

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

# H. R. 4623

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IN THE SENATE OF THE UNITED STATES

JUNE 26, 2002

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

To prevent trafficking in child pornography and obscenity, to proscribe pandering and solicitation relating to visual depictions of minors engaging in sexually explicit conduct, to prevent the use of child pornography and obscenity to facilitate crimes against children, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Child Obscenity and  
5 Pornography Prevention Act of 2002”.

6 **SEC. 2. FINDINGS.**

7        Congress finds the following:

8            (1) Obscenity and child pornography are not  
9 entitled to protection under the First Amendment  
10 under *Miller v. California*, 413 U.S. 15 (1973) (ob-  
11 scenity), or *New York v. Ferber*, 458 U.S. 747  
12 (1982) (child pornography) and thus may be prohib-  
13 ited.

14            (2) The Government has a compelling state in-  
15 terest in protecting children from those who sexually  
16 exploit them, including both child molesters and  
17 child pornographers. “The prevention of sexual ex-  
18 ploitation and abuse of children constitutes a gov-  
19 ernment objective of surpassing importance,” *New*  
20 *York v. Ferber*, 458 U.S. 747, 757 (1982) (empha-  
21 sis added), and this interest extends to stamping out  
22 the vice of child pornography at all levels in the dis-  
23 tribution chain. *Osborne v. Ohio*, 495 U.S. 103, 110  
24 (1990).

1           (3) The Government thus has a compelling in-  
2           terest in ensuring that the criminal prohibitions  
3           against child pornography remain enforceable and  
4           effective. “[T]he most expeditious if not the only  
5           practical method of law enforcement may be to dry  
6           up the market for this material by imposing severe  
7           criminal penalties on persons selling, advertising, or  
8           otherwise promoting the product.” Ferber, 458 U.S.  
9           at 760.

10           (4) In 1982, when the Supreme Court decided  
11           Ferber, the technology did not exist to: (A) create  
12           depictions of virtual children that are indistinguish-  
13           able from depictions of real children; (B) create de-  
14           pictions of virtual children using compositions of real  
15           children to create an unidentifiable child; or (C) dis-  
16           guise pictures of real children being abused by mak-  
17           ing the image look computer generated.

18           (5) Evidence submitted to the Congress, includ-  
19           ing from the National Center for Missing and Ex-  
20           ploited Children, demonstrates that technology al-  
21           ready exists to disguise depictions of real children to  
22           make them unidentifiable and to make depictions of  
23           real children appear computer generated. The tech-  
24           nology will soon exist, if it does not already, to make  
25           depictions of virtual children look real.

1           (6) The vast majority of child pornography  
2           prosecutions today involve images contained on com-  
3           puter hard drives, computer disks, and/or related  
4           media.

5           (7) There is no substantial evidence that any of  
6           the child pornography images being trafficked today  
7           were made other than by the abuse of real children.  
8           Nevertheless, technological advances since Ferber  
9           have led many criminal defendants to suggest that  
10          the images of child pornography they possess are not  
11          those of real children, insisting that the government  
12          prove beyond a reasonable doubt that the images are  
13          not computer-generated. Such challenges will likely  
14          increase after the *Ashcroft v. Free Speech Coalition*  
15          decision.

16          (8) Child pornography circulating on the Inter-  
17          net has, by definition, been digitally uploaded or  
18          scanned into computers and has been transferred  
19          over the Internet, often in different file formats,  
20          from trafficker to trafficker. An image seized from  
21          a collector of child pornography is rarely a first-gen-  
22          eration product, and the retransmission of images  
23          can alter the image so as to make it difficult for  
24          even an expert conclusively to opine that a particular  
25          image depicts a real child. If the original image has

1        been scanned from a paper version into a digital for-  
2        mat, this task can be even harder since proper fo-  
3        rensic delineation may depend on the quality of the  
4        image scanned and the tools used to scan it.

5            (9) The impact on the government's ability to  
6        prosecute child pornography offenders is already evi-  
7        dent. The Ninth Circuit has seen a significant ad-  
8        verse effect on prosecutions since the 1999 Ninth  
9        Circuit Court of Appeals decision in *Free Speech*  
10       *Coalition*. After that decision, prosecutions generally  
11       have been brought in the Ninth Circuit only in the  
12       most clear-cut cases in which the government can  
13       specifically identify the child in the depiction or oth-  
14       erwise identify the origin of the image. This is a  
15       fraction of meritorious child pornography cases. The  
16       National Center for Missing and Exploited Children  
17       testified that, in light of the Supreme Court's affir-  
18       mation of the Ninth Circuit decision, prosecutors in  
19       various parts of the country have expressed concern  
20       about the continued viability of previously indicted  
21       cases as well as declined potentially meritorious  
22       prosecutions.

23            (10) In the absence of congressional action, this  
24        problem will continue to grow increasingly worse.  
25        The mere prospect that the technology exists to cre-

1       ate computer or computer-generated depictions that  
2       are indistinguishable from depictions of real children  
3       will allow defendants who possess images of real  
4       children to escape prosecution, for it threatens to  
5       create a reasonable doubt in every case of computer  
6       images even when a real child was abused. This  
7       threatens to render child pornography laws that pro-  
8       tect real children unenforceable.

9               (11) To avoid this grave threat to the Govern-  
10       ment’s unquestioned compelling interest in effective  
11       enforcement of the child pornography laws that pro-  
12       tect real children, a statute must be adopted that  
13       prohibits a narrowly-defined subcategory of images.

14              (12) The Supreme Court’s 1982 *Ferber v. New*  
15       *York* decision holding that child pornography was  
16       not protected drove child pornography off the shelves  
17       of adult bookstores. Congressional action is nec-  
18       essary to ensure that open and notorious trafficking  
19       in such materials does not reappear.

20 **SEC. 3. IMPROVEMENTS TO PROHIBITION ON VIRTUAL**  
21 **CHILD PORNOGRAPHY.**

22       (a) Section 2256(8)(B) of title 18, United States  
23 Code, is amended to read as follows:

24                       “(B) such visual depiction is a computer  
25                       image or computer-generated image that is, or

1 is indistinguishable (as defined in section  
2 1466A) from, that of a minor engaging in sexu-  
3 ally explicit conduct; or”.

4 (b) Section 2256(2) of title 18, United States Code,  
5 is amended to read as follows:

6 “(2)(A) Except as provided in subparagraph  
7 (B), ‘sexually explicit conduct’ means actual or  
8 simulated—

9 “(i) sexual intercourse, including genital-  
10 genital, oral-genital, anal-genital, or oral-anal,  
11 whether between persons of the same or oppo-  
12 site sex;

13 “(ii) bestiality;

14 “(iii) masturbation;

15 “(iv) sadistic or masochistic abuse; or

16 “(v) lascivious exhibition of the genitals or  
17 pubic area of any person;

18 “(B) For purposes of subsection 8(B) of this  
19 section, ‘sexually explicit conduct’ means—

20 “(i) actual sexual intercourse, including  
21 genital-genital, oral-genital, anal-genital, or  
22 oral-anal, whether between persons of the same  
23 or opposite sex, or lascivious simulated sexual  
24 intercourse where the genitals, breast, or pubic  
25 area of any person is exhibited;

1                   “(ii) actual or lascivious simulated;  
2                   “(I) bestiality;  
3                   “(II) masturbation; or  
4                   “(III) sadistic or masochistic abuse;  
5                   or  
6                   “(iii) actual or simulated lascivious exhi-  
7                   bition of the genitals or pubic area of any per-  
8                   son;”.

9           (c) Section 2252A(c) of title 18, United States Code,  
10 is amended to read as follows:

11           “(c)(1) Except as provided in paragraph (2), it shall  
12 be an affirmative defense to a charge of violating this sec-  
13 tion that the alleged offense did not involve the use of a  
14 minor or an attempt or conspiracy to commit an offense  
15 under this section involving such use.

16           “(2) A violation of, or an attempt or conspiracy to  
17 violate, this section which involves child pornography as  
18 defined in section 2256(8)(A) or (C) shall be punishable  
19 without regard to the affirmative defense set forth in para-  
20 graph (1).”.

21 **SEC. 4. PROHIBITION ON PANDERING MATERIALS AS**  
22 **CHILD PORNOGRAPHY.**

23           (a) Section 2256(8) of title 18, United States Code,  
24 is amended—

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

3           (2) by striking subparagraph (D).

4           (b) Chapter 110 of title 18, United States Code, is  
5 amended—

6           (1) by inserting after section 2252A the fol-  
7           lowing:

8 **“§ 2252B. Pandering and solicitation**

9           “(a) Whoever, in a circumstance described in sub-  
10 section (d), offers, agrees, attempts, or conspires to pro-  
11 vide or sell a visual depiction to another, and who in con-  
12 nection therewith knowingly advertises, promotes, pre-  
13 sents, or describes the visual depiction with the intent to  
14 cause any person to believe that the material is, or con-  
15 tains, a visual depiction of a minor engaging in sexually  
16 explicit conduct shall be subject to the penalties set forth  
17 in section 2252A(b)(1), including the penalties provided  
18 for cases involving a prior conviction.

19           “(b) Whoever, in a circumstance described in sub-  
20 section (d), offers, agrees, attempts, or conspires to receive  
21 or purchase from another a visual depiction that he be-  
22 lieves to be, or to contain, a visual depiction of a minor  
23 engaging in sexually explicit conduct shall be subject to  
24 the penalties set forth in section 2252A(b)(1), including

1 the penalties provided for cases involving a prior convic-  
2 tion.

3 “(c) It is not a required element of any offense under  
4 this section that any person actually provide, sell, receive,  
5 purchase, possess, or produce any visual depiction.

6 “(d) The circumstance referred to in subsection (a)  
7 and (b) is that—

8 “(1) any communication involved in or made in  
9 furtherance of the offense is communicated or trans-  
10 ported by the mail, or in interstate or foreign com-  
11 merce by any means, including by computer, or any  
12 means or instrumentality of interstate or foreign  
13 commerce is otherwise used in committing or in fur-  
14 therance of the commission of the offense;

15 “(2) any communication involved in or made in  
16 furtherance of the offense contemplates the trans-  
17 mission or transportation of a visual depiction by the  
18 mail, or in interstate or foreign commerce by any  
19 means, including by computer;

20 “(3) any person travels or is transported in  
21 interstate or foreign commerce in the course of the  
22 commission or in furtherance of the commission of  
23 the offense;

24 “(4) any visual depiction involved in the offense  
25 has been mailed, or has been shipped or transported

1 in interstate or foreign commerce by any means, in-  
2 cluding by computer, or was produced using mate-  
3 rials that have been mailed, or that have been  
4 shipped or transported in interstate or foreign com-  
5 merce by any means, including by computer; or

6 “(5) the offense is committed in the special  
7 maritime and territorial jurisdiction of the United  
8 States or in any territory or possession of the  
9 United States.”;

10 (2) in the analysis for the chapter, by inserting  
11 after the item relating to section 2252A the fol-  
12 lowing:

“2252B. Pandering and solicitation.”.

13 **SEC. 5. PROHIBITION OF OBSCENITY DEPICTING YOUNG**  
14 **CHILDREN.**

15 (a) Chapter 71 of title 18, United States Code, is  
16 amended—

17 (1) by inserting after section 1466 the fol-  
18 lowing:

19 **“§ 1466A. Obscene visual depictions of young children**

20 “(a) Whoever, in a circumstance described in sub-  
21 section (d), knowingly produces, distributes, receives, or  
22 possesses with intent to distribute a visual depiction that  
23 is, or is indistinguishable from, that of a pre-pubescent  
24 child engaging in sexually explicit conduct, or attempts or  
25 conspires to do so, shall be subject to the penalties set

1 forth in section 2252A(b)(1), including the penalties pro-  
2 vided for cases involving a prior conviction.

3 “(b) Whoever, in a circumstance described in sub-  
4 section (d), knowingly possesses a visual depiction that is,  
5 or is indistinguishable from, that of a pre-pubescent child  
6 engaging in sexually explicit conduct, or attempts or con-  
7 spires to do so, shall be subject to the penalties set forth  
8 in section 2252A(b)(2), including the penalties provided  
9 for cases involving a prior conviction.

10 “(c) For purposes of this section—

11 “(1) the term ‘visual depiction’ includes unde-  
12 veloped film and videotape, and data stored on com-  
13 puter disk or by electronic means which is capable  
14 of conversion into a visual image, and also includes  
15 any photograph, film, video, picture, or computer or  
16 computer-generated image or picture, whether made  
17 or produced by electronic, mechanical, or other  
18 means;

19 “(2) the term ‘pre-pubescent child’ means that  
20 (A) the child, as depicted, is one whose physical de-  
21 velopment indicates the child is 12 years of age or  
22 younger; or (B) the child, as depicted, does not ex-  
23 hibit significant pubescent physical or sexual matu-  
24 ration. Factors that may be considered in deter-  
25 mining significant pubescent physical maturation in-

1 include body habitus and musculature, height and  
2 weight proportion, degree of hair distribution over  
3 the body, extremity proportion with respect to the  
4 torso, and dentition. Factors that may be considered  
5 in determining significant pubescent sexual maturation  
6 include breast development, presence of axillary  
7 hair, pubic hair distribution, and visible growth of  
8 the sexual organs;

9 “(3) the term ‘sexually explicit conduct’ has the  
10 meaning set forth in section 2256(2); and

11 “(4) the term ‘indistinguishable’ used with re-  
12 spect to a depiction, means virtually indistinguish-  
13 able, in that the depiction is such that an ordinary  
14 person viewing the depiction would conclude that the  
15 depiction is of an actual minor engaged in sexually  
16 explicit conduct. This definition does not apply to  
17 depictions that are drawings, cartoons, sculptures, or  
18 paintings depicting minors or adults.

19 “(d) The circumstance referred to in subsections (a)  
20 and (b) is that—

21 “(1) any communication involved in or made in  
22 furtherance of the offense is communicated or trans-  
23 ported by the mail, or in interstate or foreign com-  
24 merce by any means, including by computer, or any  
25 means or instrumentality of interstate or foreign

1 commerce is otherwise used in committing or in fur-  
2 therance of the commission of the offense;

3 “(2) any communication involved in or made in  
4 furtherance of the offense contemplates the trans-  
5 mission or transportation of a visual depiction by the  
6 mail, or in interstate or foreign commerce by any  
7 means, including by computer;

8 “(3) any person travels or is transported in  
9 interstate or foreign commerce in the course of the  
10 commission or in furtherance of the commission of  
11 the offense;

12 “(4) any visual depiction involved in the offense  
13 has been mailed, or has been shipped or transported  
14 in interstate or foreign commerce by any means, in-  
15 cluding by computer, or was produced using mate-  
16 rials that have been mailed, or that have been  
17 shipped or transported in interstate or foreign com-  
18 merce by any means, including by computer; or

19 “(5) the offense is committed in the special  
20 maritime and territorial jurisdiction of the United  
21 States or in any territory or possession of the  
22 United States.

23 “(e) In a case under subsection (b), it is an affirma-  
24 tive defense that the defendant—

25 “(1) possessed less than three such images; and

1           “(2) promptly and in good faith, and without  
2 retaining or allowing any person, other than a law  
3 enforcement agency, to access any image or copy  
4 thereof—

5           “(A) took reasonable steps to destroy each  
6 such image; or

7           “(B) reported the matter to a law enforce-  
8 ment agency and afforded that agency access to  
9 each such image.

10 **“§ 1466B. Obscene visual representations of pre-pu-  
11 bescent sexual abuse**

12           “(a) Whoever, in a circumstance described in sub-  
13 section (e), knowingly produces, distributes, receives, or  
14 possesses with intent to distribute a visual depiction of any  
15 kind, including a drawing, cartoon, sculpture, or painting,  
16 that—

17           “(1) depicts a pre-pubescent child engaging in  
18 sexually explicit conduct, and

19           “(2) is obscene, or who attempts or conspires to  
20 do so, shall be subject to the penalties set forth in  
21 section 2252A(b)(1), including the penalties pro-  
22 vided for cases involving a prior conviction.

23           “(b) Whoever, in a circumstance described in sub-  
24 section (e), knowingly possesses a visual depiction of any

1 kind, including a drawing, cartoon, sculpture, or painting,  
2 that—

3 “(1) depicts a pre-pubescent child engaging in  
4 sexually explicit conduct, and

5 “(2) is obscene,

6 “or who attempts or conspires to do so, shall be sub-  
7 ject to the penalties set forth in section 2252A(b)(2), in-  
8 cluding the penalties provided for cases involving a prior  
9 conviction.

10 “(c) It is not a required element of any offense under  
11 this section that the pre-pubescent child depicted actually  
12 exist.

13 “(d) For purposes of this section, the terms ‘visual  
14 depiction’ and ‘pre-pubescent child’ have respectively the  
15 meanings given those terms in section 1466A, and the  
16 term ‘sexually explicit conduct’ has the meaning given that  
17 term in section 2256(2)(B).

18 “(e) The circumstance referred to in subsection (a)  
19 and (b) is that—

20 “(1) any communication involved in or made in  
21 furtherance of the offense is communicated or trans-  
22 ported by the mail, or in interstate or foreign com-  
23 merce by any means, including by computer, or any  
24 means or instrumentality of interstate or foreign

1 commerce is otherwise used in committing or in fur-  
2 therance of the commission of the offense;

3 “(2) any communication involved in or made in  
4 furtherance of the offense contemplates the trans-  
5 mission or transportation of a visual depiction by the  
6 mail, or in interstate or foreign commerce by any  
7 means, including by computer;

8 “(3) any person travels or is transported in  
9 interstate or foreign commerce in the course of the  
10 commission or in furtherance of the commission of  
11 the offense;

12 “(4) any visual depiction involved in the offense  
13 has been mailed, or has been shipped or transported  
14 in interstate or foreign commerce by any means, in-  
15 cluding by computer, or was produced using mate-  
16 rials that have been mailed, or that have been  
17 shipped or transported in interstate or foreign com-  
18 merce by any means, including by computer; or

19 “(5) the offense is committed in the special  
20 maritime and territorial jurisdiction of the United  
21 States or in any territory or possession of the  
22 United States.

23 “(f) In a case under subsection (b), it is an affirma-  
24 tive defense that the defendant—

25 “(1) possessed less than three such images; and

1           “(2) promptly and in good faith, and without  
2 retaining or allowing any person, other than a law  
3 enforcement agency, to access any image or copy  
4 thereof—

5                   “(A) took reasonable steps to destroy each  
6 such image; or

7                   “(B) reported the matter to a law enforce-  
8 ment agency and afforded that agency access to  
9 each such image.”; and

10           (2) in the analysis for the chapter, by inserting  
11 after the item relating to section 1466 the following:

“1466A. Obscene visual depictions of young children.

“1466B. Obscene visual representations of pre-pubescent sexual abuse.”.

12           (b)(1) Except as provided in paragraph (2), the appli-  
13 cable category of offense to be used in determining the  
14 sentencing range referred to in section 3553(a)(4) of title  
15 18, United States Code, with respect to any person con-  
16 victed under section 1466A or 1466B of such title, shall  
17 be the category of offenses described in section 2G2.2 of  
18 the Sentencing Guidelines.

19           (2) The Sentencing Commission may promulgate  
20 guidelines specifically governing offenses under section  
21 1466A of title 18, United States Code, provided that such  
22 guidelines shall not result in sentencing ranges that are  
23 lower than those that would have applied under paragraph  
24 (1).

1 **SEC. 6. PROHIBITION ON USE OF MATERIALS TO FACILI-**  
2 **TATE OFFENSES AGAINST MINORS.**

3 Chapter 71 of title 18, United States Code, is  
4 amended—

5 (1) by inserting at the end the following:

6 **“§ 1471. Use of obscene material or child pornog-**  
7 **raphy to facilitate offenses against mi-**  
8 **nors**

9 “(a) Whoever, in any circumstance described in sub-  
10 section (c), knowingly—

11 “(1) provides or shows to a person below the  
12 age of 16 years any visual depiction that is, or is in-  
13 distinguishable from, that of a pre-pubescent child  
14 engaging in sexually explicit conduct, any obscene  
15 matter, or any child pornography; or

16 “(2) provides or shows any obscene matter or  
17 child pornography, or any visual depiction that is, or  
18 is indistinguishable from, that of a pre-pubescent  
19 child engaging in sexually explicit conduct, or any  
20 other material assistance to any person in connec-  
21 tion with any conduct, or any attempt, incitement,  
22 solicitation, or conspiracy to engage in any conduct,  
23 that involves a minor and that violates chapter  
24 109A, 110, or 117, or that would violate chapter  
25 109A if the conduct occurred in the special maritime  
26 and territorial jurisdiction of the United States,

1 shall be subject to the penalties set forth in section  
2 2252A(b)(1), including the penalties provided for cases in-  
3 volving a prior conviction.

4 “(b) For purposes of this section—

5 “(1) the term ‘child pornography’ has the  
6 meaning set forth in section 2256(8);

7 “(2) the terms ‘visual depiction’, ‘pre-pubescent  
8 child’, and ‘indistinguishable’ have the meanings re-  
9 spectively set forth for those terms in section  
10 1466A(c); and

11 “(3) the term ‘sexually explicit conduct’ has the  
12 meaning set forth in section 2256(2).

13 “(c) The circumstance referred to in subsection (a)  
14 is that—

15 “(1) any communication involved in or made in  
16 furtherance of the offense is communicated or trans-  
17 ported by the mail, or in interstate or foreign com-  
18 merce by any means, including by computer, or any  
19 means or instrumentality of interstate or foreign  
20 commerce is otherwise used in committing or in fur-  
21 therance of the commission of the offense;

22 “(2) any communication involved in or made in  
23 furtherance of the offense contemplates the trans-  
24 mission or transportation of a visual depiction or ob-

1 scene matter by the mail, or in interstate or foreign  
2 commerce by any means, including by computer;

3 “(3) any person travels or is transported in  
4 interstate or foreign commerce in the course of the  
5 commission or in furtherance of the commission of  
6 the offense;

7 “(4) any visual depiction or obscene matter in-  
8 volved in the offense has been mailed, or has been  
9 shipped or transported in interstate or foreign com-  
10 merce by any means, including by computer, or was  
11 produced using materials that have been mailed, or  
12 that have been shipped or transported in interstate  
13 or foreign commerce by any means, including by  
14 computer; or

15 “(5) the offense is committed in the special  
16 maritime and territorial jurisdiction of the United  
17 States or in any territory or possession of the  
18 United States.”;

19 (2) in the analysis for the chapter, by inserting  
20 at the end the following:

“1471. Use of obscene material or child pornography to facilitate offenses  
against minors.”.

21 **SEC. 7. EXTRATERRITORIAL PRODUCTION OF CHILD POR-**  
22 **NOGRAPHY FOR DISTRIBUTION IN THE**  
23 **UNITED STATES.**

24 Section 2251 is amended—

1           (1) by striking “subsection (d)” each place it  
2           appears in subsections (a), (b), and (c) and inserting  
3           “subsection (e)”;

4           (2) by redesignating subsections (c) and (d), re-  
5           spectively, as subsections (d) and (e); and

6           (3) by inserting after subsection (b) a new sub-  
7           section (c) as follows:

8           “(c)(1) Any person who, in a circumstance described  
9           in paragraph (2), employs, uses, persuades, induces, en-  
10          tices, or coerces any minor to engage in, or who has a  
11          minor assist any other person to engage in, any sexually  
12          explicit conduct outside of the United States, its posses-  
13          sions and Territories, for the purpose of producing any  
14          visual depiction of such conduct, shall be punished as pro-  
15          vided under subsection (e).

16          “(2) The circumstance referred to in paragraph (1)  
17          is that—

18                 “(A) the person intends such visual depiction to  
19                 be transported to the United States, its possessions,  
20                 or territories, by any means including by computer  
21                 or mail;

22                 “(B) the person transports such visual depic-  
23                 tion to, or otherwise makes it available within, the  
24                 United States, its possessions, or territories, by any  
25                 means including by computer or mail.”.

1 **SEC. 8. STRENGTHENING ENHANCED PENALTIES FOR RE-**  
2 **PEAT OFFENDERS.**

3 Sections 2251(e) (as redesignated by section 7(2)),  
4 2252(b), and 2252A(b) of title 18, United States Code,  
5 are each amended by inserting “chapter 71,” immediately  
6 before each occurrence of “chapter 109A.”

7 **SEC. 9. SERVICE PROVIDER REPORTING OF CHILD POR-**  
8 **NOGRAPHY AND RELATED INFORMATION.**

9 (a) Section 227 of the Victims of Child Abuse Act  
10 of 1990 (42 U.S.C. 13032) is amended—

11 (1) in subsection (b)(1)—

12 (A) by inserting “2252B,” after “2252A,”;

13 and

14 (B) by inserting “or a violation of section  
15 1466A or 1466B of that title,” after “of that  
16 title,”;

17 (2) in subsection (c), by inserting “or pursuant  
18 to” after “to comply with”;

19 (3) by amending subsection (f)(1)(D) to read as  
20 follows:

21 “(D) where the report discloses a violation  
22 of State criminal law, to an appropriate official  
23 of a State or subdivision of a State for the pur-  
24 pose of enforcing such State law.”;

25 (4) by redesignating paragraph (3) of sub-  
26 section (b) as paragraph (4); and

1           (5) by inserting after paragraph (2) of sub-  
2 section (b) the following new paragraph:

3           “(3) In addition to forwarding such reports to  
4 those agencies designated in subsection (b)(2), the  
5 National Center for Missing and Exploited Children  
6 is authorized to forward any such report to an ap-  
7 propriate official of a state or subdivision of a state  
8 for the purpose of enforcing state criminal law.”.

9           (b) Section 2702 of title 18, United States Code is  
10 amended—

11           (1) in subsection (b)—

12           (A) in paragraph (6)—

13           (i) by inserting “or” at the end of  
14 subparagraph (A)(ii);

15           (ii) by striking subparagraph (B); and

16           (iii) by redesignating subparagraph  
17 (C) as subparagraph (B);

18           (B) by redesignating paragraph (6) as  
19 paragraph (7);

20           (C) by striking “or” at the end of para-  
21 graph (5); and

22           (D) by inserting after paragraph (5) the  
23 following new paragraph:

24           “(6) to the National Center for Missing and  
25 Exploited Children, in connection with a report sub-

1       mitted thereto under section 227 of the Victims of  
2       Child Abuse Act of 1990 (42 U.S.C. 13032); or”;  
3       and

4               (2) in subsection (c)—

5                       (A) by striking “or” at the end of para-  
6               graph (4);

7                       (B) by redesignating paragraph (5) as  
8               paragraph (6); and

9                       (C) by adding after paragraph (4) the fol-  
10       lowing new paragraph:

11               “(5) to the National Center for Missing and  
12       Exploited Children, in connection with a report sub-  
13       mitted thereto under section 227 of the Victims of  
14       Child Abuse Act of 1990 (42 U.S.C. 13032); or”.

15       **SEC. 10. SEVERABILITY.**

16       If any provision of this Act, or the application of such  
17       provision to any person or circumstance, is held invalid,  
18       the remainder of this Act, and the application of such pro-  
19       vision to other persons not similarly situated or to other  
20       circumstances, shall not be affected by such invalidation.

21       **SEC. 11. INVESTIGATIVE AUTHORITY RELATING TO CHILD**  
22               **PORNOGRAPHY.**

23       Section 3486(a)(1)(C)(i) of title 18, United States  
24       Code, is amended by striking “the name, address” and

- 1 all that follows through “subscriber or customer” and in-
- 2 serting “the information specified in section 2703(c)(2)”.

Passed the House of Representatives June 25, 2002.

Attest:

JEFF TRANDAHL,

*Clerk.*