

106TH CONGRESS
1ST SESSION

H. R. 2036

To protect children.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

Mr. HYDE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect children.

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 “Children’s Defense Act
5 of 1999”.

6 **SEC. 2. PROTECTING CHILDREN FROM EXPLICIT MATE-**
7 **RIAL.**

8 (a) IN GENERAL.—Chapter 71 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 **“§ 1471. Protection of minors**

2 “(a) PROHIBITION.—Whoever in interstate or foreign
3 commerce knowingly solicits, sells, loans, or exhibits to a
4 minor, any picture, photograph, drawing, sculpture, video
5 game, motion picture film, or similar visual representation
6 or image, book, pamphlet, magazine, printed matter, or
7 sound recording, containing explicit sexual or violent ma-
8 terial or detailed verbal descriptions or narrative accounts
9 of explicit sexual or violent material which, taken as a
10 whole—

11 “(1) predominantly appeals to the prurient,
12 shameful, or morbid interest of minors;

13 “(2) is patently offensive to prevailing stand-
14 ards in the adult community as a whole with respect
15 to what is suitable material for minors; and

16 “(3) is utterly without redeeming social impor-
17 tance for minors;

18 shall be punished as provided in subsection (c) of this sec-
19 tion.

20 “(b) DEFINITIONS.—As used in subsection (a)—

21 “(1) the term ‘knowingly’ means having general
22 knowledge of, or reason to know, or a belief or
23 ground for belief which warrants further inspection
24 or inquiry of—

25 “(A) the character and content of any ma-
26 terial described in subsection (a) which is rea-

1 sonably susceptible of examination by the de-
2 fendant; and

3 “(B) the age of the minor;
4 but an honest mistake is a defense against a pros-
5 ecution under this section if the defendant made a
6 reasonable bona fide attempt to ascertain the true
7 age of such minor;

8 “(2) the term ‘minor’ means any person under
9 the age of 17 years; and

10 “(3) the term ‘sexual or violent material’ means
11 the depiction of the human male or female genitals,
12 pubic area or buttocks with less than a full opaque
13 covering; the female breast with less than a fully
14 opaque covering of any portion thereof below the top
15 of the nipple; covered male genitals in a discernibly
16 turgid state; acts of masturbation, homosexuality, or
17 sexual intercourse; physical contact with a person’s
18 clothed or unclothed genitals, pubic area, buttocks,
19 or if such person be a female, breast; or sadistic or
20 masochistic activity, including flagellation or torture
21 by or upon a person, acts of mutilation of the
22 human body, or rape.

23 “(c) PENALTIES.—The punishment for an offense
24 under this section is—

1 “(1) a fine under this title or imprisonment for
 2 not more than 5 years, or both, in the case of an
 3 offense which does not occur after a conviction for
 4 another offense under this section; and

5 “(2) a fine under this title or imprisonment for
 6 not more than 10 years, or both, in the case of an
 7 offense which occurs after a conviction for another
 8 offense under this section.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
 10 at the beginning of chapter 71 of title 18, United States
 11 Code, is amended by adding at the end the following new
 12 item:

 “1471. Protection of minors.”.

13 **SEC. 3. PRE-PURCHASE DISCLOSURE OF LYRICS PACKAGED**
 14 **WITH SOUND RECORDINGS.**

15 (a) IN GENERAL.—Chapter 121 of title 18, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing:

18 **“§ 2712. Disclosure of lyrics packaged with sound re-**
 19 **cordings**

20 “(a) PRE-PURCHASE RIGHT OF REVIEW.—Any retail
 21 establishment engaged in the sale of sound recordings in
 22 interstate or foreign commerce shall make available for on-
 23 site review, upon the request of a person over the age of
 24 18 years, the lyrics packaged with any sound recording
 25 offered for sale by such retail establishment.

1 “(b) DEFINITION.—The term ‘retail establishment’
 2 means any physical place of business which sells directly
 3 to a consumer, but does not include mail order, catalog,
 4 or on-line sales of sound recordings.

5 “(c) PENALTIES.—If it is known that a retail estab-
 6 lishment described in subsection (a) is knowingly not mak-
 7 ing available for review lyrics in the manner required by
 8 that subsection, such retail establishment shall be notified
 9 by a lawfully authorized law enforcement officer or agent
 10 of the United States and if thereafter such retail establish-
 11 ment continues to knowingly not make available for review
 12 such lyrics, such retail establishment shall be fined \$1,000
 13 for each day in which it knowingly fails to make available
 14 for review such lyrics until such time as it comes into com-
 15 pliance with subsection (a).”.

16 (b) CLERICAL AMENDMENT.—The table of chapters
 17 at the beginning of chapter 121 of title 18, United States
 18 Code, is amended by adding after the item relating to sec-
 19 tion 2711 the following:

“2712. Disclosure of lyrics packaged with sound recordings.”.

20 **SEC. 4. STUDY OF EFFECTS OF ENTERTAINMENT ON CHIL-**
 21 **DREN.**

22 (a) REQUIREMENT.—The National Institutes of
 23 Health shall conduct a study of the effects of video games
 24 and music on child development and youth violence.

1 (b) ELEMENTS.—The study under subsection (a)
2 shall address—

3 (1) whether, and to what extent, video games
4 and music affect the emotional and psychological de-
5 velopment of juveniles; and

6 (2) whether violence in video games and music
7 contributes to juvenile delinquency and youth vio-
8 lence.

9 **SEC. 5. TEMPORARY ANTITRUST IMMUNITY TO PERMIT**
10 **THE ENTERTAINMENT INDUSTRY TO SET**
11 **GUIDELINES TO HELP PROTECT CHILDREN**
12 **FROM HARMFUL MATERIAL.**

13 (a) FINDINGS.—Congress makes the following find-
14 ings:

15 (1) Television is seen and heard in nearly every
16 United States home and is a uniquely pervasive
17 presence in the daily lives of Americans. The average
18 American home has 2.5 televisions, and a television
19 is turned on in the average American home 7 hours
20 every day.

21 (2) Television plays a particularly significant
22 role in the lives of children. Figures provided by
23 Nielsen Research show that children between the
24 ages of 2 years and 11 years spend an average of
25 21 hours in front of a television each week.

1 (3) Television has an enormous capability to in-
2 fluence perceptions, especially those of children, of
3 the values and behaviors that are common and ac-
4 ceptable in society.

5 (4) The influence of television is so great that
6 its images and messages often can be harmful to the
7 development of children. Social science research
8 amply documents a strong correlation between the
9 exposure of children to televised violence and a num-
10 ber of behavioral and psychological problems.

11 (5) Hundreds of studies have proven conclu-
12 sively that children who are consistently exposed to
13 violence on television have a higher tendency to ex-
14 hibit violent and aggressive behavior, both as chil-
15 dren and later in life.

16 (6) Such studies also show that repeated expo-
17 sure to violent programming causes children to be-
18 come desensitized to and more accepting of real-life
19 violence and to grow more fearful and less trusting
20 of their surroundings.

21 (7) A growing body of social science research
22 indicates that sexual content on television can also
23 have a significant influence on the attitudes and be-
24 haviors of young viewers. This research suggests
25 that heavy exposure to programming with strong

1 sexual content contributes to the early commence-
2 ment of sexual activity among teenagers.

3 (8) Members of the National Association of
4 Broadcasters (NAB) adhered for many years to a
5 comprehensive code of conduct that was based on an
6 understanding of the influence exerted by television
7 and on a widely held sense of responsibility for using
8 that influence carefully.

9 (9) This code of conduct, the Television Code of
10 the National Association of Broadcasters, articulated
11 this sense of responsibility as follows:

12 (A) “In selecting program subjects and
13 themes, great care must be exercised to be sure
14 that the treatment and presentation are made
15 in good faith and not for the purpose of sensa-
16 tionalism or to shock or exploit the audience or
17 appeal to prurient interests or morbid curi-
18 osity.”.

19 (B) “Broadcasters have a special responsi-
20 bility toward children. Programs designed pri-
21 marily for children should take into account the
22 range of interests and needs of children, from
23 instructional and cultural material to a wide va-
24 riety of entertainment material. In their total-
25 ity, programs should contribute to the sound,

1 balanced development of children to help them
2 achieve a sense of the world at large and in-
3 formed adjustments to their society.”.

4 (C) “Violence, physical, or psychological,
5 may only be projected in responsibly handled
6 contexts, not used exploitatively. Programs in-
7 volving violence present the consequences of it
8 to its victims and perpetrators. Presentation of
9 the details of violence should avoid the exces-
10 sive, the gratuitous and the instructional.”.

11 (D) “The presentation of marriage, family,
12 and similarly important human relationships,
13 and material with sexual connotations, shall not
14 be treated exploitatively or irresponsibly, but
15 with sensitivity.”.

16 (E) “Above and beyond the requirements
17 of the law, broadcasters must consider the fam-
18 ily atmosphere in which many of their programs
19 are viewed. There shall be no graphic portrayal
20 of sexual acts by sight or sound. The portrayal
21 of implied sexual acts must be essential to the
22 plot and presented in a responsible and tasteful
23 manner.”.

24 (10) The National Association of Broadcasters
25 abandoned the code of conduct in 1983 after three

1 provisions of the code restricting the sale of adver-
2 tising were challenged by the Department of Justice
3 on antitrust grounds and a Federal district court
4 issued a summary judgment against the National
5 Association of Broadcasters regarding one of the
6 provisions on those grounds. However, none of the
7 programming standards of the code were challenged.

8 (11) While the code of conduct was in effect, its
9 programming standards were never found to have
10 violated any antitrust law.

11 (12) Since the National Association of Broad-
12 casters abandoned the code of conduct, program-
13 ming standards on broadcast and cable television
14 have deteriorated dramatically.

15 (13) In the absence of effective programming
16 standards, public concern about the impact of tele-
17 vision on children, and on society as a whole, has
18 risen substantially. Polls routinely show that more
19 than 80 percent of Americans are worried by the in-
20 creasingly graphic nature of sex, violence, and vul-
21 garity on television and by the amount of program-
22 ming that openly sanctions or glorifies criminal,
23 antisocial, and degrading behavior.

24 (14) At the urging of Congress, the television
25 industry has taken some steps to respond to public

1 concerns about programming standards and content.
2 The broadcast television industry agreed in 1992 to
3 adopt a set of voluntary guidelines designed to “pro-
4 scribe gratuitous or excessive portrayals of violence”.
5 Shortly thereafter, both the broadcast and cable tele-
6 vision industries agreed to conduct independent
7 studies of the violent content in their programming
8 and make those reports public.

9 (15) In 1996, the television industry as a whole
10 made a commitment to develop a comprehensive rat-
11 ing system to label programming that may be harm-
12 ful or inappropriate for children. That system was
13 implemented at the beginning of 1999.

14 (16) Despite these efforts to respond to public
15 concern about the impact of television on children,
16 millions of Americans, especially parents with young
17 children, remain angry and frustrated at the sinking
18 standards of television programming, the reluctance
19 of the industry to police itself, and the harmful in-
20 fluence of television on the well-being of the children
21 and the values of the United States.

22 (17) The Department of Justice issued a ruling
23 in 1993 indicating that additional efforts by the tele-
24 vision industry to develop and implement voluntary
25 programming guidelines would not violate the anti-

1 trust laws. The ruling states that “such activities
2 may be likened to traditional standard setting efforts
3 that do not necessarily restrain competition and may
4 have significant procompetitive benefits. . . . Such
5 guidelines could serve to disseminate valuable infor-
6 mation on program content to both advertisers and
7 television viewers. Accurate information can enhance
8 the demand for, and increase the output of, an in-
9 dustry’s products or services.”.

10 (18) The Children’s Television Act of 1990
11 (Public Law 101–437) states that television broad-
12 casters in the United States have a clear obligation
13 to meet the educational and informational needs of
14 children.

15 (19) Several independent analyses have dem-
16 onstrated that the television broadcasters in the
17 United States have not fulfilled their obligations
18 under the Children’s Television Act of 1990 and
19 have not noticeably expanded the amount of edu-
20 cational and informational programming directed at
21 young viewers since the enactment of that Act.

22 (20) The popularity of video and personal com-
23 puter (PC) games is growing steadily among chil-
24 dren. Although most popular video and personal
25 computer games are educational or harmless in na-

1 ture, many of the most popular are extremely vio-
2 lent. One recent study by Strategic Record Research
3 found that 64 percent of teenagers played video or
4 personal computer games on a regular basis. Other
5 surveys of children as young as elementary school
6 age found that almost half of them list violent com-
7 puter games among their favorites.

8 (21) Violent video games often present violence
9 in a glamorized light. Game players are often cast
10 in the role of shooter, with points scored for each
11 “kill”. Similarly, advertising for such games often
12 touts violent content as a selling point—the more
13 graphic and extreme, the better.

14 (22) As the popularity and graphic nature of
15 such video games grows, so do their potential to neg-
16 atively influence impressionable children.

17 (23) Music is another extremely pervasive and
18 popular form of entertainment. American children
19 and teenagers listen to music more than any other
20 demographic group. The Journal of American Medi-
21 cine reported that between the 7th and 12th grades
22 the average teenager listens to 10,500 hours of rock
23 or rap music, just slightly less than the entire num-
24 ber of hours spent in the classroom from kinder-
25 garten through high school.

1 (24) Teens are among the heaviest purchasers
2 of music, and are most likely to favor music genres
3 that depict, and often appear to glamorize violence.

4 (25) Music has a powerful ability to influence
5 perceptions, attitudes, and emotional state. The use
6 of music as therapy indicates its potential to in-
7 crease emotional, psychological, and physical health.
8 That influence can be used for ill as well.

9 (b) PURPOSES; CONSTRUCTION.—

10 (1) PURPOSES.—The purposes of this section
11 are to permit the entertainment industry—

12 (A) to work collaboratively to respond to
13 growing public concern about television pro-
14 gramming, movies, video games, Internet con-
15 tent, and music lyrics, and the harmful influ-
16 ence of such programming, movies, games, con-
17 tent, and lyrics on children;

18 (B) to develop a set of voluntary program-
19 ming guidelines similar to those contained in
20 the Television Code of the National Association
21 of Broadcasters; and

22 (C) to implement the guidelines in a man-
23 ner that alleviates the negative impact of tele-
24 vision programming, movies, video games,
25 Internet content, and music lyrics on the devel-

1 opment of children in the United States and
2 stimulates the development and broadcast of
3 educational and informational programming for
4 such children.

5 (2) CONSTRUCTION.—This section may not be
6 construed as—

7 (A) providing the Federal Government
8 with any authority to restrict television pro-
9 gramming, movies, video games, Internet con-
10 tent, or music lyrics that is in addition to the
11 authority to restrict such programming, movies,
12 games, content, or lyrics under law as of the
13 date of the enactment of this Act; or

14 (B) approving any action of the Federal
15 Government to restrict such programming,
16 movies, games, content, or lyrics that is in addi-
17 tion to any actions undertaken for that purpose
18 by the Federal Government under law as of
19 such date.

20 (c) EXEMPTION OF VOLUNTARY AGREEMENTS ON
21 GUIDELINES FOR CERTAIN ENTERTAINMENT MATERIAL
22 FROM APPLICABILITY OF ANTITRUST LAWS.—

23 (1) EXEMPTION.—Subject to paragraph (2),
24 the antitrust laws shall not apply to any joint dis-
25 cussion, consideration, review, action, or agreement

1 by or among persons in the entertainment industry
2 for the purpose of developing and disseminating vol-
3 untary guidelines designed—

4 (A) to alleviate the negative impact of tele-
5 cast material, movies, video games, Internet
6 content, and music lyrics containing—

7 (i) violence, sexual content, criminal
8 behavior; or

9 (ii) other subjects that are not appro-
10 priate for children; or

11 (B) to promote telecast material, movies,
12 video games, Internet content, or music lyrics
13 that are educational, informational, or other-
14 wise beneficial to the development of children.

15 (2) LIMITATION.—The exemption provided in
16 paragraph (1) shall not apply to any joint discus-
17 sion, consideration, review, action, or agreement
18 that—

19 (A) results in a boycott of any person; or

20 (B) concerns the purchase or sale of adver-
21 tising, including restrictions on the number of
22 products that may be advertised in a commer-
23 cial, the number of times a program may be in-
24 terrupted for commercials, and the number of

1 consecutive commercials permitted within each
2 interruption.

3 (3) DEFINITIONS.—In this subsection:

4 (A) ANTITRUST LAWS.—The term “anti-
5 trust laws”—

6 (i) has the meaning given it in sub-
7 section (a) of the first section of the Clay-
8 ton Act (15 U.S.C. 12(a)), except that
9 such term includes section 5 of the Federal
10 Trade Commission Act (15 U.S.C. 45) to
11 the extent such section 5 applies to unfair
12 methods of competition; and

13 (ii) includes any State law similar to
14 the laws referred to in subparagraph (A).

15 (B) INTERNET.—The term “Internet”
16 means the combination of computer facilities
17 and electromagnetic transmission media, and
18 related equipment and software, comprising the
19 interconnected worldwide network of computer
20 networks that employ the Transmission Control
21 Protocol/Internet Protocol or any successor pro-
22 tocol to transmit information.

23 (C) MOVIES.—The term “movies” means
24 theatrical motion pictures.

1 (D) PERSON IN THE ENTERTAINMENT IN-
2 DUSTRY.—The term “person in the entertain-
3 ment industry” means a television network, any
4 person that produces or distributes television
5 programming (including theatrical motion pic-
6 tures), the National Cable Television Associa-
7 tion, the Association of Independent Television
8 Stations, Incorporated, the National Association
9 of Broadcasters, the Motion Picture Association
10 of America, each of the affiliate organizations
11 of the television networks, the Interactive Dig-
12 ital Software Association, any person that pro-
13 duces or distributes video games, the Recording
14 Industry Association of America, and any per-
15 son that produces or distributes music, and in-
16 cludes any individual acting on behalf of any of
17 the above.

18 (E) TELECAST.—The term “telecast mate-
19 rial” means any program broadcast by a tele-
20 vision broadcast station or transmitted by a
21 cable television system.

22 (d) SUNSET.—Subsection (d) shall apply only with
23 respect to conduct that occurs in the period beginning on
24 the date of the enactment of this Act and ending 3 years
25 after such date.

1 **SEC. 6. PROMOTING GRASSROOTS SOLUTIONS TO YOUTH**
2 **VIOLENCE.**

3 (a) ESTABLISHMENT OF NATIONAL YOUTH CRIME
4 PREVENTION DEMONSTRATION PROJECT.—The Attorney
5 General shall, subject to appropriations, award a grant to
6 the National Center for Neighborhood Enterprise (re-
7 ferred to in this section as the “National Center”) to en-
8 able the National Center to award subgrants to grassroots
9 entities in the following 9 cities:

- 10 (1) Washington, District of Columbia.
- 11 (2) Detroit, Michigan.
- 12 (3) Hartford, Connecticut.
- 13 (4) Indianapolis, Indiana.
- 14 (5) Chicago (and surrounding metropolitan
15 area), Illinois.
- 16 (6) Dallas, Texas.
- 17 (7) Los Angeles, California.
- 18 (8) Norfolk, Virginia.
- 19 (9) Houston, Texas.

20 (b) ELIGIBILITY.—

21 (1) IN GENERAL.—To be eligible to receive a
22 subgrant under this section, a grassroots entity re-
23 ferred to in subsection (a) shall submit an applica-
24 tion to the National Center to fund intervention
25 models that establish violence-free zones.

1 (2) SELECTION CRITERIA.—In awarding sub-
2 grants under this section, the National Center shall
3 consider—

4 (A) the track record of a grassroots entity
5 and key participating individuals in youth group
6 mediation and crime prevention;

7 (B) the engagement and participation of a
8 grassroots entity with other local organizations;
9 and

10 (C) the ability of a grassroots entity to
11 enter into partnerships with local housing au-
12 thorities, law enforcement agencies, and other
13 public entities.

14 (c) USES OF FUNDS.—

15 (1) IN GENERAL.—Funds received under this
16 section shall be used for youth mediation, youth
17 mentoring, life skills training, job creation and en-
18 trepreneurship, organizational development and
19 training, development of long-term intervention
20 plans, collaboration with law enforcement, com-
21 prehensive support services and local agency part-
22 nerships, or other activities to further community
23 objectives in reducing youth crime and violence.

24 (2) TECHNICAL ASSISTANCE.—The National
25 Center, in cooperation with the Attorney General,

1 shall also provide technical assistance for startup
2 projects in other cities.

3 (3) FISCAL CONTROLS.—The Attorney General
4 is authorized to establish and maintain all appro-
5 priate fiscal controls of sub-grantees under sub-
6 section (a).

7 (d) REPORTS.—The National Center shall submit a
8 report to the Attorney General evaluating the effectiveness
9 of grassroots agencies and other public entities involved
10 in the demonstration project.

11 (e) DEFINITIONS.—

12 For purposes of this section—

13 (1) the term “grassroots entity” means a not-
14 for-profit community organization with dem-
15 onstrated effectiveness in mediating and addressing
16 youth violence by empowering at-risk youth to be-
17 come agents of peace and community restoration;
18 and

19 (2) the term “National Center for Neighbor-
20 hood Enterprise” is a not-for-profit organization in-
21 corporated in the District of Columbia.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) IN GENERAL.—There are authorized to be
24 appropriated to carry out this section—

25 (A) \$5,000,000 for fiscal year 2000;

- 1 (B) \$5,000,000 for fiscal year 2001;
- 2 (C) \$5,000,000 for fiscal year 2002;
- 3 (D) \$5,000,000 for fiscal year 2003; and
- 4 (E) \$5,000,000 for fiscal year 2004.

5 (2) RESERVATION.—The National Center for
6 Neighborhood Enterprise may use not more than 20
7 percent of the amounts appropriated pursuant to
8 paragraph (1) in any fiscal year for administrative
9 costs, technical assistance and training, comprehen-
10 sive support services, and evaluation of participating
11 grassroots entities.

○