

112TH CONGRESS  
1ST SESSION

# H. R. 1981

To amend title 18, United States Code, with respect to child pornography  
and child exploitation offenses.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2011

Mr. SMITH of Texas (for himself and Ms. WASSERMAN SCHULTZ) introduced  
the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, with respect to  
child pornography and child exploitation 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.**

4 This Act may be cited as the “Protecting Children  
5 From Internet Pornographers Act of 2011”.

6 **SEC. 2. FINANCIAL FACILITATION OF ACCESS TO CHILD**  
7 **PORNOGRAPHY.**

8 (a) OFFENSE.—Chapter 95 of title 18, United States  
9 Code, is amended by adding at the end the following:

1 **“§ 1960A. Financial facilitation of access to child por-**  
2 **nography**

3 “Whoever knowingly conducts, or attempts or con-  
4 spires to conduct, a financial transaction (as defined in  
5 section 1956(c)) in or affecting interstate or foreign com-  
6 merce, knowing that such transaction will facilitate access  
7 to, or the possession of, child pornography (as defined in  
8 section 2256) shall be fined under this title or imprisoned  
9 not more than 20 years, or both.”.

10 (b) CLERICAL AMENDMENT.—The table of sections  
11 at the beginning of chapter 95 of title 18, United States  
12 Code, is amended by adding at the end the following new  
13 item:

“1960A. Financial facilitation of access to child pornography.”.

14 **SEC. 3. MONEY LAUNDERING PREDICATE.**

15 Section 1956(c)(7)(D) of title 18, United States  
16 Code, is amended—

17 (1) by inserting “1466A (relating to obscene  
18 visual representation of the abuse of children),” be-  
19 fore “section 1708”;

20 (2) by inserting “1960A (relating to financial  
21 facilitation of access to child pornography),” before  
22 “section 2113”; and

23 (3) by inserting “2260A (relating to increased  
24 penalties for registered sex offenders),” before “sec-  
25 tion 2280”.

1 **SEC. 4. RETENTION OF CERTAIN RECORDS BY ELECTRONIC**  
2 **COMMUNICATION SERVICE PROVIDERS.**

3 (a) IN GENERAL.—Section 2703 of title 18, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(h) RETENTION OF CERTAIN RECORDS.—A pro-  
7 vider of an electronic communication service or remote  
8 computing service shall retain for a period of at least 18  
9 months the temporarily assigned network addresses the  
10 service assigns to each account, unless that address is  
11 transmitted by radio communication (as defined in section  
12 3 of the Communications Act of 1934).”.

13 (b) SENSE OF CONGRESS.—It is the sense of Con-  
14 gress that records retained pursuant to section 2703(h)  
15 of title 18, United States Code, should be stored securely  
16 to protect customer privacy and prevent against breaches  
17 of the records.

18 **SEC. 5. NO CAUSE OF ACTION AGAINST A PROVIDER DIS-**  
19 **CLOSING INFORMATION UNDER THIS CHAP-**  
20 **TER.**

21 Section 2703(e) of title 18, United States Code, is  
22 amended by inserting “retaining records or” after “other  
23 specified persons for”.

1 **SEC. 6. GOOD FAITH RELIANCE ON REQUIREMENT.**

2 Section 2707(e)(1) of title 18, United States Code,  
3 is amended by inserting “, or the requirement to retain  
4 records under section 2703(h),” after “section 2703(f)”.

5 **SEC. 7. SUBPOENA AUTHORITY.**

6 Section 566(e)(1) of title 28, United States Code, is  
7 amended—

8 (1) in subparagraph (A), by striking “and” at  
9 the end;

10 (2) in subparagraph (B), by striking the period  
11 at the end and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(C) issue administrative subpoenas in accord-  
14 ance with section 3486 of title 18, solely for the pur-  
15 pose of investigating unregistered sex offenders (as  
16 defined in such section 3486).”.

17 **SEC. 8. PROTECTION OF CHILD WITNESSES.**

18 Section 1514 of title 18, United States Code, is  
19 amended—

20 (1) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by inserting “or its own motion,”  
23 after “attorney for the Government,”; and

24 (ii) by inserting “or investigation”  
25 after “Federal criminal case” each place it  
26 appears;

1 (B) by redesignating paragraphs (2), (3),  
2 and (4) as paragraphs (3), (4), and (5), respec-  
3 tively;

4 (C) by inserting after paragraph (1) the  
5 following:

6 “(2) In the case of a minor witness or victim, the  
7 court shall issue a protective order prohibiting harassment  
8 or intimidation of the minor victim or witness if the court  
9 finds evidence that the conduct at issue is reasonably like-  
10 ly to adversely affect the willingness of the minor witness  
11 or victim to testify or otherwise participate in the Federal  
12 criminal case or investigation. Any hearing regarding a  
13 protective order under this paragraph shall be conducted  
14 in accordance with paragraphs (1) and (3), except that  
15 the court may issue an ex parte emergency protective  
16 order in advance of a hearing if exigent circumstances are  
17 present. If such an ex parte order is applied for or issued,  
18 the court shall hold a hearing not later than 14 days after  
19 the date such order was applied for or is issued.”;

20 (D) in paragraph (4), as so redesignated,  
21 by striking “(and not by reference to the com-  
22 plaint or other document)”;

23 (E) in paragraph (5), as so redesignated,  
24 in the second sentence, by inserting before the  
25 period at the end the following: “, except that

1 in the case of a minor victim or witness, the  
2 court may order that such protective order ex-  
3 pires on the later of 3 years after the date of  
4 issuance or the date of the eighteenth birthday  
5 of that minor victim or witness”; and

6 (2) by striking subsection (c) and inserting the  
7 following:

8 “(c) Whoever knowingly and intentionally violates or  
9 attempts to violate an order issued under this section shall  
10 be fined under this title, imprisoned not more than 5  
11 years, or both.

12 “(d)(1) As used in this section—

13 “(A) the term ‘course of conduct’ means a se-  
14 ries of acts over a period of time, however short, in-  
15 dicating a continuity of purpose;

16 “(B) the term ‘harassment’ means a serious act  
17 or course of conduct directed at a specific person  
18 that—

19 “(i) causes substantial emotional distress  
20 in such person; and

21 “(ii) serves no legitimate purpose;

22 “(C) the term ‘immediate family member’ has  
23 the meaning given that term in section 115 and in-  
24 cludes grandchildren;

1           “(D) the term ‘intimidation’ means a serious  
2           act or course of conduct directed at a specific person  
3           that—

4                   “(i) causes fear or apprehension in such  
5           person; and

6                   “(ii) serves no legitimate purpose;

7           “(E) the term ‘restricted personal information’  
8           has the meaning give that term in section 119;

9           “(F) the term ‘serious act’ means a single act  
10           of threatening, retaliatory, harassing, or violent con-  
11           duct that is reasonably likely to influence the will-  
12           ingness of a victim or witness to testify or partici-  
13           pate in a Federal criminal case or investigation; and

14           “(G) the term ‘specific person’ means a victim  
15           or witness in a Federal criminal case or investiga-  
16           tion, and includes an immediate family member of  
17           such a victim or witness.

18           “(2) For purposes of subparagraphs (B)(ii) and  
19           (D)(ii) of paragraph (1), a court shall presume, subject  
20           to rebuttal by the person, that the distribution or publica-  
21           tion using the Internet of a photograph of, or restricted  
22           personal information regarding, a specific person serves  
23           no legitimate purpose, unless that use is authorized by  
24           that specific person, is for news reporting purposes, is de-  
25           signed to locate that specific person (who has been re-

1 ported to law enforcement as a missing person), or is part  
2 of a government-authorized effort to locate a fugitive or  
3 person of interest in a criminal, antiterrorism, or national  
4 security investigation.”.

5 **SEC. 9. SENTENCING GUIDELINES.**

6 Pursuant to its authority under section 994 of title  
7 28, United States Code, and in accordance with this sec-  
8 tion, the United States Sentencing Commission shall re-  
9 view and amend the Federal sentencing guidelines and  
10 policy statements to ensure—

11 (1) that the guidelines provide an additional  
12 penalty increase of up to 8 offense levels, if appro-  
13 priate, above the sentence otherwise applicable in  
14 Part J of the Guidelines Manual if the defendant  
15 was convicted of a violation of section 1591 of title  
16 18, United States Code, or chapters 109A, 109B,  
17 110 or 117 of title 18, United States Code; and

18 (2) if the offense described in paragraph (1) in-  
19 volved causing or threatening to cause physical in-  
20 jury to a person under 18 years of age, in order to  
21 obstruct the administration of justice, an additional  
22 penalty increase of up to 12 levels, if appropriate,  
23 above the sentence otherwise applicable in Part J of  
24 the Guidelines Manual.



1 **SEC. 10. ENHANCED PENALTIES FOR POSSESSION OF**  
2 **CHILD PORNOGRAPHY.**

3 (a) CERTAIN ACTIVITIES RELATING TO MATERIAL  
4 INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—  
5 Section 2252(b)(2) of title 18, United States Code, is  
6 amended by inserting after “but if” the following: “any  
7 visual depiction involved in the offense involved a pre-  
8 pubescent minor or a minor who had not attained 12 years  
9 of age, such person shall be fined under this title and im-  
10 prisoned for not more than 20 years, or if”.

11 (b) CERTAIN ACTIVITIES RELATING TO MATERIAL  
12 CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—  
13 Section 2252A(b)(2) of title 18, United States Code, is  
14 amended by inserting after “but, if” the following: “any  
15 image of child pornography involved in the offense in-  
16 volved a prepubescent minor or a minor who had not at-  
17 tained 12 years of age, such person shall be fined under  
18 this title and imprisoned for more than 20 years, or if”.

19 **SEC. 11. ADMINISTRATIVE SUBPOENAS.**

20 (a) IN GENERAL.—Section 3486(a)(1) of title 18,  
21 United States Code, is amended—

22 (1) in subparagraph (A)—

23 (A) in clause (i), by striking “or” at the  
24 end;

25 (B) by redesignating clause (ii) as clause  
26 (iii); and

1 (C) by inserting after clause (i) the fol-  
2 lowing:

3 “(ii) an unregistered sex offender conducted by  
4 the United States Marshals Service, the Director of  
5 the United States Marshals Service; or”; and

6 (2) in subparagraph (D)—

7 (A) by striking “paragraph, the term” and  
8 inserting the following: “paragraph—

9 “(i) the term”;

10 (B) by striking the period at the end and  
11 inserting “; and”; and

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

13 “(ii) the term ‘sex offender’ means an indi-  
14 vidual required to register under the Sex Offender  
15 Registration and Notification Act (42 U.S.C. 16901  
16 et seq.).”.

17 (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
18 Section 3486(a) of title 18, United States Code, is amend-  
19 ed—

20 (1) in paragraph (6)(A), by striking “United  
21 State” and inserting “United States”;

22 (2) in paragraph (9), by striking “(1)(A)(ii)”  
23 and inserting “(1)(A)(iii)”; and

- 1 (3) in paragraph (10), by striking “paragraph
- 2 (1)(A)(ii)” and inserting “paragraph (1)(A)(iii)”.

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