

109TH CONGRESS  
1ST SESSION

# S. 956

To amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Mr. GRASSLEY (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Jetseta Gage Preven-  
5       tion and Deterrence of Crimes Against Children Act of  
6       2005”.

1 **SEC. 2. ASSURED PUNISHMENT FOR VIOLENT CRIMES**  
2 **AGAINST CHILDREN.**

3 (a) SPECIAL SENTENCING RULE.—Subsection (d) of  
4 section 3559 of title 18, United States Code, is amended  
5 to read as follows:

6 “(d) MANDATORY MINIMUM TERMS OF IMPRISON-  
7 MENT FOR VIOLENT CRIMES AGAINST CHILDREN.—A  
8 person who is convicted of a Federal crime of violence  
9 against the person of an individual who has not attained  
10 the age of 15 years shall, unless a greater mandatory min-  
11 imum sentence of imprisonment is otherwise provided by  
12 law and regardless of any maximum term of imprisonment  
13 otherwise provided for the offense—

14 “(1) if the crime of violence results in the death  
15 of a person who has not attained the age of 15  
16 years, be sentenced to death or life in prison;

17 “(2) if the crime of violence is a kidnaping, sex-  
18 ual assault, or maiming, (or an attempt or con-  
19 spiracy to commit one of those) or results in serious  
20 bodily injury (as defined in section 1365) be impris-  
21 oned for life or for any term of years not less than  
22 30;

23 “(3) if the crime of violence results in bodily in-  
24 jury (as defined in section 1365) to a person who  
25 has not attained the age of 12 years, be imprisoned  
26 for life or for any term of years not less than 15;

1 “(4) if a dangerous weapon was used during  
 2 and in relation to the crime of violence, be impris-  
 3 oned for life or for any term of years not less than  
 4 10; and

5 “(5) in any other case, be imprisoned for life or  
 6 for any term of years not less than 2.”.

7 **SEC. 3. INCREASED PENALTIES FOR SEXUAL OFFENSES**  
 8 **AGAINST CHILDREN.**

9 (a) SEXUAL ABUSE.—

10 (1) AGGRAVATED SEXUAL ABUSE OF CHIL-  
 11 DREN.—Section 2241(c) of title 18, United States  
 12 Code, is amended by striking “, imprisoned for any  
 13 term of years or life, or both.” and inserting “and  
 14 imprisoned for not less than 30 years or for life.”.

15 (2) ABUSIVE SEXUAL CONTACT WITH CHIL-  
 16 DREN.—Section 2244 of chapter 109A of title 18,  
 17 United States Code, is amended—

18 (A) in subsection (a)—

19 (i) in paragraph (1), by inserting “(a)  
 20 or (b)” after “section 2241”;

21 (ii) by redesignating paragraphs (2),  
 22 (3), and (4) as paragraphs (3), (4), and  
 23 (5), respectively; and

24 (iii) by inserting after paragraph (1)  
 25 the following:

1 “(2) subsection (c) of section 2241 of this title  
 2 had the sexual contact been a sexual act, shall be  
 3 fined under this title and imprisoned for not less  
 4 than 10 years and not more than 25 years;” and

5 (B) in subsection (c), by inserting “(other  
 6 than subsection (a)(2))” after “violates this sec-  
 7 tion”.

8 (3) SEXUAL ABUSE OF CHILDREN RESULTING  
 9 IN DEATH.—Section 2245 of title 18, United States  
 10 Code, is amended—

11 (A) by striking “A person” and inserting  
 12 “(a) IN GENERAL.—A person”; and

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

14 “(b) OFFENSES INVOLVING YOUNG CHILDREN.—A  
 15 person who, in the course of an offense under this chapter,  
 16 engages in conduct that results in the death of a person  
 17 who has not attained the age of 12 years, shall be pun-  
 18 ished by death or imprisoned for not less than 30 years  
 19 or for life.”.

20 (b) SEXUAL EXPLOITATION AND OTHER ABUSE OF  
 21 CHILDREN.—

22 (1) SEXUAL EXPLOITATION OF CHILDREN.—  
 23 Section 2251(e) of title 18, United States Code, is  
 24 amended—

1 (A) by striking “15 years nor more than  
2 30 years” and inserting “25 years or for life”;

3 (B) by striking “not less than 25 years nor  
4 more than 50 years, but if such person has 2  
5 or more prior convictions under this chapter,  
6 chapter 71, chapter 109A, or chapter 117, or  
7 under section 920 of title 10 (article 120 of the  
8 Uniform Code of Military Justice), or under the  
9 laws of any State relating to the sexual exploi-  
10 tation of children, such person shall be fined  
11 under this title and imprisoned not less than 35  
12 years nor more than life.” and inserting “life.”;  
13 and

14 (C) by striking “any term of years or for  
15 life” and inserting “not less than 30 years or  
16 for life.”.

17 (2) ACTIVITIES RELATING TO MATERIAL IN-  
18 VOLVING THE SEXUAL EXPLOITATION OF CHIL-  
19 DREN.—Section 2252(b) of title 18, United States  
20 Code, is amended—

21 (A) in paragraph (1)—

22 (i) by striking “5 years and not more  
23 than 20 years” and inserting “25 years or  
24 for life”; and

1 (ii) by striking “not less than 15  
 2 years nor more than 40 years.” and insert-  
 3 ing “life.”; and

4 (B) in paragraph (2)—

5 (i) by striking “or imprisoned for not  
 6 more than” and inserting “and imprisoned  
 7 for”;

8 (ii) by striking “, or both”; and

9 (iii) by striking “10 years nor more  
 10 than 20 years.” and inserting “30 years or  
 11 for life.”.

12 (3) ACTIVITIES RELATING TO MATERIAL CON-  
 13 STITUTING OR CONTAINING CHILD PORNOGRAPHY.—  
 14 Section 2252A(b) of title 18, United States Code, is  
 15 amended—

16 (A) in paragraph (1)—

17 (i) by striking “5 years and not more  
 18 than 20 years” and inserting “25 years or  
 19 for life”; and

20 (ii) by striking “not less than 15  
 21 years nor more than 40 years” and insert-  
 22 ing “life”; and

23 (B) in paragraph (2)—

1 (i) by striking “or imprisoned not  
 2 more than 10 years, or both” and inserting  
 3 “and imprisoned for 10 years”; and

4 (ii) by striking “10 years nor more  
 5 than 20 years” and inserting “30 years or  
 6 for life”.

7 (4) USING MISLEADING DOMAIN NAMES TO DI-  
 8 RECT CHILDREN TO HARMFUL MATERIAL ON THE  
 9 INTERNET.—Section 2252B(b) of title 18, United  
 10 States Code, is amended by striking “or imprisoned  
 11 not more than 4 years, or both” and inserting “im-  
 12 prisoned for 10 years”.

13 (5) PRODUCTION OF SEXUALLY EXPLICIT DE-  
 14 PICTIONS OF CHILDREN.—Section 2260(c) of title  
 15 18, United States Code, is amended by striking  
 16 paragraphs (1) and (2) and inserting the following:

17 “(1) shall be fined under this title and impris-  
 18 oned for 25 years; and

19 “(2) if the person has a prior conviction under  
 20 this chapter or chapter 109A, shall be fined under  
 21 this title and imprisoned for life.”.

22 (c) CONDUCT RELATING TO CHILD PROSTITU-  
 23 TION.—Section 2423 of title 18, United States Code, is  
 24 amended—

1           (1) in subsection (a), by striking “5 years and  
2           not more than 30 years” and inserting “30 years or  
3           for life”;

4           (2) in subsection (b), by striking “or impris-  
5           oned not more than 30 years, or both” and inserting  
6           “and imprisoned for not less than 10 years and not  
7           more than 30 years”;

8           (3) in subsection (c), by striking “or imprisoned  
9           not more than 30 years, or both” and inserting “and  
10          imprisoned for not less than 10 years and not more  
11          than 30 years”; and

12          (4) in subsection (d), by striking “, imprisoned  
13          not more than 30 years, or both” and inserting “and  
14          imprisoned for 30 years”.

15 **SEC. 4. ENSURING FAIR AND EXPEDITIOUS FEDERAL COL-**  
16 **LATERAL REVIEW OF CONVICTIONS FOR**  
17 **KILLING A CHILD.**

18          (a) **SHORT TITLE.**—This section may be cited as the  
19 “Christy Ann Fornoff Act”.

20          (b) **LIMITS ON CASES.**—Section 2254 of title 28,  
21 United States Code, is amended by adding at the end the  
22 following:

23          “(j)(1) A court, justice, or judge shall not have juris-  
24 diction to consider any claim relating to the judgment or  
25 sentence in an application described under paragraph (2),



1 unless the applicant shows that the claim qualifies for con-  
 2 sideration on the grounds described in subsection (e)(2).  
 3 Any such application that is presented to a court, justice,  
 4 or judge other than a district court shall be transferred  
 5 to the appropriate district court for consideration or dis-  
 6 missal in conformity with this subsection, except that a  
 7 court of appeals panel must authorize any second or suc-  
 8 cessive application in conformity with section 2244 before  
 9 any consideration by the district court.

10 “(2) This subsection applies to an application for a  
 11 writ of habeas corpus on behalf of a person in custody  
 12 pursuant to the judgment of a State court for a crime  
 13 that involved the killing of a individual who has not at-  
 14 tained the age of 18 years.

15 “(3) For an application described in paragraph (2),  
 16 the following requirements shall apply in the district court:

17 “(A) Any motion by either party for an evi-  
 18 dentiary hearing shall be filed and served not later  
 19 than 90 days after the State files its answer or, if  
 20 no timely answer is filed, the date on which such an-  
 21 swer is due.

22 “(B) Any motion for an evidentiary hearing  
 23 shall be granted or denied not later than 30 days  
 24 after the date on which the party opposing such mo-  
 25 tion files a pleading in opposition to such motion or,

1 if no timely pleading in opposition is filed, the date  
2 on which such pleading in opposition is due.

3 “(C) Any evidentiary hearing shall be—

4 “(i) convened not less than 60 days after  
5 the order granting such hearing; and

6 “(ii) completed not more than 150 days  
7 after the order granting such hearing.

8 “(D) A district court shall enter a final order,  
9 granting or denying the application for a writ of ha-  
10 beas corpus, not later than 15 months after the date  
11 on which the State files its answer or, if no timely  
12 answer is filed, the date on which such answer is  
13 due, or not later than 60 days after the case is sub-  
14 mitted for decision, whichever is earlier.

15 “(E) If the district court fails to comply with  
16 the requirements of this paragraph, the State may  
17 petition the court of appeals for a writ of mandamus  
18 to enforce the requirements. The court of appeals  
19 shall grant or deny the petition for a writ of man-  
20 damus not later than 30 days after such petition is  
21 filed with the court.

22 “(4) For an application described in paragraph (2),  
23 the following requirements shall apply in the court of ap-  
24 peals:

1           “(A) A timely filed notice of appeal from an  
2           order issuing a writ of habeas corpus shall operate  
3           as a stay of that order pending final disposition of  
4           the appeal.

5           “(B) The court of appeals shall decide the ap-  
6           peal from an order granting or denying a writ of ha-  
7           beas corpus—

8                   “(i) not later than 120 days after the date  
9                   on which the brief of the appellee is filed or, if  
10                  no timely brief is filed, the date on which such  
11                  brief is due; or

12                   “(ii) if a cross-appeal is filed, not later  
13                  than 120 days after the date on which the ap-  
14                  pellant files a brief in response to the issues  
15                  presented by the cross-appeal or, if no timely  
16                  brief is filed, the date on which such brief is  
17                  due.

18           “(C)(i) Following a decision by a panel of the  
19           court of appeals under subparagraph (B), a petition  
20           for panel rehearing is not allowed, but rehearing by  
21           the court of appeals en banc may be requested. The  
22           court of appeals shall decide whether to grant a peti-  
23           tion for rehearing en banc not later than 30 days  
24           after the date on which the petition is filed, unless  
25           a response is required, in which case the court shall

1       decide whether to grant the petition not later than  
2       30 days after the date on which the response is filed  
3       or, if no timely response is filed, the date on which  
4       the response is due.

5           “(ii) If rehearing en banc is granted, the court  
6       of appeals shall make a final determination of the  
7       appeal not later than 120 days after the date on  
8       which the order granting rehearing en banc is en-  
9       tered.

10          “(D) If the court of appeals fails to comply  
11       with the requirements of this paragraph, the State  
12       may petition the Supreme Court or a justice thereof  
13       for a writ of mandamus to enforce the requirements.

14          “(5)(A) The time limitations under paragraphs (3)  
15       and (4) shall apply to an initial application described in  
16       paragraph (2), any second or successive application de-  
17       scribed in paragraph (2), and any redetermination of an  
18       application described in paragraph (2) or related appeal  
19       following a remand by the court of appeals or the Supreme  
20       Court for further proceedings.

21          “(B) In proceedings following remand in the district  
22       court, time limits running from the time the State files  
23       its answer under paragraph (3) shall run from the date  
24       the remand is ordered if further briefing is not required  
25       in the district court. If there is further briefing following

1 remand in the district court, such time limits shall run  
 2 from the date on which a responsive brief is filed or, if  
 3 no timely responsive brief is filed, the date on which such  
 4 brief is due.

5 “(C) In proceedings following remand in the court of  
 6 appeals, the time limit specified in paragraph (4)(B) shall  
 7 run from the date the remand is ordered if further briefing  
 8 is not required in the court of appeals. If there is further  
 9 briefing in the court of appeals, the time limit specified  
 10 in paragraph (4)(B) shall run from the date on which a  
 11 responsive brief is filed or, if no timely responsive brief  
 12 is filed, from the date on which such brief is due.

13 “(6) The failure of a court to meet or comply with  
 14 a time limitation under this subsection shall not be a  
 15 ground for granting relief from a judgment of conviction  
 16 or sentence, nor shall the time limitations under this sub-  
 17 section be construed to entitle a capital applicant to a stay  
 18 of execution, to which the applicant would otherwise not  
 19 be entitled, for the purpose of litigating any application  
 20 or appeal.”.

21 (c) RIGHTS ASSOCIATED WITH HABEAS CORPUS  
 22 PROCEEDINGS.—Section 3771(b) of title 18, United  
 23 States Code, is amended by adding at the end the fol-  
 24 lowing: “The rights established for crime victims by this  
 25 section shall also be extended in a Federal habeas corpus

1 proceeding arising out of a State conviction to victims of  
2 the State offense at issue.”

3 (d) APPLICATION TO PENDING CASES.—

4 (1) IN GENERAL.—The amendments made by  
5 this section shall apply to cases pending on or after  
6 the date of enactment of this Act.

7 (2) TIME LIMITS.—In a case pending on the  
8 date of enactment of this Act, if the amendments  
9 made by this section provide that a time limit runs  
10 from an event or time that has occurred prior to  
11 such date of enactment, the time limit shall run in-  
12 stead from such date of enactment.

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