

107TH CONGRESS  
2D SESSION

# H. R. 5397

To protect our children from violence.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2002

Mr. FOLEY (for himself, Mr. LAMPSON, and Mr. REGULA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and 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

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## A BILL

To protect our children from violence.

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 “Protecting Our Chil-  
5       dren From Violence Act of 2002”.

6       **SEC. 2. ASSAULT AND MAIMING.**

7       (a) IN GENERAL.—Chapter 7 of title 18, United  
8       States Code, is amended by adding at the end the fol-  
9       lowing:

1 **“§ 117. Assault against a child**

2 “(a) Whoever, in a circumstance described in sub-  
3 section (c) commits an assault upon, or maims, an indi-  
4 vidual who has not attained the age of 18 years shall be  
5 punished as provided in subsection (b).

6 “(b) The punishment for an offense under subsection  
7 (a) is as follows:

8 “(A) Assault with the intent to commit murder  
9 of a child, by imprisonment not more than 35 years.

10 “(B) Assault that consists of conduct that  
11 would be an offense under section 114 if the conduct  
12 occurred in the special maritime and territorial juris-  
13 diction of the United States, by a fine under this  
14 title or imprisonment for not more than 30 years, or  
15 both.

16 “(C) Assault with intent to commit any felony  
17 against a child, except murder or a felony under  
18 chapter 109A, by a fine under this title or imprison-  
19 ment for not more than 15 years, or both.

20 “(D) Assault with a dangerous weapon against  
21 a child, with intent to do bodily harm, and without  
22 just cause or excuse, by a fine under this title or im-  
23 prisonment for not more than 15 years, or both.

24 “(E) Assault by striking, beating, or wounding  
25 a child, by a fine under this title or imprisonment  
26 of not more than 2 years, or both.

1           “(F) Simple assault against a child, by a fine  
2           under this title or imprisonment for not more than  
3           6 months, or both, or if the perpetrator of the as-  
4           sault is an individual who has not attained the age  
5           of 16 years, by fine under this title or imprisonment  
6           of not more than 1 year, or both.

7           “(G) Assault resulting in serious bodily injury  
8           of a child, by a fine under this title or imprisonment  
9           for not more than 15, or both.

10          “(c) The circumstances referred to in subsection (a)  
11          are any of the following:

12               “(1) The conduct constituting the offense oc-  
13               curs within the special maritime and territorial juris-  
14               diction of the United States, or in interstate or for-  
15               eign commerce.

16               “(2) The person engaging in the conduct consti-  
17               tuting the offense—

18                       “(A) travels in interstate or foreign com-  
19                       merce with the intent to commit the offense;

20                       “(B) transports a child in interstate or for-  
21                       eign commerce; or

22                       “(C) crosses a State line, with the intent  
23                       to commit the offense.”.

24          (b) CLERICAL AMENDMENT.—The table of sections  
25          at the beginning of chapter 7 of title 18, United States

1 Code, is amended by adding at the end the following new  
 2 item:

“117. Assault against a child.”.

3 **SEC. 3. KIDNAPPING.**

4 (a) CUSTODIAL KIDNAPPING.—Section 1201 of title  
 5 18, United States Code, is amended by adding at the end  
 6 the following new subsection:

7 “(i) Whoever, being a parent of a minor, unlawfully  
 8 seizes, confines, inveigles, decoys, kidnaps, abducts, or car-  
 9 ries away and holds for ransom or reward or otherwise,  
 10 that minor, shall be fined under this title or imprisoned  
 11 not more than one year, or both, but in the case of a sec-  
 12 ond or subsequent offense shall be fined under this title  
 13 or imprisoned not more than 10 years, or both.”.

14 (b) ADDITIONAL BASES FOR FEDERAL PROSECU-  
 15 TION.—Section 1201(a) of title 18, United States Code,  
 16 is amended—

17 (1) by striking “or” at the end of paragraph

18 (4);

19 (2) by inserting “or” at the end of paragraph

20 (5); and

21 (3) by inserting after paragraph (5) the fol-  
 22 lowing:

23 “(6) the defendant travelled in interstate or for-  
 24 eign commerce with the intent to commit the of-  
 25 fense;”.

1 **SEC. 4. MURDER.**

2 (a) IN GENERAL.—Chapter 51 of title 18, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 1123. Murder of children**

6 “(a) Whoever, in a circumstance described in sub-  
7 section (c), kills or attempts to kill an individual who has  
8 not attained the age of 18 years shall be punished as pro-  
9 vided in subsection (b).

10 “(b) The punishment for an offense under subsection  
11 (a) is as follows:

12 “(1) If the killing is murder, the punishment  
13 provided for murder in section 1111.

14 “(2) If the killing is voluntary manslaughter, a  
15 fine under this title or imprisonment not more than  
16 20 years, or both.

17 “(3) If the killing is involuntary manslaughter,  
18 a fine under this title or imprisonment not more  
19 than 12 years, or both.

20 “(4) If the offense consists of an attempted  
21 murder or manslaughter, a fine under this title or  
22 imprisonment not more than 10 years, or both.

23 “(c) The circumstances referred to in subsection (a)  
24 are any of the following:

1 “(1) The offense occurs in the special maritime  
 2 and territorial jurisdiction of the United States or in  
 3 interstate or foreign commerce.

4 “(2) The defendant travels in interstate or for-  
 5 eign commerce with intent to commit the offense.

6 “(3) The child is transported in interstate or  
 7 foreign commerce in connection with the offense.”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
 9 at the beginning of chapter 51 of title 18, United States  
 10 Code, is amended by adding at the end the following new  
 11 item:

“1123. Murder of children.”.

12 **SEC. 5. CIVIL ACTION.**

13 A victim of an offense under section 117, 1201(i),  
 14 1123, 2241(c), or 2243(a) of title 18, United States Code,  
 15 or a parent on behalf of that victim, may in a civil action  
 16 against the offender, obtain appropriate relief, including  
 17 actual and punitive damages, and a reasonable attorney’s  
 18 fee as part of the costs.

19 **SEC. 6. STATE AND LOCAL NOTIFICATION IN CHILD POR-**  
 20 **NOGRAPHY CASES.**

21 Section 227(b)(1) of Public Law 101–647 (42 U.S.C.  
 22 13032(b)(1)) is amended by adding at the end the fol-  
 23 lowing: “The Center may also forward that report to any  
 24 State or local law enforcement agency the Center deter-  
 25 mines appropriate.”.

1 **SEC. 7. AMBER ALERT COORDINATION.**

2 (a) COORDINATOR.—The Attorney General shall es-  
3 tablish an AMBER Alert Coordinator position (referred  
4 to in this section as “the Coordinator”). The Coordinator  
5 shall—

6 (1) establish, with the assistance of the Na-  
7 tional Center for Missing and Exploited Children  
8 and the Federal Communications Commission,  
9 guidelines for implementing a statewide Amber Alert  
10 plan not later than 60 days after the date of enact-  
11 ment of this Act;

12 (2) provide technical assistance to the States,  
13 broadcasters, and law enforcement agencies in im-  
14 plementing AMBER Alert plans;

15 (3) certify, not later than 90 days after a cer-  
16 tification request is received, to the Secretary of  
17 Transportation any State that—

18 (A) has established or agrees to establish  
19 a statewide AMBER Alert plan not later than  
20 1 year after receiving a grant under section 3;

21 (B) agrees to establish a reciprocal ar-  
22 rangement with other States, including sharing  
23 of information regarding the initiation of an  
24 AMBER Alert; and

25 (C) is in compliance with the guidelines es-  
26 tablished pursuant to paragraph (1);

1           (4) deny certification, not later than 90 days  
2           after a certification request is received and provide  
3           notification of such denial to the Secretary of Trans-  
4           portation, to any State that fails to comply with the  
5           certification requirements described in paragraph  
6           (3);

7           (5) monitor compliance and revoke certification  
8           of any State that fails to establish an AMBER Alert  
9           plan in accordance with the 1-year period referred to  
10          in paragraph (3)(A) and provide notification of such  
11          revocation to the State and the Secretary of Trans-  
12          portation;

13          (b) **AUTHORIZATION OF APPROPRIATIONS.**—There  
14          are authorized to be appropriated to carry out this section  
15          \$500,000 for fiscal year 2003 and such sums as may be  
16          necessary for fiscal years 2004 through 2007. Such sums  
17          shall remain available until expended.

18          **SEC. 8. GRANT PROGRAM.**

19          (a) **FINDINGS.**—The Congress finds and declares  
20          that—

21                (1) every year over 725,000 children are re-  
22                ported missing to local, State, and Federal authori-  
23                ties—that is over 2,000 per day;



1           (2) in 2002 there have been countless reports of  
2       children being abducted either from their homes or  
3       in front of their homes and then later killed;

4           (3) one of the fundamental purposes of govern-  
5       ment is to protect its people—especially its children;  
6       and

7           (4) it is in the best interest of our Nation to  
8       ensure that law enforcement officials and prosecu-  
9       tors have the tools they need in order to ensure the  
10      safety of our children.

11       (b) IN GENERAL.—The Secretary of Transportation  
12      shall make grants to States to develop, acquire, install,  
13      and construct facilities and equipment along highways to  
14      notify the public of missing children (including a descrip-  
15      tion of such children), information regarding any abductor  
16      of such children, and other relevant information.

17       (c) APPLICATION.—In order to be eligible to receive  
18      a grant under this section, a State shall—

19           (1) adhere to the requirements of this section;

20           (2) apply to the Coordinator appointed under  
21      section 2 for certification—

22           (A) in 2003, not later than March 1; and

23           (B) in subsequent years, not later than  
24      January 1 of the year in which the State ex-  
25      pects to receive funds; and

1           (3) include a projection of costs to implement  
2       subsection (a).

3       (d) FEDERAL SHARE.—The Federal share of the cost  
4 of a project for which a grant is made to a State under  
5 this section in a fiscal year shall not exceed 50 percent.

6       (e) APPORTIONMENT OF FUNDS.—Amounts appro-  
7 priated to carry out this section shall be apportioned in  
8 equal shares to each State that meets the requirements  
9 of this Act.

10      (f) AUTHORIZATION OF APPROPRIATIONS.—There  
11 are authorized to be appropriated to carry out this section  
12 \$99,500,000 for fiscal year 2003 and such sums as may  
13 be necessary for each of fiscal years 2004 through 2007.  
14 Such sums shall remain available until expended.

15 **SEC. 9. DEFINITIONS.**

16      In sections 9 and 10, the following definitions apply:

17      (1) AMBER ALERT.—The term “AMBER  
18 Alert” (America’s Missing: Broadcast Emergency  
19 Response Alert) means a voluntary partnership be-  
20 tween law enforcement agencies and broadcasters to  
21 activate an urgent bulletin in serious child abduction  
22 cases. Broadcasters use the Emergency Alert System  
23 (EAS), formerly referred to as the Emergency  
24 Broadcast System, to air a description of the miss-

1       ing child and suspected abductor and any other rel-  
2       evant information.

3               (2) STATE.—The term “State” means each of  
4       the 50 States and the District of Columbia.

5       **SEC. 10. NATIONAL CRIMES AGAINST CHILDREN RESPONSE**  
6               **CENTER.**

7       (a) IN GENERAL.—Chapter 33 of title 28, United  
8       States Code, is amended by adding at the end the fol-  
9       lowing:

10      **“§ 540A. National Crimes Against Children Response**  
11              **Center**

12       “(a) ESTABLISHMENT.—There is established within  
13       the Federal Bureau of Investigation a National Crimes  
14       Against Children Response Center (referred to in this sec-  
15       tion as the ‘Center’).

16       “(b) MISSION.—The mission of the Center is to de-  
17       velop a national response plan model that—

18               “(1) provides a comprehensive, rapid response  
19       plan to report crimes involving the victimization of  
20       children; and

21               “(2) protects children from future crimes.

22       “(c) DUTIES.—To carry out the mission described in  
23       subsection (b), the Director of the Federal Bureau of In-  
24       vestigation shall—

1           “(1) consult with the Deputy Assistant Attor-  
2       ney General for the Crimes Against Children Office  
3       and other child crime coordinators within the De-  
4       partment of Justice;

5           “(2) consolidate units within the Federal Bu-  
6       reau of Investigation that investigate crimes against  
7       children, including abductions, abuse, and sexual ex-  
8       ploitation offenses;

9           “(3) develop a comprehensive, rapid response  
10      plan for crimes involving children that incorporates  
11      resources and expertise from Federal, State, and  
12      local law enforcement agencies and child services  
13      professionals;

14          “(4) develop a national strategy to prevent  
15      crimes against children that shall include a plan to  
16      rescue children who are identified in child pornog-  
17      raphy images as victims of abuse;

18          “(5) create regional rapid response teams com-  
19      posed of Federal, State, and local prosecutors, inves-  
20      tigators, victim witness specialists, mental health  
21      professionals, and other child services professionals;

22          “(6) implement an advanced training program  
23      that will enhance the ability of Federal, State, and  
24      local entities to respond to reported crimes against

1 children and protect children from future crimes;  
 2 and

3 “(7) conduct outreach efforts to raise aware-  
 4 ness and educate communities about crimes against  
 5 children.

6 “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
 7 is authorized to be appropriated for the Federal Bureau  
 8 of Investigation such sums as necessary for fiscal year  
 9 2003 to carry out this section.”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 11 The table of sections for chapter 33 of title 28, United  
 12 States Code, is amended by adding at the end the fol-  
 13 lowing:

“540A. National Crimes Against Children Response Center.”.

14 **SEC. 11. INCREASE OF STATUTE OF LIMITATIONS FOR**  
 15 **CHILD ABUSE OFFENSES.**

16 Section 3283 of title 18, United States Code, is  
 17 amended by striking “25 years” and inserting “35 years”.

18 **SEC. 12. ADMISSIBILITY OF SIMILAR CRIME EVIDENCE IN**  
 19 **CHILD MOLESTATION CASES.**

20 Rule 414 of the Federal Rules of Evidence is amend-  
 21 ed—

22 (1) in subsection (a), by inserting “or posses-  
 23 sion of sexually explicit materials containing appar-  
 24 ent minors” after “or offenses of child molestation”;  
 25 and

1 (2) in subsection (d), by striking “fourteen”  
2 and inserting “18”.

3 **SEC. 13. MARITAL COMMUNICATION AND ADVERSE SPOUS-**  
4 **AL PRIVILEGE.**

5 (a) IN GENERAL.—Chapter 119 of title 28, United  
6 States Code, is amended by inserting after section 1826  
7 the following:

8 **“§ 1826A. Marital communications and adverse spous-**  
9 **al privilege**

10 “The confidential marital communication privilege  
11 and the adverse spousal privilege shall be inapplicable in  
12 any Federal proceeding in which a spouse is charged with  
13 a crime against—

14 “(1) a child of either spouse; or

15 “(2) a child under the custody or control of ei-  
16 ther spouse.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
18 The table of sections for chapter 119 of title 28, United  
19 States Code, is amended by inserting after the item relat-  
20 ing to section 1826 the following:

“1826A. Marital communications and adverse spousal privilege.”.

21 **SEC. 14. INCREASE OF MAXIMUM PENALTIES FOR SEX OF-**  
22 **FENSES.**

23 Title 18, United States Code, is amended—

24 (1) in section 1591(b)(2), by striking “20  
25 years” and inserting “40 years”;

1 (2) in section 2421, by striking “10 years” and  
2 inserting “20 years”;

3 (3) in section 2422—

4 (A) in subsection (a), by striking “10  
5 years” and inserting “20 years”; and

6 (B) in subsection (b), by striking “15  
7 years” and inserting “30 years”;

8 (4) in section 2423—

9 (A) in subsection (a), by striking “15  
10 years” and inserting “30 years”; and

11 (B) in subsection (b), by striking “15  
12 years” and inserting “30 years”; and

13 (5) in section 2425, by striking “5 years” and  
14 inserting “10 years”.

15 **SEC. 15. DEPUTY ASSISTANT ATTORNEY GENERAL FOR**  
16 **CRIMES AGAINST CHILDREN.**

17 (a) ESTABLISHMENT OF POSITION.—

18 (1) IN GENERAL.—Chapter 31 of title 28,  
19 United States Code, is amended by inserting after  
20 section 507 the following:

21 **“§ 507A. Deputy Assistant Attorney General for**  
22 **Crimes Against Children**

23 “(a) The Attorney General shall appoint a Deputy  
24 Assistant Attorney General for Crimes Against Children.

1 “(b) The Deputy Assistant Attorney General shall be  
2 the head of the Crimes Against Children Section (CACS)  
3 of the Department of Justice.

4 “(c) The duties of the Deputy Assistant Attorney  
5 General shall include the following:

6 “(1) To prosecute cases involving crimes  
7 against children.

8 “(2) To advise Federal prosecutors and law en-  
9 forcement personnel regarding crimes against chil-  
10 dren.

11 “(3) To provide guidance and assistance to  
12 Federal, State, and local law enforcement agencies  
13 and personnel, and appropriate foreign entities, re-  
14 garding responses to crimes against children.

15 “(4) To propose and comment upon legislation  
16 concerning crimes against children.

17 “(5) Such other duties as the Attorney General  
18 may require, including duties carried out by the  
19 head of the Child Exploitation and Obscenity Sec-  
20 tion and the Terrorism and Violent Crime Section of  
21 the Department of Justice.”.

22 (2) TECHNICAL AND CONFORMING AMEND-  
23 MENT.—The table of sections for chapter 31 of title  
24 28, United States Code, is amended by inserting  
25 after the item relating to section 507 the following:

“507A. Deputy Assistant Attorney General for Crimes Against Children.”.



1       (b) AUTHORIZATION OF APPROPRIATIONS FOR  
2 CACS.—There is authorized to be appropriated for the  
3 Department of Justice for fiscal year 2003, such sums as  
4 necessary to carry out this section.

○