

108TH CONGRESS
1ST SESSION

S. 885

Entitled “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003”.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2003

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

Entitled “Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003”.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Prosecutorial Remedies and Other Tools to end the Ex-
6 ploitation of Children Today Act of 2003” or “PROTECT
7 Act”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—SANCTIONS AND OFFENSES

- Sec. 101. Supervised release term for sex offenders.
- Sec. 102. First degree murder for child abuse and child torture murders.
- Sec. 103. Sexual abuse penalties.
- Sec. 104. Stronger penalties against kidnapping.
- Sec. 105. Penalties against sex tourism.
- Sec. 106. Two strikes you're out.
- Sec. 107. Attempt liability for international parental kidnapping.
- Sec. 108. Pilot program for national criminal history background checks and feasibility study.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

- Sec. 201. Interceptions of communications in investigations of sex offenses.
- Sec. 202. No statute of limitations for child abduction and sex crimes.
- Sec. 203. No pretrial release for those who rape or kidnap children.
- Sec. 204. Suzanne's law.

TITLE III—PUBLIC OUTREACH

Subtitle A—AMBER Alert

- Sec. 301. National coordination of AMBER alert communications network.
- Sec. 302. Minimum standards for issuance and dissemination of alerts through AMBER alert communications network.
- Sec. 303. Grant program for notification and communications systems along highways for recovery of abducted children.
- Sec. 304. Grant program for support of AMBER alert communications plans.
- Sec. 305. Limitation on liability.

Subtitle B—National Center for Missing and Exploited Children

- Sec. 321. Increased support.
- Sec. 322. Forensic and investigative support of missing and exploited children.
- Sec. 323. Creation of cyber tipline.

Subtitle C—Sex Offender Apprehension Program

- Sec. 341. Authorization.

Subtitle D—Missing Children Procedures in Public Buildings

- Sec. 361. Short title.
- Sec. 362. Definitions.
- Sec. 363. Procedures in public buildings regarding a missing or lost child.

Subtitle E—Child Advocacy Center Grants

- Sec. 381. Information and documentation required by Attorney General under Victims of Child Abuse Act of 1990.

TITLE IV—SENTENCING REFORM

- Sec. 401. Sentencing reform.

TITLE V—OBSCENITY AND PORNOGRAPHY

Subtitle A—Child Obscenity and Pornography Prevention

- Sec. 501. Findings.
- Sec. 502. Improvements to prohibition on virtual child pornography.
- Sec. 503. Certain activities relating to material constituting or containing child pornography.
- Sec. 504. Obscene child pornography.
- Sec. 505. Admissibility of evidence.
- Sec. 506. Extraterritorial production of child pornography for distribution in the United States.
- Sec. 507. Strengthening enhanced penalties for repeat offenders.
- Sec. 508. Service provider reporting of child pornography and related information.
- Sec. 509. Investigative authority relating to child pornography.
- Sec. 510. Civil remedies.
- Sec. 511. Recordkeeping requirements.
- Sec. 512. Sentencing enhancements for interstate travel to engage in sexual act with a juvenile.
- Sec. 513. Miscellaneous provisions.

Subtitle B—Truth in Domain Names

- Sec. 521. Misleading domain names on the Internet.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Penalties for use of minors in crimes of violence.
- Sec. 602. Sense of congress.
- Sec. 603. Communications decency act of 1996.
- Sec. 604. Internet availability of information concerning registered sex offenders.
- Sec. 605. Registration of child pornographers in the national sex offender registry.
- Sec. 606. Grants to States for costs of compliance with new sex offender registry requirements.
- Sec. 607. Safe id act.
- Sec. 608. Illicit Drug Anti-Proliferation Act.
- Sec. 609. Definition of vehicle.
- Sec. 610. Authorization of John Doe DNA indictments.
- Sec. 611. Transitional housing assistance grants for child victims of domestic violence, stalking, or sexual assault.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held invalid,
4 the remainder of this Act, and the application of such pro-
5 vision to other persons not similarly situated or to other
6 circumstances, shall not be affected by such invalidation.

TITLE I—SANCTIONS AND OFFENSES

SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (e)(3), by inserting “on any such revocation” after “required to serve”;

(2) in subsection (h), by striking “that is less than the maximum term of imprisonment authorized under subsection (e)(3)”;

(3) by adding at the end the following:

“(k) Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a minor victim, and for any offense under section 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term of years or life.”.

SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND CHILD TORTURE MURDERS.

Section 1111 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “child abuse,” after “sexual abuse,”; and

1 (B) by inserting “or perpetrated as part of
2 a pattern or practice of assault or torture
3 against a child or children;” after “robbery;”;
4 and

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

6 “(c) For purposes of this section—

7 “(1) the term ‘assault’ has the same meaning
8 as given that term in section 113;

9 “(2) the term ‘child’ means a person who has
10 not attained the age of 18 years and is—

11 “(A) under the perpetrator’s care or con-
12 trol; or

13 “(B) at least six years younger than the
14 perpetrator;

15 “(3) the term ‘child abuse’ means intentionally
16 or knowingly causing death or serious bodily injury
17 to a child;

18 “(4) the term ‘pattern or practice of assault or
19 torture’ means assault or torture engaged in on at
20 least two occasions;

21 “(5) the term ‘serious bodily injury’ has the
22 meaning set forth in section 1365; and

23 “(6) the term ‘torture’ means conduct, whether
24 or not committed under the color of law, that other-

1 wise satisfies the definition set forth in section
 2 2340(1).”.

3 **SEC. 103. SEXUAL ABUSE PENALTIES.**

4 (a) MAXIMUM PENALTY INCREASES.—(1) Chapter
 5 110 of title 18, United States Code, is amended—

6 (A) in section 2251(d)—

7 (i) by striking “20” and inserting “30”;

8 and

9 (ii) by striking “30” the first place it ap-
 10 pears and inserting “50”;

11 (B) in section 2252(b)(1)—

12 (i) by striking “15” and inserting “20”;

13 and

14 (ii) by striking “30” and inserting “40”;

15 (C) in section 2252(b)(2)—

16 (i) by striking “5” and inserting “10”; and

17 (ii) by striking “10” and inserting “20”;

18 (D) in section 2252A(b)(1)—

19 (i) by striking “15” and inserting “20”;

20 and

21 (ii) by striking “30” and inserting “40”;

22 and

23 (E) in section 2252A(b)(2)—

24 (i) by striking “5” and inserting “10”; and

25 (ii) by striking “10” and inserting “20”.

1 (2) Chapter 117 of title 18, United States Code, is
2 amended—

3 (A) in section 2422(a), by striking “10” and in-
4 serting “20”;

5 (B) in section 2422(b), by striking “15” and
6 inserting “30”; and

7 (C) in section 2423(a), by striking “15” and in-
8 serting “30”.

9 (3) Section 1591(b)(2) of title 18, United States
10 Code, is amended by striking “20” and inserting “40”.

11 (b) MINIMUM PENALTY INCREASES.—(1) Chapter
12 110 of title 18, United States Code, is amended—

13 (A) in section 2251(d)—

14 (i) by striking “or imprisoned not less than
15 10” and inserting “and imprisoned not less
16 than 15”;

17 (ii) by striking “and both,”;

18 (iii) by striking “15” and inserting “25”;

19 and

20 (iv) by striking “30” the second place it
21 appears and inserting “35”;

22 (B) in section 2251A(a) and (b), by striking
23 “20” and inserting “30”;

24 (C) in section 2252(b)(1)—

1 (i) by striking “or imprisoned” and insert-
 2 ing “and imprisoned not less than 5 years
 3 and”;

4 (ii) by striking “or both,”; and

5 (iii) by striking “5” and inserting “15”;

6 (D) in section 2252(b)(2), by striking “2” and
 7 inserting “10”;

8 (E) in section 2252A(b)(1)—

9 (i) by striking “or imprisoned” and insert-
 10 ing “and imprisoned not less than 5 years
 11 and”;

12 (ii) by striking “or both,”; and

13 (iii) by striking “5” and inserting “15”;

14 and

15 (F) in section 2252A(b)(2), by striking “2” and
 16 inserting “10”.

17 (2) Chapter 117 of title 18, United States Code, is
 18 amended—

19 (A) in section 2422(b)—

20 (i) by striking “, imprisoned” and inserting
 21 “and imprisoned not less than 5 years and”;
 22 and

23 (ii) by striking “, or both”; and

24 (B) in section 2423(a)—

- 1 (i) by striking “, imprisoned” and inserting
 2 “and imprisoned not less than 5 years and”;
 3 and
 4 (ii) by striking “, or both”.

5 **SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.**

6 (a) SENTENCING GUIDELINES.—Notwithstanding
 7 any other provision of law regarding the amendment of
 8 Sentencing Guidelines, the United States Sentencing
 9 Commission is directed to amend the Sentencing Guide-
 10 lines, to take effect on the date that is 30 days after the
 11 date of the enactment of this Act—

12 (1) so that the base offense level for kidnapping
 13 in section 2A4.1(a) is increased from level 24 to
 14 level 32;

15 (2) so as to delete section 2A4.1(b)(4)(C); and

16 (3) so that the increase provided by section
 17 2A4.1(b)(5) is 6 levels instead of 3.

18 (b) MINIMUM MANDATORY SENTENCE.—Section
 19 1201(g) of title 18, United States Code, is amended by
 20 striking “shall be subject to paragraph (2)” in paragraph
 21 (1) and all that follows through paragraph (2) and insert-
 22 ing “shall include imprisonment for not less than 20
 23 years.”.

1 **SEC. 105. PENALTIES AGAINST SEX TOURISM.**

2 (a) IN GENERAL.—Section 2423 of title 18, United
3 States Code, is amended by striking subsection (b) and
4 inserting the following:

5 “(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT
6 SEXUAL CONDUCT.—A person who travels in interstate
7 commerce or travels into the United States, or a United
8 States citizen or an alien admitted for permanent resi-
9 dence in the United States who travels in foreign com-
10 merce, for the purpose of engaging in any illicit sexual
11 conduct with another person shall be fined under this title
12 or imprisoned not more than 30 years, or both.

13 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
14 FOREIGN PLACES.—Any United States citizen or alien ad-
15 mitted for permanent residence who travels in foreign
16 commerce, and engages in any illicit sexual conduct with
17 another person shall be fined under this title or imprisoned
18 not more than 30 years, or both.

19 “(d) ANCILLARY OFFENSES.—Whoever, for the pur-
20 pose of commercial advantage or private financial gain,
21 arranges, induces, procures, or facilitates the travel of a
22 person knowing that such a person is traveling in inter-
23 state commerce or foreign commerce for the purpose of
24 engaging in illicit sexual conduct shall be fined under this
25 title, imprisoned not more than 30 years, or both.

1 “(e) ATTEMPT AND CONSPIRACY.—Whoever at-
2 tempts or conspires to violate subsection (a), (b), (c), or
3 (d) shall be punishable in the same manner as a completed
4 violation of that subsection.

5 “(f) DEFINITION.—As used in this section, the term
6 ‘illicit sexual conduct’ means (1) a sexual act (as defined
7 in section 2246) with a person under 18 years of age that
8 would be in violation of chapter 109A if the sexual act
9 occurred in the special maritime and territorial jurisdic-
10 tion of the United States; or (2) any commercial sex act
11 (as defined in section 1591) with a person under 18 years
12 of age.

13 “(g) DEFENSE.—In a prosecution under this section
14 based on illicit sexual conduct as defined in subsection
15 (f)(2), it is a defense, which the defendant must establish
16 by a preponderance of the evidence, that the defendant
17 reasonably believed that the person with whom the defend-
18 ant engaged in the commercial sex act had attained the
19 age of 18 years.”.

20 (b) CONFORMING AMENDMENT.—Section 2423(a) of
21 title 18, United States Code, is amended by striking “or
22 attempts to do so,”.

1 **SEC. 106. TWO STRIKES YOU'RE OUT.**

2 (a) IN GENERAL.—Section 3559 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing new subsection:

5 “(e) MANDATORY LIFE IMPRISONMENT FOR RE-
6 PEATED SEX OFFENSES AGAINST CHILDREN.—

7 “(1) IN GENERAL.—A person who is convicted
8 of a Federal sex offense in which a minor is the vic-
9 tim shall be sentenced to life imprisonment if the
10 person has a prior sex conviction in which a minor
11 was the victim, unless the sentence of death is im-
12 posed.

13 “(2) DEFINITIONS.—For the purposes of this
14 subsection—

15 “(A) the term ‘Federal sex offense’ means
16 an offense under section 2241 (relating to ag-
17 gravated sexual abuse), 2242 (relating to sexual
18 abuse), 2244(a)(1) (relating to abusive sexual
19 contact), 2245 (relating to sexual abuse result-
20 ing in death), 2251 (relating to sexual exploi-
21 tation of children), 2251A (relating to selling or
22 buying of children), 2422(b) (relating to coer-
23 cion and enticement of a minor into prostitu-
24 tion), or 2423(a) (relating to transportation of
25 minors);

1 “(B) the term ‘State sex offense’ means an
2 offense under State law that is punishable by
3 more than one year in prison and consists of
4 conduct that would be a Federal sex offense if,
5 to the extent or in the manner specified in the
6 applicable provision of this title—

7 “(i) the offense involved interstate or
8 foreign commerce, or the use of the mails;
9 or

10 “(ii) the conduct occurred in any com-
11 monwealth, territory, or possession of the
12 United States, within the special maritime
13 and territorial jurisdiction of the United
14 States, in a Federal prison, on any land or
15 building owned by, leased to, or otherwise
16 used by or under the control of the Gov-
17 ernment of the United States, or in the In-
18 dian country (as defined in section 1151);

19 “(C) the term ‘prior sex conviction’ means
20 a conviction for which the sentence was imposed
21 before the conduct occurred constituting the
22 subsequent Federal sex offense, and which was
23 for a Federal sex offense or a State sex offense;

24 “(D) the term ‘minor’ means an individual
25 who has not attained the age of 17 years; and

1 “(E) the term ‘State’ has the meaning
2 given that term in subsection (c)(2).

3 “(3) NONQUALIFYING FELONIES.—An offense
4 described in section 2422(b) or 2423(a) shall not
5 serve as a basis for sentencing under this subsection
6 if the defendant establishes by clear and convincing
7 evidence that—

8 “(A) the sexual act or activity was consen-
9 sual and not for the purpose of commercial or
10 pecuniary gain;

11 “(B) the sexual act or activity would not
12 be punishable by more than one year in prison
13 under the law of the State in which it occurred;
14 or

15 “(C) no sexual act or activity occurred.”.

16 (b) CONFORMING AMENDMENT.—Sections 2247(a)
17 and 2426(a) of title 18, United States Code, are each
18 amended by inserting “, unless section 3559(e) applies”
19 before the final period.

20 **SEC. 107. ATTEMPT LIABILITY FOR INTERNATIONAL PA-**
21 **RENTAL KIDNAPPING.**

22 Section 1204 of title 18, United States Code, is
23 amended—

24 (1) in subsection (a), by inserting “, or at-
25 tempts to do so,” before “or retains”; and

1 (2) in subsection (c)—

2 (A) in paragraph (1), by inserting “or the
3 Uniform Child Custody Jurisdiction and En-
4 forcement Act” before “and was”; and

5 (B) in paragraph (2), by inserting “or”
6 after the semicolon.

7 **SEC. 108. PILOT PROGRAM FOR NATIONAL CRIMINAL HIS-**
8 **TORY BACKGROUND CHECKS AND FEASI-**
9 **BILITY STUDY.**

10 (a) ESTABLISHMENT OF PILOT PROGRAM.—

11 (1) IN GENERAL.—Not later than 90 days after
12 the date of the enactment of this Act, the Attorney
13 General shall establish a pilot program for volunteer
14 groups to obtain national and State criminal history
15 background checks through a 10-fingerprint check to
16 be conducted utilizing State criminal records and the
17 Integrated Automated Finger Print Identification
18 system of the Federal Bureau of Investigation.

19 (2) STATE PILOT PROGRAM.—

20 (A) IN GENERAL.—The Attorney General
21 shall designate 3 States as participants in an
22 18-month State pilot program.

23 (B) VOLUNTEER ORGANIZATION RE-
24 QUESTS.—A volunteer organization in one of
25 the 3 States participating in the State pilot pro-

1 gram under this paragraph that is part of the
2 Boys and Girls Clubs of America, the National
3 Mentoring Partnerships, or the National Coun-
4 cil of Youth Sports may submit a request for a
5 10-fingerprint check from the participating
6 State. A volunteer organization in a partici-
7 pating State may not submit background check
8 requests under paragraph (3).

9 (C) STATE CHECK.—The participating
10 State under this paragraph after receiving a re-
11 quest under subparagraph (B) shall conduct a
12 State background check and submit a request
13 that a Federal check be performed through the
14 Integrated Automated Fingerprint Identifica-
15 tion System of the Federal Bureau of Investiga-
16 tion, to the Attorney General, in a manner to
17 be determined by the Attorney General.

18 (D) INFORMATION PROVIDED.—Under pro-
19 cedures established by the Attorney General,
20 any criminal history record information result-
21 ing from the State and Federal check under
22 subparagraph (C) shall be provided to the State
23 or National Center for Missing and Exploited
24 Children consistent with the National Child
25 Protection Act.

1 (E) COSTS.—A State may collect a fee to
2 perform a criminal background check under this
3 paragraph which may not exceed the actual
4 costs to the State to perform such a check.

5 (F) TIMING.—For any background check
6 performed under this paragraph, the State shall
7 provide the State criminal record information to
8 the Attorney General within 7 days after receiv-
9 ing the request from the organization, unless
10 the Attorney General determines during the
11 feasibility study that such a check cannot rea-
12 sonably be performed within that time period.
13 The Attorney General shall provide the criminal
14 history records information to the National
15 Center for Missing and Exploited Children
16 within 7 business days after receiving the re-
17 quest from the State.

18 (3) CHILD SAFETY PILOT PROGRAM.—

19 (A) IN GENERAL.—The Attorney General
20 shall establish an 18-month Child Safety Pilot
21 Program that shall provide for the processing of
22 100,000 10-fingerprint check requests from or-
23 ganizations described in subparagraph (B) con-
24 ducted through the Integrated Automated Fin-

gerprint Identification System of the Federal
Bureau of Investigation.

(B) ELIGIBLE ORGANIZATIONS.—An organization described in this subparagraph is an organization in a State not designated under paragraph (2) that has received a request allotment pursuant to subparagraph (C).

(C) REQUEST ALLOTMENTS.—The following organizations may allot requests as follows:

(i) 33,334 for the Boys and Girls
Clubs of America.

(ii) 33,333 for the National Mentoring
Partnership.

(iii) 33,333 for the National Council
of Youth Sports.

(D) PROCEDURES.—The Attorney General shall notify the organizations described in subparagraph (C) of a process by which the organizations may provide fingerprint cards to the Attorney General.

(E) VOLUNTEER INFORMATION REQUIRED.—An organization authorized to request a background check under this paragraph shall—

1 (i) forward to the Attorney General
2 the volunteer's fingerprints; and

3 (ii) obtain a statement completed and
4 signed by the volunteer that—

5 (I) sets out the provider or volun-
6 teer's name, address, date of birth ap-
7 pearing on a valid identification docu-
8 ment as defined in section 1028 of
9 title 18, United States Code, and a
10 photocopy of the valid identifying doc-
11 ument;

12 (II) states whether the volunteer
13 has a criminal record, and, if so, sets
14 out the particulars of such record;

15 (III) notifies the volunteer that
16 the Attorney General may perform a
17 criminal history background check
18 and that the volunteer's signature to
19 the statement constitutes an acknowl-
20 edgment that such a check may be
21 conducted;

22 (IV) notifies the volunteer that
23 prior to and after the completion of
24 the background check, the organiza-

1 tion may choose to deny the provider
2 access to children; and

3 (V) notifies the volunteer of his
4 right to correct an erroneous record
5 held by the Attorney General.

6 (F) TIMING.—For any background checks
7 performed under this paragraph, the Attorney
8 General shall provide the criminal history
9 records information to the National Center for
10 Missing and Exploited Children within 14 busi-
11 ness days after receiving the request from the
12 organization.

13 (G) DETERMINATIONS OF FITNESS.—

14 (i) IN GENERAL.—Consistent with the
15 privacy protections delineated in the Na-
16 tional Child Protection Act (42 U.S.C.
17 5119), the National Center for Missing
18 and Exploited Children may make a deter-
19 mination whether the criminal history
20 record information received in response to
21 the criminal history background checks
22 conducted under this paragraph indicates
23 that the provider or volunteer has a crimi-
24 nal history record that renders the pro-
25 vider or volunteer unfit to provide care to

1 children based upon criteria established
2 jointly, the National Center for Missing
3 and Exploited Children, the Boys and Girls
4 Clubs of America, the National Mentoring
5 Partnership, and the National Council of
6 Youth Sports.

7 (ii) CHILD SAFETY PILOT PRO-
8 GRAM.—The National Center for Missing
9 and Exploited Children shall convey that
10 determination to the organizations making
11 requests under this paragraph.

12 (4) FEES COLLECTED BY ATTORNEY GENERAL.

13 The Attorney General may collect a fee which may
14 not exceed \$18 to cover the cost to the Federal Bu-
15 reau of Investigation to conduct the background
16 check under paragraph (2) or (3).

17 (b) RIGHTS OF VOLUNTEERS.—Each volunteer who
18 is the subject of a criminal history background check
19 under this section is entitled to contact the Attorney Gen-
20 eral to initiate procedures to—

21 (1) obtain a copy of their criminal history
22 record report; and

23 (2) challenge the accuracy and completeness of
24 the criminal history record information in the report.

25 (c) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There is authorized to be
2 appropriated such sums as may be necessary to the
3 National Center for Missing and Exploited Children
4 for fiscal years 2004 and 2005 to carry out the re-
5 quirements of this section.

6 (2) STATE PROGRAM.—There is authorized to
7 be appropriated such sums as may be necessary to
8 the Attorney General for the States designated in
9 subsection (a)(1) for fiscal years 2004 and 2005 to
10 establish and enhance finger print technology infra-
11 structure of the participating State.

12 (d) FEASIBILITY STUDY FOR A SYSTEM OF BACK-
13 GROUND CHECKS FOR EMPLOYEES AND VOLUNTEERS.—

14 (1) STUDY REQUIRED.—The Attorney General
15 shall conduct a feasibility study within 180 days
16 after the date of the enactment of this Act. The
17 study shall examine, to the extent discernible, the
18 following:

19 (A) The current state of fingerprint cap-
20 ture and processing at the State and local level,
21 including the current available infrastructure,
22 State system capacities, and the time for each
23 State to process a civil or volunteer print from
24 the time of capture to submission to the Fed-
25 eral Bureau of Investigation (FBI).

1 (B) The intent of the States concerning
2 participation in a nationwide system of criminal
3 background checks to provide information to
4 qualified entities.

5 (C) The number of volunteers, employees,
6 and other individuals that would require a fin-
7 gerprint-based criminal background check.

8 (D) The impact on the Integrated Auto-
9 mated Fingerprint Identification System
10 (IAFIS) of the Federal Bureau of Investigation
11 in terms of capacity and impact on other users
12 of the system, including the effect on Federal
13 Bureau of Investigation work practices and
14 staffing levels.

15 (E) The current fees charged by the Fed-
16 eral Bureau of Investigation, States and local
17 agencies, and private companies to process fin-
18 gerprints and conduct background checks.

19 (F) The existence of “model” or best prac-
20 tice programs which could easily be expanded
21 and duplicated in other States.

22 (G) The extent to which private companies
23 are currently performing background checks
24 and the possibility of using private companies
25 in the future to perform any of the background

1 check process, including, but not limited to, the
2 capture and transmission of fingerprints and
3 fitness determinations.

4 (H) The cost of development and operation
5 of the technology and the infrastructure nec-
6 essary to establish a nationwide fingerprint-
7 based and other criminal background check sys-
8 tem.

9 (I) The extent of State participation in the
10 procedures for background checks authorized in
11 the National Child Protection Act (Public Law
12 103–209), as amended by the Volunteers for
13 Children Act (sections 221 and 222 of Public
14 Law 105–251).

15 (J) The extent to which States currently
16 provide access to nationwide criminal history
17 background checks to organizations that serve
18 children.

19 (K) The extent to which States currently
20 permit volunteers to appeal adverse fitness de-
21 terminations, and whether similar procedures
22 are required at the Federal level.

23 (L) The implementation of the 2 pilot pro-
24 grams created in subsection (a).

1 (M) Any privacy concerns that may arise
2 from nationwide criminal background checks.

3 (N) Any other information deemed relevant
4 by the Department of Justice.

5 (2) INTERIM REPORT.—Based on the findings
6 of the feasibility study under paragraph (1), the At-
7 torney General shall, not later than 180 days after
8 the date of the enactment of this Act, submit to
9 Congress an interim report, which may include rec-
10 ommendations for a pilot project to develop or im-
11 prove programs to collect fingerprints and perform
12 background checks on individuals that seek to volun-
13 teer with organizations that work with children, the
14 elderly, or the disabled.

15 (3) FINAL REPORT.—Based on the findings of
16 the pilot project, the Attorney General shall, not
17 later than 60 days after completion of the pilot
18 project under this section, submit to Congress a
19 final report, including recommendations, which may
20 include a proposal for grants to the States to de-
21 velop or improve programs to collect fingerprints
22 and perform background checks on individuals that
23 seek to volunteer with organizations that work with
24 children, the elderly, or the disabled, and which may
25 include recommendations for amendments to the Na-

1 tional Child Protection Act and the Volunteers for
 2 Children Act so that qualified entities can promptly
 3 and affordably conduct nationwide criminal history
 4 background checks on their employees and volun-
 5 teers.

6 **TITLE II—INVESTIGATIONS AND** 7 **PROSECUTIONS**

8 **SEC. 201. INTERCEPTIONS OF COMMUNICATIONS IN INVES-** 9 **TIGATIONS OF SEX OFFENSES.**

10 Section 2516(1) of title 18, United States Code, is
 11 amended—

12 (1) in paragraph (a), by inserting after “chap-
 13 ter 37 (relating to espionage),” the following: “chap-
 14 ter 55 (relating to kidnapping),”; and

15 (2) in paragraph (c)—

16 (A) by inserting “section 1591 (sex traf-
 17 ficking of children by force, fraud, or coer-
 18 cion),” after “section 1511 (obstruction of
 19 State or local law enforcement),”; and

20 (B) by inserting “section 2251A (selling or
 21 buying of children), section 2252A (relating to
 22 material constituting or containing child por-
 23 nography), section 1466A (relating to child ob-
 24 scenity), section 2260 (production of sexually
 25 explicit depictions of a minor for importation

1 into the United States), sections 2421, 2422,
 2 2423, and 2425 (relating to transportation for
 3 illegal sexual activity and related crimes),” after
 4 “sections 2251 and 2252 (sexual exploitation of
 5 children),”.

6 **SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUC-**
 7 **TION AND SEX CRIMES.**

8 Section 3283 of title 18, United States Code, is
 9 amended to read as follows:

10 **“§ 3283. Offenses against children**

11 “No statute of limitations that would otherwise pre-
 12 clude prosecution for an offense involving the sexual or
 13 physical abuse, or kidnapping, of a child under the age
 14 of 18 years shall preclude such prosecution during the life
 15 of the child.”.

16 **SEC. 203. NO PRETRIAL RELEASE FOR THOSE WHO RAPE**
 17 **OR KIDNAP CHILDREN.**

18 Section 3142(e) of title 18, United States Code, is
 19 amended—

20 (1) by striking “1901 et seq.), or” and insert-
 21 ing “1901 et seq.),”; and

22 (2) by striking “of title 18 of the United States
 23 Code” and inserting “of this title, or an offense in-
 24 volving a minor victim under section 1201, 1591,
 25 2241, 2242, 2244(a)(1), 2245, 2251, 2251A,

1 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
 2 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
 3 2421, 2422, 2423, or 2425 of this title”.

4 **SEC. 204. SUZANNE’S LAW.**

5 Section 3701(a) of the Crime Control Act of 1990
 6 (42 U.S.C. 5779(a)) is amended by striking “age of 18”
 7 and inserting “age of 21”.

8 **TITLE III—PUBLIC OUTREACH**
 9 **Subtitle A—AMBER Alert**

10 **SEC. 301. NATIONAL COORDINATION OF AMBER ALERT**
 11 **COMMUNICATIONS NETWORK.**

12 (a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the
 13 Department of Justice to act as the national coordinator
 14 of the AMBER Alert communications network regarding
 15 abducted children. The officer so designated shall be
 16 known as the AMBER Alert Coordinator of the Depart-
 17 ment of Justice.
 18 ment of Justice.

19 (b) DUTIES.—In acting as the national coordinator
 20 of the AMBER Alert communications network, the Coor-
 21 dinator shall—

22 (1) seek to eliminate gaps in the network, in-
 23 cluding gaps in areas of interstate travel;

1 (2) work with States to encourage the develop-
2 ment of additional elements (known as local
3 AMBER plans) in the network;

4 (3) work with States to ensure appropriate re-
5 gional coordination of various elements of the net-
6 work; and

7 (4) act as the nationwide point of contact for—

8 (A) the development of the network; and

9 (B) regional coordination of alerts on ab-
10 ducted children through the network.

11 (c) CONSULTATION WITH FEDERAL BUREAU OF IN-
12 VESTIGATION.—In carrying out duties under subsection
13 (b), the Coordinator shall notify and consult with the Di-
14 rector of the Federal Bureau of Investigation concerning
15 each child abduction for which an alert is issued through
16 the AMBER Alert communications network.

17 (d) COOPERATION.—The Coordinator shall cooperate
18 with the Secretary of Transportation and the Federal
19 Communications Commission in carrying out activities
20 under this section.

21 (e) REPORT.—Not later than March 1, 2005, the Co-
22 ordinator shall submit to Congress a report on the activi-
23 ties of the Coordinator and the effectiveness and status
24 of the AMBER plans of each State that has implemented

1 such a plan. The Coordinator shall prepare the report in
 2 consultation with the Secretary of Transportation.

3 **SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DIS-**
 4 **SEMINATION OF ALERTS THROUGH AMBER**
 5 **ALERT COMMUNICATIONS NETWORK.**

6 (a) ESTABLISHMENT OF MINIMUM STANDARDS.—
 7 Subject to subsection (b), the AMBER Alert Coordinator
 8 of the Department of Justice shall establish minimum
 9 standards for—

10 (1) the issuance of alerts through the AMBER
 11 Alert communications network; and

12 (2) the extent of the dissemination of alerts
 13 issued through the network.

14 (b) LIMITATIONS.—(1) The minimum standards es-
 15 tablished under subsection (a) shall be adoptable on a vol-
 16 untary basis only.

17 (2) The minimum standards shall, to the maximum
 18 extent practicable (as determined by the Coordinator in
 19 consultation with State and local law enforcement agen-
 20 cies), provide that appropriate information relating to the
 21 special needs of an abducted child (including health care
 22 needs) are disseminated to the appropriate law enforce-
 23 ment, public health, and other public officials.

24 (3) The minimum standards shall, to the maximum
 25 extent practicable (as determined by the Coordinator in

1 consultation with State and local law enforcement agen-
 2 cies), provide that the dissemination of an alert through
 3 the AMBER Alert communications network be limited to
 4 the geographic areas most likely to facilitate the recovery
 5 of the abducted child concerned.

6 (4) In carrying out activities under subsection (a),
 7 the Coordinator may not interfere with the current system
 8 of voluntary coordination between local broadcasters and
 9 State and local law enforcement agencies for purposes of
 10 the AMBER Alert communications network.

11 (c) COOPERATION.—(1) The Coordinator shall co-
 12 operate with the Secretary of Transportation and the Fed-
 13 eral Communications Commission in carrying out activi-
 14 ties under this section.

15 (2) The Coordinator shall also cooperate with local
 16 broadcasters and State and local law enforcement agencies
 17 in establishing minimum standards under this section.

18 **SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COM-**
 19 **MUNICATIONS SYSTEMS ALONG HIGHWAYS**
 20 **FOR RECOVERY OF ABDUCTED CHILDREN.**

21 (a) PROGRAM REQUIRED.—The Secretary of Trans-
 22 portation shall carry out a program to provide grants to
 23 States for the development or enhancement of notification
 24 or communications systems along highways for alerts and
 25 other information for the recovery of abducted children.

1 (b) DEVELOPMENT GRANTS.—

2 (1) IN GENERAL.—The Secretary may make a
3 grant to a State under this subsection for the devel-
4 opment of a State program for the use of changeable
5 message signs or other motorist information systems
6 to notify motorists about abductions of children. The
7 State program shall provide for the planning, coordi-
8 nation, and design of systems, protocols, and mes-
9 sage sets that support the coordination and commu-
10 nication necessary to notify motorists about abduc-
11 tions of children.

12 (2) ELIGIBLE ACTIVITIES.—A grant under this
13 subsection may be used by a State for the following
14 purposes:

15 (A) To develop general policies and proce-
16 dures to guide the use of changeable message
17 signs or other motorist information systems to
18 notify motorists about abductions of children.

19 (B) To develop guidance or policies on the
20 content and format of alert messages to be con-
21 veyed on changeable message signs or other
22 traveler information systems.

23 (C) To coordinate State, regional, and
24 local plans for the use of changeable message
25 signs or other transportation related issues.

1 (D) To plan secure and reliable commu-
 2 nications systems and protocols among public
 3 safety and transportation agencies or modify
 4 existing communications systems to support the
 5 notification of motorists about abductions of
 6 children.

7 (E) To plan and design improved systems
 8 for communicating with motorists, including the
 9 capability for issuing wide area alerts to motor-
 10 ists.

11 (F) To plan systems and protocols to fa-
 12 cilitate the efficient issuance of child abduction
 13 notification and other key information to motor-
 14 ists during off-hours.

15 (G) To provide training and guidance to
 16 transportation authorities to facilitate appro-
 17 priate use of changeable message signs and
 18 other traveler information systems for the noti-
 19 fication of motorists about abductions of chil-
 20 dren.

21 (c) IMPLEMENTATION GRANTS.—

22 (1) IN GENERAL.—The Secretary may make a
 23 grant to a State under this subsection for the imple-
 24 mentation of a program for the use of changeable
 25 message signs or other motorist information systems

1 to notify motorists about abductions of children. A
2 State shall be eligible for a grant under this sub-
3 section if the Secretary determines that the State
4 has developed a State program in accordance with
5 subsection (b).

6 (2) ELIGIBLE ACTIVITIES.—A grant under this
7 subsection may be used by a State to support the
8 implementation of systems that use changeable mes-
9 sage signs or other motorist information systems to
10 notify motorists about abductions of children. Such
11 support may include the purchase and installation of
12 changeable message signs or other motorist informa-
13 tion systems to notify motorists about abductions of
14 children.

15 (d) FEDERAL SHARE.—The Federal share of the cost
16 of any activities funded by a grant under this section may
17 not exceed 80 percent.

18 (e) DISTRIBUTION OF GRANT AMOUNTS.—The Sec-
19 retary shall, to the maximum extent practicable, distribute
20 grants under this section equally among the States that
21 apply for a grant under this section within the time period
22 prescribed by the Secretary.

23 (f) ADMINISTRATION.—The Secretary shall prescribe
24 requirements, including application requirements, for the
25 receipt of grants under this section.

1 (g) DEFINITION.—In this section, the term “State”
 2 means any of the 50 States, the District of Columbia, or
 3 Puerto Rico.

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
 5 authorized to be appropriated to the Secretary to carry
 6 out this section \$20,000,000 for fiscal year 2004. Such
 7 amounts shall remain available until expended.

8 (i) STUDY OF STATE PROGRAMS.—

9 (1) STUDY.—The Secretary shall conduct a
 10 study to examine State barriers to the adoption and
 11 implementation of State programs for the use of
 12 communications systems along highways for alerts
 13 and other information for the recovery of abducted
 14 children.

15 (2) REPORT.—Not later than 1 year after the
 16 date of enactment of this Act, the Secretary shall
 17 transmit to Congress a report on the results of the
 18 study, together with any recommendations the Sec-
 19 retary determines appropriate.

20 **SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER**
 21 **ALERT COMMUNICATIONS PLANS.**

22 (a) PROGRAM REQUIRED.—The Attorney General
 23 shall carry out a program to provide grants to States for
 24 the development or enhancement of programs and activi-

1 ties for the support of AMBER Alert communications
2 plans.

3 (b) ACTIVITIES.—Activities funded by grants under
4 the program under subsection (a) may include—

5 (1) the development and implementation of edu-
6 cation and training programs, and associated mate-
7 rials, relating to AMBER Alert communications
8 plans;

9 (2) the development and implementation of law
10 enforcement programs, and associated equipment,
11 relating to AMBER Alert communications plans;

12 (3) the development and implementation of new
13 technologies to improve AMBER Alert communica-
14 tions; and

15 (4) such other activities as the Attorney Gen-
16 eral considers appropriate for supporting the
17 AMBER Alert communications program.

18 (c) FEDERAL SHARE.—The Federal share of the cost
19 of any activities funded by a grant under the program
20 under subsection (a) may not exceed 50 percent.

21 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
22 GRAPHIC BASIS.—The Attorney General shall, to the max-
23 imum extent practicable, ensure the distribution of grants
24 under the program under subsection (a) on an equitable
25 basis throughout the various regions of the United States.

1 (e) ADMINISTRATION.—The Attorney General shall
 2 prescribe requirements, including application require-
 3 ments, for grants under the program under subsection (a).

4 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
 5 There is authorized to be appropriated for the Department
 6 of Justice \$5,000,000 for fiscal year 2004 to carry out
 7 this section and, in addition, \$5,000,000 for fiscal year
 8 2004 to carry out subsection (b)(3).

9 (2) Amounts appropriated pursuant to the authoriza-
 10 tion of appropriations in paragraph (1) shall remain avail-
 11 able until expended.

12 **SEC. 305. LIMITATION ON LIABILITY.**

13 (a) Except as provided in subsection (b), the National
 14 Center for Missing and Exploited Children, including any
 15 of its officers, employees, or agents, shall not be liable for
 16 damages in any civil action for defamation, libel, slander,
 17 or harm to reputation arising out of any action or commu-
 18 nication by the National Center for Missing and Exploited
 19 Children, its officers, employees, or agents, in connection
 20 with any clearinghouse, hotline or complaint intake or for-
 21 warding program or in connection with activity that is
 22 wholly or partially funded by the United States and under-
 23 taken in cooperation with, or at the direction of a Federal
 24 law enforcement agency.

1 (b) The limitation in subsection (a) does not apply
 2 in any action in which the plaintiff proves that the Na-
 3 tional Center for Missing and Exploited Children, its offi-
 4 cers, employees, or agents acted with actual malice, or pro-
 5 vided information or took action for a purpose unrelated
 6 to an activity mandated by Federal law. For purposes of
 7 this subsection, the prevention, or detection of crime, and
 8 the safety, recovery, or protection of missing or exploited
 9 children shall be deemed, per se, to be an activity man-
 10 dated by Federal law.

11 **Subtitle B—National Center for**
 12 **Missing and Exploited Children**

13 **SEC. 321. INCREASED SUPPORT.**

14 (a) IN GENERAL.—Section 408(a) of the Missing
 15 Children’s Assistance Act (42 U.S.C. 5777(a)) is amended
 16 by striking “fiscal years 2000 through 2003” and insert-
 17 ing “fiscal years 2004 through 2005.”.

18 (b) ANNUAL GRANT TO NATIONAL CENTER FOR
 19 MISSING AND EXPLOITED CHILDREN.—Section 404(b)(2)
 20 of the Missing Children’s Assistance Act (42 U.S.C.
 21 5773(b)(2)) is amended by striking “\$10,000,000 for each
 22 of fiscal years 2000, 2001, 2002, and 2003” and inserting
 23 “\$20,000,000 for each of the fiscal years 2004 through
 24 2005”.

1 **SEC. 322. FORENSIC AND INVESTIGATIVE SUPPORT OF**
 2 **MISSING AND EXPLOITED CHILDREN.**

3 Section 3056 of title 18, United States Code, is
 4 amended by adding at the end the following:

5 “(f) Under the direction of the Secretary of Home-
 6 land Security, officers and agents of the Secret Service
 7 are authorized, at the request of any State or local law
 8 enforcement agency, or at the request of the National Cen-
 9 ter for Missing and Exploited Children, to provide forensic
 10 and investigative assistance in support of any investigation
 11 involving missing or exploited children.”.

12 **SEC. 323. CREATION OF CYBER TIPLINE.**

13 Section 404(b)(1) of the Missing Children’s Assist-
 14 ance Act (42 U.S.C. 5773(b)(1)) is amended—

15 (1) in subparagraph (F), by striking “and” at
 16 the end;

17 (2) in subparagraph (G), by striking the period
 18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(H) coordinate the operation of a cyber
 21 tipline to provide online users an effective
 22 means of reporting Internet-related child sexual
 23 exploitation in the areas of—

24 “(i) distribution of child pornography;

25 “(ii) online enticement of children for
 26 sexual acts; and

“(iii) child prostitution.”.

Subtitle C—Sex Offender Apprehension Program

SEC. 341. AUTHORIZATION.

Section 1701(d) of part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) by redesignating paragraphs (10) and (11) as (11) and (12), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) assist a State in enforcing a law throughout the State which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply;”.

Subtitle D—Missing Children Procedures in Public Buildings

SEC. 361. SHORT TITLE.

This subtitle may be cited as the “Code Adam Act of 2003”.

SEC. 362. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) CHILD.—The term “child” means an individual who is 17 years of age or younger.

1 (2) CODE ADAM ALERT.—The term “Code
2 Adam alert” means a set of procedures used in pub-
3 lic buildings to alert employees and other users of
4 the building that a child is missing.

5 (3) DESIGNATED AUTHORITY.—The term “des-
6 ignated authority” means—

7 (A) with respect to a public building owned
8 or leased for use by an Executive agency—

9 (i) except as otherwise provided in
10 this paragraph, the Administrator of Gen-
11 eral Services;

12 (ii) in the case of the John F. Ken-
13 nedy Center for the Performing Arts, the
14 Board of Trustees of the John F. Kennedy
15 Center for the Performing Arts;

16 (iii) in the case of buildings under the
17 jurisdiction, custody, and control of the
18 Smithsonian Institution, the Board of Re-
19 gents of the Smithsonian Institution; or

20 (iv) in the case of another public
21 building for which an Executive agency
22 has, by specific or general statutory au-
23 thority, jurisdiction, custody, and control
24 over the building, the head of that agency;

1 (B) with respect to the Supreme Court
 2 Building, the Marshal of the Supreme Court;
 3 with respect to the Thurgood Marshall Federal
 4 Judiciary Building, the Director of the Admin-
 5 istrative Office of United States Courts; and
 6 with respect to all other public buildings owned
 7 or leased for use by an establishment in the ju-
 8 dicial branch of government, the General Serv-
 9 ices Administration in consultation with the
 10 United States Marshals Service; and

11 (C) with respect to a public building owned
 12 or leased for use by an establishment in the leg-
 13 islative branch of government, the Capitol Po-
 14 lice Board.

15 (4) EXECUTIVE AGENCY.—The term “Executive
 16 agency” has the same meaning such term has under
 17 section 105 of title 5, United States Code.

18 (5) FEDERAL AGENCY.—The term “Federal
 19 agency” means any Executive agency or any estab-
 20 lishment in the legislative or judicial branches of the
 21 Government.

22 (6) PUBLIC BUILDING.—The term “public
 23 building” means any building (or portion thereof)
 24 owned or leased for use by a Federal agency.

1 **SEC. 363. PROCEDURES IN PUBLIC BUILDINGS REGARDING**
2 **A MISSING OR LOST CHILD.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of enactment of this Act, the designated authority
5 for a public building shall establish procedures for locating
6 a child that is missing in the building.

7 (b) NOTIFICATION AND SEARCH PROCEDURES.—
8 Procedures established under this section shall provide, at
9 a minimum, for the following:

10 (1) Notifying security personnel that a child is
11 missing.

12 (2) Obtaining a detailed description of the
13 child, including name, age, eye and hair color,
14 height, weight, clothing, and shoes.

15 (3) Issuing a Code Adam alert and providing a
16 description of the child, using a fast and effective
17 means of communication.

18 (4) Establishing a central point of contact.

19 (5) Monitoring all points of egress from the
20 building while a Code Adam alert is in effect.

21 (6) Conducting a thorough search of the build-
22 ing.

23 (7) Contacting local law enforcement.

24 (8) Documenting the incident.

1 **Subtitle E—Child Advocacy Center**
 2 **Grants**

3 **SEC. 381. INFORMATION AND DOCUMENTATION REQUIRED**
 4 **BY ATTORNEY GENERAL UNDER VICTIMS OF**
 5 **CHILD ABUSE ACT OF 1990.**

6 (a) REGIONAL CHILDREN’S ADVOCACY CENTERS.—
 7 Section 213 of the Victims of Child Abuse Act of 1990
 8 (42 U.S.C. 13001b) is amended—

9 (1) in subsection (c)(4)—

10 (A) by striking “and” at the end of sub-
 11 paragraph (B)(ii);

12 (B) in subparagraph (B)(iii), by striking
 13 “Board” and inserting “board”; and

14 (C) by redesignating subparagraphs (C)
 15 and (D) as clauses (iv) and (v), respectively, of
 16 subparagraph (B), and by realigning such
 17 clauses so as to have the same indentation as
 18 the preceding clauses of subparagraph (B); and

19 (2) in subsection (e), by striking “Board” in
 20 each of paragraphs (1)(B)(ii), (2)(A), and (3), and
 21 inserting “board”.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—The text
 23 of section 214B of such Act (42 U.S.C. 13004) is amend-
 24 ed to read as follows:

1 “(a) SECTIONS 213 AND 214.—There are authorized
2 to be appropriated to carry out sections 213 and 214,
3 \$15,000,000 for each of fiscal years 2004 and 2005.

4 “(b) SECTION 214A.—There are authorized to be ap-
5 propriated to carry out section 214A, \$5,000,000 for each
6 of fiscal years 2004 and 2005.”.

7 **TITLE IV—SENTENCING REFORM**

8 **SEC. 401. SENTENCING REFORM.**

9 (a) ENFORCEMENT OF SENTENCING GUIDELINES
10 FOR CHILD ABDUCTION AND SEX OFFENSES.—Section
11 3553(b) of title 18, United States Code is amended—

12 (1) by striking “The court” and inserting the
13 following:

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), the court”; and

16 (2) by adding at the end the following:

17 “(2) CHILD CRIMES AND SEXUAL OFFENSES.—

18 “(A) SENTENCING.—In sentencing a de-
19 fendant convicted of an offense under section
20 1201 involving a minor victim, an offense under
21 section 1591, or an offense under chapter 71,
22 109A, 110, or 117, the court shall impose a
23 sentence of the kind, and within the range, re-
24 ferred to in subsection (a)(4) unless—

1 “(i) the court finds that there exists
2 an aggravating circumstance of a kind, or
3 to a degree, not adequately taken into con-
4 sideration by the Sentencing Commission
5 in formulating the guidelines that should
6 result in a sentence greater than that de-
7 scribed;

8 “(ii) the court finds that there exists
9 a mitigating circumstance of a kind or to
10 a degree, that—

11 “(I) has been affirmatively and
12 specifically identified as a permissible
13 ground of downward departure in the
14 sentencing guidelines or policy state-
15 ments issued under section 994(a) of
16 title 28, taking account of any amend-
17 ments to such sentencing guidelines or
18 policy statements by Congress;

19 “(II) has not been taken into
20 consideration by the Sentencing Com-
21 mission in formulating the guidelines;
22 and

23 “(III) should result in a sentence
24 different from that described; or

1 “(iii) the court finds, on motion of the
2 Government, that the defendant has pro-
3 vided substantial assistance in the inves-
4 tigation or prosecution of another person
5 who has committed an offense and that
6 this assistance established a mitigating cir-
7 cumstance of a kind, or to a degree, not
8 adequately taken into consideration by the
9 Sentencing Commission in formulating the
10 guidelines that should result in a sentence
11 lower than that described.

12 In determining whether a circumstance was adequately
13 taken into consideration, the court shall consider only the
14 sentencing guidelines, policy statements, and official com-
15 mentary of the Sentencing Commission, together with any
16 amendments thereto by act of Congress. In the absence
17 of an applicable sentencing guideline, the court shall im-
18 pose an appropriate sentence, having due regard for the
19 purposes set forth in subsection (a)(2). In the absence of
20 an applicable sentencing guideline in the case of an offense
21 other than a petty offense, the court shall also have due
22 regard for the relationship of the sentence imposed to sen-
23 tences prescribed by guidelines applicable to similar of-
24 fenses and offenders, and to the applicable policy state-
25 ments of the Sentencing Commission, together with any

1 amendments to such guidelines or policy statements by act
2 of Congress.”.

3 (b) CONFORMING AMENDMENTS TO GUIDELINES
4 MANUAL.—The Federal Sentencing Guidelines are
5 amended—

6 (1) in section 5K2.0—

7 (A) by striking “Under” and inserting the
8 following:

9 “(a) DOWNWARD DEPARTURES IN CRIMINAL CASES
10 OTHER THAN CHILD CRIMES AND SEXUAL OFFENSES.—
11 Under”; and

12 (B) by adding at the end the following:

13 “(b) DOWNWARD DEPARTURES IN CHILD CRIMES
14 AND SEXUAL OFFENSES.—

15 “Under 18 U.S.C. § 3553(b)(2), the sentencing court may
16 impose a sentence below the range established by the ap-
17 plicable guidelines only if the court finds that there exists
18 a mitigating circumstance of a kind, or to a degree, that—

19 “(1) has been affirmatively and specifically identified
20 as a permissible ground of downward departure in
21 the sentencing guidelines or policy statements issued
22 under section 994(a) of title 28, United States Code,
23 taking account of any amendments to such sen-
24 tencing guidelines or policy statements by act of
25 Congress;

1 “(2) has not adequately been taken into consider-
 2 ation by the Sentencing Commission in formulating
 3 the guidelines; and

4 “(3) should result in a sentence different from that
 5 described.

6 The grounds enumerated in this Part K of chapter 5 are
 7 the sole grounds that have been affirmatively and specifi-
 8 cally identified as a permissible ground of downward de-
 9 parture in these sentencing guidelines and policy state-
 10 ments. Thus, notwithstanding any other reference to au-
 11 thority to depart downward elsewhere in this Sentencing
 12 Manual, a ground of downward departure has not been
 13 affirmatively and specifically identified as a permissible
 14 ground of downward departure within the meaning of sec-
 15 tion 3553(b)(2) unless it is expressly enumerated in this
 16 Part K as a ground upon which a downward departure
 17 may be granted.”.

18 (2) At the end of part K of chapter 5, add the
 19 following:

20 **“§ 5K2.22 Specific Offender Characteristics as**
 21 **Grounds for Downward Departure in**
 22 **child crimes and sexual offenses (Policy**
 23 **Statement)**

24 “In sentencing a defendant convicted of an offense under
 25 section 1201 involving a minor victim, an offense under

1 section 1591, or an offense under chapter 71, 109A, 110,
 2 or 117 of title 18, United States Code, age may be a rea-
 3 son to impose a sentence below the applicable guideline
 4 range only if and to the extent permitted by § 5H1.1.

5 “An extraordinary physical impairment may be a reason
 6 to impose a sentence below the applicable guideline range
 7 only if and to the extent permitted by § 5H1.4. Drug, alco-
 8 hol, or gambling dependence or abuse is not a reason for
 9 imposing a sentence below the guidelines.”.

10 (3) Section 5K2.20 is amended by striking “A”
 11 and inserting “Except where a defendant is con-
 12 victed of an offense under section 1201 involving a
 13 minor victim, an offense under section 1591, or an
 14 offense under chapter 71, 109A, 110, or 117 of title
 15 18, United States Code, a”.

16 (4) Section 5H1.6 is amended by inserting after
 17 the first sentence the following: “In sentencing a de-
 18 fendant convicted of an offense under section 1201
 19 involving a minor victim, an offense under section
 20 1591, or an offense under chapter 71, 109A, 110,
 21 or 117 of title 18, United States Code, family ties
 22 and responsibilities and community ties are not rel-
 23 evant in determining whether a sentence should be
 24 below the applicable guideline range.”.

25 (5) Section 5K2.13 is amended by—

1 (A) striking “or” before “(3)”; and

2 (B) replacing “public” with “public; or (4)
3 the defendant has been convicted of an offense
4 under chapter 71, 109A, 110, or 117 of title
5 18, United States Code.”.

6 (c) STATEMENT OF REASONS FOR IMPOSING A SEN-
7 TENCE.—Section 3553(c) of title 18, United States Code,
8 is amended—

9 (1) by striking “described.” and inserting “de-
10 scribed, which reasons must also be stated with
11 specificity in the written order of judgment and com-
12 mitment, except to the extent that the court relies
13 upon statements received in camera in accordance
14 with Federal Rule of Criminal Procedure 32. In the
15 event that the court relies upon statements received
16 in camera in accordance with Federal Rule of Crimi-
17 nal Procedure 32 the court shall state that such
18 statements were so received and that it relied upon
19 the content of such statements.”;

20 (2) by inserting “, together with the order of
21 judgment and commitment,” after “the court’s
22 statement of reasons”; and

23 (3) by inserting “and to the Sentencing Com-
24 mission,” after “to the Probation System”.

1 (d) REVIEW OF A SENTENCE.—(1) The amendments
 2 effected by this subsection shall only apply in cases involv-
 3 ing offenses listed in section 5K2.22 of the federal sen-
 4 tencing guidelines.

5 (2) REVIEW OF DEPARTURES.—Section
 6 3742(e)(3) of title 18, United States Code, is
 7 amended to read as follows:

8 “(3) is outside the applicable guideline range,
 9 and

10 “(A) the district court failed to provide the
 11 written statement of reasons required by section
 12 3553(c);

13 “(B) the sentence departs from the appli-
 14 cable guideline range based on a factor that—

15 “(i) does not advance the objectives
 16 set forth in section 3553(a)(2); or

17 “(ii) is not authorized under section
 18 3553(b); or

19 “(iii) is not justified by the facts of
 20 the case; or

21 “(C) the sentence departs to an unreason-
 22 able degree from the applicable guidelines
 23 range, having regard for the factors to be con-
 24 sidered in imposing a sentence, as set forth in
 25 section 3553(a) of this title and the reasons for

1 the imposition of the particular sentence, as
 2 stated by the district court pursuant to the pro-
 3 visions of section 3553(c); or”.

4 (3) STANDARD OF REVIEW.—The last para-
 5 graph of section 3742(e) of title 18, United States
 6 Code, is amended by striking “shall give due def-
 7 erence to the district court’s application of the
 8 guidelines to the facts” and inserting “, except with
 9 respect to determinations under subsection (3)(A) or
 10 (3)(B), shall give due deference to the district
 11 court’s application of the guidelines to the facts.
 12 With respect to determinations under subsection
 13 (3)(A) or (3)(B), the court of appeals shall review
 14 de novo the district court’s application of the guide-
 15 lines to the facts”.

16 (4) DECISION AND DISPOSITION.—

17 (A) The first paragraph of section 3742(f)
 18 of title 18, United States Code, is amended by
 19 striking “the sentence”;

20 (B) Section 3742(f)(1) of title 18, United
 21 States Code, is amended by inserting “the sen-
 22 tence” before “was imposed”;

23 (C) Section 3742(f)(2) of title 18, United
 24 States Code, is amended to read as follows:

1 “(2) the sentence is outside the applicable
2 guideline range and the district court failed to pro-
3 vide the required statement of reasons in the order
4 of judgment and commitment, or the departure is
5 based on an impermissible factor, or is to an unrea-
6 sonable degree, or the sentence was imposed for an
7 offense for which there is no applicable sentencing
8 guideline and is plainly unreasonable, it shall state
9 specific reasons for its conclusions and—

10 “(A) if it determines that the sentence is
11 too high and the appeal has been filed under
12 subsection (a), it shall set aside the sentence
13 and remand the case for further sentencing pro-
14 ceedings with such instructions as the court
15 considers appropriate, subject to subsection (g);

16 “(B) if it determines that the sentence is
17 too low and the appeal has been filed under
18 subsection (b), it shall set aside the sentence
19 and remand the case for further sentencing pro-
20 ceedings with such instructions as the court
21 considers appropriate, subject to subsection
22 (g);”; and

23 (D) Section 3742(f)(3) of title 18, United
24 States Code, is amended by inserting “the sen-
25 tence” before “is not described”.

1 (e) IMPOSITION OF SENTENCE UPON REMAND.—The
 2 amendments effected by this subsection shall only apply
 3 in cases involving offenses listed in section 5K2.22 of the
 4 federal sentencing guidelines. Section 3742 of title 18,
 5 United States Code, is amended by redesignating sub-
 6 sections (g) and (h) as subsections (h) and (i) and by in-
 7 serting the following after subsection (f):

8 “(g) SENTENCING UPON REMAND.—A district court
 9 to which a case is remanded pursuant to subsection (f)(1)
 10 or (f)(2) shall resentence a defendant in accordance with
 11 section 3553 and with such instructions as may have been
 12 given by the court of appeals, except that—

13 “(1) In determining the range referred to in
 14 subsection 3553(a)(4), the court shall apply the
 15 guidelines issued by the Sentencing Commission pur-
 16 suant to section 994(a)(1) of title 28, United States
 17 Code, and that were in effect on the date of the pre-
 18 vious sentencing of the defendant prior to the ap-
 19 peal, together with any amendments thereto by any
 20 act of Congress that was in effect on such date; and

21 “(2) The court shall not impose a sentence out-
 22 side the applicable guidelines range except upon a
 23 ground that—

24 “(A) was specifically and affirmatively in-
 25 cluded in the written statement of reasons re-

1 quired by section 3553(c) in connection with
 2 the previous sentencing of the defendant prior
 3 to the appeal; and

4 “(B) was held by the court of appeals, in
 5 remanding the case, to be a permissible ground
 6 of departure.”.

7 (f) DEFINITIONS.—Section 3742 of title 18, United
 8 States Code, as amended by subsection (e), is further
 9 amended by adding at the end the following:

10 “(j) DEFINITIONS.—For purposes of this section—

11 “(1) a factor is a ‘permissible’ ground of depar-
 12 ture if it—

13 “(A) advances the objectives set forth in
 14 section 3553(a)(2); and

15 “(B) is authorized under section 3553(b);
 16 and

17 “(C) is justified by the facts of the case;
 18 and

19 “(2) a factor is an ‘impermissible’ ground of de-
 20 parture if it is not a permissible factor within the
 21 meaning of subsection (j)(1).”.

22 (g) REFORM OF GUIDELINES GOVERNING ACCEPT-
 23 ANCE OF RESPONSIBILITY.—The amendments effected by
 24 this subsection shall only apply in cases involving offenses
 25 listed in section 5K2.22 of the federal sentencing guide-

1 lines. Subject to subsection (j), the Guidelines Manual pro-
 2 mulgated by the Sentencing Commission pursuant to sec-
 3 tion 994(a) of title 28, United States Code, is amended—

4 (1) in section 3E1.1(b)—

5 (A) by inserting “upon motion of the gov-
 6 ernment stating that” immediately before “the
 7 defendant has assisted authorities”; and

8 (B) by striking “taking one or more” and
 9 all that follows through and including “addi-
 10 tional level” and insert “timely notifying au-
 11 thorities of his intention to enter a plea of
 12 guilty, thereby permitting the government to
 13 avoid preparing for trial and permitting the
 14 government and the court to allocate their re-
 15 sources efficiently, decrease the offense level by
 16 1 additional level”;

17 (2) in the Application Notes to the Commentary
 18 to section 3E1.1, by amending Application Note 6—

19 (A) by striking “one or both of”; and

20 (B) by adding the following new sentence
 21 at the end: “Because the Government is in the
 22 best position to determine whether the defend-
 23 ant has assisted authorities in a manner that
 24 avoids preparing for trial, an adjustment under
 25 subsection (b) may only be granted upon a for-

1 mal motion by the Government at the time of
 2 sentencing.”; and

3 (3) in the Background to section 3E1.1, by
 4 striking “one or more of”.

5 (h) IMPROVED DATA COLLECTION.—The amend-
 6 ments effected by this subsection shall only apply in cases
 7 involving offenses listed in section 5K2.22 of the federal
 8 sentencing guidelines. Section 994(w) of title 28, United
 9 States Code, is amended to read as follows:

10 “(w)(1) The Chief Judge of each district court shall
 11 ensure that, within 30 days following entry of judgment
 12 in every criminal case, the sentencing court submits to the
 13 Commission a written report of the sentence, the offense
 14 for which it is imposed, the age, race, sex of the offender,
 15 and information regarding factors made relevant by the
 16 guidelines. The report shall also include—

17 “(A) the judgment and commitment order;

18 “(B) the statement of reasons for the sentence
 19 imposed (which shall include the reason for any de-
 20 parture from the otherwise applicable guideline
 21 range);

22 “(C) any plea agreement;

23 “(D) the indictment or other charging docu-
 24 ment;

25 “(E) the presentence report; and

1 “(F) any other information as the Commission
2 finds appropriate.

3 “(2) The Commission shall, upon request, make
4 available to the House and Senate Committees on the Ju-
5 diciary, the written reports and all underlying records ac-
6 companying those reports described in this section, as well
7 as other records received from courts.

8 “(3) The Commission shall submit to Congress at
9 least annually an analysis of these documents, any rec-
10 ommendations for legislation that the Commission con-
11 cludes is warranted by that analysis, and an accounting
12 of those districts that the Commission believes have not
13 submitted the appropriate information and documents re-
14 quired by this section.

15 “(4) The Commission shall make available to the At-
16 torney General, upon request, such data files as the Com-
17 mission may assemble or maintain in electronic form that
18 include any information submitted under paragraph (1).
19 Such data files shall be made available in electronic form
20 and shall include all data fields requested, including the
21 identity of the sentencing judge.”.

22 (i) SENTENCING GUIDELINES AMENDMENTS.—(1)
23 Subject to subsection (j), the Guidelines Manual promul-
24 gated by the Sentencing Commission pursuant to section

1 994(a) of title 28, United States Code, is amended as fol-
 2 lows:

3 (A) Application Note 4(b)(i) to section 4B1.5 is
 4 amended to read as follows:

5 “(i) IN GENERAL.—For purposes of
 6 subsection (b), the defendant engaged in a
 7 pattern of activity involving prohibited sex-
 8 ual conduct if on at least two separate oc-
 9 casions, the defendant engaged in prohib-
 10 ited sexual conduct with a minor.”.

11 (B) Section 2G2.4(b) is amended by adding at
 12 the end the following:

13 “(4) If the offense involved material that por-
 14 trays sadistic or masochistic conduct or other depic-
 15 tions of violence, increase by 4 levels.

16 “(5) If the offense involved—

17 “(A) at least 10 images, but fewer than
 18 150, increase by 2 levels;

19 “(B) at least 150 images, but fewer than
 20 300, increase by 3 levels;

21 “(C) at least 300 images, but fewer than
 22 600, increase by 4 levels; and

23 “(D) 600 or more images, increase by 5
 24 levels.”.

1 (C) Section 2G2.2(b) is amended by adding at
2 the end the following:

3 “(6) If the offense involved—

4 “(A) at least 10 images, but fewer than
5 150, increase by 2 levels;

6 “(B) at least 150 images, but fewer than
7 300, increase by 3 levels;

8 “(C) at least 300 images, but fewer than
9 600, increase by 4 levels; and

10 “(D) 600 or more images, increase by 5
11 levels.”.

12 (2) The Sentencing Commission shall amend the Sen-
13 tencing Guidelines to ensure that the Guidelines ade-
14 quately reflect the seriousness of the offenses under sec-
15 tions 2243(b), 2244(a)(4), and 2244(b) of title 18, United
16 States Code.

17 (j) CONFORMING AMENDMENTS.—

18 (1) Upon enactment of this Act, the Sentencing
19 Commission shall forthwith distribute to all courts of
20 the United States and to the United States Proba-
21 tion System the amendments made by subsections
22 (b), (g), and (i) of this section to the sentencing
23 guidelines, policy statements, and official com-
24 mentary of the Sentencing Commission. These
25 amendments shall take effect upon the date of en-

1 actment of this Act, in accordance with paragraph
2 (5).

3 (2) On or before May 1, 2005, the Sentencing
4 Commission shall not promulgate any amendment to
5 the sentencing guidelines, policy statements, or offi-
6 cial commentary of the Sentencing Commission that
7 is inconsistent with any amendment made by sub-
8 section (b) or that adds any new grounds of down-
9 ward departure to Part K of chapter 5.

10 (3) With respect to cases covered by the amend-
11 ments made by subsection (i) of this section, the
12 Sentencing Commission may make further amend-
13 ments to the sentencing guidelines, policy state-
14 ments, or official commentary of the Sentencing
15 Commission, except that the Commission shall not
16 promulgate any amendments that, with respect to
17 such cases, would result in sentencing ranges that
18 are lower than those that would have applied under
19 such subsection.

20 (4) At no time may the Commission promulgate
21 any amendment that would alter or repeal the
22 amendments made by subsection (g) of this section.

23 (5) Section 3553(a) of title 18, United States
24 Code, is amended—

1 (A) by amending paragraph (4)(A) to read
2 as follows:

3 “(A) the applicable category of offense
4 committed by the applicable category of defend-
5 ant as set forth in the guidelines—

6 “(i) issued by the Sentencing Commis-
7 sion pursuant to section 994(a)(1) of title
8 28, United States Code, subject to any
9 amendments made to such guidelines by
10 act of Congress (regardless of whether
11 such amendments have yet to be incor-
12 porated by the Sentencing Commission
13 into amendments issued under section
14 994(p) of title 28); and

15 “(ii) that, except as provided in sec-
16 tion 3742(g), are in effect on the date the
17 defendant is sentenced; or”;

18 (B) in paragraph (4)(B), by inserting “,
19 taking into account any amendments made to
20 such guidelines or policy statements by act of
21 Congress (regardless of whether such amend-
22 ments have yet to be incorporated by the Sen-
23 tencing Commission into amendments issued
24 under section 994(p) of title 28)” after “Code”;

1 (C) by amending paragraph (5) to read as
2 follows:

3 “(5) any pertinent policy statement—

4 “(A) issued by the Sentencing Commission
5 pursuant to section 994(a)(2) of title 28,
6 United States Code, subject to any amendments
7 made to such policy statement by act of Con-
8 gress (regardless of whether such amendments
9 have yet to be incorporated by the Sentencing
10 Commission into amendments issued under sec-
11 tion 994(p) of title 28); and

12 “(B) that, except as provided in section
13 3742(g), is in effect on the date the defendant
14 is sentenced.”.

15 (k) COMPLIANCE WITH STATUTE.—The amendments
16 effected by this subsection shall only apply in cases involv-
17 ing offenses listed in section 5K2.22 of the federal sen-
18 tencing guidelines. Section 994(a) of title 28, United
19 States Code, is amended by striking “consistent with all
20 pertinent provisions of this title and title 18, United
21 States Code,” and inserting “consistent with all pertinent
22 provisions of any Federal statute”.

23 (l) REPORT BY ATTORNEY GENERAL.—

24 (1) DEFINED TERM.—For purposes of this sec-
25 tion, the term “report described in paragraph (3)”

1 means a report, submitted by the Attorney General,
2 which states in detail the policies and procedures
3 that the Department of Justice has adopted subse-
4 quent to the enactment of this Act—

5 (A) to ensure that Department of Justice
6 attorneys oppose sentencing adjustments, in-
7 cluding downward departures, that are not sup-
8 ported by the facts and the law;

9 (B) to ensure that Department of Justice
10 attorneys in such cases make a sufficient record
11 so as to permit the possibility of an appeal;

12 (C) to delineate objective criteria, specified
13 by the Attorney General, as to which such cases
14 may warrant consideration of an appeal, either
15 because of the nature or magnitude of the sen-
16 tencing error, its prevalence in the district, or
17 its prevalence with respect to a particular
18 judge;

19 (D) to ensure that Department of Justice
20 attorneys promptly notify the designated De-
21 partment of Justice component in Washington
22 concerning such adverse sentencing decisions;
23 and

1 (E) to ensure the vigorous pursuit of ap-
2 propriate and meritorious appeals of such ad-
3 verse decisions.

4 (2) REPORT REQUIRED.—

5 (A) IN GENERAL.—Not later than 15 days
6 after a district court’s grant of a downward de-
7 parture in any case, other than a case involving
8 a downward departure for substantial assist-
9 ance to authorities pursuant to section 5K1.1 of
10 the United States Sentencing Guidelines, the
11 Attorney General shall submit a report to the
12 Committees on the Judiciary of the House of
13 Representatives and the Senate containing the
14 information described under subparagraph (B).

15 (B) CONTENTS.—The report submitted
16 pursuant to subparagraph (A) shall set forth—

- 17 (i) the case;
18 (ii) the facts involved;
19 (iii) the identity of the district court
20 judge;
21 (iv) the district court’s stated reasons,
22 whether or not the court provided the
23 United States with advance notice of its in-
24 tention to depart; and

1 (v) the position of the parties with re-
2 spect to the downward departure, whether
3 or not the United States has filed, or in-
4 tends to file, a motion for reconsideration.

5 (C) APPEAL OF THE DEPARTURE.—Not
6 later than 5 days after a decision by the Solic-
7 itor General regarding the authorization of an
8 appeal of the departure, the Attorney General
9 shall submit a report to the Committees on the
10 Judiciary of the House of Representatives and
11 the Senate that describes the decision of the
12 Solicitor General and the basis for such deci-
13 sion.

14 (3) EFFECTIVE DATE.—Paragraph (2) shall
15 take effect on the day that is 91 days after the date
16 of enactment of this Act, except that such paragraph
17 shall not take effect if not more than 90 days after
18 the date of enactment of this Act the Attorney Gen-
19 eral has submitted to the Judiciary Committees of
20 the House of Representatives and the Senate the re-
21 port described in paragraph (3).

1 **TITLE V—OBSCENITY AND**
2 **PORNOGRAPHY**
3 **Subtitle A—Child Obscenity and**
4 **Pornography Prevention**

5 **SEC. 501. FINDINGS.**

6 Congress finds the following:

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

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

23 (3) The Government thus has a compelling in-
24 terest in ensuring that the criminal prohibitions
25 against child pornography remain enforceable and

1 effective. “The most expeditious if not the only prac-
2 tical method of law enforcement may be to dry up
3 the market for this material by imposing severe
4 criminal penalties on persons selling, advertising, or
5 otherwise promoting the product.” Ferber, 458 U.S.
6 at 760.

7 (4) In 1982, when the Supreme Court decided
8 Ferber, the technology did not exist to:

9 (A) computer generate depictions of chil-
10 dren that are indistinguishable from depictions
11 of real children;

12 (B) use parts of images of real children to
13 create a composite image that is unidentifiable
14 as a particular child and in a way that prevents
15 even an expert from concluding that parts of
16 images of real children were used; or

17 (C) disguise pictures of real children being
18 abused by making the image look computer-
19 generated.

20 (5) Evidence submitted to the Congress, includ-
21 ing from the National Center for Missing and Ex-
22 ploited Children, demonstrates that technology al-
23 ready exists to disguise depictions of real children to
24 make them unidentifiable and to make depictions of
25 real children appear computer-generated. The tech-

1 nology will soon exist, if it does not already, to com-
2 puter generate realistic images of children.

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

7 (7) There is no substantial evidence that any of
8 the child pornography images being trafficked today
9 were made other than by the abuse of real children.
10 Nevertheless, technological advances since Ferber
11 have led many criminal defendants to suggest that
12 the images of child pornography they possess are not
13 those of real children, insisting that the government
14 prove beyond a reasonable doubt that the images are
15 not computer-generated. Such challenges increased
16 significantly after the decision in *Ashcroft v. Free*
17 *Speech Coalition*, 535 U.S. 234 (2002).

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

1 even an expert conclusively to opine that a particular
2 image depicts a real child. If the original image has
3 been scanned from a paper version into a digital for-
4 mat, this task can be even harder since proper fo-
5 rensic assessment may depend on the quality of the
6 image scanned and the tools used to scan it.

7 (9) The impact of the Free Speech Coalition de-
8 cision on the Government's ability to prosecute child
9 pornography offenders is already evident. The Ninth
10 Circuit has seen a significant adverse effect on pros-
11 ecutions since the 1999 Ninth Circuit Court of Ap-
12 peals decision in *Free Speech Coalition*. After that
13 decision, prosecutions generally have been brought in
14 the Ninth Circuit only in the most clear-cut cases in
15 which the government can specifically identify the
16 child in the depiction or otherwise identify the origin
17 of the image. This is a fraction of meritorious child
18 pornography cases. The National Center for Missing
19 and Exploited Children testified that, in light of the
20 Supreme Court's affirmation of the Ninth Circuit
21 decision, prosecutors in various parts of the country
22 have expressed concern about the continued viability
23 of previously indicted cases as well as declined po-
24 tentially meritorious prosecutions.

1 (10) Since the Supreme Court’s decision in
2 Free Speech Coalition, defendants in child pornog-
3 raphy cases have almost universally raised the con-
4 tention that the images in question could be virtual,
5 thereby requiring the government, in nearly every
6 child pornography prosecution, to find proof that the
7 child is real. Some of these defense efforts have al-
8 ready been successful. In addition, the number of
9 prosecutions being brought has been significantly
10 and adversely affected as the resources required to
11 be dedicated to each child pornography case now are
12 significantly higher than ever before.

13 (11) Leading experts agree that, to the extent
14 that the technology exists to computer generate real-
15 istic images of child pornography, the cost in terms
16 of time, money, and expertise is—and for the fore-
17 seeable future will remain—prohibitively expensive.
18 As a result, for the foreseeable future, it will be
19 more cost-effective to produce child pornography
20 using real children. It will not, however, be difficult
21 or expensive to use readily available technology to
22 disguise those depictions of real children to make
23 them unidentifiable or to make them appear com-
24 puter-generated.

1 (12) Child pornography results from the abuse
2 of real children by sex offenders; the production of
3 child pornography is a byproduct of, and not the pri-
4 mary reason for, the sexual abuse of children. There
5 is no evidence that the future development of easy
6 and inexpensive means of computer generating real-
7 istic images of children would stop or even reduce
8 the sexual abuse of real children or the practice of
9 visually recording that abuse.

10 (13) In the absence of congressional action, the
11 difficulties in enforcing the child pornography laws
12 will continue to grow increasingly worse. The mere
13 prospect that the technology exists to create com-
14 posite or computer-generated depictions that are in-
15 distinguishable from depictions of real children will
16 allow defendants who possess images of real children
17 to escape prosecution; for it threatens to create a
18 reasonable doubt in every case of computer images
19 even when a real child was abused. This threatens
20 to render child pornography laws that protect real
21 children unenforceable. Moreover, imposing an addi-
22 tional requirement that the Government prove be-
23 yond a reasonable doubt that the defendant knew
24 that the image was in fact a real child—as some
25 courts have done—threatens to result in the de facto

1 legalization of the possession, receipt, and distribu-
 2 tion of child pornography for all except the original
 3 producers of the material.

4 (14) To avoid this grave threat to the Govern-
 5 ment's unquestioned compelling interest in effective
 6 enforcement of the child pornography laws that pro-
 7 tect real children, a statute must be adopted that
 8 prohibits a narrowly-defined subcategory of images.

9 (15) The Supreme Court's 1982 *Ferber v. New*
 10 York decision holding that child pornography was
 11 not protected drove child pornography off the shelves
 12 of adult bookstores. Congressional action is nec-
 13 essary now to ensure that open and notorious traf-
 14 ficking in such materials does not reappear, and
 15 even increase, on the Internet.

16 **SEC. 502. IMPROVEMENTS TO PROHIBITION ON VIRTUAL**
 17 **CHILD PORNOGRAPHY.**

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

20 (1) so that subparagraph (B) reads as follows:

21 “(B) such visual depiction is a digital
 22 image, computer image, or computer-generated
 23 image that is, or is indistinguishable from, that
 24 of a minor engaging in sexually explicit con-
 25 duct; or”:

1 (2) by striking “; or” at the end of subpara-
 2 graph (C) and inserting a period; and

3 (3) by striking subparagraph (D).

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 sim-
 8 ulated—

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

9 (c) Section 2256 is amended by inserting at the end
 10 the following new paragraphs:

11 “(10) ‘graphic’, when used with respect to a de-
 12 piction of sexually explicit conduct, means that a
 13 viewer can observe any part of the genitals or pubic
 14 area of any depicted person or animal during any
 15 part of the time that the sexually explicit conduct is
 16 being depicted; and

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

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

3 “(c) It shall be an affirmative defense to a charge
4 of violating paragraph (1), (2), (3)(A), (4), or (5) of sub-
5 section (a) that—

6 “(1)(A) the alleged child pornography was pro-
7 duced using an actual person or persons engaging in
8 sexually explicit conduct; and

9 “(B) each such person was an adult at the time
10 the material was produced; or

11 “(2) the alleged child pornography was not pro-
12 duced using any actual minor or minors.

13 No affirmative defense under subsection (c)(2) shall be
14 available in any prosecution that involves child pornog-
15 raphy as described in section 2256(8)(C). A defendant
16 may not assert an affirmative defense to a charge of vio-
17 lating paragraph (1), (2), (3)(A), (4), or (5) of subsection
18 (a) unless, within the time provided for filing pretrial mo-
19 tions or at such time prior to trial as the judge may direct,
20 but in no event later than 10 days before the commence-
21 ment of the trial, the defendant provides the court and
22 the United States with notice of the intent to assert such
23 defense and the substance of any expert or other special-
24 ized testimony or evidence upon which the defendant in-
25 tends to rely. If the defendant fails to comply with this

1 subsection, the court shall, absent a finding of extraor-
 2 dinary circumstances that prevented timely compliance,
 3 prohibit the defendant from asserting such defense to a
 4 charge of violating paragraph (1), (2), (3)(A), (4), or (5)
 5 of subsection (a) or presenting any evidence for which the
 6 defendant has failed to provide proper and timely notice.”.

7 **SEC. 503. CERTAIN ACTIVITIES RELATING TO MATERIAL**
 8 **CONSTITUTING OR CONTAINING CHILD POR-**
 9 **NOGRAPHY.**

10 Section 2252A of title 18, United States Code, is
 11 amended—

12 (1) in subsection (a)—

13 (A) by striking paragraph (3) and insert-
 14 ing the following:

15 “(3) knowingly—

16 “(A) reproduces any child pornography for
 17 distribution through the mails, or in interstate
 18 or foreign commerce by any means, including
 19 by computer; or

20 “(B) advertises, promotes, presents, dis-
 21 tributes, or solicits through the mails, or in
 22 interstate or foreign commerce by any means,
 23 including by computer, any material or pur-
 24 ported material in a manner that reflects the
 25 belief, or that is intended to cause another to

1 believe, that the material or purported material
2 is, or contains—

3 “(i) an obscene visual depiction of a
4 minor engaging in sexually explicit con-
5 duct; or

6 “(ii) a visual depiction of an actual
7 minor engaging in sexually explicit con-
8 duct;”;

9 (B) in paragraph (4), by striking “or” at
10 the end;

11 (C) in paragraph (5), by striking the
12 comma at the end and inserting “; or”; and

13 (D) by adding after paragraph (5) the fol-
14 lowing:

15 “(6) knowingly distributes, offers, sends, or
16 provides to a minor any visual depiction, including
17 any photograph, film, video, picture, or computer
18 generated image or picture, whether made or pro-
19 duced by electronic, mechanical, or other means,
20 where such visual depiction is, or appears to be, of
21 a minor engaging in sexually explicit conduct—

22 “(A) that has been mailed, shipped, or
23 transported in interstate or foreign commerce
24 by any means, including by computer;

1 “(B) that was produced using materials
2 that have been mailed, shipped, or transported
3 in interstate or foreign commerce by any
4 means, including by computer; or

5 “(C) which distribution, offer, sending, or
6 provision is accomplished using the mails or by
7 transmitting or causing to be transmitted any
8 wire communication in interstate or foreign
9 commerce, including by computer,
10 for purposes of inducing or persuading a minor to
11 participate in any activity that is illegal.”; and

12 (2) in subsection (b)(1), by striking “para-
13 graphs (1), (2), (3), or (4)” and inserting “para-
14 graph (1), (2), (3), (4), or (6)”.

15 **SEC. 504. OBSCENE CHILD PORNOGRAPHY.**

16 (a) IN GENERAL.—Chapter 71 of title 18, United
17 States Code, is amended by inserting after section 1466
18 the following:

19 **“§ 1466A. Obscene visual representations of the sex-**
20 **ual abuse of children**

21 “(a) IN GENERAL.—Any person who, in a cir-
22 cumstance described in subsection (d), knowingly pro-
23 duces, distributes, receives, or possesses with intent to dis-
24 tribute, a visual depiction of any kind, including a draw-
25 ing, cartoon, sculpture, or painting, that—

1 “(1)(A) depicts a minor engaging in sexually
2 explicit conduct; and

3 “(B) is obscene; or

4 “(2)(A) depicts an image that is, or appears to
5 be, of a minor engaging in graphic bestiality, sadis-
6 tic or masochistic abuse, or sexual intercourse, in-
7 cluding genital-genital, oral-genital, anal-genital, or
8 oral-anal, whether between persons of the same or
9 opposite sex; and

10 “(B) lacks serious literary, artistic, political, or
11 scientific value;

12 or attempts or conspires to do so, shall be subject to the
13 penalties provided in section 2252A(b)(1), including the
14 penalties provided for cases involving a prior conviction.

15 “(b) ADDITIONAL OFFENSES.—Any person who, in
16 a circumstance described in subsection (d), knowingly pos-
17 sesses a visual depiction of any kind, including a drawing,
18 cartoon, sculpture, or painting, that—

19 “(1)(A) depicts a minor engaging in sexually
20 explicit conduct; and

21 “(B) is obscene; or

22 “(2)(A) depicts an image that is, or appears to
23 be, of a minor engaging in graphic bestiality, sadis-
24 tic or masochistic abuse, or sexual intercourse, in-
25 cluding genital-genital, oral-genital, anal-genital, or

1 oral-anal, whether between persons of the same or
2 opposite sex; and

3 “(B) lacks serious literary, artistic, political, or
4 scientific value;

5 or attempts or conspires to do so, shall be subject to the
6 penalties provided in section 2252A(b)(2), including the
7 penalties provided for cases involving a prior conviction.

8 “(c) NONREQUIRED ELEMENT OF OFFENSE.—It is
9 not a required element of any offense under this section
10 that the minor depicted actually exist.

11 “(d) CIRCUMSTANCES.—The circumstance referred
12 to in subsections (a) and (b) is that—

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

20 “(2) any communication involved in or made in
21 furtherance of the offense contemplates the trans-
22 mission or transportation of a visual depiction by the
23 mail, or in interstate or foreign commerce by any
24 means, including by computer;

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

5 “(4) any visual depiction involved in the offense
6 has been mailed, or has been shipped or transported
7 in interstate or foreign commerce by any means, in-
8 cluding by computer, or was produced using mate-
9 rials that have been mailed, or that have been
10 shipped or transported in interstate or foreign com-
11 merce by any means, including by computer; or

12 “(5) the offense is committed in the special
13 maritime and territorial jurisdiction of the United
14 States or in any territory or possession of the
15 United States.

16 “(e) AFFIRMATIVE DEFENSE.—It shall be an affirm-
17 ative defense to a charge of violating subsection (b) that
18 the defendant—

19 “(1) possessed less than 3 such visual depic-
20 tions; and

21 “(2) promptly and in good faith, and without
22 retaining or allowing any person, other than a law
23 enforcement agency, to access any such visual depic-
24 tion—

1 “(A) took reasonable steps to destroy each
2 such visual depiction; or

3 “(B) reported the matter to a law enforce-
4 ment agency and afforded that agency access to
5 each such visual depiction.

6 “(f) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘visual depiction’ includes unde-
8 veloped film and videotape, and data stored on a
9 computer disk or by electronic means which is capa-
10 ble of conversion into a visual image, and also in-
11 cludes any photograph, film, video, picture, digital
12 image or picture, computer image or picture, or
13 computer generated image or picture, whether made
14 or produced by electronic, mechanical, or other
15 means;

16 “(2) the term ‘sexually explicit conduct’ has the
17 meaning given the term in section 2256(2)(A) or
18 2256(2)(B); and

19 “(3) the term ‘graphic’, when used with respect
20 to a depiction of sexually explicit conduct, means
21 that a viewer can observe any part of the genitals
22 or pubic area of any depicted person or animal dur-
23 ing any part of the time that the sexually explicit
24 conduct is being depicted.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The table of sections at the beginning of such chapter is
 3 amended by inserting after the item relating to section
 4 1466 the following new item:

“1466A. Obscene visual representations of the sexual abuse of children.”.

5 (c) SENTENCING GUIDELINES.—

6 (1) CATEGORY.—Except as provided in para-
 7 graph (2), the applicable category of offense to be
 8 used in determining the sentencing range referred to
 9 in section 3553(a)(4) of title 18, United States
 10 Code, with respect to any person convicted under
 11 section 1466A of such title, shall be the category of
 12 offenses described in section 2G2.2 of the Sen-
 13 tencing Guidelines.

14 (2) RANGES.—The Sentencing Commission may
 15 promulgate guidelines specifically governing offenses
 16 under section 1466A of title 18, United States Code,
 17 if such guidelines do not result in sentencing ranges
 18 that are lower than those that would have applied
 19 under paragraph (1).

20 **SEC. 505. ADMISSIBILITY OF EVIDENCE.**

21 Section 2252A of title 18, United States Code, is
 22 amended by adding at the end the following:

23 “(e) ADMISSIBILITY OF EVIDENCE.—On motion of
 24 the government, in any prosecution under this chapter or
 25 section 1466A, except for good cause shown, the name,

1 address, social security number, or other nonphysical iden-
 2 tifying information, other than the age or approximate
 3 age, of any minor who is depicted in any child pornog-
 4 raphy shall not be admissible and may be redacted from
 5 any otherwise admissible evidence, and the jury shall be
 6 instructed, upon request of the United States, that it can
 7 draw no inference from the absence of such evidence in
 8 deciding whether the child pornography depicts an actual
 9 minor.”.

10 **SEC. 506. EXTRATERRITORIAL PRODUCTION OF CHILD**
 11 **PORNOGRAPHY FOR DISTRIBUTION IN THE**
 12 **UNITED STATES.**

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

15 (1) by striking “subsection (d)” each place that
 16 term appears and inserting “subsection (e)”;

17 (2) by redesignating subsections (c) and (d) as
 18 subsections (d) and (e), respectively; and

19 (3) by inserting after subsection (b) the fol-
 20 lowing:

21 “(c)(1) Any person who, in a circumstance described
 22 in paragraph (2), employs, uses, persuades, induces, en-
 23 tices, or coerces any minor to engage in, or who has a
 24 minor assist any other person to engage in, any sexually
 25 explicit conduct outside of the United States, its territories

1 or possessions, for the purpose of producing any visual de-
 2 piction of such conduct, shall be punished as provided
 3 under subsection (e).

4 “(2) The circumstance referred to in paragraph (1)
 5 is that—

6 “(A) the person intends such visual depiction to
 7 be transported to the United States, its territories or
 8 possessions, by any means, including by computer or
 9 mail; or

10 “(B) the person transports such visual depic-
 11 tion to the United States, its territories or posses-
 12 sions, by any means, including by computer or
 13 mail.”.

14 **SEC. 507. STRENGTHENING ENHANCED PENALTIES FOR RE-**
 15 **PEAT OFFENDERS.**

16 Sections 2251(e) (as redesignated by section 506(2)),
 17 2252(b), and 2252A(b) of title 18, United States Code,
 18 are each amended—

19 (1) by inserting “chapter 71,” immediately be-
 20 fore each occurrence of “chapter 109A,”; and

21 (2) by inserting “or under section 920 of title
 22 10 (article 120 of the Uniform Code of Military Jus-
 23 tice),” immediately before each occurrence of “or
 24 under the laws”.

1 **SEC. 508. SERVICE PROVIDER REPORTING OF CHILD POR-**
 2 **NOGRAPHY AND RELATED INFORMATION.**

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

5 (1) in subsection (b)(1)—

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

7 and

8 (B) by inserting “or a violation of section
 9 1466A of that title,” after “of that title),”;

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

12 (3) by amending subsection (f)(1)(D) to read as
 13 follows:

14 “(D) where the report discloses a violation
 15 of State criminal law, to an appropriate official
 16 of a State or subdivision of a State for the pur-
 17 pose of enforcing such State law.”;

18 (4) by redesignating paragraph (3) of sub-
 19 section (b) as paragraph (4); and

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

22 “(3) In addition to forwarding such reports to
 23 those agencies designated in subsection (b)(2), the
 24 National Center for Missing and Exploited Children
 25 is authorized to forward any such report to an ap-

1 appropriate official of a state or subdivision of a state
2 for the purpose of enforcing state criminal law.”.

3 (b) Section 2702 of title 18, United States Code, is
4 amended—

5 (1) in subsection (b)—

6 (A) in paragraph (6), by striking subpara-
7 graph (B);

8 (B) by redesignating paragraphs (6) and
9 (7) as paragraphs (7) and (8) respectively;

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

12 (D) by inserting after paragraph (5) the
13 following new paragraph:

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

18 (2) in subsection (c)—

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

21 (B) by redesignating paragraph (5) as
22 paragraph (6); and

23 (C) by adding after paragraph (4) the fol-
24 lowing new paragraph:

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

5 **SEC. 509. INVESTIGATIVE AUTHORITY RELATING TO CHILD**
 6 **PORNOGRAPHY.**

7 Section 3486(a)(1)(C)(i) of title 18, United States
 8 Code, is amended by striking “the name, address” and
 9 all that follows through “subscriber or customer utilized”
 10 and inserting “the information specified in section
 11 2703(c)(2)”.

12 **SEC. 510. CIVIL REMEDIES.**

13 Section 2252A of title 18, United States Code, as
 14 amended by this Act, is amended by adding at the end
 15 the following:

16 “(f) CIVIL REMEDIES.—

17 “(1) IN GENERAL.—Any person aggrieved by
 18 reason of the conduct prohibited under subsection
 19 (a) or (b) or section 1466A may commence a civil
 20 action for the relief set forth in paragraph (2).

21 “(2) RELIEF.—In any action commenced in ac-
 22 cordance with paragraph (1), the court may award
 23 appropriate relief, including—

24 “(A) temporary, preliminary, or permanent
 25 injunctive relief;

1 “(B) compensatory and punitive damages;
 2 and
 3 “(C) the costs of the civil action and rea-
 4 sonable fees for attorneys and expert wit-
 5 nesses.”.

6 **SEC. 511. RECORDKEEPING REQUIREMENTS.**

7 (a) IN GENERAL.—Section 2257 of title 18, United
 8 States Code, is amended—

9 (1) in subsection (d)(2), by striking “of this
 10 section” and inserting “of this chapter or chapter
 11 71,”;

12 (2) in subsection (h)(3), by inserting “, com-
 13 puter generated image, digital image, or picture,”
 14 after “video tape”; and

15 (3) in subsection (i)—

16 (A) by striking “not more than 2 years”
 17 and inserting “not more than 5 years”; and

18 (B) by striking “5 years” and inserting
 19 “10 years”.

20 (b) REPORT.—Not later than 1 year after enactment
 21 of this Act, the Attorney General shall submit to Congress
 22 a report detailing the number of times since January 1993
 23 that the Department of Justice has inspected the records
 24 of any producer of materials regulated pursuant to section
 25 2257 of title 18, United States Code, and section 75 of

1 title 28 of the Code of Federal Regulations. The Attorney
 2 General shall indicate the number of violations prosecuted
 3 as a result of those inspections.

4 **SEC. 512. SENTENCING ENHANCEMENTS FOR INTERSTATE**
 5 **TRAVEL TO ENGAGE IN SEXUAL ACT WITH A**
 6 **JUVENILE.**

7 Pursuant to its authority under section 994(p) of title
 8 28, United States Code, and in accordance with this sec-
 9 tion, the United States Sentencing Commission shall re-
 10 view and, as appropriate, amend the Federal Sentencing
 11 Guidelines and policy statements to ensure that guideline
 12 penalties are adequate in cases that involve interstate
 13 travel with the intent to engage in a sexual act with a
 14 juvenile in violation of section 2423 of title 18, United
 15 States Code, to deter and punish such conduct.

16 **SEC. 513. MISCELLANEOUS PROVISIONS.**

17 (a) APPOINTMENT OF TRIAL ATTORNEYS.—

18 (1) IN GENERAL.—Not later than 6 months
 19 after the date of enactment of this Act, the Attorney
 20 General shall appoint 25 additional trial attorneys to
 21 the Child Exploitation and Obscenity Section of the
 22 Criminal Division of the Department of Justice or to
 23 appropriate U.S. Attorney's Offices, and those trial
 24 attorneys shall have as their primary focus, the in-

1 investigation and prosecution of Federal child pornog-
2 raphy and obscenity laws.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to the De-
5 partment of Justice such sums as may be necessary
6 to carry out this subsection.

7 (b) REPORT TO CONGRESSIONAL COMMITTEES.—

8 (1) IN GENERAL.—Not later than 9 months
9 after the date of enactment of this Act, and every
10 2 years thereafter, the Attorney General shall report
11 to the Chairpersons and Ranking Members of the
12 Committees on the Judiciary of the Senate and the
13 House of Representatives on the Federal enforce-
14 ment actions under chapter 110 or section 1466A of
15 title 18, United States Code.

16 (2) CONTENTS.—The report required under
17 paragraph (1) shall include—

18 (A) an evaluation of the prosecutions
19 brought under chapter 110 or section 1466A of
20 title 18, United States Code;

21 (B) an outcome-based measurement of per-
22 formance; and

23 (C) an analysis of the technology being
24 used by the child pornography industry.

1 (c) SENTENCING GUIDELINES.—Pursuant to its au-
 2 thority under section 994(p) of title 28, United States
 3 Code, and in accordance with this section, the United
 4 States Sentencing Commission shall review and, as appro-
 5 priate, amend the Federal Sentencing Guidelines and pol-
 6 icy statements to ensure that the guidelines are adequate
 7 to deter and punish conduct that involves a violation of
 8 paragraph (3)(B) or (6) of section 2252A(a) of title 18,
 9 United States Code, as created by this Act. With respect
 10 to the guidelines for section 2252A(a)(3)(B), the Commis-
 11 sion shall consider the relative culpability of promoting,
 12 presenting, describing, or distributing material in violation
 13 of that section as compared with solicitation of such mate-
 14 rial.

15 **Subtitle B—Truth in Domain** 16 **Names**

17 **SEC. 521. MISLEADING DOMAIN NAMES ON THE INTERNET.**

18 (a) IN GENERAL.—Chapter 110 of title 18, United
 19 States Code, is amended by inserting after section 2252A
 20 the following:

21 **“§ 2252B. Misleading domain names on the Internet**

22 “(a) Whoever knowingly uses a misleading domain
 23 name on the Internet with the intent to deceive a person
 24 into viewing material constituting obscenity shall be fined

1 under this title or imprisoned not more than 2 years, or
 2 both.

3 “(b) Whoever knowingly uses a misleading domain
 4 name on the Internet with the intent to deceive a minor
 5 into viewing material that is harmful to minors on the
 6 Internet shall be fined under this title or imprisoned not
 7 more than 4 years, or both.

8 “(c) For the purposes of this section, a domain name
 9 that includes a word or words to indicate the sexual con-
 10 tent of the site, such as ‘sex’ or ‘porn’, is not misleading.

11 “(d) For the purposes of this section, the term ‘mate-
 12 rial that is harmful to minors’ means any communication,
 13 consisting of nudity, sex, or excretion, that, taken as a
 14 whole and with reference to its context—

15 “(1) predominantly appeals to a prurient inter-
 16 est of minors;

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

20 “(3) lacks serious literary, artistic, political, or
 21 scientific value for minors.

22 “(e) For the purposes of subsection (d), the term
 23 ‘sex’ means acts of masturbation, sexual intercourse, or
 24 physcial contact with a person’s genitals, or the condition

1 of human male or female genitals when in a state of sexual
2 stimulation or arousal.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 110 of title 18, United States
5 Code, is amended by inserting after the item relating to
6 section 2252A the following new item:

“2252B. Misleading domain names on the Internet.”.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. PENALTIES FOR USE OF MINORS IN CRIMES OF VIOLENCE.

(a) Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“§ 25. Use of minors in crimes of violence

“(a) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) CRIME OF VIOLENCE.—The term ‘crime of violence’ has the meaning set forth in section 16.

“(2) MINOR.—The term ‘minor’ means a person who has not reached 18 years of age.

“(3) USES.—The term ‘uses’ means employs, hires, persuades, induces, entices, or coerces.

“(b) PENALTIES.—Any person who is 18 years of age or older, who intentionally uses a minor to commit a crime of violence for which such person may be prosecuted in a court of the United States, or to assist in

avoiding detection or apprehension for such an offense, shall—

“(1) for the first conviction, be subject to twice the maximum term of imprisonment and twice the maximum fine that would otherwise be authorized for the offense; and

“(2) for each subsequent conviction, be subject to 3 times the maximum term of imprisonment and 3 times the maximum fine that would otherwise be authorized for the offense.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“25. Use of minors in crimes of violence.”.

1 SEC. 602. SENSE OF CONGRESS.

2 (a) FOCUS OF INVESTIGATION AND PROSECUTION.—

3 It is the sense of Congress that the Child Exploitation and
4 Obscenity Section of the Criminal Division of the Depart-
5 ment of Justice should focus its investigative and prosecu-
6 torial efforts on major producers, distributors, and sellers
7 of obscene material and child pornography that use mis-
8 leading methods to market their material to children.

9 (b) VOLUNTARY LIMITATION ON WEBSITE FRONT
10 PAGES.—It is the sense of Congress that the online com-
11 mercial adult entertainment industry should voluntarily

1 refrain from placing obscenity, child pornography, or ma-
 2 terial that is harmful to minors on the front pages of their
 3 websites to protect juveniles from material that may nega-
 4 tively impact their social, moral, and psychological devel-
 5 opment.

6 **SEC. 603. COMMUNICATIONS DECENCY ACT OF 1996.**

7 Section 223 of the Communications Act of 1934 (47
 8 U.S.C. 223) is amended—

9 (1) in subsection (a)(1)—

10 (A) in subparagraph (A), by striking “,
 11 lewd, lascivious, filthy, or indecent” and insert-
 12 ing “or child pornography”; and

13 (B) in subparagraph (B), by striking “in-
 14 decent” and inserting “child pornography”; and

15 (2) in subsection (d)(1), by striking “, in con-
 16 text, depicts or describes, in terms patently offensive
 17 as measured by contemporary community standards,
 18 sexual or excretory activities or organs” and insert-
 19 ing “is obscene or child pornography”.

20 **SEC. 604. INTERNET AVAILABILITY OF INFORMATION CON-**
 21 **CERNING REGISTERED SEX OFFENDERS.**

22 (a) IN GENERAL.—Section 170101(e)(2) of the Vio-
 23 lent Crime Control and Law Enforcement Act of 1994 (42
 24 U.S.C. 14071(e)(2)) is amended by adding at the end the
 25 following: “The release of information under this para-

1 graph shall include the maintenance of an Internet site
 2 containing such information that is available to the public
 3 and instructions on the process for correcting information
 4 that a person alleges to be erroneous.”.

5 (b) COMPLIANCE DATE.—Each State shall imple-
 6 ment the amendment made by this section within 3 years
 7 after the date of enactment of this Act, except that the
 8 Attorney General may grant an additional 2 years to a
 9 State that is making a good faith effort to implement the
 10 amendment made by this section.

11 (c) NATIONAL INTERNET SITE.—The Crimes Against
 12 Children Section of the Criminal Division of the Depart-
 13 ment of Justice shall create a national Internet site that
 14 links all State Internet sites established pursuant to this
 15 section.

16 **SEC. 605. REGISTRATION OF CHILD PORNOGRAPHERS IN**
 17 **THE NATIONAL SEX OFFENDER REGISTRY.**

18 (a) JACOB WETTERLING CRIMES AGAINST CHIL-
 19 DREN AND SEXUALLY VIOLENT OFFENDER REGISTRA-
 20 TION PROGRAM.—Section 170101 of the Violent Crime
 21 Control and Law Enforcement Act of 1994 (42 U.S.C.
 22 14071) is amended—

23 (1) by striking the section heading and insert-
 24 ing the following:

1 **“SEC. 170101. JACOB WETTERLING CRIMES AGAINST CHIL-**
2 **DREN AND SEXUALLY VIOLENT OFFENDER**
3 **REGISTRATION PROGRAM.”;**

4 and

5 (2) in subsection (a)(3)—

6 (A) in clause (vii), by striking “or” at the
7 end;

8 (B) by redesignating clause (viii) as clause
9 (ix); and

10 (C) by inserting after clause (vii) the fol-
11 lowing:

12 “(viii) production or distribution of
13 child pornography, as described in section
14 2251, 2252, or 2252A of title 18, United
15 States Code; or”.

16 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
17 are authorized to be appropriated to the Department of
18 Justice, for each of fiscal years 2004 through 2007, such
19 sums as may be necessary to carry out the amendments
20 made by this section.

21 **SEC. 606. GRANTS TO STATES FOR COSTS OF COMPLIANCE**
22 **WITH NEW SEX OFFENDER REGISTRY RE-**
23 **QUIREMENTS.**

24 Section 170101(i)(3) of the Violent Crime Control
25 and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)(3))
26 is amended to read as follows:

1 “(3) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated for each of
 3 the fiscal years 2004 through 2007 such sums as
 4 may be necessary to carry out the provisions of sec-
 5 tion 1701(d)(10) of the Omnibus Crime Control and
 6 Safe Streets Act of 1968 (42 U.S.C.
 7 3796dd(d)(10)), as added by the PROTECT Act.”.

8 **SEC. 607. SAFE ID ACT.**

9 (a) SHORT TITLE.—This section may be cited as the
 10 “Secure Authentication Feature and Enhanced Identifica-
 11 tion Defense Act of 2003” or “SAFE ID Act”.

12 (b) FRAUD AND FALSE STATEMENTS.—

13 (1) OFFENSES.—Section 1028(a) of title 18,
 14 United States Code, is amended—

15 (A) in paragraph (1), by inserting “, au-
 16 thentication feature,” after “an identification
 17 document”;

18 (B) in paragraph (2)—

19 (i) by inserting “, authentication fea-
 20 ture,” after “an identification document”;
 21 and

22 (ii) by inserting “or feature” after
 23 “such document”;

24 (C) in paragraph (3), by inserting “, au-
 25 thentication features,” after “possessor”);

1 (D) in paragraph (4)—

2 (i) by inserting “, authentication fea-
3 ture,” after “possessor”); and

4 (ii) by inserting “or feature” after
5 “such document”;

6 (E) in paragraph (5), by inserting “or au-
7 thentication feature” after “implement” each
8 place that term appears;

9 (F) in paragraph (6)—

10 (i) by inserting “or authentication fea-
11 ture” before “that is or appears”;

12 (ii) by inserting “or authentication
13 feature” before “of the United States”;

14 (iii) by inserting “or feature” after
15 “such document”; and

16 (iv) by striking “or” at the end;

17 (G) in paragraph (7), by inserting “or”
18 after the semicolon; and

19 (H) by inserting after paragraph (7) the
20 following:

21 “(8) knowingly traffics in false authentication
22 features for use in false identification documents,
23 document-making implements, or means of identi-
24 fication;”.

1 (2) PENALTIES.—Section 1028(b) of title 18,
2 United States Code, is amended—

3 (A) in paragraph (1)—

4 (i) in subparagraph (A)—

5 (I) by inserting “, authentication
6 feature,” before “or false”; and

7 (II) in clause (i), by inserting “or
8 authentication feature” after “docu-
9 ment”; and

10 (ii) in subparagraph (B), by inserting
11 “, authentication features,” before “or
12 false”; and

13 (B) in paragraph (2)(A), by inserting “,
14 authentication feature,” before “or a false”.

15 (3) CIRCUMSTANCES.—Section 1028(c)(1) of
16 title 18, United States Code, is amended by insert-
17 ing “, authentication feature,” before “or false”
18 each place that term appears.

19 (4) DEFINITIONS.—Section 1028(d) of title 18,
20 United States Code, is amended—

21 (A) by redesignating paragraphs (1), (2),
22 (3), (4), (5), (6), (7), and (8) as paragraphs
23 (2), (3), (4), (7), (8), (9), (10), and (11), re-
24 spectively;

1 (B) by inserting before paragraph (2), as
2 redesignated, the following:

3 “(1) the term ‘authentication feature’ means
4 any hologram, watermark, certification, symbol,
5 code, image, sequence of numbers or letters, or other
6 feature that either individually or in combination
7 with another feature is used by the issuing authority
8 on an identification document, document-making im-
9 plement, or means of identification to determine if
10 the document is counterfeit, altered, or otherwise
11 falsified;”;

12 (C) in paragraph (4)(A), as redesignated,
13 by inserting “or was issued under the authority
14 of a governmental entity but was subsequently
15 altered for purposes of deceit” after “entity”;

16 (D) by inserting after paragraph (4), as
17 redesignated, the following:

18 “(5) the term ‘false authentication feature’
19 means an authentication feature that—

20 “(A) is genuine in origin, but, without the
21 authorization of the issuing authority, has been
22 tampered with or altered for purposes of deceit;

23 “(B) is genuine, but has been distributed,
24 or is intended for distribution, without the au-
25 thorization of the issuing authority and not in

1 connection with a lawfully made identification
 2 document, document-making implement, or
 3 means of identification to which such authen-
 4 tication feature is intended to be affixed or em-
 5 bedded by the respective issuing authority; or

6 “(C) appears to be genuine, but is not;

7 “(6) the term ‘issuing authority’—

8 “(A) means any governmental entity or
 9 agency that is authorized to issue identification
 10 documents, means of identification, or authen-
 11 tication features; and

12 “(B) includes the United States Govern-
 13 ment, a State, a political subdivision of a State,
 14 a foreign government, a political subdivision of
 15 a foreign government, or an international gov-
 16 ernment or quasi-governmental organization;”;

17 (E) in paragraph (10), as redesignated, by
 18 striking “and” at the end;

19 (F) in paragraph (11), as redesignated, by
 20 striking the period at the end and inserting “;
 21 and”; and

22 (G) by adding at the end the following:

23 “(12) the term ‘traffic’ means—

1 “(A) to transport, transfer, or otherwise
2 dispose of, to another, as consideration for any-
3 thing of value; or

4 “(B) to make or obtain control of with in-
5 tent to so transport, transfer, or otherwise dis-
6 pose of.”.

7 (5) **ADDITIONAL PENALTIES.**—Section 1028 of
8 title 18, United States Code, is amended—

9 (A) by redesignating subsection (h) as sub-
10 section (i); and

11 (B) by inserting after subsection (g) the
12 following:

13 “(h) **FORFEITURE; DISPOSITION.**—In the cir-
14 cumstance in which any person is convicted of a violation
15 of subsection (a), the court shall order, in addition to the
16 penalty prescribed, the forfeiture and destruction or other
17 disposition of all illicit authentication features, identifica-
18 tion documents, document-making implements, or means
19 of identification.”.

20 (6) **TECHNICAL AND CONFORMING AMEND-**
21 **MENT.**—Section 1028 of title 18, United States
22 Code, is amended in the heading by inserting “, **AU-**
23 **THENTICATION FEATURES,**” after “**DOCU-**
24 **MENTS**”.

1 **SEC. 608. ILLICIT DRUG ANTI-PROLIFERATION ACT.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Illicit Drug Anti-Proliferation Act of 2003”.

4 (b) OFFENSES.—

5 (1) IN GENERAL.—Section 416(a) of the Con-
6 trolled Substances Act (21 U.S.C. 856(a)) is amend-
7 ed—

8 (A) in paragraph (1), by striking “open or
9 maintain any place” and inserting “open, lease,
10 rent, use, or maintain any place, whether per-
11 manently or temporarily,”; and

12 (B) by striking paragraph (2) and insert-
13 ing the following:

14 “(2) manage or control any place, whether per-
15 manently or temporarily, either as an owner, lessee,
16 agent, employee, occupant, or mortgagee, and know-
17 ingly and intentionally rent, lease, profit from, or
18 make available for use, with or without compensa-
19 tion, the place for the purpose of unlawfully manu-
20 facturing, storing, distributing, or using a controlled
21 substance.”.

22 (2) TECHNICAL AMENDMENT.—The heading to
23 section 416 of the Controlled Substances Act (21
24 U.S.C. 856) is amended to read as follows:

1 **“SEC. 416. MAINTAINING DRUG-INVOLVED PREMISES.”.**

2 (3) CONFORMING AMENDMENT.—The table of
3 contents to title II of the Comprehensive Drug
4 Abuse and Prevention Act of 1970 is amended by
5 striking the item relating to section 416 and insert-
6 ing the following:

“Sec. 416. Maintaining drug-involved premises.”.

7 (c) CIVIL PENALTY AND EQUITABLE RELIEF FOR
8 MAINTAINING DRUG-INVOLVED PREMISES.—Section 416
9 of the Controlled Substances Act (21 U.S.C. 856) is
10 amended by adding at the end the following:

11 “(d)(1) Any person who violates subsection (a) shall
12 be subject to a civil penalty of not more than the greater
13 of—

14 “(A) \$250,000; or

15 “(B) 2 times the gross receipts, either known or
16 estimated, that were derived from each violation that
17 is attributable to the person.

18 “(2) If a civil penalty is calculated under paragraph
19 (1)(B), and there is more than 1 defendant, the court may
20 apportion the penalty between multiple violators, but each
21 violator shall be jointly and severally liable for the civil
22 penalty under this subsection.

23 “(e) Any person who violates subsection (a) shall be
24 subject to declaratory and injunctive remedies as set forth
25 in section 403(f).”.

1 (d) DECLARATORY AND INJUNCTIVE REMEDIES.—
2 Section 403(f)(1) of the Controlled Substances Act (21
3 U.S.C. 843(f)(1)) is amended by striking “this section or
4 section 402” and inserting “this section, section 402, or
5 416”.

6 (e) SENTENCING COMMISSION GUIDELINES.—The
7 United States Sentencing Commission shall—

8 (1) review the Federal sentencing guidelines
9 with respect to offenses involving gamma hydroxy-
10 butyric acid (GHB);

11 (2) consider amending the Federal sentencing
12 guidelines to provide for increased penalties such
13 that those penalties reflect the seriousness of of-
14 fenses involving GHB and the need to deter them;
15 and

16 (3) take any other action the Commission con-
17 siders necessary to carry out this section.

18 (f) AUTHORIZATION OF APPROPRIATIONS FOR A DE-
19 MAND REDUCTION COORDINATOR.—There is authorized
20 to be appropriated \$5,900,000 to the Drug Enforcement
21 Administration of the Department of Justice for the hiring
22 of a special agent in each State to serve as a Demand
23 Reduction Coordinator.

24 (g) AUTHORIZATION OF APPROPRIATIONS FOR DRUG
25 EDUCATION.—There is authorized to be appropriated

1 such sums as necessary to the Drug Enforcement Admin-
 2 istration of the Department of Justice to educate youth,
 3 parents, and other interested adults about club drugs.

4 **SEC. 609. DEFINITION OF VEHICLE.**

5 Section 1993(c) of title 18, United States Code, is
 6 amended—

7 (1) in paragraph (7), by striking “and” at the
 8 end;

9 (2) in paragraph (8), by striking the period at
 10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(9) the term ‘vehicle’ means any carriage or
 13 other contrivance used, or capable of being used, as
 14 a means of transportation on land, water, or
 15 through the air.”.

16 **SEC. 610. AUTHORIZATION OF JOHN DOE DNA INDICT-**
 17 **MENTS.**

18 (a) LIMITATION.—Section 3282 of title 18, United
 19 States Code, is amended—

20 (1) by striking “Except” and inserting the fol-
 21 lowing:

22 “(a) IN GENERAL.—Except”; and

23 (2) by adding at the end the following:

24 “(b) DNA PROFILE INDICTMENT.—

1 “(1) IN GENERAL.—In any indictment for an
 2 offense under chapter 109A for which the identity of
 3 the accused is unknown, it shall be sufficient to de-
 4 scribe the accused as an individual whose name is
 5 unknown, but who has a particular DNA profile.

6 “(2) EXCEPTION.—Any indictment described
 7 under paragraph (1), which is found not later than
 8 5 years after the offense under chapter 109A is com-
 9 mitted, shall not be subject to—

10 “(A) the limitations period described under
 11 subsection (a); and

12 “(B) the provisions of chapter 208 until
 13 the individual is arrested or served with a sum-
 14 mons in connection with the charges contained
 15 in the indictment.

16 “(3) DEFINED TERM.—For purposes of this
 17 subsection, the term ‘DNA profile’ means a set of
 18 DNA identification characteristics.”.

19 (b) RULES OF CRIMINAL PROCEDURE.—Rule 7(c)(1)
 20 of the Federal Rules of Criminal Procedure is amended
 21 by adding at the end the following: “For purposes of an
 22 indictment referred to in section 3282 of title 18, United
 23 States Code, for which the identity of the defendant is un-
 24 known, it shall be sufficient for the indictment to describe
 25 the defendant as an individual whose name is unknown,

1 but who has a particular DNA profile, as that term is de-
 2 fined in that section 3282.”.

3 **SEC. 611. TRANSITIONAL HOUSING ASSISTANCE GRANTS**
 4 **FOR CHILD VICTIMS OF DOMESTIC VIO-**
 5 **LENCE, STALKING, OR SEXUAL ASSAULT.**

6 Subtitle B of the Violence Against Women Act of
 7 1994 (42 U.S.C. 13701 note; 108 Stat. 1925) is amended
 8 by adding at the end the following:

9 **“CHAPTER 11—TRANSITIONAL HOUSING**
 10 **ASSISTANCE GRANTS FOR CHILD VIC-**
 11 **TIMS OF DOMESTIC VIOLENCE, STALK-**
 12 **ING, OR SEXUAL ASSAULT**

13 **“SEC. 40299. TRANSITIONAL HOUSING ASSISTANCE GRANTS**
 14 **FOR CHILD VICTIMS OF DOMESTIC VIO-**
 15 **LENCE, STALKING, OR SEXUAL ASSAULT.**

16 “(a) IN GENERAL.—The Attorney General, acting in
 17 consultation with the Director of the Violence Against
 18 Women Office of the Department of Justice, shall award
 19 grants under this section to States, units of local govern-
 20 ment, Indian tribes, and other organizations (referred to
 21 in this section as the ‘recipient’) to carry out programs
 22 to provide assistance to minors, adults, and their depend-
 23 ents—

1 “(1) who are homeless, or in need of transi-
 2 tional housing or other housing assistance, as a re-
 3 sult of fleeing a situation of domestic violence; and

4 “(2) for whom emergency shelter services or
 5 other crisis intervention services are unavailable or
 6 insufficient.

7 “(b) GRANTS.—Grants awarded under this section
 8 may be used for programs that provide—

9 “(1) short-term housing assistance, including
 10 rental or utilities payments assistance and assistance
 11 with related expenses such as payment of security
 12 deposits and other costs incidental to relocation to
 13 transitional housing for persons described in sub-
 14 section (a); and

15 “(2) support services designed to enable a
 16 minor, an adult, or a dependent of such minor or
 17 adult, who is fleeing a situation of domestic violence
 18 to—

19 “(A) locate and secure permanent housing;
 20 and

21 “(B) integrate into a community by pro-
 22 viding that minor, adult, or dependent with
 23 services, such as transportation, counseling,
 24 child care services, case management, employ-
 25 ment counseling, and other assistance.

1 “(c) DURATION.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), a minor, an adult, or a dependent, who
4 receives assistance under this section shall receive
5 that assistance for not more than 18 months.

6 “(2) WAIVER.—The recipient of a grant under
7 this section may waive the restriction under para-
8 graph (1) for not more than an additional 6 month
9 period with respect to any minor, adult, or depend-
10 ent, who—

11 “(A) has made a good-faith effort to ac-
12 quire permanent housing; and

13 “(B) has been unable to acquire perma-
14 nent housing.

15 “(d) APPLICATION—

16 “(1) IN GENERAL.—Each eligible entity desir-
17 ing a grant under this section shall submit an appli-
18 cation to the Attorney General at such time, in such
19 manner, and accompanied by such information as
20 the Attorney General may reasonably require.

21 “(2) CONTENTS.—Each application submitted
22 pursuant to paragraph (1) shall—

23 “(A) describe the activities for which as-
24 sistance under this section is sought; and

1 “(B) provide such additional assurances as
2 the Attorney General determines to be essential
3 to ensure compliance with the requirements of
4 this section.

5 “(3) APPLICATION.—Nothing in this subsection
6 shall be construed to require—

7 “(A) victims to participate in the criminal
8 justice system in order to receive services; or

9 “(B) domestic violence advocates to breach
10 client confidentiality.

11 “(e) REPORT TO THE ATTORNEY GENERAL—

12 “(1) IN GENERAL.—A recipient of a grant
13 under this section shall annually prepare and submit
14 to the Attorney General a report describing—

15 “(A) the number of minors, adults, and de-
16 pendents assisted under this section; and

17 “(B) the types of housing assistance and
18 support services provided under this section.

19 “(2) CONTENTS.—Each report prepared and
20 submitted pursuant to paragraph (1) shall include
21 information regarding—

22 “(A) the amount of housing assistance pro-
23 vided to each minor, adult, or dependent, as-
24 sisted under this section and the reason for that
25 assistance;

1 “(B) the number of months each minor,
2 adult, or dependent, received assistance under
3 this section;

4 “(C) the number of minors, adults, and de-
5 pendents who—

6 “(i) were eligible to receive assistance
7 under this section; and

8 “(ii) were not provided with assistance
9 under this section solely due to a lack of
10 available housing; and

11 “(D) the type of support services provided
12 to each minor, adult, or dependent, assisted
13 under this section.

14 “(f) REPORT TO CONGRESS.—

15 “(1) REPORTING REQUIREMENT.—The Attor-
16 ney General, with the Director of the Violence
17 Against Women Office, shall annually prepare and
18 submit to the Committee on the Judiciary of the
19 House of Representatives and the Committee on the
20 Judiciary of the Senate a report that contains a
21 compilation of the information contained in the re-
22 port submitted under subsection (e).

23 “(2) AVAILABILITY OF REPORT.—In order to
24 coordinate efforts to assist the victims of domestic
25 violence, the Attorney General, in coordination with

1 the Director of the Violence Against Women Office,
 2 shall transmit a copy of the report submitted under
 3 paragraph (1) to—

4 “(A) the Office of Community Planning
 5 and Development at the United States Depart-
 6 ment of Housing and Urban Development; and

7 “(B) the Office of Women’s Health at the
 8 United States Department of Health and
 9 Human Services.

10 “(g) AUTHORIZATION OF APPROPRIATIONS.—

11 “(1) IN GENERAL.—There are authorized to be
 12 appropriated to carry out this section \$30,000,000
 13 for each of the fiscal years 2004 through 2008.

14 “(2) LIMITATIONS.—Of the amount made avail-
 15 able to carry out this section in any fiscal year, not
 16 more than 3 percent may be used by the Attorney
 17 General for salaries and administrative expenses.

18 “(3) MINIMUM AMOUNT.—

19 “(A) IN GENERAL.—Except as provided in
 20 subparagraph (B), unless all eligible applica-
 21 tions submitted by any States, units of local
 22 government, Indian tribes, or organizations
 23 within a State for a grant under this section
 24 have been funded, that State, together with the
 25 grantees within the State (other than Indian

1 tribes), shall be allocated in each fiscal year,
2 not less than 0.75 percent of the total amount
3 appropriated in the fiscal year for grants pursu-
4 ant to this section.

5 “(B) EXCEPTION.—The United States Vir-
6 gin Islands, American Samoa, Guam, and the
7 Northern Mariana Islands shall each be allo-
8 cated not less than 0.25 percent of the total
9 amount appropriated in the fiscal year for
10 grants pursuant to this section.”.

○