

109TH CONGRESS
2^D SESSION

S. 1086

AN ACT

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

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—

1 (1) the “Jacob Wetterling, Megan Nicole
2 Kanka, and Pam Lychner Sex Offender Registration
3 and Notification Grant Act”;

4 (2) the “Sex Offender Registration and Notifi-
5 cation Act”; or

6 (3) the “Jetseta Gage Prevention and Deter-
7 rence of Crimes Against Children Act of 2005”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

TITLE I—JACOB WETTERLING, MEGAN NICOLE KANKA, AND PAM
LYCHNER SEX OFFENDER REGISTRATION AND NOTIFICATION
GRANT PROGRAM

Sec. 101. Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Of-
fender Registration and Notification Grant Program.

Sec. 102. Definitions.

Sec. 103. Assistance grants to participating States.

Sec. 104. Duty of covered individuals to provide information.

Sec. 105. Duties of Attorney General and participating States.

Sec. 106. Participating State sex offender registries.

Sec. 107. Development and availability of registry management software.

Sec. 108. Election by Indian tribes.

Sec. 109. Provision of notice and access to Indian tribes.

Sec. 110. Applicability to minors.

Sec. 111. Rule of construction.

Sec. 112. Immunity for good faith conduct.

Sec. 113. State unconstitutionality.

Sec. 114. Regulations.

Sec. 115. Authorization of appropriations.

Sec. 116. Effect on current law.

TITLE II—DRU SJODIN NATIONAL SEX OFFENDER PUBLIC
DATABASE ACT OF 2005

Sec. 201. Short title and definitions.

Sec. 202. National sex offender public registry.

Sec. 203. Release of high-risk inmates.

TITLE III—JETSETA GAGE 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. Increased penalties for sexual offenses against children.

TITLE IV—JESSICA LUNSFORD AND SARAH LUNDE ACT

Sec. 401. Short title.

Sec. 402. Pilot program for monitoring sexual offenders.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Access to Interstate Identification Index.

Sec. 502. Limitation on liability for NCMEC.

Sec. 503. Missing child reporting requirements.

Sec. 504. Treatment and management of sex offenders in the Bureau of Prisons.

Sec. 505. Authorization for American Prosecutors Research Institute.

Sec. 506. Sex offender apprehension grants.

Sec. 507. Access to Federal crime information databases by educational agencies for certain purposes.

Sec. 508. Grants to combat sexual abuse of children.

Sec. 509. Severability.

Sec. 510. Failure to provide information a deportable offense.

Sec. 511. Repeal.

Sec. 512. Conforming amendments to title 18, United States Code.

TITLE VI—COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES

Sec. 601. Comprehensive examination of sex offender issues.

1 SEC. 2. EFFECTIVE DATE.

2 This Act and the amendments made by this Act take
3 effect on the date that is 6 months after the date of the
4 enactment of this Act.

1 **TITLE I—JACOB WETTERLING,**
2 **MEGAN NICOLE KANKA, AND**
3 **PAM LYCHNER SEX OF-**
4 **FENDER REGISTRATION AND**
5 **NOTIFICATION GRANT PRO-**
6 **GRAM**

7 **SEC. 101. JACOB WETTERLING, MEGAN NICOLE KANKA,**
8 **AND PAM LYCHNER SEX OFFENDER REG-**
9 **ISTRATION AND NOTIFICATION GRANT PRO-**
10 **GRAM.**

11 The Attorney General shall establish guidelines for
12 States' sex offender registration programs pursuant to
13 this title. Collectively, the guidelines and the programs
14 shall be known as the "Jacob Wetterling, Megan Nicole
15 Kanka, and Pam Lychner Sex Offender Registration and
16 Notification Program".

17 **SEC. 102. DEFINITIONS.**

18 In this title:

19 (1) **COVERED INDIVIDUAL.**—The term "covered
20 individual" means any adult or juvenile in a partici-
21 pating domicile State, participating work State, or
22 participating school State convicted as an adult—

23 (A) who has been convicted of a covered
24 offense against a minor;

1 (B) who has been convicted of a sexually
2 violent offense;

3 (C) who has been convicted of an offense
4 described in paragraph (2);

5 (D) who has been convicted of an offense
6 under State law that is similar to the offenses
7 described in described in paragraph (2);

8 (E) who is described in section 4042(e)(4)
9 of title 18, United States Code, except for those
10 convicted of a violation of section 2257 or 2258
11 of title 18, United States Code; or

12 (F) who has been sentenced by a court
13 martial for conduct in a category specified by
14 the Secretary of Defense under section
15 115(a)(8)(C) of title I of Public Law 105–119
16 (10 U.S.C. 951 note).

17 (2) COVERED OFFENSE AGAINST A MINOR.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (C), the term “covered offense
20 against a minor” means an offense (whether
21 under the law of a State, Federal law, or mili-
22 tary law) that is comparable to or more severe
23 than any of the following offenses:

24 (i) Kidnapping of a minor, except by
25 a parent or guardian of the minor, if sex-

1 ual conduct toward the minor is proved be-
2 yond a reasonable doubt.

3 (ii) False imprisonment of a minor,
4 except by a parent or guardian of the
5 minor, if sexual conduct toward the minor
6 is proved beyond a reasonable doubt.

7 (iii) Criminal sexual conduct toward a
8 minor.

9 (iv) Solicitation of a minor to engage
10 in sexual conduct.

11 (v) Use of a minor in a sexual per-
12 formance.

13 (vi) Solicitation of a minor to practice
14 prostitution.

15 (vii) Possession, production, or dis-
16 tribution of child pornography, as de-
17 scribed in section 2251, 2252, or 2252A of
18 title 18, United States Code.

19 (viii) Use of the Internet to facilitate
20 or commit a covered offense against a
21 minor or to attempt to commit such an of-
22 fense against an agent of the government
23 who has been represented to be a minor.

1 (ix) Video voyeurism as described in
2 section 1801 of title 18, United States
3 Code, when committed against a minor.

4 (x) An attempt or conspiracy to com-
5 mit any of the offenses listed in this defini-
6 tion.

7 (B) CONVICTIONS UNDER THE LAWS OF A
8 FOREIGN COUNTRY.—The term “covered of-
9 fense against a minor” includes convictions for
10 offenses specified in subparagraph (A) that
11 have been obtained under the laws of any for-
12 eign nation that has been certified by the Attor-
13 ney General, after notice and an opportunity for
14 a hearing, as having a sufficiently reliable
15 criminal justice system.

16 (C) EXCEPTION FOR CERTAIN OF-
17 FENSES.—The term “covered offense against a
18 minor” does not include an offense if the con-
19 duct on which the offense is based is criminal
20 only because of the age of the victim, and if in-
21 dividual had committed the offense either had
22 not attained the age of 18 years or was less
23 than 4 years older than the victim when the of-
24 fense was committed.

1 (3) DOMICILE.—The term “domicile” means,
2 with respect to an individual, any place that serves
3 as the primary place at which the individual lives.

4 (4) DOMICILE STATE.—The term “domicile
5 State” means, with respect to an individual, the
6 State within the jurisdiction of which is the individ-
7 ual’s domicile.

8 (5) EDUCATIONAL INSTITUTION.—The term
9 “educational institution” includes (whether public or
10 private) any secondary school, trade or professional
11 institution, and institution of higher education.

12 (6) EMPLOYMENT.—The term “employment”
13 includes carrying on a vocation and covers any labor
14 or service rendered (whether as a volunteer or for
15 compensation or for government or educational ben-
16 efit) on a full-time or part-time basis.

17 (7) MINOR.—The term “minor” means any per-
18 son who has not attained the age of 18 years or the
19 age of consent in the relevant jurisdiction, whichever
20 age is lower.

21 (8) NATIONAL SEX OFFENDER REGISTRY.—The
22 term “National Sex Offender Registry” means the
23 database maintained by the Attorney General pursu-
24 ant to section 105.

1 (9) NATIONAL SEX OFFENDER PUBLIC REG-
2 ISTRY.—The term “National Sex Offender Public
3 Registry” means the Internet site maintained by the
4 Attorney General pursuant to section 202.

5 (10) PARTICIPATING STATE.—The term “par-
6 ticipating State” means a State participating in the
7 grant program authorized under this title.

8 (11) SCHOOL STATE.—The term “school State”
9 means, with respect to an individual, the State with-
10 in the jurisdiction of which the educational institu-
11 tion at which the individual is a student is located.

12 (12) SEXUALLY VIOLENT OFFENSE.—The term
13 “sexually violent offense” means an offense (whether
14 under the law of a State, Federal law, military law,
15 or the law of a foreign country) that is comparable
16 to or more severe than any of the following offenses:

17 (A) Aggravated sexual abuse or sexual
18 abuse (as described in sections 2241 and 2242
19 of title 18, United States Code).

20 (B) An attempt or conspiracy to commit
21 such an offense.

22 (13) STATE.—The term “State” means any of
23 the following:

24 (A) A State.

1 (B) The District of Columbia, the Com-
2 monwealth of Puerto Rico, Guam, American
3 Samoa, the United States Virgin Islands, or the
4 Northern Mariana Islands.

5 (C) A federally recognized Indian tribe
6 that has elected in accordance with section 108
7 to carry out this Act as a jurisdiction subject
8 to its provisions.

9 (14) STUDENT.—The term “student” means an
10 individual who, whether on a full-time or part-time
11 basis, enrolls in or attends an educational institu-
12 tion.

13 (15) TIER I INDIVIDUAL.—The term “Tier I in-
14 dividual” means an individual required to register
15 under this title who is subject to the least intensive
16 registration requirements, as determined in accord-
17 ance with criteria promulgated under section
18 106(b)(1)(E).

19 (16) TIER II INDIVIDUAL.—The term “Tier II
20 individual” means an individual required to register
21 under this title who is subject to more intensive reg-
22 istration requirements than Tier I individuals, as de-
23 termined in accordance with criteria promulgated
24 under section 106(b)(1)(E).

1 (17) TIER III INDIVIDUAL.—The term “Tier III
2 individual” means an individual required to register
3 under this title who is subject to the most intensive
4 registration requirements, as determined in accord-
5 ance with criteria promulgated under section
6 106(b)(1)(E).

7 (18) WORK STATE.—The term “work State”
8 means, with respect to an individual, the State with-
9 in the jurisdiction of which the individual’s current
10 place of employment is located or, if the individual
11 is unemployed, the individual’s most recent place of
12 employment.

13 **SEC. 103. ASSISTANCE GRANTS TO PARTICIPATING STATES.**

14 (a) SEX OFFENDER MANAGEMENT ASSISTANCE PRO-
15 GRAM.—

16 (1) IN GENERAL.—From amounts made avail-
17 able to carry out this subsection, the Attorney Gen-
18 eral shall carry out a program, to be known as the
19 Sex Offender Management Assistance program (in
20 this section referred to as the “SOMA program”),
21 under which the Attorney General may award grants
22 to participating States to offset costs directly associ-
23 ated with implementing this title.

24 (2) DISTRIBUTION OF FUNDS.—Each grant
25 awarded under the SOMA program shall be distrib-

1 uted directly to the participating State for distribu-
2 tion by that participating State to public entities, in-
3 cluding local governments and law enforcement
4 agencies, within that participating State.

5 (3) USES.—Up to 10 percent of a grant award-
6 ed under the SOMA program may be used to par-
7 ticipate in 1 or more databases that identify individ-
8 uals in custody.

9 (4) ELIGIBILITY.—

10 (A) IN GENERAL.—To be eligible to receive
11 a grant under the SOMA program in a fiscal
12 year and except as provided in subparagraph
13 (B), the chief executive of a participating State
14 shall submit to the Attorney General an appli-
15 cation (in such form, at such a time, and con-
16 taining such information as the Attorney Gen-
17 eral may reasonably require) assuring that—

18 (i) the participating State has sub-
19 stantially implemented (or is making a
20 good faith effort to substantially imple-
21 ment) this title; and

22 (ii) the participating State has made
23 the failure of a covered individual to reg-
24 ister as required a felony.

1 (B) EXCEPTION.—The Attorney General
2 may waive the requirement of subparagraph (A)
3 if a participating State demonstrates an over-
4 riding need for assistance under the SOMA pro-
5 gram.

6 (5) ALLOCATION OF FUNDS.—In allocating
7 funds under the SOMA program, the Attorney Gen-
8 eral may consider the number of covered individuals
9 registered in each participating State’s registry.

10 (6) INCORPORATION OF CERTAIN TRAINING
11 PROGRAMS.—

12 (A) STUDY.—During the course of imple-
13 menting the SOMA program, the Attorney Gen-
14 eral shall study the feasibility of incorporating
15 into the SOMA program the activities of any
16 technical assistance or training program estab-
17 lished as a result of section 40152 of the Vio-
18 lent Crime Control and Law Enforcement Act
19 of 1994 (42 U.S.C. 13941).

20 (B) INCORPORATING.—In a case in which
21 incorporating such activities into the SOMA
22 program will eliminate duplication of efforts or
23 administrative costs, the Attorney General shall
24 take administrative actions, as allowable, and

1 make recommendations to Congress to incor-
2 porate such activities into the SOMA program.

3 (b) INCENTIVES; BONUS PAYMENTS FOR EARLY
4 COMPLIANCE.—

5 (1) BONUS.—A participating State that has
6 substantially implemented this title within 2 years
7 after the date of the enactment of this Act is eligible
8 for a bonus payment under the SOMA program for
9 the fiscal year after the Attorney General certifies
10 that the participating State has achieved substantial
11 implementation.

12 (2) AMOUNT.—The amount of the bonus pay-
13 ment under paragraph (1) shall be—

14 (A) equal to 5 percent of the funds that
15 the participating State received under the
16 SOMA program for the preceding fiscal year; or

17 (B) if the participating State has substan-
18 tially implemented this title within 1 year after
19 the date of enactment of this Act, the amount
20 of the bonus payment shall be equal to 10 per-
21 cent of the funds that the participating State
22 received under the SOMA program for the pre-
23 ceding fiscal year.

1 (ii) the individual's Social Security
2 number;

3 (iii) the address where the individual
4 maintains or will maintain his domicile;

5 (iv) a photocopy of a valid driver's li-
6 cense or identification card issued to the
7 individual from the Department of Motor
8 Vehicles in the individual's domicile State;

9 (v) the license plate number of, and
10 other identifying information with respect
11 to, each vehicle owned or operated by the
12 individual;

13 (vi) the name and address of the place
14 where the individual is employed or will be
15 employed; and

16 (vii) the name and address of any
17 educational institution at which the indi-
18 vidual is a student or will be a student.

19 (2) PHOTOGRAPH.—Initially during the time
20 period specified in accordance with paragraph (4),
21 and thereafter at least once every 12 months, the in-
22 dividual shall appear before persons designated by
23 the individual's participating domicile State, partici-
24 pating work State (if different from the partici-
25 pating domicile State), and participating school

1 State (if different from the participating domicile
2 State) and submit to the taking of a photograph.

3 (3) FINGERPRINTS.—During the time period
4 specified in accordance with paragraph (4), the indi-
5 vidual shall appear before persons designated by the
6 individual’s participating domicile State, partici-
7 pating work State (if different from the partici-
8 pating domicile State), and participating school
9 State (if different from the participating domicile
10 State) and submit to the taking of fingerprints. This
11 paragraph does not apply if the State determines
12 that it already has a valid set of fingerprints in its
13 possession.

14 (4) TIMING OF INITIAL REGISTRATION.—The
15 Attorney General shall prescribe the time period
16 within which a covered individual must fulfill the ini-
17 tial registration requirements set forth in para-
18 graphs (1), (2), and (3).

19 (5) ONGOING REGISTRATION.—

20 (A) IN GENERAL.—The ongoing registra-
21 tion requirement under paragraph (1) is—

22 (i) for Tier I individuals every 12
23 months;

24 (ii) for Tier II individuals every 6
25 months; and

1 (iii) for Tier III individuals every 3
2 months.

3 (B) EXEMPTION.—A covered individual is
4 exempt from the ongoing registration require-
5 ment of this subsection if the covered individual
6 is incarcerated at the time specified in subpara-
7 graph (A).

8 (6) COVERED INDIVIDUAL IN CUSTODY OF A
9 STATE OTHER THAN DOMICILE STATE.—A covered
10 individual who, during the time period specified in
11 accordance with paragraph (4), is in the custody of
12 a participating State that is not the individual's par-
13 ticipating domicile State, shall fulfill the initial reg-
14 istration requirements set forth in paragraphs (1),
15 (2), and (3) by providing the specified information
16 to an appropriate official of the jurisdiction that is
17 holding the individual in custody. The official shall
18 promptly make available that information to the in-
19 dividual's domicile State.

20 (7) INDIVIDUAL IN FEDERAL OR MILITARY CUS-
21 TODY.—Whenever an individual is a covered indi-
22 vidual on the basis of subparagraph (C), (E) or (F)
23 of section 102(1), the procedure upon release or sen-
24 tencing of the individual shall be as provided in sec-
25 tion 4042(c) of title 18, United States Code, or sec-

1 tion 115(a)(8)(C) of title I of Public Law 105–119.
2 The individual shall promptly register and continue
3 to register as provided in this section in each partici-
4 pating domicile, work, and school State of the indi-
5 vidual. To the extent that any procedure or require-
6 ment of this section cannot be applied to the indi-
7 vidual, the Attorney General may specify alternative
8 procedures and requirements for the registration of
9 such individuals in participating domicile, work, and
10 school States.

11 (8) RETROACTIVE APPLICATION.—The Attorney
12 General shall have the authority to—

13 (A) specify the applicability of the require-
14 ments of this title to individuals who are cov-
15 ered individuals based on a conviction or sen-
16 tencing that occurred prior to the date of enact-
17 ment or who are, as of the date of enactment
18 of this Act, incarcerated or under a non-
19 incarcerative sentence for some other offense;

20 (B) specify the applicability of the require-
21 ments of this title to all other individuals who
22 are covered individuals based on a conviction or
23 sentencing that occurred prior to the enactment
24 date of enactment of this Act or the implemen-

1 tation of the requirements of this title by a par-
2 ticipating State; and

3 (C) specify procedures and methods for the
4 registration of individuals to whom the require-
5 ments of this title apply pursuant to subpara-
6 graph (A) or (B).

7 (b) REQUIREMENT TO REGISTER AND KEEP REG-
8 ISTRATION INFORMATION CURRENT.—

9 (1) REGISTRATION REQUIREMENT.—A covered
10 individual shall, for the life of that individual (except
11 as provided in this section), promptly register in
12 each participating domicile, work, and school State
13 of the individual and keep the registration informa-
14 tion current. To the extent that the procedures or
15 requirements for registering or updating registration
16 information in any participating domicile, work, or
17 school State are not fully specified in this section,
18 the Attorney General may specify such procedures
19 and requirements.

20 (2) CHANGES TO REGISTRATION INFORMATION
21 OF CERTAIN OFFENDERS.—The following shall apply
22 to changes of registration information under this
23 section for Tier II and Tier III individuals:

24 (A) CHANGE OF NAME.—Not more than 5
25 days after changing his or her name, the indi-

1 vidual shall appear before persons designated
2 by the individual's participating domicile State,
3 participating work State (if different from the
4 participating domicile State), and participating
5 school State (if different from the participating
6 domicile State) and provide the new name.

7 (B) CHANGE OF ADDRESS.—Not more
8 than 5 days before or after establishing a new
9 domicile, the individual shall—

10 (i) appear before persons designated
11 by the individual's participating domicile
12 State, participating work State (if different
13 from the participating domicile State), and
14 participating school State (if different from
15 the participating domicile State) and pro-
16 vide the address of the new domicile and
17 the address of the previous domicile; and

18 (ii) if the new domicile and the pre-
19 vious domicile are not both within the ju-
20 risdiction of a single participating State
21 under this Act—

22 (I) appear before a person des-
23 ignated by the individual's previous
24 participating domicile State (and ap-
25 pear before persons designated by the

1 individual's participating work State
2 (if different from the previous partici-
3 pating domicile State) and partici-
4 pating school State (if different from
5 the previous participating domicile
6 State)) and fulfill the requirements of
7 clause (i); and

8 (II) appear before a person des-
9 igned by the individual's new par-
10 ticipating domicile State to—

11 (aa) provide the designated
12 person the address of the new
13 domicile and the address of the
14 previous domicile; and

15 (bb) submit to the taking of
16 a photograph and, unless the
17 participating State determines
18 that it already possesses a valid
19 set, fingerprints.

20 (C) CHANGE OF EMPLOYMENT.—Not more
21 than 5 days before or after beginning, or ceas-
22 ing, employment by an employer, the individual
23 shall appear before, and provide notice of the
24 beginning or ceasing, and the name and address
25 of the employer, to—

1 (i) a person designated by the individ-
2 ual's participating domicile State; and

3 (ii) if the individual's participating
4 work State is different from the domicile
5 State, a person designated by the individ-
6 ual's participating work State.

7 (D) CHANGE OF STUDENT STATUS.—Not
8 more than 5 days before, after beginning, or
9 ceasing to be a student at an educational insti-
10 tution, the individual shall appear before, and
11 provide notice of the beginning or ceasing, and
12 the name and address of the educational insti-
13 tution, to—

14 (i) a person designated by the individ-
15 ual's participating domicile State; and

16 (ii) if the individual's participating
17 school State is different from the domicile
18 State, a person designated by the individ-
19 ual's participating school State.

20 (c) PUNISHMENT.—

21 (1) IN GENERAL.—Whoever—

22 (A) knowingly fails to register in any juris-
23 diction in which such person is required to reg-
24 ister under this title; and

1 (B)(i) has been convicted of a Federal of-
2 fense, an offense under the Uniform Code of
3 Military Justice, or a tribal offense, for which
4 registration is required by such Act or law; or

5 (ii) travels in interstate or foreign com-
6 merce.

7 shall be fined under this title and imprisoned accord-
8 ing to the penalties in paragraphs (2) and (3).

9 (2) FIRST CONVICTION.—On the first conviction
10 under paragraph (1)—

11 (A) a Tier I individual shall be fined under
12 title 18, United States Code, or imprisoned not
13 more than 3 years, or both;

14 (B) a Tier II individual shall be fined
15 under title 18, United States code, or impris-
16 oned not more than 5 years, or both; and

17 (C) a Tier III individual shall be fined
18 under title 18, United States Code, or impris-
19 oned not more than 10 years, or both.

20 (3) SUBSEQUENT CONVICTIONS.—On any con-
21 viction after the first under paragraph (1)—

22 (A) a Tier I individual shall be fined under
23 title 18, United States Code, or imprisoned not
24 more than 10 years, or both;

1 (B) a Tier II individual shall be fined
2 under title 18, United States code, or impris-
3 oned not more than 20 years, or both; and

4 (C) a Tier III individual shall be fined
5 under title 18, United States Code, or impris-
6 oned for any term of years or for life, or both.

7 (4) AFFIRMATIVE DEFENSE.—In a prosecution
8 for a violation under this section, it is an affirmative
9 defense—

10 (A) that uncontrollable circumstances pre-
11 vented the individual from complying;

12 (B) the individual did not contribute to the
13 creation of such circumstances in reckless dis-
14 regard of the requirement to comply; and

15 (C) the individual complied as soon as such
16 circumstances ceased to exist.

17 (5) CONTINUING VIOLATIONS.—A violation
18 under this section is a continuing violation for pur-
19 poses of the statute of limitations.

20 (6) EXCEPTIONS.—An individual may petition
21 for relief from the requirements of subsections (a)
22 and (b) based on a claim that—

23 (A) the conviction that subjected the indi-
24 vidual to those requirements has been over-
25 turned;

1 (B) the individual's inclusion on the appli-
2 cable registry is the result of an administrative
3 or clerical error; or

4 (C) the individual has been pardoned by
5 the chief executive of the jurisdiction in which
6 the individual was convicted of the crime that
7 subjected the individual to the requirements of
8 subsections (a) and (b).

9 (d) EXCEPTIONS FOR CERTAIN INDIVIDUALS.—Sub-
10 sections (a) and (b) apply to any covered individual, except
11 as provided as follows:

12 (1) TIER I INDIVIDUALS.—The individual is a
13 Tier I individual and both of the following apply:

14 (A) The individual has only 1 conviction
15 for an offense that qualifies the individual as a
16 covered individual.

17 (B) A period of at least 10 years, exclud-
18 ing ensuing periods of incarceration, has ex-
19 pired since the date on which the individual was
20 sentenced for, or completed the term of impris-
21 onment for, the conviction described in subpara-
22 graph (A).

23 (2) TIER II INDIVIDUALS.—The individual is a
24 Tier II individual and both of the following apply:

1 (A) The individual has only 1 conviction
2 for an offense that qualifies the individual as a
3 covered individual.

4 (B) A period of at least 20 years, exclud-
5 ing ensuing periods of incarceration, has ex-
6 pired since the date on which the individual was
7 sentenced for, or completed the term of impris-
8 onment for, the conviction described in subpara-
9 graph (A).

10 **SEC. 105. DUTIES OF ATTORNEY GENERAL AND PARTICI-**
11 **PATING STATES.**

12 (a) DUTY TO OBTAIN ACKNOWLEDGMENT OF OBLI-
13 GATIONS.—

14 (1) IN GENERAL.—During the time period spec-
15 ified in paragraph (2), an appropriate official
16 shall—

17 (A) inform each covered individual of the
18 duty to register and of that individual's ongoing
19 obligations under this title;

20 (B) require the individual to read and sign
21 a form affirming that—

22 (i) the duty to register has been ex-
23 plained to the individual;

1 (ii) the individual's ongoing obliga-
2 tions under this title have been explained
3 to the individual; and

4 (iii) the individual understands the
5 registration requirements; and

6 (C) ensure that the individual has com-
7 pleted the initial registration process.

8 (2) APPROPRIATE TIME PERIOD.—The Attorney
9 General shall prescribe an appropriate time period
10 during which the requirements set forth in para-
11 graph (1) shall be fulfilled.

12 (3) FULFILLMENT.—The requirements of para-
13 graph (1) shall be fulfilled—

14 (A) before a covered individual has been
15 released from custody; or

16 (B) if the covered individual is not in cus-
17 tody, shortly after the individual has been sen-
18 tenced.

19 (b) OBTAINING AND SHARING INFORMATION.—

20 (1) OBTAINING INFORMATION.—When an indi-
21 vidual appears before the Attorney General or a par-
22 ticipating State to provide information pursuant to
23 this title (including information such as photographs
24 and fingerprints), the Attorney General (or the par-
25 ticipating State, or both, as the case may be) shall—

1 (A) ensure that the individual complies
2 with the applicable requirements of this title;

3 (B) ensure that the information provided is
4 accurate and complete; and

5 (C) ensure that the information provided is
6 promptly entered into the appropriate records
7 or data system of the participating State.

8 (2) SHARING INFORMATION.—

9 (A) DOMICILE STATE.—The domicile State
10 of an individual, and the State which originally
11 registers the individual if different from the
12 domicile State, shall promptly notify each domi-
13 cile, work, and school State of the individual of
14 which it is aware concerning the individual's
15 domicile, employment, or student status in such
16 State and shall make available to each such
17 State the information concerning the individual.

18 (B) CHANGE IN DOMICILE.—If a domicile
19 State of an individual is informed by the indi-
20 vidual, or otherwise becomes aware, that there
21 will be or has been a change in the individual's
22 domicile State, the domicile State shall prompt-
23 ly notify the new domicile State and make avail-
24 able to the new domicile State the information
25 concerning the individual.

1 (C) AVAILABLE INFORMATION.—A domi-
2 cile State shall promptly make available the in-
3 formation concerning an individual to a law en-
4 forcement agency or agencies in the State hav-
5 ing jurisdiction where—

6 (i) the individual’s domicile is located;

7 (ii) the individual’s place of employ-
8 ment is located; and

9 (iii) any educational institution at
10 which the individual is a student is located.

11 (c) ENTRY OF INFORMATION INTO THE NATIONAL
12 SEX OFFENDER REGISTRY.—

13 (1) MAINTENANCE OF A NATIONAL SEX OF-
14 FENDER REGISTRY.—The Attorney General shall
15 maintain a national database at the Federal Bureau
16 of Investigation, to be known as the National Sex
17 Offender Registry, which shall include information
18 concerning covered individuals who are required to
19 register in the sex offender registry of any jurisdic-
20 tion. Information may be released from the National
21 Sex Offender Registry to criminal justice agencies,
22 and to other entities as the Attorney General may
23 provide.

24 (2) PARTICIPATION IN THE NATIONAL SEX OF-
25 FENDER REGISTRIES.—Each participating State

1 shall, in the time and manner provided by the Attor-
2 ney General—

3 (A) submit to the Attorney General the in-
4 formation concerning each covered individual
5 under this title, which shall be included in the
6 National Sex Offender Registry or other data-
7 bases as appropriate;

8 (B) submit the information described in
9 subparagraph (A) in a manner that allows the
10 Attorney General to include it in the National
11 Sex Offender Registries; and

12 (C) participate in the National Sex Of-
13 fender Public Registry maintained pursuant to
14 section 202.

15 (d) WHEN A COVERED INDIVIDUAL IS MISSING.—

16 (1) STATE.—Whenever a participating State is
17 unable to verify the address of or locate a covered
18 individual, the participating State shall promptly no-
19 tify the Attorney General.

20 (2) ATTORNEY GENERAL.—Whenever informa-
21 tion is made known to the Attorney General under
22 paragraph (1) that a State is unable to verify the
23 address of or locate a covered individual, the Attor-
24 ney General shall—

1 (A) revise the National Sex Offender Reg-
2 istry to reflect that information; and

3 (B) add the name of the individual to the
4 wanted person file of the National Crime Infor-
5 mation Center and create a wanted persons
6 record if an arrest warrant that meets the re-
7 quirements for entry into the file is issued in
8 connection with the violation.

9 (3) INVESTIGATION.—The Attorney General
10 shall use the authority provided in section
11 566(e)(1)(B) of title 28, United States Code, the au-
12 thority to investigate offenses under chapter 49 of
13 title 18, United States Code, and the authority pro-
14 vided in any other relevant provision of law, as ap-
15 propriate, to assist States and other jurisdictions in
16 locating and apprehending covered individuals and
17 any other individuals who violate sex offender reg-
18 istration requirements.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as may be
21 necessary for fiscal years 2006 through 2008 to carry out
22 this section.

1 **SEC. 106. PARTICIPATING STATE SEX OFFENDER REG-**
 2 **ISTRIES.**

3 (a) STATEWIDE REGISTRY REQUIRED.—Each par-
 4 ticipating State shall maintain, throughout its jurisdiction,
 5 a single comprehensive registry of information collected
 6 under this title.

7 (b) RELEASE OF INFORMATION IN REGISTRY.—Each
 8 participating State shall have in effect, throughout its ju-
 9 risdiction, a single public information program that in-
 10 cludes the following elements:

11 (1) INTERNET SITE.—

12 (A) INFORMATION.—

13 (i) IN GENERAL.—Except as provided
 14 in clause (iii), the participating State shall
 15 release to the public, through an Internet
 16 site maintained by the State that shall
 17 have multiple field search capability, the
 18 following information for Tier II and III
 19 individuals whose domicile State, work
 20 State, or school State is the same as the
 21 participating State:

22 (I) The name and any known
 23 aliases of the individual.

24 (II) The date of birth of the indi-
 25 vidual.

1 (III) A physical description of the
2 individual.

3 (IV) The current photograph of
4 the individual.

5 (V) The domicile address of the
6 individual.

7 (VI) The address of the individ-
8 ual's place of employment.

9 (VII) The address of any edu-
10 cational institution at which the indi-
11 vidual is a student.

12 (VIII) The nature and date of all
13 offenses qualifying the individual as a
14 covered individual.

15 (IX) The date on which the indi-
16 vidual was released from prison, or
17 placed on parole, supervised release,
18 or probation, for the most recent of-
19 fense qualifying the individual as a
20 covered individual.

21 (X) Tier designation for the indi-
22 vidual.

23 (XI) Compliance status of the in-
24 dividual.

1 (ii) TIER I INDIVIDUALS.—The par-
2 ticipating State may, at its discretion, in-
3 clude information about Tier I individuals
4 on its Internet site.

5 (iii) VICTIMS.—The participating
6 State shall make every effort not to dis-
7 close the identity of the victim of an of-
8 fense. Information about a covered indi-
9 vidual whose duty to register is based sole-
10 ly on offenses against intrafamilial minors
11 may, after consultation with the victim, be
12 limited or withheld in its entirety from an
13 Internet site or registry, at the discretion
14 of the participating State.

15 (iv) LINKS.—The site shall include, as
16 much as practicable, links to sex offender
17 safety and education resources.

18 (B) INTEGRATION OF STATE SITES.—The
19 participating State shall consult with other
20 States to ensure, as much as practicable, that
21 the site integrates with and shares information
22 with the sites maintained by those other States.

23 (C) CORRECTION OF ERRORS.—The site
24 shall contain instructions on the process for

1 correcting information that a person alleges to
2 be erroneous.

3 (D) WARNING.—The site shall include a
4 warning that the information presented should
5 not be used to injure, harass, or commit a
6 criminal act against any individual named in
7 the registry or residing or working at any re-
8 ported address. The warning shall note that any
9 such action could result in criminal prosecution.

10 (E) TIER DESIGNATION.—

11 (i) IN GENERAL.—The participating
12 State shall establish 3 tier designations.
13 The tier designation of an individual shall
14 be determined under criteria promulgated
15 by the participating State in accordance
16 with the participating State’s resources
17 and local priorities.

18 (ii) SEXUALLY VIOLENT OFFEND-
19 ERS.—All individuals convicted of sexually
20 violent offenses shall be designated as Tier
21 III individuals.

22 (iii) PHYSICAL CONTACT OF A SEXUAL
23 NATURE WITH A MINOR.—All individuals
24 convicted of any offense, an element of
25 which is physical contact of a sexual na-

1 ture with a minor, shall be designated as
2 Tier II or Tier III individuals.

3 (2) COMMUNITY NOTIFICATION.—

4 (A) TIER II INDIVIDUALS.—Appropriate
5 law enforcement agencies in participating
6 States shall release information collected under
7 this title relating to Tier II individuals to public
8 and private schools, including institutions of
9 higher learning, child care providers, and busi-
10 nesses that provide services or products to chil-
11 dren, located within a radius, prescribed by the
12 participating State, of the home or work ad-
13 dress of the individual.

14 (B) TIER III INDIVIDUALS.—Appropriate
15 law enforcement agencies in participating
16 States shall release information collected under
17 this title relating to Tier III individuals to—

18 (i) public and private schools, includ-
19 ing institutions of higher learning, child
20 care providers, and businesses that provide
21 services or products to children, located
22 within a radius, prescribed by the partici-
23 pating State, of the home or work address
24 of the individual; and

1 (ii) residents who reside within a ra-
2 dius, prescribed by the participating State,
3 of the home or work address of the indi-
4 vidual.

5 (c) PUBLICATION OF NUMBER OF OFFENDERS REG-
6 ISTERED.—

7 (1) IN GENERAL.—Every 6 months, the Attor-
8 ney General shall collect from each State informa-
9 tion on the total number of covered individuals in-
10 cluded in the registry maintained by that State.

11 (2) PUBLIC AVAILABILITY AND CONTENTS.—
12 The Attorney General shall—

13 (A) release information under paragraph
14 (1) to the public in a manner consistent with
15 this title; and

16 (B) include in such a release the number
17 of individuals within each tier and the number
18 of individuals who are in compliance with this
19 title within each tier.

20 (3) DOUBLE-COUNTING.—In reporting informa-
21 tion collected under paragraph (1), the Attorney
22 General shall ensure, to the extent practicable, that
23 offenders are not being double-counted.

1 **SEC. 107. DEVELOPMENT AND AVAILABILITY OF REGISTRY**
2 **MANAGEMENT SOFTWARE.**

3 (a) DEVELOPMENT OF SOFTWARE REQUIRED.—The
4 Attorney General, in consultation with participating
5 States, shall—

6 (1) develop a software application that can be
7 used by participating States for purposes of this
8 title; and

9 (2) ensure that such software operates in such
10 a manner that a participating State can, by using
11 the software, fully comply with all the requirements
12 under this title for managing and exchanging infor-
13 mation (including exchanging information with other
14 States).

15 (b) AVAILABILITY TO STATES.—The Attorney Gen-
16 eral shall make the software developed under this section
17 available to States. The first complete edition of the soft-
18 ware shall be made available within 2 years after the date
19 of the enactment of this Act.

20 (c) SUPPORT.—The Attorney General shall ensure
21 that States are provided technical support for the installa-
22 tion of the software and for maintaining the software.

23 **SEC. 108. ELECTION BY INDIAN TRIBES.**

24 (a) ELECTION.—

25 (1) IN GENERAL.—A federally recognized In-
26 dian tribe may, by resolution or other enactment of

1 the tribal council or comparable governmental
2 body—

3 (A) elect to carry out this title as a juris-
4 diction subject to its provisions; or

5 (B) elect to delegate its functions under
6 this title to a participating State or partici-
7 pating States within which the territory of the
8 tribe is located and to provide access to its ter-
9 ritory and such other cooperation and assist-
10 ance as may be needed to enable such partici-
11 pating State or participating States to carry
12 out and enforce the requirements of this title.

13 (2) ELECTION.—A tribe shall be treated as if it
14 had made the election described in paragraph (1)(B)
15 if—

16 (A) it is a tribe subject to the law enforce-
17 ment jurisdiction of a participating State under
18 section 1162 of title 18, United States Code;

19 (B) the tribe does not make an election
20 under paragraph (1) within 1 year of the enact-
21 ment of this Act or rescinds an election under
22 paragraph (1)(A); or

23 (C) the Attorney General determines that
24 the tribe has not implemented the requirements

1 of this title and is not likely to become capable
2 of doing so within a reasonable amount of time.

3 (b) COOPERATION BETWEEN PARTICIPATING STATE
4 AND TRIBAL AUTHORITIES.—

5 (1) NONDUPLICATION.—A tribe subject to this
6 title is not required for purposes of this title to du-
7 plicate functions under this title which are fully car-
8 ried out by a participating State or participating
9 States within which the territory of the tribe is lo-
10 cated.

11 (2) COOPERATIVE AGREEMENTS.—A tribe may,
12 through cooperative agreements with such a partici-
13 pating State or participating States—

14 (A) arrange for the tribe to carry out any
15 function of the participating State under this
16 title with respect to sex offenders subject to the
17 tribe's jurisdiction; and

18 (B) arrange for the participating State to
19 carry out any function of the tribe under this
20 title with respect to sex offenders subject to the
21 tribe's jurisdiction.

22 **SEC. 109. PROVISION OF NOTICE AND ACCESS TO INDIAN**
23 **TRIBES.**

24 (a) CONFORMING AMENDMENT TO TITLE 18,
25 UNITED STATES CODE.—Section 4042(c)(1)(A) of title

1 18, United States Code, is amended by striking “State”
2 and inserting “State, Indian Country,”.

3 (b) RESPONSIBILITY OF PARTICIPATING STATES.—
4 An appropriate participating State official, pursuant to
5 this title and exercising jurisdiction pursuant to Public
6 Law 93–280, shall ensure that notice is provided to any
7 Indian tribe of the release into the jurisdiction of the In-
8 dian tribe of a covered individual.

9 (c) ACCESS TO NATIONAL SEX OFFENDER REG-
10 ISTRY.—From funds made available under section 107,
11 the Attorney General shall use such amounts as the Attor-
12 ney General determines to be appropriate to make grants
13 to Indian tribes for the development of electronic data-
14 bases to provide access to information in the National Sex
15 Offender Registry.

16 **SEC. 110. APPLICABILITY TO MINORS.**

17 Notwithstanding any other provision of this Act, the
18 requirements of this Act are not applicable with respect
19 to any individual who is only subject to such requirements
20 because of a delinquent adjudication that occurred when
21 the individual was a minor, unless that individual was
22 charged and convicted as an adult.

23 **SEC. 111. RULE OF CONSTRUCTION.**

24 The provisions of this title that are cast as directions
25 to participating States or their officials constitute only

1 conditions that must be substantially met, in accordance
2 with section 107, in order to obtain Federal funding under
3 this title.

4 **SEC. 112. IMMUNITY FOR GOOD FAITH CONDUCT.**

5 The Federal Government, participating States and
6 political subdivisions thereof, and their agencies, officers,
7 employees, and agents shall be immune from liability for
8 good faith conduct under this Act.

9 **SEC. 113. STATE UNCONSTITUTIONALITY.**

10 (a) IN GENERAL.—Nothing in this title shall be
11 deemed to require a participating State to take any action
12 that would violate that participating State’s constitution.

13 (b) FUNDS.—The Attorney General shall not with-
14 hold funds to any participating State under section 107
15 if the participating State declines to implement any provi-
16 sions of this title on the ground that to do so would place
17 the participating State in violation of its constitution or
18 a ruling by the participating State’s highest court.

19 (c) DEFERENCE.—In considering whether compliance
20 with the requirements of this title would likely violate the
21 participating State’s constitution or rulings by the partici-
22 pating State’s highest court under this section, the Attor-
23 ney General shall defer to the participating State’s inter-
24 pretation of the participating State’s constitution and rul-

1 ings of the participating State’s highest court unless those
 2 interpretations are clearly erroneous.

3 **SEC. 114. REGULATIONS.**

4 The Attorney General shall issue guidelines and regu-
 5 lations to interpret and implement this title.

6 **SEC. 115. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated for each of
 8 fiscal years 2006 through 2009 such sums as may be nec-
 9 essary to carry out this title.

10 **SEC. 116. EFFECT ON CURRENT LAW.**

11 This title does not diminish any existing conditions
 12 on participating and non-participating States under cur-
 13 rent law.

14 **TITLE II—DRU SJODIN NA-**
 15 **TIONAL SEX OFFENDER PUB-**
 16 **LIC DATABASE ACT OF 2005**

17 **SEC. 201. SHORT TITLE AND DEFINITIONS.**

18 (a) **SHORT TITLE.**—This title may be cited as the
 19 “Dru Sjodin National Sex Offender Public Database Act
 20 of 2005”.

21 (b) **DEFINITIONS.**—The definitions in section 102
 22 shall apply in this title.

23 **SEC. 202. NATIONAL SEX OFFENDER PUBLIC REGISTRY.**

24 (a) **IN GENERAL.**—The Attorney General shall main-
 25 tain a national Internet site, to be known as the “National

1 Sex Offender Public Registry,” through which the public
2 can access information in the public sex offender Internet
3 sites of all States by means of single-query searches.

4 (b) INFORMATION AVAILABLE IN PUBLIC REG-
5 ISTRY.—With respect to Tier II and Tier III individuals
6 and except as provided in subsection (e), the National Sex
7 Offender Public Registry shall provide the following infor-
8 mation:

9 (1) The name and any known aliases of the in-
10 dividual.

11 (2) The date of birth of the individual.

12 (3) A physical description of the individual.

13 (4) The current photograph of the individual.

14 (5) The domicile address of the individual.

15 (6) The address of the individual’s place of em-
16 ployment.

17 (7) The address of any educational institution
18 at which the individual is a student.

19 (8) The nature and date of all offenses quali-
20 fying the individual as a covered individual.

21 (9) The date on which the individual was re-
22 leased from prison, or placed on parole, supervised
23 release, or probation, for the most recent offense
24 qualifying the individual as a covered individual.

25 (10) Tier designation for the individual.

1 (11) Compliance status of the individual.

2 (c) SEARCH CAPABILITIES.—The National Sex Of-
3 fender Public Registry shall have multiple search capabili-
4 ties, including—

5 (1) searches by name; and

6 (2) searches by geographic area including
7 searches by zip code area and searches within a ra-
8 dius specified by the user.

9 (d) TIER I INDIVIDUALS.—The Attorney General
10 shall also provide, in accordance with this section, infor-
11 mation related to a Tier I individual only if such informa-
12 tion is provided by a State on that State’s Internet site.

13 (e) FAMILY MEMBER OFFENSE.—The Attorney Gen-
14 eral shall provide, in accordance with this section, infor-
15 mation related to a covered offense against a minor com-
16 mitted by a family member of the minor only if such infor-
17 mation is provided by a State on that State’s Internet site.

18 **SEC. 203. RELEASE OF HIGH-RISK INMATES.**

19 (a) IN GENERAL.—From amounts made available to
20 carry out this section, the Attorney General may make
21 grants to participating States for activities specified in
22 subsections (b) and (c).

23 (b) CIVIL COMMITMENT PROCEEDINGS.—

24 (1) IN GENERAL.—Any participating State that
25 provides for a civil commitment proceeding, or any

1 equivalent proceeding, shall issue timely notice to a
2 State official responsible for considering whether to
3 pursue such proceedings upon the impending release
4 of any person incarcerated by the participating State
5 who—

6 (A) has been convicted of a sexually violent
7 offense; or

8 (B) has been deemed by the participating
9 State to be at high risk for recommitting any
10 covered offense against a minor.

11 (2) REVIEW.—Upon receiving notice under
12 paragraph (1), the State official shall consider
13 whether or not to pursue a civil commitment pro-
14 ceeding, or any equivalent proceeding required under
15 State law.

16 (c) MONITORING OF RELEASED PERSONS.—Each
17 participating State shall intensively monitor, for not less
18 than 1 year, any person who—

19 (1) has been deemed by the participating State
20 to be at high risk for recommitting any covered of-
21 fense against a minor;

22 (2) has been unconditionally released from in-
23 carceration by the participating State; and

1 ment is otherwise provided by law and regardless of any
 2 maximum term of imprisonment otherwise provided for
 3 the offense—

4 “(1) if the crime of violence results in the death
 5 of a person who has not attained the age of 12
 6 years, be imprisoned for not less than 30 years to
 7 life;

8 “(2) if the crime of violence is a kidnapping or
 9 maiming (or an attempt or conspiracy to commit
 10 kidnapping or maiming) or results in serious bodily
 11 injury (as defined in section 1365), be imprisoned
 12 for not less than 20 years to life; and

13 “(3) if a dangerous weapon was used during
 14 and in relation to the crime of violence, be impris-
 15 oned for not less than 10 years to life.”.

16 **SEC. 303. INCREASED PENALTIES FOR SEXUAL OFFENSES**
 17 **AGAINST CHILDREN.**

18 (a) **SEXUAL ABUSE.**—

19 (1) **AGGRAVATED SEXUAL ABUSE OF CHIL-**
 20 **DREN.**—Section 2241(c) of title 18, United States
 21 Code, is amended by—

22 (A) designating the second sentence as
 23 paragraph (4); and

24 (B) striking the first sentence and insert-
 25 ing the following:

1 “(1) Whoever crosses a State line with intent to en-
2 gage in a sexual act with a person who has not attained
3 the age of 12 years, or in the special maritime and terri-
4 torial jurisdiction of the United States or in a Federal
5 prison, knowingly engages in a sexual act with another
6 person who has not attained the age of 12 years, or at-
7 tempts to do so, shall be fined under this title and impris-
8 oned for not less than 10 years to life, or both.

9 “(2) Whoever crosses a State line with intent to en-
10 gage in a sexual act under the circumstances described
11 in subsections (a) or (b) with a person who has not at-
12 tained the age of 12 years, or in the special maritime and
13 territorial jurisdiction of the United States or in a Federal
14 prison, knowingly engages in a sexual act under the cir-
15 cumstances described in subsections (a) or (b) with an-
16 other person who has not attained the age of 12 years,
17 or attempts to do so, shall be fined under this title and
18 imprisoned not less than 30 years to life, or both.

19 “(3) Whoever crosses a State line with intent to en-
20 gage in a sexual act under the circumstances described
21 in subsections (a) or (b) with a person who has not at-
22 tained the age of 12 years, or in the special maritime and
23 territorial jurisdiction of the United States or in a Federal
24 prison, knowingly engages in a sexual act under the cir-
25 cumstances described in subsections (a) or (b) with an-

1 other person who has attained the age of 12 but has not
2 attained the age of 16 years (and is at least 4 years young-
3 er than the person so engaging), or attempts to do so,
4 shall be fined under this title, imprisoned for any term
5 of years or life, or both.”.

6 (2) SEXUAL ABUSE OF CHILDREN RESULTING
7 IN DEATH.—Section 2245 of title 18, United States
8 Code, is amended—

9 (A) by striking “A person” and inserting
10 “(a) IN GENERAL.—A person”; and

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

12 “(b) OFFENSES INVOLVING YOUNG CHILDREN.—A
13 person who, in the course of an offense under this chapter,
14 engages in conduct that includes a sex act with a person
15 who has not attained the age of 12 years and that results
16 in the death of that person, shall be punished by death
17 or imprisoned for not less than 30 years to life.”.

18 (b) SEXUAL EXPLOITATION AND OTHER ABUSE OF
19 CHILDREN.—

20 (1) SEXUAL EXPLOITATION OF CHILDREN.—
21 Section 2251(e) of title 18, United States Code, is
22 amended by striking “any term of years or for life”
23 and inserting “not less than 30 years to life.”

24 (2) USING MISLEADING DOMAIN NAMES TO DI-
25 RECT CHILDREN TO HARMFUL MATERIAL ON THE

1 INTERNET.—Section 2252B(b) of title 18, United
2 States Code, is amended by striking “or imprisoned
3 not more than 4 years” and inserting “or impris-
4 oned not more than 10 years.”.

5 **TITLE IV—JESSICA LUNSFORD**
6 **AND SARAH LUNDE ACT**

7 **SEC. 401. SHORT TITLE.**

8 This title may be cited as the “Jessica Lunsford and
9 Sarah Lunde Act”.

10 **SEC. 402. PILOT PROGRAM FOR MONITORING SEXUAL OF-**
11 **FENDERS.**

12 (a) DEFINITION.—In this section, the term “sexual
13 offender” means an offender 18 years of age or older who
14 commits a sexual offense against a minor.

15 (b) SEXUAL PREDATOR MONITORING PROGRAM.—

16 (1) GRANTS AUTHORIZED.—

17 (A) IN GENERAL.—The Attorney General
18 is authorized to award grants (referred to as
19 “Jessica Lunsford and Sarah Lunde Grants”)
20 to State and local governments to assist such
21 States and local governments in—

22 (i) carrying out programs to outfit
23 sexual offenders with electronic monitoring
24 units; and

1 (ii) the employment of law enforce-
2 ment officials necessary to carry out such
3 programs.

4 (B) DURATION.—The Attorney General
5 shall award grants under this section for a pe-
6 riod not to exceed 3 years.

7 (2) APPLICATION.—

8 (A) IN GENERAL.—Each State or local
9 government desiring a grant under this section
10 shall submit an application to the Attorney
11 General at such time, in such manner, and ac-
12 companied by such information as the Attorney
13 General may reasonably require.

14 (B) CONTENTS.—Each application sub-
15 mitted pursuant to subparagraph (A) shall—

16 (i) describe the activities for which as-
17 sistance under this section is sought; and

18 (ii) provide such additional assurances
19 as the Attorney General determines to be
20 essential to ensure compliance with the re-
21 quirements of this section.

22 (c) INNOVATION.—In making grants under this sec-
23 tion, the Attorney General shall ensure that different ap-
24 proaches to monitoring are funded to allow an assessment
25 of effectiveness.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
3 appropriated \$10,000,000 for each of the fiscal
4 years 2006 through 2008 to carry out this section.

5 (2) REPORT.—Not later than April 1, 2008, the
6 Attorney General shall report to Congress—

7 (A) assessing the effectiveness and value of
8 this section;

9 (B) comparing the cost effectiveness of the
10 electronic monitoring to reduce sex offenses
11 compared to other alternatives; and

12 (C) making recommendations for con-
13 tinuing funding and the appropriate levels for
14 such funding.

15 **TITLE V—MISCELLANEOUS**
16 **PROVISIONS**

17 **SEC. 501. ACCESS TO INTERSTATE IDENTIFICATION INDEX.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law, the Attorney General shall ensure access to
20 the Interstate Identification Index (established under the
21 National Crime Prevention and Privacy Compact (42
22 U.S.C. 14616)) by—

23 (1) the National Center for Missing and Ex-
24 ploited Children, to be used only within the scope of
25 the Center’s duties and responsibilities under Fed-

1 eral law to assist or support law enforcement agen-
2 cies in administration of criminal justice functions;
3 and

4 (2) governmental social service agencies with
5 child protection responsibilities, to be used by such
6 agencies only in investigating or responding to re-
7 ports of child abuse, neglect, or exploitation.

8 (b) CONDITIONS OF ACCESS.—The access provided
9 under this section, and associated rules of dissemination,
10 shall be—

11 (1) defined by the Attorney General; and

12 (2) limited to personnel of the Center or such
13 agencies that have met all requirements set by the
14 Attorney General, including training, certification,
15 and background screening.

16 (c) LIMITATION ON LIABILITY.—

17 (1) IN GENERAL.—Except as provided in para-
18 graphs (2) and (3), the National Center for Missing
19 and Exploited Children, including any of its direc-
20 tors, officers, employees, or agents, is not liable in
21 any civil action sounding in tort for damages related
22 to its access to the Interstate Identification Index.

23 (2) INTENTIONAL, RECKLESS, OR OTHER MIS-
24 CONDUCT.—Paragraph (1) does not apply in an ac-
25 tion in which a party proves that the National Cen-

1 ter for Missing and Exploited Children, or its offi-
2 cer, employee, or agent as the case may be, engaged
3 in intentional misconduct or acted, or failed to act,
4 with actual malice, with reckless disregard of a sub-
5 stantial risk of causing injury without legal justifica-
6 tion, or for a purpose unrelated to its performance
7 of activities or responsibilities under Federal law.

8 (3) ORDINARY BUSINESS ACTIVITIES.—Para-
9 graph (1) does not apply to an act or omission re-
10 lated to an ordinary business activity, such as an ac-
11 tivity involving general administration or operations,
12 the use of motor vehicles, or personnel management.

13 **SEC. 502. LIMITATION ON LIABILITY FOR NCMEC.**

14 Section 227 of the Victims of Child Abuse Act of
15 1990 (42 U.S.C. 13032) is amended by adding at the end
16 the following:

17 “(g) LIMITATION ON LIABILITY.—

18 “(1) IN GENERAL.—Except as provided in sub-
19 paragraphs (2) and (3), the National Center for
20 Missing and Exploited Children, including any of its
21 directors, officers, employees, or agents, shall not be
22 liable in any civil or criminal action for the perform-
23 ance of its CyberTipline responsibilities and func-
24 tions as defined by section 227 of the Victims of
25 Child Abuse Act of 1990 (42 U.S.C. 13032) and

1 section 404 of the Missing Children’s Assistance Act
2 (42 U.S.C. 5773), or for its efforts to identify child
3 victims.

4 “(2) EXCEPTION FOR INTENTIONAL, RECKLESS,
5 OR OTHER MISCONDUCT.—The limitation on liability
6 under subparagraph (1) shall not apply in any ac-
7 tion in which a plaintiff or prosecutor proves that
8 the National Center for Missing and Exploited Chil-
9 dren or its officers, employees, or agents described
10 in subparagraph (1), as the case may be, engaged in
11 intentional misconduct or acted, or failed to act,
12 with actual malice, with reckless disregard to a sub-
13 stantial risk of causing injury without legal justifica-
14 tion, or for a purpose unrelated to the performance
15 of responsibilities or functions under section 227 of
16 the Victims of Child Abuse Act of 1990 (42 U.S.C.
17 13032) and section 404 of the Missing Children’s
18 Assistance Act (42 U.S.C. 5773), or for its efforts
19 to identify child victims.

20 “(3) EXCEPTION FOR ORDINARY BUSINESS AC-
21 TIVITIES.—The limitation on liability under para-
22 graph (1) shall not apply to any alleged act or omis-
23 sion related to an ordinary business activity, such as
24 an activity involving general administration or oper-

1 ations, the use of motor vehicles, or personnel man-
2 agement.”.

3 **SEC. 503. MISSING CHILD REPORTING REQUIREMENTS.**

4 (a) IN GENERAL.—Section 3702 of the Crime Con-
5 trol Act of 1990 (42 U.S.C. 5780) is amended—

6 (1) by redesignating paragraphs (2) and (3) as
7 paragraphs (3) and (4), respectively;

8 (2) by inserting after paragraph (1) the fol-
9 lowing:

10 “(2) ensure that no law enforcement agency
11 within the State establishes or maintains any policy
12 that requires the removal of a missing person entry
13 from its State law enforcement system or the Na-
14 tional Crime Information Center computer database
15 based solely on the age of the person;”; and

16 (3) in paragraph (3), as redesignated, by strik-
17 ing “immediately” and inserting “within 2 hours of
18 receipt”.

19 (b) DEFINITIONS.—Section 403(1) of the Com-
20 prehensive Crime Control Act of 1984 (42 U.S.C. 5772)
21 is amended by striking “if” through subparagraph (B)
22 and inserting a semicolon.

1 **SEC. 504. TREATMENT AND MANAGEMENT OF SEX OFFEND-**
2 **ERS IN THE BUREAU OF PRISONS.**

3 Section 3621 of title 18, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(f) **SEX OFFENDER MANAGEMENT.**—

7 “(1) **IN GENERAL.**—The Bureau of Prisons
8 shall make available appropriate treatment to sex of-
9 fenders who are in need of and suitable for treat-
10 ment, as follows:

11 “(A) **SEX OFFENDER MANAGEMENT PRO-**
12 **GRAMS.**—The Bureau of Prisons shall establish
13 non-residential sex offender management pro-
14 grams to provide appropriate treatment, moni-
15 toring, and supervision of sex offenders and to
16 provide aftercare during prerelease custody.

17 “(B) **RESIDENTIAL SEX OFFENDER**
18 **TREATMENT PROGRAMS.**—The Bureau of Pris-
19 ons shall establish residential sex offender
20 treatment programs to provide treatment to sex
21 offenders who volunteer for such programs and
22 are deemed by the Bureau of Prisons to be in
23 need of and suitable for residential treatment.

24 “(2) **REGIONS.**—At least 1 sex offender man-
25 agement program under paragraph (1)(A), and at
26 least 1 residential sex offender treatment program

1 under paragraph (1)(B), shall be established in each
2 region within the Bureau of Prisons.

3 “(3) AUTHORIZATION OF APPROPRIATIONS.—
4 There are authorized to be appropriated to the Bu-
5 reau of Prisons for each fiscal year such sums as
6 may be necessary to carry out this subsection.”.

7 **SEC. 505. AUTHORIZATION FOR AMERICAN PROSECUTORS**
8 **RESEARCH INSTITUTE.**

9 In addition to any other amounts authorized by law,
10 there are authorized to be appropriated for grants to the
11 American Prosecutors Research Institute under section
12 214A of the Victims of Child Abuse Act of 1990 (42
13 U.S.C. 13003) \$7,500,000 for each of fiscal years 2006
14 through 2010.

15 **SEC. 506. SEX OFFENDER APPREHENSION GRANTS.**

16 Title I of the Omnibus Crime Control and Safe
17 Streets Act of 1968 is amended by adding at the end the
18 following:

19 **“PART II—SEX OFFENDER APPREHENSION**
20 **GRANTS**

21 **“SEC. 2992. AUTHORITY TO MAKE SEX OFFENDER APPRE-**
22 **HENSION GRANTS.**

23 “(a) IN GENERAL.—From amounts made available to
24 carry out this part, the Attorney General may make grants
25 to States, units of local government, Indian tribes, other

1 public and private entities, and multi-jurisdictional or re-
2 gional consortia thereof for activities specified in sub-
3 section (b).

4 “(b) COVERED ACTIVITIES.—An activity referred to
5 in subsection (a) is any program, project, or other activity
6 to assist a State in enforcing sex offender registration re-
7 quirements.”.

8 **SEC. 507. ACCESS TO FEDERAL CRIME INFORMATION DATA-**
9 **BASES BY EDUCATIONAL AGENCIES FOR CER-**
10 **TAIN PURPOSES.**

11 (a) IN GENERAL.—The Attorney General shall, upon
12 request of the chief executive of a State, conduct finger-
13 print-based checks of the national crime information data-
14 bases (as defined in section 534(e)(3)(A) of title 28,
15 United States Code), pursuant to a request submitted by
16 a local educational agency or a State educational agency
17 in that State, on individuals under consideration for em-
18 ployment by the agency in a position in which the indi-
19 vidual would work with or around children. Where pos-
20 sible, the check shall include a fingerprint-based check of
21 State criminal history databases. The Attorney General
22 and the States may charge any applicable fees for these
23 checks.

24 (b) 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 an ap-
2 propriate officer of a local educational agency or State
3 educational agency, or to another person authorized by
4 law to receive that information.

5 (c) CRIMINAL PENALTIES.—An individual who know-
6 ingly exceeds the authority of subsection (a), or knowingly
7 releases information in violation of subsection (b), shall
8 be imprisoned not more than 10 years or fined under title
9 18, United States Code, or both.

10 (d) DEFINITION.—In this section, the terms “local
11 educational agency” and “State educational agency” have
12 the meanings given to those terms in section 9101 of the
13 Elementary and Secondary Education Act of 1965 (20
14 U.S.C. 7801).

15 **SEC. 508. GRANTS TO COMBAT SEXUAL ABUSE OF CHIL-**
16 **DREN.**

17 (a) IN GENERAL.—The Bureau of Justice Assistance
18 is authorized to make grants under this section to—

19 (1) each law enforcement agency that serves a
20 jurisdiction with 50,000 or more residents; and

21 (2) each law enforcement agency that serves a
22 jurisdiction with fewer than 50,000 residents, upon
23 a showing of need.

24 (b) USE OF GRANT AMOUNTS.—Grants under this
25 section may be used by the law enforcement agency to—

1 (1) hire additional law enforcement personnel,
2 or train existing staff, to combat the sexual abuse of
3 children through community education and outreach,
4 investigation of complaints, enforcement of laws re-
5 lating to sex offender registries, and management of
6 released sex offenders;

7 (2) investigate the use of the Internet to facili-
8 tate the sexual abuse of children; and

9 (3) purchase computer hardware and software
10 necessary to investigate sexual abuse of children over
11 the Internet, access local, State, and Federal data-
12 bases needed to apprehend sex offenders, and facili-
13 tate the creation and enforcement of sex offender
14 registries.

15 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
16 are authorized to be appropriated such sums as may be
17 necessary for fiscal years 2006 through 2008 to carry out
18 this section.

19 **SEC. 509. SEVERABILITY.**

20 If any provisions of this Act, any amendment made
21 by this Act, or the application of such provisions or
22 amendment to any person or circumstance is held to be
23 unconstitutional, the remainder of the provisions of this
24 Act, the amendments made by this Act, and the applica-

1 tion of such provisions or amendments to any person or
2 circumstance shall not be affected.

3 **SEC. 510. FAILURE TO PROVIDE INFORMATION A DEPORT-**
4 **ABLE OFFENSE.**

5 Section 237(a)(2)(A) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1227(a)(2)(A)) is amended—

7 (1) by redesignating clause (v) as clause (vi);

8 and

9 (2) by inserting after clause (iv) the following
10 new clause:

11 “(v) FAILURE TO PROVIDE REGISTRA-
12 TION INFORMATION AS A SEX OF-
13 FENDER.—Any alien who is convicted
14 under subsection (d) of section 103 of the
15 Sex Offender Registration and Notification
16 Act of a violation of subsection (a) or (b)
17 of such section is deportable.”.

18 **SEC. 511. REPEAL.**

19 Sections 170101 and 170102 of the Violent Crime
20 Control and Law Enforcement Act of 1994 (42 U.S.C.
21 14071, 14072) are repealed.

22 **SEC. 512. CONFORMING AMENDMENTS TO TITLE 18, UNITED**
23 **STATES CODE.**

24 Title 18 of the United States Code is amended—

1 (1) in sections 3563(a)(8) and 3583(d) by
 2 striking “and that the person register in any State
 3 where the person resides, is employed, carries on a
 4 vocation, or is a student (as such terms are defined
 5 under section 170101(a)(3) of the Violent Crime
 6 Control and Law Enforcement Act of 1994)” and
 7 inserting “and that the person comply with the Sex
 8 Offender Registration and Notification Act”;

9 (2) in section 4042(c)(3) by striking “shall be
 10 subject” and all that follows through “1994)” and
 11 inserting “must comply with the Sex Offender Reg-
 12 istration and Notification Act”; and

13 (3) in section 4209(a) by striking “register in
 14 any State” and all that follows through “1994)” and
 15 inserting “comply with the Sex Offender Registra-
 16 tion and Notification Act.”.

17 **TITLE VI—COMPREHENSIVE EX-**
 18 **AMINATION OF SEX OF-**
 19 **FENDER ISSUES**

20 **SEC. 601. COMPREHENSIVE EXAMINATION OF SEX OF-**
 21 **FENDER ISSUES.**

22 (a) DEFINITION.—In this section, the term “sexual
 23 offender” means an offender 18 years of age or older who
 24 commits a sexual offense against a minor.

1 (b) IN GENERAL.—The National Institute of Justice
2 shall conduct a comprehensive study to examine the con-
3 trol, prosecution, treatment, and monitoring of sex offend-
4 ers, with a particular focus on—

5 (1) the effectiveness of State, tribal, and local
6 responses to the requirements of this Act, including
7 the effectiveness of particular jurisdictions as com-
8 pared to others;

9 (2) compliance by sex offenders with the reg-
10 istration requirements of this Act;

11 (3) how this Act has affected the number of re-
12 ported sex crimes against children;

13 (4) how this Act has affected the number of
14 prosecutions and convictions of sex crimes against
15 children;

16 (5) the utility of the National Sex Offender
17 Public Registry to the public;

18 (6) the costs to States, tribes, and local entities
19 of compliance with this Act and the relative costs
20 and benefits of approaches undertaken by different
21 jurisdictions;

22 (7) the effectiveness of treatment programs in
23 reducing recidivism among sex offenders;

24 (8) the potential benefits to Federal, State, and
25 local law enforcement agencies of access to taxpayer

1 information pertaining to sexual offenders and the
2 privacy implications to those individuals and others;
3 and

4 (9) the potential benefits to Federal, State, and
5 local law enforcement agencies of access to Social
6 Security information pertaining to sexual offenders
7 and the privacy implications to those individuals and
8 others.

9 (c) RECOMMENDATIONS.—The study described in
10 subsection (b) shall include recommendations for reducing
11 the number of sex crimes against children and increasing
12 the rates of compliance with registration requirements.

13 (d) REPORTS.—

14 (1) IN GENERAL.—Not later than 5 years after
15 the date of enactment of this Act, the National In-
16 stitute of Justice shall report the results of the
17 study conducted under subsection (b) together with
18 findings to Congress, through the Internet to the
19 public, to each of the 50 governors, to the Mayor of
20 the District of Columbia, to territory heads, and to
21 the top official of the various Indian Tribes.

22 (2) INTERIM REPORTS.—The National Institute
23 of Justice shall submit yearly interim reports.

- 1 (e) APPROPRIATIONS.—There are authorized to be
- 2 appropriated \$3,000,000 to carry out this section.

Passed the Senate May 4, 2006.

Attest:

Secretary.

109TH CONGRESS
2^D SESSION

S. 1086

AN ACT

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.