

JUSTICE FOR VICTIMS OF TRAFFICKING ACT OF 2015

JANUARY 27, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 181]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 181) to provide justice for the victims of trafficking, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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Purpose and Summary

H.R. 181, as reported, is a comprehensive response to the growing crime of child sex trafficking. Among other things, this legislation addresses victim services and provides additional resources to law enforcement through the new victim-centered grant program; helps to facilitate these investigations by providing that sex traf-

ficking and other similar crimes are predicate offenses for state wiretap applications; addresses the demand side of this crime by clarifying that under existing 18 U.S.C. § 1591, it is a Federal crime to solicit or patronize for sex minors or adults who are involved in the sex trade through force, fraud, or coercion; and improves the reporting of missing children.

Background and Need for the Legislation

According to the Federal Bureau of Investigation, sex trafficking is the fastest-growing business of organized crime and the third-largest criminal enterprise in the world.¹ Because this crime usually occurs outside of the public eye, it is difficult to estimate the number of minor victims of sex trafficking.²

The problem, however, is extensive. Demand for the prostitution (and other forms of commercial sexual exploitation) of children is steady, and profit to sex pimps (or more aptly called “traffickers”), has increased. One study estimates that over 290,000 American youth are at risk of becoming a victim of sex trafficking, and the National Center for Missing and Exploited Children estimates that one of every seven endangered runaways reported to the Center are likely victims of minor sex trafficking.³ And, from 2004 through 2008, the Internet Crimes Against Children Task Forces have experienced an increase of more than 900 percent in the number of child victims of prostitution.⁴

Victims of sex trafficking are exploited by traffickers who may operate alone or as part of a criminal network. Shared Hope International estimates that human trafficking in the United States is a \$9.8 billion industry.⁵ It is more profitable for a trafficker to sell the sexual services of a child or adult than to commit other crimes such as dealing in drugs—drugs can only be sold once, whereas victims can be, and are, prostituted multiple times a day.⁶ In fact, traffickers will often set daily monetary quotas for their victims, usually ranging between \$500 and \$1,000, which goes to the trafficker and not the victim. Failure to meet these quotas can result in violence and other types of retaliation against the victim.⁷

Many traffickers increase their profits by working together and sharing information about “hot spots” where there may be higher demand or areas of increased police activity to avoid. For example, traffickers will often transport their victims to cities that are hosting major sporting events or conventions in order to find increased demand. The practice of moving children from city to city

¹ See AMANDA WALKER-RODRIGUEZ & RODNEY HILL, THE FBI, FBI Law Enforcement Bulletin: Human Sex Trafficking, Mar. 2011.

² Starting in January 2013, the FBI began collecting data regarding sex trafficking specifically as part of its Uniform Crime Report program. This information should help to provide a more fulsome picture of the impact of minor sex trafficking nationwide. See FBI, UCR Program Continues to Adapt, Evolve, <http://www.fbi.gov/about-us/cjis/cjis-link/september-2011/ucr-program-continues-to-adapt-evolve>.

³ *Oversight Hearing: The State of Efforts to Stop Human Trafficking*, H. Subcomm. on Commerce, Justice, Science, and Related Agencies of the H. Comm. on Appropriations, 113th Congress (statement of John Ryan, CEO, National Center for Missing and Exploited Children).

⁴ U.S. DEPARTMENT OF JUSTICE, *The National Strategy for Child Exploitation Prevention and Interdiction*, 32, 2010, available at <http://www.justice.gov/psc/docs/natsstrategyreport.pdf>.

⁵ SHARED HOPE INTERNATIONAL, Domestic Minor Sex Trafficking in the U.S., <http://sharedhope.org/wp-content/uploads/2013/11/DMSTInfographic.pdf>.

⁶ U.S. DEPARTMENT OF JUSTICE, *supra* note 4 at 32–33.

⁷ Domestic Sex Trafficking: The Criminal Operations of the American Pimp, Polaris Project, available at http://www.dcls.virginia.gov/victims/humantrafficking/vs/documents/Domestic_Sex_Trafficking_Guide.pdf.

also makes it more difficult for law enforcement to investigate and stop trafficking enterprises.

The average age of minors entering the sex trade is between 12 and 14 years.⁸ Traffickers often target vulnerable youth, who are more easily lured into prostitution and other forms of child exploitation. For example, runaways and children in the foster care system are particularly vulnerable to becoming victims of sex trafficking—one federally funded study found that approximately 1.7 million youth had run away from home or were forced to leave their homes at some point in 1999, and that, while away from home, an estimated 38,600 (2.2%) of these youth were sexually assaulted, were in the company of someone known to be sexually abusive, or were engaged in sexual activity in exchange for money, drugs, food, or shelter.⁹ Victims of minor sex trafficking, however, are not always runaways or in foster homes. Instead, these victims can and do come from any type of home or socioeconomic background.¹⁰

Traffickers are often able to lure victims with false promises to address their emotional and physical vulnerabilities. These manipulative, abusive, and traumatizing relationships, however, can help to ensure that the victims will remain loyal to their traffickers in spite of their victimization. Other reasons that victims are often unable to leave their traffickers include being kept in captivity or confinement, the use of violence and threats, debt bondage, and fear of retaliation or arrest.¹¹ This applies not only to child victims but also adults who, by force, fraud, or coercion, are victims of traffickers.

The investigation and prosecution of human trafficking has often been carried out by state and local law enforcement. Congress has focused recent attention on domestic sex trafficking of children, which includes commercial sex acts involving children under the age of 18. Under the Victims of Trafficking and Violence Protection Act of 2000 (TVPA), the primary law that addresses trafficking, sex trafficking of children in interstate commerce is a Federal crime.¹² Further, regardless of whether a child is believed to have consented to sex or whether the child represents himself or herself as an adult, the child is considered a trafficking victim under Federal law.¹³

While much of the efforts to combat this crime have focused on the supply-side of sex trafficking, it is also a Federal (and state) crime to purchase sex with a minor.¹⁴ There is no uniform profile

⁸ RIGHTS4GIRLS, <http://www.rights4girls.org/uploads/child%20welfare%20and%20child%20trafficking.pdf>.

⁹ HEATHER HAMMER, DAVID FINKELHOR, & ANDREA J. SEDLAK, U.S. DEPARTMENT OF JUSTICE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, OJJDP NISMART Bulletin RUNAWAY/THROWN AWAY CHILDREN: NATIONAL ESTIMATES AND CHARACTERISTICS, Oct. 2002, available at <https://www.ncjrs.gov/pdffiles1/ojjdp/196469.pdf>.

¹⁰ See “You’re Pretty—You Could Make Some Money,” *Washingtonian Mag.*, June 10, 2013 (discussing the growth of minor sex trafficking victims coming from “the affluent Northern Virginia suburbs”).

¹¹ See Domestic Sex Trafficking: The Criminal Operations of the American Pimp, *supra* note 7.

¹² P.L. 106–386.

¹³ 18 U.S.C. § 1591.

¹⁴ *United States v. Jungers*, 702 F.3d 1066, 1075 (8th Cir. 2013) (holding that purchasers of minor sex services can be held criminally liable under 18 U.S.C. § 1591. See also UNITED STATES ATTORNEY’S OFFICE FOR THE WESTERN DISTRICT OF MISSOURI, LEBANON MAN SENTENCED TO 20 YEARS FOR COERCING A MINOR TO BECOME A SEX SLAVE (announcing the conviction of sex traf-

of a buyer of commercial sex with a minor, making buyers particularly difficult to identify. Research has suggested that these predators are often encouraged by online solicitations, temptations, and exploitation. In addition to those actively seeking out sex with minors, some buyers may engage in sex with minors unknowingly, to wit, those perpetrators may assume that a prostituted individual is an adult, not a child. Alternatively, they may or may not inquire about the age of that individual and may still decide to engage in a sex act even if she or he is a minor.¹⁵

Hearings

The Committee on the Judiciary held no hearings on H.R. 181.

Committee Consideration

On January 21, 2015, the Committee met in open session and ordered the bill H.R. 181 favorably reported by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 181.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

With respect to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, an estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 was not submitted to the Committee before the of filing of the report.

ficking customers), available at <http://www.justice.gov/usao/mow/news2013/bagley.sen.html> (announcing the conviction of sex trafficking customers).

¹⁵See generally Malika Saada Saar, *There is No Such Thing As A Child Prostitute*, Wash. Post, Feb, 17, 2014 (discussing Tami, who pleaded with her purchasers for months to take her to the police because she was a minor, but none did), available at http://www.washingtonpost.com/opinions/there-is-no-such-thing-as-a-child-prostitute/2014/02/14/631ebd26-8ec7-11e3-b227-12a45d109e03_story.html.

Duplication of Federal Programs

No provision of H.R. 181 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H.R. 181 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R.181 is a comprehensive response to the growing crime of child sex trafficking that focuses on prosecuting offenders and providing assistance and services to victims.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 181 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Section 1. Short Title. This section cites the short title of the bill as the “Justice for Victims of Trafficking Act of 2015.”

Section 2. Victim-Centered Sex Trafficking Deterrence Grant Program. This section creates a victim-centered model grant program to help States and local governments develop and implement comprehensive victim-centered programs to train law enforcement, rescue exploited children, prosecute human traffickers, and restore the lives of victims. Specifically, these grant funds could be used for specialized training programs, the establishment of anti-trafficking task forces, victims’ services, and the establishment or enhancement of problem-solving court programs for trafficking victims all focused on victim rescue and restoration. This grant program amends the existing grant program codified at 42 U.S.C. § 14044b, and has the same authorization of \$5 million a year over 5 years.

Section 3. Amendments to the Victims of Child Abuse Act of 1990. This section clarifies that Child Advocacy Centers (CACs) may provide assistance and services to victims of child pornography and minor sex trafficking, and provides that existing grant programs can support these efforts.

Section 4. Streamlining State and Local Human Trafficking Investigations. Under current law (18 U.S.C. § 2516), state and local law enforcement may obtain a wiretap warrant in their state courts upon a showing that the investigation may provide evidence of “murder, kidnapping, gambling, robbery, bribery, extortion, or deal-

ing in narcotic drugs, marijuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than 1 year[.]” State courts have struggled with whether human trafficking and prostitution investigations provide evidence of one of the listed classes of offenses, which in some cases has precluded state human trafficking task forces from obtaining wiretaps in these critical cases.¹⁶ To address this problem, this section clarifies that the principle prosecuting attorney of a state or its political subdivision may obtain a wiretap warrant in a state court pursuant to a showing of probable cause that the wiretap will provide evidence of a crime of human trafficking, child sexual exploitation, or child pornography production.

Section 5. Enhancing Human Trafficking Reporting. This section requires law enforcement organizations who file missing children reports with the FBI’s National Crime Information Center (NCIC) to include a recent photograph of the missing child in their report where available, and requires the National Center for Missing and Exploited Children (NCMEC) to be notified of each report received relating to a child reported missing from a foster care family home or childcare institution.

Section 6. Reducing Demand for Sex Trafficking. The TVPA defines a sex trafficker as a person who “knowingly—recruits, entices, harbors, transports, provides, obtains, or maintains by any means a person . . . knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion . . . or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.” In *United States vs. Jungers*, the Eighth Circuit ruled that 18 U.S.C. § 1591 applied to persons who purchase illicit sexual acts with trafficking victims after the U.S. District Court for the District of South Dakota erroneously granted motions to acquit buyers in two separate cases. This section clarifies existing law and codifies the *Jungers* decision by adding the words “solicits or patronizes” to the sex trafficking statute, thereby clarifying Congress’s intent that 18 U.S.C. § 1591 criminalizes those who purchase sexual acts from human trafficking victims.

This section of the bill also clarifies that 18 U.S.C. § 1591(c) provides that the government not need to prove beyond a reasonable doubt that a defendant knew or recklessly disregarded the fact that the victim was under the age of 18 if the defendant had “a reasonable opportunity to observe the person.” This is a clarifying amendment meant to codify *United States v. Robinson*, 702 F.3d 22, 34 (2d Cir. 2012) in which the Second Circuit held that in a “prosecution under § 1591, the government may satisfy its burden of proof with respect to the defendant’s awareness of the victim’s age by proving any of the following beyond a reasonable doubt: (1) the defendant knew that the victim was under eighteen, (2) the defendant recklessly disregarded the fact that the victim was under eighteen, or (3) the defendant had a reasonable opportunity to observe the victim.”

Section 7. Using Existing Task Forces to Target Offenders Who Exploit Children. This section directs the Justice Department to

¹⁶ See, e.g., *State v. Rivers*, 660 So.2d 1360 (Fla. 1995).

use its existing law enforcement task forces through the Innocence Lost National Initiative to focus on fighting demand for human trafficking through the investigation, arrest, and prosecution of persons who purchase sexual acts with human trafficking victims.

Section 8. Holding Sex Traffickers Accountable. Current Federal law allows interstate child predators to claim an affirmative defense under the Mann Act (18 U.S.C. § 2423) where they can show, by a preponderance of the evidence (more likely than not), that they believed the person with whom they engaged in a commercial sex act was 18 years of age or older. This section increases the standard for claiming this affirmative defense by requiring defendants to show, by clear and convincing evidence (highly and substantially more probable than not), that they believed the victim to be 18 years of age or older.

Section 9. Oversight and Accountability. This section provides accountability measures for the new Victim-Centered Sex Trafficking Deterrence Grant Program by allowing the DOJ Inspector General to conduct audits of grant recipients under the bill in order to prevent waste, fraud, and abuse of funds by grantees; prohibiting grantees with unresolved audit findings from receiving grant funds for a 2-year period; giving grantee priority to eligible entities that have not had an unresolved audit finding for the previous 3 years; and ensuring that grantees under the bill who have improperly received funds are required to reimburse the Federal Government in an amount equal to the improper award, among other things. This section also provides that grantees must seek approval when using more than \$20,000 in grant funds to support or host a conference, except that a conference that uses more than \$20,000 but less than \$500 in grant funds per person is not subject to the approval requirements. This is intended to encourage grantees to be cost effective when holding conferences, and to not discourage large conferences that provide information and training in an efficient manner.

Section 10. Crime Victims' Rights. This section clarifies Congress' intent with regard to several important provisions of the Crime Victims' Rights Act (CVRA), enacted in 2004, and makes several technical and conforming changes to the CVRA. The CVRA gives crime victims "the right to participate in the system," including the "right to be treated with fairness and with respect for the victim's dignity and privacy" and "the reasonable right to confer with the attorney for the Government in the case." The law also instructs that these rights must be provided not just by the Justice Department but by "other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime." Despite this mandate, in 2010, the Justice Department's Office of Legal Counsel issued an opinion concluding that the CVRA does not confer rights on victims of Federal crimes until prosecutors initiate formal criminal proceedings via the filing of a complaint, information, or indictment. The result of this opinion is that Federal prosecutors are not required to notify crime victims of plea agreement or deferred prosecution agreement negotiations that occur prior to the filing of a formal charge. This section clarifies Congress' intent that crime victims be notified of plea agreements or deferred prosecution agreements, including those that may take place prior to a formal charge.

The CVRA also empowers crime victims to challenge the denial of their rights through a writ of mandamus. However, since its enactment, the circuit courts have split on the issue of what standard of review should apply to such writs. This section adopts the approach followed by the Ninth Circuit in *Kenna v. U.S. District Court for Central District of California*, 435 F.3d 1011 (9th Cir. 2006), and the Second Circuit in *In re W.R. Huff Asset Management Company*, 409 F.3d 555 (2d Cir. 2005), namely that, despite the use of a writ of mandamus as a mechanism for victims' rights enforcement, Congress intended that such writs be reviewed under ordinary appellate review standards.

Sec. 11. Sense of Congress. This section provides a sense of Congress that minor sex trafficking is a terrible crime that should be prosecuted to the fullest extent of the law.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005

* * * * *

TITLE II—COMBATTING DOMESTIC TRAFFICKING IN PERSONS

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SEC. 203. PROTECTION OF JUVENILE VICTIMS OF TRAFFICKING IN PERSONS.

[(a) ESTABLISHMENT OF PILOT PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a pilot program to establish residential treatment facilities in the United States for juveniles subjected to trafficking.

[(b) PURPOSES.—The purposes of the pilot program established pursuant to subsection (a) are to—

[(1) provide benefits and services to juveniles subjected to trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

[(2) assess the benefits of providing residential treatment facilities for juveniles subjected to trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

[(3) assess the need for and feasibility of establishing additional residential treatment facilities for juveniles subjected to trafficking.

[(c) SELECTION OF SITES.—The Secretary of Health and Human Services shall select three sites at which to operate the pilot program established pursuant to subsection (a).

[(d) FORM OF ASSISTANCE.—In order to carry out the responsibilities of this section, the Secretary of Health and Human Services shall enter into contracts with, or make grants to, organizations that—

[(1) have relevant expertise in the delivery of services to juveniles who have been subjected to sexual abuse or commercial sexual exploitation; or

[(2) have entered into partnerships with organizations that have expertise as described in paragraph (1) for the purpose of implementing the contracts or grants.

[(e) REPORT.—Not later than one year after the date on which the first pilot program is established pursuant to subsection (a), the Secretary of Health and Human Services shall submit to Congress a report on the implementation of this section.

[(f) DEFINITION.—In this section, the term “juvenile subjected to trafficking” means a United States citizen, or alien admitted for permanent residence, who is the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States and who has not attained 18 years of age at the time the person is identified as having been the subject of sex trafficking or severe forms of trafficking in persons.]

(a) *GRANTS AUTHORIZED.*—*The Attorney General may make grants to eligible entities to develop, improve, or expand comprehensive domestic child human trafficking deterrence programs that assist law enforcement officers, prosecutors, judicial officials, and qualified victims’ services organizations in collaborating to rescue and restore the lives of victims, while investigating and prosecuting offenses involving child human trafficking.*

(b) *AUTHORIZED ACTIVITIES.*—*Grants awarded under subsection (a) may be used for—*

(1) *the establishment or enhancement of specialized training programs for law enforcement officers, first responders, health care officials, child welfare officials, juvenile justice personnel, prosecutors, and judicial personnel to—*

(A) *identify victims and acts of child human trafficking;*

(B) *address the unique needs of victims of child human trafficking;*

(C) *facilitate the rescue of victims of child human trafficking;*

(D) *investigate and prosecute acts of child human trafficking, including the soliciting, patronizing, or purchasing of commercial sex acts from children, as well as training to build cases against complex criminal networks involved in child human trafficking; and*

(E) *implement and provide education on safe harbor laws enacted by States, aimed at preventing the criminalization and prosecution of victims of child human trafficking for prostitution offenses;*

(2) *the establishment or enhancement of dedicated anti-child human trafficking law enforcement units and task forces to investigate child human trafficking offenses and to rescue victims, including—*

(A) *funding salaries, in whole or in part, for law enforcement officers, including patrol officers, detectives, and investigators, except that the percentage of the salary of the law enforcement officer paid for by funds from a grant awarded under this section shall not be more than the percentage of the officer's time on duty that is dedicated to working on cases involving child human trafficking;*

(B) *investigation expenses for cases involving child human trafficking, including—*

(i) wire taps;

(ii) consultants with expertise specific to cases involving child human trafficking;

(iii) travel; and

(iv) other technical assistance expenditures;

(C) *dedicated anti-child human trafficking prosecution units, including the funding of salaries for State and local prosecutors, including assisting in paying trial expenses for prosecution of child human trafficking offenses, except that the percentage of the total salary of a State or local prosecutor that is paid using an award under this section shall be not more than the percentage of the total number of hours worked by the prosecutor that is spent working on cases involving child human trafficking; and*

(D) *the establishment of child human trafficking victim witness safety, assistance, and relocation programs that encourage cooperation with law enforcement investigations of crimes of child human trafficking by leveraging existing resources and delivering child human trafficking victims' services through coordination with—*

(i) child advocacy centers;

(ii) social service agencies;

(iii) State governmental health service agencies;

(iv) housing agencies;

(v) legal services agencies; and

(vi) non-governmental organizations and shelter service providers with substantial experience in delivering services to victims of child human trafficking;

(3) *the establishment or enhancement of problem solving court programs for child human trafficking victims that include—*

(A) *continuing judicial supervision of victims of child human trafficking who have been identified by a law enforcement or judicial officer as a potential victim of child human trafficking, regardless of whether the victim has been charged with a crime related to human trafficking;*

(B) *the development of specialized and individualized treatment programs for identified victims of child human trafficking, including—*

(i) State-administered outpatient treatment;

(ii) life skills training;

(iii) housing placement;

(iv) vocational training;

(v) education;

(vi) family support services; and

(vii) job placement; and

(C) collaborative efforts with child advocacy centers, child welfare agencies, shelters, and non-governmental organizations to provide services to victims and encourage cooperation with law enforcement; and

(4) the establishment or enhancement of victims' services programs for victims of child human trafficking, which offer services including—

(A) residential care, including temporary or long-term placement, as appropriate;

(B) 24-hour emergency social services response systems; and

(C) counseling and case management services.

(c) APPLICATION.—

(1) IN GENERAL.—An eligible entity shall submit an application to the Attorney General for a grant under this section in such form and manner as the Attorney General may require.

(2) REQUIRED INFORMATION.—An application submitted under this subsection shall—

(A) disclose—

(i) any other grant funding from the Department of Justice or from any other Federal department or agency for purposes similar to those described in subsection (b) for which the eligible entity has applied, and which application is pending on the date of the submission of an application under this section; and

(ii) any other such grant funding that the eligible entity has received during the 5-year period prior to the date of the submission of an application under this section;

(B) describe the activities for which assistance under this section is sought;

(C) include a detailed plan for the use of funds awarded under the grant; and

(D) provide such additional information and assurances as the Attorney General determines to be necessary to ensure compliance with the requirements of this section.

(3) PREFERENCE.—In reviewing applications submitted in accordance with paragraphs (1) and (2), the Attorney General shall give preference to grant applications if—

(A) the application includes a plan to use awarded funds to engage in all activities described under paragraphs (1) and (2) of subsection (b); or

(B) the application includes a plan by the State or unit of local government to continue funding of all activities funded by the award after the expiration of the award.

(d) DURATION AND RENEWAL OF AWARD.—

(1) IN GENERAL.—A grant under this section shall expire 1 year after the date of award of the grant.

(2) RENEWAL.—A grant under this section shall be renewable not more than 3 times and for a period of not greater than 1 year.

(e) EVALUATION.—The Attorney General shall enter into a contract with an academic or non-profit organization that has experience in issues related to child human trafficking and evaluation of grant programs to conduct an annual evaluation of grants made

under this section to determine the impact and effectiveness of programs funded with grants awarded under this section, and shall submit any such evaluation to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(f) OVERSIGHT AND ACCOUNTABILITY.—An eligible entity that receives a grant under this section is subject to the requirements of section 10 of the Justice for Victims of Trafficking Act of 2014.

(g) ADMINISTRATIVE CAP.—The cost of administering the grants authorized by this section shall not exceed 5 percent of the total amount appropriated to carry out this section.

(h) FEDERAL SHARE.—The Federal share of the cost of a program funded by a grant awarded under this section may not exceed—

- (1) 70 percent in the first year;*
- (2) 60 percent in the second year; and*
- (3) 50 percent in the third year.*

(i) DEFINITIONS.—In this section—

- (1) the term “child” means a person under the age of 18;*
- (2) the term “child advocacy center” means a center created under subtitle A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.);*
- (3) the term “child human trafficking” means 1 or more severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) involving a victim who is a child; and*
- (4) the term “eligible entity” means a State or unit of local government that—*
 - (A) has significant criminal activity involving child human trafficking;*
 - (B) has demonstrated cooperation between Federal, State, local, and, where applicable, tribal law enforcement agencies, prosecutors, and social service providers in addressing child human trafficking; and*
 - (C) has developed a workable, multi-disciplinary plan to combat child human trafficking.*

[(g)] *(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the [Secretary of Health and Human Services] Attorney General, in consultation with the Secretary of Health and Human Services, to carry out this section \$5,000,000 for each of the [fiscal years 2008 through 2011] fiscal years 2015 through 2019.*

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VICTIMS OF CHILD ABUSE ACT OF 1990

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**TITLE II—VICTIMS OF CHILD ABUSE
ACT OF 1990**

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Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

* * * * *

SEC. 212. DEFINITIONS.

For purposes of this subtitle—

(1) the term “Administrator” means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

(2) the term “applicant” means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

(3) the term “board” means the Children’s Advocacy Advisory Board established under section 213(e);

(4) the term “census region” means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

(5) the term “child abuse” means physical or sexual abuse or neglect of a child, *including human trafficking and the production of child pornography*;

(6) the term “Director” means the Director of the National Center on Child Abuse and Neglect;

(7) the term “multidisciplinary response to child abuse” means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

(8) the term “nonoffending family member” means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

(9) the term “regional children’s advocacy program” means the children’s advocacy program established under section 213(a).

* * * * *

SEC. 214. LOCAL CHILDREN’S ADVOCACY CENTERS.

(a) **IN GENERAL.**—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) **DIRECT SERVICES FOR VICTIMS OF CHILD PORNOGRAPHY.**—*The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, may make grants to develop and implement specialized programs to identify and provide direct services to victims of child pornography.*

[(b)] (c) **GRANT CRITERIA.**—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section consistent with sections 299B and 299E of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) may require that a program include any of the following elements:

(A) A written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) An appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect and nonoffending family members (referred to as the “counseling center”).

(C) Referral of all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by personnel from law enforcement, health, and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial interview conduct all subsequent interviews.

(F) A requirement that, to the extent practicable, all interviews and meetings with a child victim occur at the counseling center.

(G) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(H) Designation of a director for the multidisciplinary program.

(I) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child’s family, throughout each step of judicial proceedings.

(J) Such other criteria as the Director shall establish by regulation.

[(c)] (d) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

[(d)] (e) CONSULTATION WITH REGIONAL CHILDREN’S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children’s advocacy centers in its census region that are grant recipients under section 213.

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TITLE 18, UNITED STATES CODE

PART I—CRIMES

* * * * *

CHAPTER 77—PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS

* * * * *

§ 1591. Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, **【or maintains】** *maintains, patronizes, or solicits* by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing, or in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, **【or obtained】** *obtained, patronized, or solicited* had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, **【or obtained】** *obtained, patronized, or solicited* had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained **【or maintained】**, *maintained, patronized, or solicited*, the Government need not prove that the defendant **【knew that the person】** *knew, or recklessly disregarded the fact, that the person* had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 20 years, or both.

(e) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “coercion” means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would re-

sult in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

(4) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

(5) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

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CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES

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§ 2423. Transportation of minors

(a) **TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.**—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 10 years or for life.

(b) **TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.**—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(c) **ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.**—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce or resides, either temporarily or permanently, in a foreign country, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

(d) **ANCILLARY OFFENSES.**—Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

(e) **ATTEMPT AND CONSPIRACY.**—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) DEFINITION.—As used in this section, the term “illicit sexual conduct” means (1) a sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person under 18 years of age.

(g) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by [a preponderance of the evidence] *clear and convincing evidence*, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

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CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

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§ 2516. Authorization for interception of wire, oral, or electronic communications

(1) The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division or National Security Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(a) any offense punishable by death or by imprisonment for more than one year under sections 2122 and 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel), or under the following chapters of this title: chapter 10 (relating to biological weapons) chapter 37 (relating to espionage), chapter 55 (relating to kidnapping), chapter 90 (relating to protection of trade secrets), chapter 105 (relating to sabotage), chapter 115 (relating to treason), chapter 102 (relating to riots), chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy);

(b) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;

(c) any offense which is punishable under the following sections of this title: section 37 (relating to violence at international airports), section 43 (relating to animal enterprise terrorism), section 81 (arson within special maritime and territorial jurisdiction), section 201 (bribery of public officials and witnesses), section 215 (relating to bribery of bank officials), section 224 (bribery in sporting contests), subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives), section 1032 (relating to concealment of assets), section 1084 (transmission of wagering information), section 751 (relating to escape), section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities), section 1014 (relating to loans and credit applications generally; renewals and discounts), section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials), “ after ” section 1014 (relating to loans and credit applications generally; renewals and discounts), sections 1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1511 (obstruction of State or local law enforcement), section 1591 (sex trafficking of children by force, fraud, or coercion), section 1751 (Presidential and Presidential staff assassination, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire), section 1959 (relating to violent crimes in aid of racketeering activity), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 1955 (prohibition of business enterprises of gambling), section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), section 1343 (fraud by wire, radio, or television), section 1344 (relating to bank fraud), section 1992 (relating to terrorist attacks against mass transportation), sections 2251 and 2252 (sexual exploitation of children), section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 1466A (relating to child obscenity), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes), sections 2312, 2313, 2314, and 2315 (interstate transportation of stolen property), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 2340A (relating to torture), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities), section 38

(relating to aircraft parts fraud), section 1963 (violations with respect to racketeer influenced and corrupt organizations), section 115 (relating to threatening or retaliating against a Federal official), section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse), section 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnapping, and assault), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 175 (relating to biological weapons), section 175c (relating to variola virus), section 956 (conspiracy to harm persons or property overseas), section a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents), section 555 (relating to construction or use of international border tunnels);

(d) any offense involving counterfeiting punishable under section 471, 472, or 473 of this title;

(e) any offense involving fraud connected with a case under title 11 or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States;

(f) any offense including extortionate credit transactions under sections 892, 893, or 894 of this title;

(g) a violation of section 5322 of title 31, United States Code (dealing with the reporting of currency transactions), or section 5324 of title 31, United States Code (relating to structuring transactions to evade reporting requirement prohibited);

(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

(i) any felony violation of chapter 71 (relating to obscenity) of this title;

(j) any violation of section 60123(b) (relating to destruction of a natural gas pipeline,) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft) of title 49;

(k) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act);

(l) the location of any fugitive from justice from an offense described in this section;

(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);

(n) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms);

(o) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms);

(p) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents, section 1028A (relating to aggravated identity theft)) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or

(q) any criminal violation of section 229 (relating to chemical weapons) or section 2332, 2332a, 2332b, 2332d, 2332f, 2332g, 2332h 2339, 2339A, 2339B, 2339C, or 2339D of this title (relating to terrorism);

(r) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or commerce in territories or the District of Columbia) of the Sherman Act (15 U.S.C. 1, 2, 3);

(s) any violation of section 670 (relating to theft of medical products); or

(t) any conspiracy to commit any offense described in any subparagraph of this paragraph.

(2) The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, *human trafficking*, *child sexual exploitation*, *child pornography production*, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as

to which the application is made, when such interception may provide or has provided evidence of any Federal felony.

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PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 237—CRIME VICTIMS' RIGHTS

§ 3771. Crime victims' rights

(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.
- (9) *The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.*
- (10) *The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.*

(b) RIGHTS AFFORDED.—

(1) IN GENERAL.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

(2) HABEAS CORPUS PROCEEDINGS.—

(A) IN GENERAL.—In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).

(B) ENFORCEMENT.—

(i) IN GENERAL.—These rights may be enforced by the crime victim or the crime victim’s lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).

(ii) MULTIPLE VICTIMS.—In a case involving multiple victims, subsection (d)(2) shall also apply.

(C) LIMITATION.—This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.

(D) DEFINITION.—For purposes of this paragraph, the term “crime victim” means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person’s family member or other lawful representative.

(c) BEST EFFORTS TO ACCORD RIGHTS.—

(1) GOVERNMENT.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

(2) ADVICE OF ATTORNEY.—The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

(3) NOTICE.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

(d) ENFORCEMENT AND LIMITATIONS.—

(1) RIGHTS.—The crime victim or the crime victim’s lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

(2) MULTIPLE CRIME VICTIMS.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

(3) MOTION FOR RELIEF AND WRIT OF MANDAMUS.—The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim’s right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed, *unless the litigants, with the approval of the court, have stipulated to a different time period for consid-*

eration. In deciding such application, the court of appeals shall apply ordinary standards of appellate review. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

(4) **ERROR.**—In any appeal in a criminal case, the Government may assert as error the district court’s denial of any crime victim’s right in the proceeding to which the appeal relates.

(5) **LIMITATION ON RELIEF.**—In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if—

(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

(B) the victim petitions the court of appeals for a writ of mandamus within 14 days; and

(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim’s right to restitution as provided in title 18, United States Code.

(6) **NO CAUSE OF ACTION.**—Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

(e) **DEFINITIONS.**—For the purposes of **[this chapter, the term]** *this chapter:*

(1) **COURT OF APPEALS.**—*The term “court of appeals” means—*

(A) *the United States court of appeals for the judicial district in which a defendant is being prosecuted; or*

(B) *for a prosecution in the Superior Court of the District of Columbia, the District of Columbia Court of Appeals.*

(2) **CRIME VICTIM.**—

(A) **IN GENERAL.**—*The term “crime victim” means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. **[In the case]***

(B) **MINORS AND CERTAIN OTHER VICTIMS.**—*In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim’s estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim’s rights under this chapter, but in no event shall the defendant be named as such guardian or representative.*

(3) *DISTRICT COURT; COURT.*—*The terms “district court” and “court” include the Superior Court of the District of Columbia.*

(f) PROCEDURES TO PROMOTE COMPLIANCE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

SECTION 3702 OF THE CRIME CONTROL ACT OF 1990

SEC. 3702. STATE REQUIREMENTS.

Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

(2) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system or the National Crime Information Center computer database based solely on the age of the person; **[and]**

(3) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date and location of the last known contact with the child; and

(C) the category under which the child is reported missing;

is entered within 2 hours of receipt into the State law enforcement system and the National Crime Information Center computer networks and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

(4) provide that after receiving reports as provided in paragraph **[(2)]** (3), the law enforcement agency that entered the report into the National Crime Information Center shall—

(A) no later than 60 days after the original entry of the record into the State law enforcement system and National Crime Information Center computer networks, verify and update such record with any additional information, including, where available, medical and dental records *and a photograph taken within the previous 180 days*;

(B) institute or assist with appropriate search and investigative procedures; **[and]**

(C) *notify the National Center for Missing and Exploited Children of each report received relating to a child reported missing from a foster care family home or childcare institution; and*

[(C)] (D) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.