

# Union Calendar No. 459

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6063

[Report No. 112-638]

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

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

JULY 31, 2012

Additional sponsors: Mr. AMODEI, Mr. QUIGLEY, Mr. CARSON of Indiana, Mr. AUSTRIA, Mr. CARNAHAN, Mr. SHULER, Mr. SCHIFF, Mr. THOMPSON of Pennsylvania, and Mr. ISRAEL

JULY 31, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on June 29, 2012]

# **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”.*

6 **SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD**  
7 **PORNOGRAPHY.**

8        *(a) CERTAIN ACTIVITIES RELATING TO MATERIAL IN-*  
9 *VOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section*  
10 *2252(b)(2) of title 18, United States Code, is amended by*  
11 *inserting after “but if” the following: “any visual depiction*  
12 *involved in the offense involved a prepubescent minor or*  
13 *a minor who had not attained 12 years of age, such person*  
14 *shall be fined under this title and imprisoned for not more*  
15 *than 20 years, or if”.*

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

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

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

5 (1) *in subsection (b)—*

6 (A) *in paragraph (1)—*

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

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

12 (B) *by redesignating paragraphs (2), (3),*  
13 *and (4) as paragraphs (3), (4), and (5), respec-*  
14 *tively;*

15 (C) *by inserting after paragraph (1) the fol-*  
16 *lowing:*

17 “(2) *In the case of a minor witness or victim, the court*  
18 *shall issue a protective order prohibiting harassment or in-*  
19 *timidation of the minor victim or witness if the court finds*  
20 *evidence that the conduct at issue is reasonably likely to*  
21 *adversely affect the willingness of the minor witness or vic-*  
22 *tim to testify or otherwise participate in the Federal crimi-*  
23 *nal case or investigation. Any hearing regarding a protec-*  
24 *tive order under this paragraph shall be conducted in ac-*  
25 *cordance with paragraphs (1) and (3), except that the court*  
26 *may issue an ex parte emergency protective order in ad-*

1 *vance of a hearing if exigent circumstances are present. If*  
2 *such an ex parte order is applied for or issued, the court*  
3 *shall hold a hearing not later than 14 days after the date*  
4 *such order was applied for or is issued.”;*

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

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

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

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

22 *“(d)(1) As used in this section—*

23 *“(A) the term ‘course of conduct’ means a series*  
24 *of acts over a period of time, however short, indi-*  
25 *cating 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 in  
5 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 act  
11 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 of  
19 threatening, retaliatory, harassing, or violent conduct  
20 that is reasonably likely to influence the willingness  
21 of a victim or witness to testify or participate in a  
22 Federal criminal case or investigation; and

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

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

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

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 Sen-*  
18       *tencing 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 applica-*  
23                *ble in Part J of Chapter 2 of the Guidelines Manual*  
24                *if the defendant was convicted of a violation of section*  
25                *1591 of title 18, United States Code, or chapters*

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

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

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

11 (a) *ADMINISTRATIVE SUBPOENAS.*—

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

14 (A) in subparagraph (A)—

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

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

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

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

24 (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 individual  
9                   required to register under the Sex Offender Registra-  
10                  tion and Notification Act (42 U.S.C. 16901 et seq.).”.

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

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

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

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

21                  (b) *SUBPOENA AUTHORITY FOR THE UNITED STATES*  
22                  *MARSHALS SERVICE.—Section 566(e)(1) of title 28, United*  
23                  *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 de-*  
7 *fined 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 Act*  
16 *of 2008 (42 U.S.C. 17611(d)(1)) is amended—*

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

22           (2) *by adding at the end the following: “The Na-*  
23 *tional Coordinator for Child Exploitation Prevention*  
24 *and Interdiction shall be a position in the Senior Ex-*  
25 *ecutive Service.”*

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

2 *Section 107(a) of the PROTECT Our Children Act of*  
3 *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 inserting a semicolon; 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 amended*  
17 *by striking “the volume” and all that follows through “or*  
18 *other”.*

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

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

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



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