 (2) *in subsection (b), by striking “, imprisoned*
2 *for any term of years or life, or both” and inserting*
3 *“and imprisoned for any term of years not less than*
4 *25 or for life”.*

5 (b) *SEXUAL ABUSE.—Section 2242 of title 18, United*
6 *States Code, is amended by striking “, imprisoned not more*
7 *than 20 years, or both” and inserting “and imprisoned not*
8 *less than 15 years nor more than 40 years”.*

9 (c) *ABUSIVE SEXUAL CONTACT.—Section 2244(a) of*
10 *title 18, United States Code, is amended—*

11 (1) *in paragraph (2), by striking “, imprisoned*
12 *not more than three years, or both” and inserting*
13 *“and imprisoned not less than 5 years nor more than*
14 *30 years”;*

15 (2) *in paragraph (3), by striking “, imprisoned*
16 *not more than two years, or both” and inserting “and*
17 *imprisoned not less than 4 years nor more than 20*
18 *years”;* and

19 (3) *in paragraph (4), by striking “, imprisoned*
20 *not more than six months, or both” and inserting*
21 *“and imprisoned not less than 2 years nor more than*
22 *10 years”.*

1 **SEC. 507. SEX OFFENDER SUBMISSION TO SEARCH AS CON-**
2 **DITION OF RELEASE.**

3 (a) *CONDITIONS OF PROBATION.*—Section 3563(a) of
4 title 18, United States Code, is amended—

5 (1) in paragraph (9), by striking the period and
6 inserting “; and”; and

7 (2) by inserting after paragraph (9) the fol-
8 lowing:

9 “(10) for a person who is a felon or required to
10 register under the Sex Offender Registration and No-
11 tification Act, that the person submit his person, and
12 any property, house, residence, vehicle, papers, com-
13 puter, other electronic communication or data storage
14 devices or media, and effects to search at any time,
15 with or without a warrant, by any law enforcement
16 or probation officer with reasonable suspicion con-
17 cerning a violation of a condition of probation or un-
18 lawful conduct by the person, and by any probation
19 officer in the lawful discharge of the officer’s super-
20 vision functions.”.

21 (b) *SUPERVISED RELEASE.*—Section 3583(d) of title
22 18, United States Code, is amended by adding at the end
23 the following: “The court may order, as an explicit condi-
24 tion of supervised release for a person who is a felon or
25 required to register under the Sex Offender Registration
26 and Notification Act, that the person submit his person,

1 *and any property, house, residence, vehicle, papers, com-*
2 *puter, other electronic communications or data storage de-*
3 *vices or media, and effects to search at any time, with or*
4 *without a warrant, by any law enforcement or probation*
5 *officer with reasonable suspicion concerning a violation of*
6 *a condition of supervised release or unlawful conduct by*
7 *the person, and by any probation officer in the lawful dis-*
8 *charge of the officer’s supervision functions.”*

9 **SEC. 508. KIDNAPPING PENALTIES AND JURISDICTION.**

10 *Section 1201 of title 18, United States Code, is amend-*
11 *ed—*

12 *(1) in subsection (a)(1), by striking “if the per-*
13 *son was alive when the transportation began” and in-*
14 *serting “, or the offender travels in interstate or for-*
15 *foreign commerce or uses the mail or any means, facil-*
16 *ity, or instrumentality of interstate or foreign com-*
17 *merce in committing or in furtherance of the commis-*
18 *sion of the offense”; and*

19 *(2) in subsection (b), by striking “to interstate”*
20 *and inserting “in interstate”.*

21 **SEC. 509. MARITAL COMMUNICATION AND ADVERSE SPOUS-**
22 **AL PRIVILEGE.**

23 *(a) IN GENERAL.—Chapter 119 of title 28, United*
24 *States Code, is amended by inserting after section 1826 the*
25 *following:*

1 **“§ 1826A. Marital communications and adverse spous-**
 2 **al privilege**

3 *“The confidential marital communication privilege*
 4 *and the adverse spousal privilege shall be inapplicable in*
 5 *any Federal proceeding in which a spouse is charged with*
 6 *a crime against—*

7 *“(1) a child of either spouse; or*

8 *“(2) a child under the custody or control of ei-*
 9 *ther spouse.”.*

10 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—*The*
 11 *table of sections for chapter 119 of title 28, United States*
 12 *Code, is amended by inserting after the item relating to*
 13 *section 1826 the following:*

“1826A. Marital communications and adverse spousal privilege.”.

14 **SEC. 510. ABUSE AND NEGLECT OF INDIAN CHILDREN.**

15 *Section 1153(a) of title 18, United States Code, is*
 16 *amended by inserting “felony child abuse or neglect,” after*
 17 *“years,”.*

18 **SEC. 511. CIVIL COMMITMENT.**

19 *Chapter 313 of title 18, United States Code, is amend-*
 20 *ed—*

21 *(1) in the chapter analysis—*

22 *(A) in the item relating to section 4241, by*
 23 *inserting “or to undergo postrelease proceedings”*
 24 *after “trial”; and*

1 (B) by inserting at the end the following:

“4248. Civil commitment of a sexually dangerous person.”;

2 (2) in section 4241—

3 (A) in the heading, by inserting “**OR TO**
4 **UNDERGO POSTRELEASE PROCEEDINGS**”
5 after “**TRIAL**”;

6 (B) in the first sentence of subsection (a),
7 by inserting “or at any time after the commence-
8 ment of probation or supervised release and
9 prior to the completion of the sentence,” after
10 “defendant,”;

11 (C) in subsection (d)—

12 (i) by striking “trial to proceed” each
13 place it appears and inserting “proceedings
14 to go forward”; and

15 (ii) by striking “section 4246” and in-
16 serting “sections 4246 and 4248”; and

17 (D) in subsection (e)—

18 (i) by inserting “or other proceedings”
19 after “trial”; and

20 (ii) by striking “chapter 207” and in-
21 serting “chapters 207 and 227”;

22 (3) in section 4247—

23 (A) by striking “, or 4246” each place it
24 appears and inserting “, 4246, or 4248”;

1 (B) in subsections (g) and (i), by striking
2 “4243 or 4246” each place it appears and insert-
3 ing “4243, 4246, or 4248”;

4 (C) in subsection (a)—

5 (i) by amending subparagraph (1)(C)
6 to read as follows:

7 “(C) drug, alcohol, and sex offender treat-
8 ment programs, and other treatment programs
9 that will assist the individual in overcoming a
10 psychological or physical dependence or any con-
11 dition that makes the individual dangerous to
12 others; and”;

13 (ii) in paragraph (2), by striking
14 “and” at the end;

15 (iii) in paragraph (3), by striking the
16 period at the end and inserting a semicolon;
17 and

18 (iv) by inserting at the end the fol-
19 lowing:

20 “(4) ‘bodily injury’ includes sexual abuse;

21 “(5) ‘sexually dangerous person’ means a person
22 who has engaged or attempted to engage in sexually
23 violent conduct or child molestation and who is sexu-
24 ally dangerous to others; and

1 “(6) ‘sexually dangerous to others’ means that a
2 person suffers from a serious mental illness, abnor-
3 mality, or disorder as a result of which he would have
4 serious difficulty in refraining from sexually violent
5 conduct or child molestation if released.”;

6 (D) in subsection (b), by striking “4245 or
7 4246” and inserting “4245, 4246, or 4248”; and

8 (E) in subsection (c)(4)—

9 (i) by redesignating subparagraphs (D)
10 and (E) as subparagraphs (E) and (F) re-
11 spectively; and

12 (ii) by inserting after subparagraph
13 (C) the following:

14 “(D) if the examination is ordered under
15 section 4248, whether the person is a sexually
16 dangerous person;”; and

17 (4) by inserting at the end the following:

18 **“§4248. Civil commitment of a sexually dangerous**
19 **person**

20 “(a) INSTITUTION OF PROCEEDINGS.—In relation to
21 a person who is in the custody of the Bureau of Prisons,
22 or who has been committed to the custody of the Attorney
23 General pursuant to section 4241(d), or against whom all
24 criminal charges have been dismissed solely for reasons re-
25 lating to the mental condition of the person, the Attorney

1 *General or any individual authorized by the Attorney Gen-*
2 *eral or the Director of the Bureau of Prisons may certify*
3 *that the person is a sexually dangerous person, and trans-*
4 *mit the certificate to the clerk of the court for the district*
5 *in which the person is confined. The clerk shall send a copy*
6 *of the certificate to the person, and to the attorney for the*
7 *Government, and, if the person was committed pursuant*
8 *to section 4241(d), to the clerk of the court that ordered the*
9 *commitment. The court shall order a hearing to determine*
10 *whether the person is a sexually dangerous person. A certifi-*
11 *cate filed under this subsection shall stay the release of the*
12 *person pending completion of procedures contained in this*
13 *section.*

14 “(b) *PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION*
15 *AND REPORT.*—*Prior to the date of the hearing, the court*
16 *may order that a psychiatric or psychological examination*
17 *of the defendant be conducted, and that a psychiatric or*
18 *psychological report be filed with the court, pursuant to the*
19 *provisions of section 4247(b) and (c).*

20 “(c) *HEARING.*—*The hearing shall be conducted pursu-*
21 *ant to the provisions of section 4247(d).*

22 “(d) *DETERMINATION AND DISPOSITION.*—*If, after the*
23 *hearing, the court finds by clear and convincing evidence*
24 *that the person is a sexually dangerous person, the court*
25 *shall commit the person to the custody of the Attorney Gen-*

1 *eral. The Attorney General shall release the person to the*
2 *appropriate official of the State in which the person is dom-*
3 *iciled or was tried if such State will assume responsibility*
4 *for his custody, care, and treatment. The Attorney General*
5 *shall make all reasonable efforts to cause such a State to*
6 *assume such responsibility. If, notwithstanding such efforts,*
7 *neither such State will assume such responsibility, the At-*
8 *torney General shall place the person for treatment in a*
9 *suitable facility, until—*

10 “(1) *such a State will assume such responsi-*
11 *bility; or*

12 “(2) *the person’s condition is such that he is no*
13 *longer sexually dangerous to others, or will not be sex-*
14 *ually dangerous to others if released under a pre-*
15 *scribed regimen of medical, psychiatric, or psycho-*
16 *logical care or treatment;*

17 *whichever is earlier. The Attorney General shall make all*
18 *reasonable efforts to have a State to assume such responsi-*
19 *bility for the person’s custody, care, and treatment.*

20 “(e) *DISCHARGE.—When the Director of the facility in*
21 *which a person is placed pursuant to subsection (d) deter-*
22 *mines that the person’s condition is such that he is no*
23 *longer sexually dangerous to others, or will not be sexually*
24 *dangerous to others if released under a prescribed regimen*
25 *of medical, psychiatric, or psychological care or treatment,*

1 *he shall promptly file a certificate to that effect with the*
2 *clerk of the court that ordered the commitment. The clerk*
3 *shall send a copy of the certificate to the person's counsel*
4 *and to the attorney for the Government. The court shall*
5 *order the discharge of the person or, on motion of the attor-*
6 *ney for the Government or on its own motion, shall hold*
7 *a hearing, conducted pursuant to the provisions of section*
8 *4247(d), to determine whether he should be released. If, after*
9 *the hearing, the court finds by a preponderance of the evi-*
10 *dence that the person's condition is such that—*

11 *“(1) he will not be sexually dangerous to others*
12 *if released unconditionally, the court shall order that*
13 *he be immediately discharged; or*

14 *“(2) he will not be sexually dangerous to others*
15 *if released under a prescribed regimen of medical,*
16 *psychiatric, or psychological care or treatment, the*
17 *court shall—*

18 *“(A) order that he be conditionally dis-*
19 *charged under a prescribed regimen of medical,*
20 *psychiatric, or psychological care or treatment*
21 *that has been prepared for him, that has been*
22 *certified to the court as appropriate by the Di-*
23 *rector of the facility in which he is committed,*
24 *and that has been found by the court to be ap-*
25 *propriate; and*

1 “(B) order, as an explicit condition of re-
2 lease, that he comply with the prescribed regimen
3 of medical, psychiatric, or psychological care or
4 treatment.

5 The court at any time may, after a hearing employ-
6 ing the same criteria, modify or eliminate the regi-
7 men of medical, psychiatric, or psychological care or
8 treatment.

9 “(f) REVOCATION OF CONDITIONAL DISCHARGE.—The
10 director of a facility responsible for administering a regi-
11 men imposed on a person conditionally discharged under
12 subsection (e) shall notify the Attorney General and the
13 court having jurisdiction over the person of any failure of
14 the person to comply with the regimen. Upon such notice,
15 or upon other probable cause to believe that the person has
16 failed to comply with the prescribed regimen of medical,
17 psychiatric, or psychological care or treatment, the person
18 may be arrested, and, upon arrest, shall be taken without
19 unnecessary delay before the court having jurisdiction over
20 him. The court shall, after a hearing, determine whether
21 the person should be remanded to a suitable facility on the
22 ground that he is sexually dangerous to others in light of
23 his failure to comply with the prescribed regimen of med-
24 ical, psychiatric, or psychological care or treatment.

1 “(g) *RELEASE TO STATE OF CERTAIN OTHER PER-*
2 *SONS.—If the director of the facility in which a person is*
3 *hospitalized or placed pursuant to this chapter certifies to*
4 *the Attorney General that a person, against him all charges*
5 *have been dismissed for reasons not related to the mental*
6 *condition of the person, is a sexually dangerous person, the*
7 *Attorney General shall release the person to the appropriate*
8 *official of the State in which the person is domiciled or was*
9 *tried for the purpose of institution of State proceedings for*
10 *civil commitment. If neither such State will assume such*
11 *responsibility, the Attorney General shall release the person*
12 *upon receipt of notice from the State that it will not assume*
13 *such responsibility, but not later than 10 days after certifi-*
14 *cation by the director of the facility.”*

15 **SEC. 512. MANDATORY PENALTIES FOR SEX-TRAFFICKING**
16 **OF CHILDREN.**

17 *Section 1591(b) of title 18, United States Code, is*
18 *amended—*

19 (1) *in paragraph (1)—*

20 (A) *by striking “or imprisonment” and in-*
21 *serting “and imprisonment”;*

22 (B) *by inserting “not less than 20” after*
23 *“any term of years”; and*

24 (C) *by striking “, or both”; and*

25 (2) *in paragraph (2)—*

1 (A) by striking “or imprisonment for not”
2 and inserting “and imprisonment for not less
3 than 10 years nor”; and

4 (B) by striking “, or both”.

5 **SEC. 513. SEXUAL ABUSE OF WARDS.**

6 Chapter 109A of title 18, United States Code, is
7 amended—

8 (1) in section 2243(b), by striking “one year”
9 and inserting “five years”;

10 (2) in section 2244(b), by striking “six months”
11 and inserting “two years”; and

12 (3) by inserting after “Federal prison,” each
13 place it appears, other than the second sentence of sec-
14 tion 2241(c), the following: “or being in the custody
15 of the Attorney General or the Bureau of Prisons or
16 confined in any institution or facility by direction of
17 the Attorney General or the Bureau of Prisons,”.

109TH CONGRESS
1ST SESSION

H. R. 3132

[Report No. 109-218, Part 1]

A BILL

To make improvements to the national sex offender registration program, and for other purposes.

SEPTEMBER 9, 2005

Committee on Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed