

112TH CONGRESS
2D SESSION

H. R. 6063

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2012

Mr. SMITH of Texas (for himself, Ms. WASSERMAN SCHULTZ, Mr. COBLE, Mr. BERMAN, Mr. GALLEGLY, Ms. JACKSON LEE of Texas, Mr. DANIEL E. LUNGREN of California, Mr. COHEN, Mr. CHABOT, Mr. PIERLUISI, Mr. CHAFFETZ, Mr. MARINO, Mr. GOWDY, Mrs. ADAMS, Ms. BUERKLE, Ms. NORTON, Mr. GRIMM, Mr. RANGEL, Mr. MEEHAN, Mr. MARKEY, Mr. TOWNS, Ms. SLAUGHTER, Mr. MORAN, Mrs. MALONEY, Mr. BOSWELL, Mr. MCGOVERN, Mr. SHERMAN, Mr. CLAY, Mr. HONDA, Ms. RICHARDSON, Ms. BASS of California, and Mr. FORBES) introduced the following bill; which was referred to the Committee on the Judiciary

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 “Child Protection Act
5 of 2012”.

1 **SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD**
2 **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 not more than 20 years, or
19 if”.

20 **SEC. 3. PROTECTION OF CHILD WITNESSES.**

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

24 (1) in subsection (b)—

25 (A) in paragraph (1)—

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

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

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

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

11 “(2) In the case of a minor witness or victim,
12 the court shall issue a protective order prohibiting
13 harassment or intimidation of the minor victim or
14 witness if the court finds evidence that the conduct
15 at issue is reasonably likely to adversely affect the
16 willingness of the minor witness or victim to testify
17 or otherwise participate in the Federal criminal case
18 or investigation. Any hearing regarding a protective
19 order under this paragraph shall be conducted in ac-
20 cordance with paragraphs (1) and (3), except that
21 the court may issue an ex parte emergency protec-
22 tive order in advance of a hearing if exigent cir-
23 cumstances are present. If such an ex parte order is
24 applied for or issued, the court shall hold a hearing

1 not later than 14 days after the date such order was
2 applied for or is issued.”;

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

6 (E) in paragraph (5), as so redesignated,
7 in the second sentence, by inserting before the
8 period at the end the following: “, except that
9 in the case of a minor victim or witness, the
10 court may order that such protective order ex-
11 pires on the later of 3 years after the date of
12 issuance or the date of the eighteenth birthday
13 of that minor victim or witness”;

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

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

20 “(d)(1) As used in this section—

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

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

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

6 “(ii) serves no legitimate purpose;

7 “(C) the term ‘immediate family member’ has
8 the meaning given that term in section 115 and in-
9 cludes grandchildren;

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

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

15 “(ii) serves no legitimate purpose;

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

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

23 “(G) the term ‘specific person’ means a victim
24 or witness in a Federal criminal case or investiga-

1 tion, and includes an immediate family member of
2 such a victim or witness.

3 “(2) For purposes of subparagraphs (B)(ii) and
4 (D)(ii) of paragraph (1), a court shall presume, subject
5 to rebuttal by the person, that the distribution or publica-
6 tion using the Internet of a photograph of, or restricted
7 personal information regarding, a specific person serves
8 no legitimate purpose, unless that use is authorized by
9 that specific person, is for news reporting purposes, is de-
10 signed to locate that specific person (who has been re-
11 ported to law enforcement as a missing person), or is part
12 of a government-authorized effort to locate a fugitive or
13 person of interest in a criminal, antiterrorism, or national
14 security investigation.”.

15 (b) SENTENCING GUIDELINES.—Pursuant to its au-
16 thority under section 994 of title 28, United States Code,
17 and in accordance with this section, the United States
18 Sentencing Commission shall review and, if appropriate,
19 amend the Federal sentencing guidelines and policy state-
20 ments to ensure—

21 (1) that the guidelines provide an additional
22 penalty increase above the sentence otherwise appli-
23 cable in Part J of Chapter 2 of the Guidelines Man-
24 ual if the defendant was convicted of a violation of
25 section 1591 of title 18, United States Code, or

1 chapters 109A, 109B, 110, or 117 of title 18,
2 United States Code; and

3 (2) if the offense described in paragraph (1) in-
4 volved causing or threatening to cause physical in-
5 jury to a person under 18 years of age, in order to
6 obstruct the administration of justice, an additional
7 penalty increase above the sentence otherwise appli-
8 cable in Part J of Chapter 2 of the Guidelines Man-
9 ual.

10 **SEC. 4. SUBPOENAS TO FACILITATE THE ARREST OF FUGI-**
11 **TIVE SEX OFFENDERS.**

12 (a) ADMINISTRATIVE SUBPOENAS.—

13 (1) IN GENERAL.—Section 3486(a)(1) of title
14 18, United States Code, is amended—

15 (A) in subparagraph (A)—

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

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

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

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

25 (B) in subparagraph (D)—

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

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

6 (iii) by adding at the end the fol-
7 lowing:

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

12 (2) TECHNICAL AND CONFORMING AMEND-
13 MENTS.—Section 3486(a) of title 18, United States
14 Code, is amended—

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

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

19 (C) in paragraph (10), by striking “para-
20 graph (1)(A)(ii)” and inserting “paragraph
21 (1)(A)(iii)”.

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

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

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

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

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

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

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

13 **SEC. 6. NATIONAL COORDINATOR FOR CHILD EXPLOI-**
14 **TATION PREVENTION AND INTERDICTION .**

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

17 (1) by striking “to be responsible” and insert-
18 ing the following: “with experience in investigating
19 or prosecuting child exploitation cases as the Na-
20 tional Coordinator for Child Exploitation Prevention
21 and Interdiction who shall be responsible”; and

22 (2) by adding at the end the following: “The
23 National Coordinator for Child Exploitation Preven-
24 tion and Interdiction shall be a position in the Sen-
25 ior Executive Service.”

1 **SEC. 7. REAUTHORIZATION OF ICAC TASK FORCES.**

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

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

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

7 (3) by inserting after paragraph (5) the fol-
8 lowing:

9 “(6) \$60,000,000 for fiscal year 2014;

10 “(7) \$60,000,000 for fiscal year 2015;

11 “(8) \$60,000,000 for fiscal year 2016;

12 “(9) \$60,000,000 for fiscal year 2017; and

13 “(10) \$60,000,000 for fiscal year 2018.”.

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

15 Section 105(e)(1)(B)(i) of the PROTECT Our Chil-
16 dren Act of 2008 (42 U.S.C. 17615(e)(1)(B)(i)) is amend-
17 ed by striking “the volume” and all that follows through
18 “or other”.

19 **SEC. 9. REPORT TO CONGRESS.**

20 Not later than 90 days after the date of enactment
21 of this Act, the Attorney General shall submit to the Com-
22 mittee on the Judiciary of the House of Representatives
23 and the Committee on the Judiciary of the Senate a report
24 on the status of the Attorney General’s establishment of
25 the National Internet Crimes Against Children Data Sys-

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

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