

One Hundred Twelfth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January, two thousand and twelve*

An Act

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Protection Act of 2012”.

SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD PORNOGRAPHY.

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

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

SEC. 3. PROTECTION OF CHILD WITNESSES.

(a) CIVIL ACTION TO RESTRAIN HARASSMENT OF A VICTIM OR WITNESS.—Section 1514 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

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

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

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

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

“(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify

or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.”;

(D) in paragraph (4), as so redesignated, by striking “(and not by reference to the complaint or other document)”;

and

(E) in paragraph (5), as so redesignated, in the second sentence, by inserting before the period at the end the following: “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness”;

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

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

“(d)(1) As used in this section—

“(A) the term ‘course of conduct’ means a series of acts over a period of time, however short, indicating a continuity of purpose;

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

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

“(ii) serves no legitimate purpose;

“(C) the term ‘immediate family member’ has the meaning given that term in section 115 and includes grandchildren;

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

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

“(ii) serves no legitimate purpose;

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

“(F) the term ‘serious act’ means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

“(G) the term ‘specific person’ means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

“(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.”.

(b) **SENTENCING GUIDELINES.**—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements to ensure—

(1) that the guidelines provide an additional penalty increase above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual if the defendant was convicted of a violation of section 1591 of title 18, United States Code, or chapters 109A, 109B, 110, or 117 of title 18, United States Code; and

(2) if the offense described in paragraph (1) involved causing or threatening to cause physical injury to a person under 18 years of age, in order to obstruct the administration of justice, an additional penalty increase above the sentence otherwise applicable in Part J of Chapter 2 of the Guidelines Manual.

SEC. 4. SUBPOENAS TO FACILITATE THE ARREST OF FUGITIVE SEX OFFENDERS.

(a) **ADMINISTRATIVE SUBPOENAS.**—

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

(A) in subparagraph (A)—

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

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following:

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

(B) in subparagraph (D)—

(i) by striking “paragraph, the term” and inserting the following: “paragraph—

“(i) the term”;

(ii) by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(ii) the term ‘sex offender’ means an individual required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.).”.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 3486(a) of title 18, United States Code, is amended—

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

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

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

(b) **JUDICIAL SUBPOENAS.**—Section 566(e)(1) of title 28, United States Code, is amended—

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

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

(3) by adding at the end the following:

“(C) issue administrative subpoenas in accordance with section 3486 of title 18, solely for the purpose of investigating unregistered sex offenders (as defined in such section 3486).”.

SEC. 5. INCREASE IN FUNDING LIMITATION FOR TRAINING COURSES FOR ICAC TASK FORCES.

Section 102(b)(4)(B) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17612(b)(4)(B)) is amended by striking “\$2,000,000” and inserting “\$4,000,000”.

SEC. 6. NATIONAL COORDINATOR FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.

Section 101(d)(1) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17611(d)(1)) is amended—

(1) by striking “to be responsible” and inserting the following: “with experience in investigating or prosecuting child exploitation cases as the National Coordinator for Child Exploitation Prevention and Interdiction who shall be responsible”; and

(2) by adding at the end the following: “The National Coordinator for Child Exploitation Prevention and Interdiction shall be a position in the Senior Executive Service.”.

SEC. 7. REAUTHORIZATION OF ICAC TASK FORCES.

Section 107(a) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17617(a)) is amended—

(1) in paragraph (4), by striking “and”;

(2) in paragraph (5), by striking the period at the end; and

(3) by inserting after paragraph (5) the following:

“(6) \$60,000,000 for fiscal year 2014;

“(7) \$60,000,000 for fiscal year 2015;

“(8) \$60,000,000 for fiscal year 2016;

“(9) \$60,000,000 for fiscal year 2017; and

“(10) \$60,000,000 for fiscal year 2018.”.

SEC. 8. CLARIFICATION OF “HIGH-PRIORITY SUSPECT”.

Section 105(e)(1)(B)(i) of the PROTECT Our Children Act of 2008 (42 U.S.C. 17615(e)(1)(B)(i)) is amended by striking “the volume” and all that follows through “or other”.

SEC. 9. REPORT TO CONGRESS.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the status of the Attorney General’s establishment of the National Internet Crimes Against

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Children Data System required to be established under section 105 of the PROTECT Our Children Act of 2008 (42 U.S.C. 17615).

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*