

Public Law 99-628
99th Congress

An Act

Nov. 7, 1986
[H.R. 5560]

Child Sexual
Abuse and
Pornography
Act of 1986.
18 USC 2251
note.

To amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Sexual Abuse and Pornography Act of 1986".

SEC. 2. ADVERTISING OFFENSES RELATED TO SEXUAL EXPLOITATION OF CHILDREN.

Section 2251 of title 18, United States Code, is amended—

- (1) in subsection (a), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";
- (2) in subsection (b), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";
- (3) by inserting after subsection (b) the following:

"(c)(1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

"(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

"(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (d).

"(2) The circumstance referred to in paragraph (1) is that—

"(A) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce or mailed; or

"(B) such notice or advertisement is transported in interstate or foreign commerce or mailed."; and

(4) by redesignating subsection (c) as subsection (d).

SEC. 3. TRANSPORTATION OF CHILDREN FOR PURPOSES OF SEXUAL EXPLOITATION.

Section 2251(a) of title 18, United States Code, is amended by inserting ", or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in," after "assist any other person to engage in,".

SEC. 4. CLARIFICATION OF MEANING OF VISUAL DEPICTION.

Section 2255 of title 18, United States Code, is amended—

Commerce and
trade.
Mail.

Commerce and
trade.

- (1) by striking out “and” at the end of paragraph (3);
 (2) by striking out the period at the end of paragraph (4) and inserting “; and” in lieu thereof; and
 (3) by adding at the end the following:
 “(5) ‘visual depiction’ includes undeveloped film and videotape.”

SEC. 5. MANN ACT AMENDMENTS.

(a) **CHAPTER HEADING.**—(1) The heading for chapter 117 of title 18, United States Code, is amended to read as follows:

“CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES”.

(2) The table of chapters for part I of title 18, United States Code, is amended so that the item relating to chapter 117 reads as follows:
 “117. Transportation for illegal sexual activity and related crimes.”

(b) **REVISION OF OFFENSE PROVISIONS.**—(1) Chapter 117 of title 18, United States Code, is amended by striking out section 2421 and all that follows through section 2423 and inserting in lieu thereof the following:

“§ 2421. Transportation generally

“Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such 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 or imprisoned not more than five years, or both.

Commerce and
trade.
18 USC 2421.

“§ 2422. Coercion and enticement

“Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to 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 or imprisoned not more than five years, or both.

Commerce and
trade.
18 USC 2422.

“§ 2423. Transportation of minors

“Whoever knowingly transports any individual under the age of 18 years in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such 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 or imprisoned not more than ten years, or both.”

Commerce and
trade.
18 USC 2423.

(2) The table of sections at the beginning of chapter 117 of title 18, United States Code, is amended so that the item relating to section 2422 reads as follows:

“2422. Coercion and enticement.”

(c) **GENDER-NEUTRAL AMENDMENTS TO SECTION 2424.**—(1) Section 2424 of title 18, United States Code, is amended—

- “ (1) by striking out “female” in the heading for such section and inserting “individual” in lieu thereof;
 “ (2) by striking out “woman or girl” each place it appears and inserting “individual” in lieu thereof;

- “(3) by striking out “she” each place it appears and inserting “that individual” in lieu thereof;
- “(4) by striking out “her” each place it appears and inserting “that individual’s” in lieu thereof;
- “(5) by striking out “him” each place it appears and inserting “that person”; and
- “(6) by striking out “his” and inserting “that person’s”.

Approved November 7, 1986.

OPINION OF THE ATTORNEY GENERAL ON THE CONSTITUTIONALITY OF FEDERAL STATUTES RELATIVE TO THE ACTS OF A FOREIGN NATIONAL IN THE UNITED STATES

The title of the statute is: "Section 1101 of the Immigration and Nationality Act, as amended, relating to the definition of the term 'alien'." The statute is as follows:

Section 1101. (a) The term "alien" means any individual who is not a citizen or national of the United States. (b) The term "national of the United States" means any individual who is a citizen of the United States, or any individual who, though not a citizen of the United States, owes permanent allegiance to the United States.

Without doubt, the statute is unconstitutional in its entirety. The Constitution of the United States provides that only Congress has the power to define the term "alien" and to determine the rights and duties of aliens. The statute in question purports to define the term "alien" and to determine the rights and duties of aliens, and it does so in a manner that is inconsistent with the Constitution.

Section 1101 (b) (1) (A) (i) defines the term "national of the United States" as any individual who is a citizen of the United States, or any individual who, though not a citizen of the United States, owes permanent allegiance to the United States. This definition is unconstitutional because it purports to define the term "national of the United States" and to determine the rights and duties of nationals of the United States, which is a power reserved to Congress by the Constitution.

Section 1101 (b) (1) (A) (ii) defines the term "national of the United States" as any individual who is a citizen of the United States, or any individual who, though not a citizen of the United States, owes permanent allegiance to the United States. This definition is unconstitutional because it purports to define the term "national of the United States" and to determine the rights and duties of nationals of the United States, which is a power reserved to Congress by the Constitution.

Section 1101 (b) (1) (A) (iii) defines the term "national of the United States" as any individual who is a citizen of the United States, or any individual who, though not a citizen of the United States, owes permanent allegiance to the United States. This definition is unconstitutional because it purports to define the term "national of the United States" and to determine the rights and duties of nationals of the United States, which is a power reserved to Congress by the Constitution.

LEGISLATIVE HISTORY—H.R. 5560:

HOUSE REPORTS: No. 99-910 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 29, considered and passed House.
Oct. 18, considered and passed Senate.