

110TH CONGRESS
1ST SESSION

H. R. 3148

To eliminate child pornography.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2007

Mrs. MUSGRAVE introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To eliminate child pornography.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Pornography
5 Elimination Act of 2007”.

6 **SEC. 2. MANDATORY MINIMUM FOR POSSESSION OF CHILD**
7 **PORNOGRAPHY.**

8 (a) SEXUAL EXPLOITATION.—Section 2252(b)(2) of
9 title 18, United States Code, is amended by striking “or
10 imprisoned not more than 10 years, or both” and inserting
11 “and imprisoned not less than 2 years nor more than 15
12 years”.

1 (b) PORNOGRAPHY.—Section 2252A(b)(2) of title 18,
 2 United States Code, is amended by striking “or impris-
 3 oned not more than 10 years, or both” and inserting “and
 4 imprisoned not less than 2 years nor more than 15 years”.

5 **SEC. 3. STRENGTHENING SECTION 13032 OF TITLE 42,**
 6 **UNITED STATES CODE, TO ENSURE THAT**
 7 **CHILD PORNOGRAPHY IS EFFECTIVELY RE-**
 8 **PORTED.**

9 Section 227(b)(2) of the Victims of Child Abuse Act
 10 of 1990 (42 U.S.C. 13032) is amended to read as follows:

11 “(4) FAILURE TO REPORT.—

12 “(A) KNOWINGLY.—A provider of elec-
 13 tronic communication services or remote com-
 14 puting services described in paragraph (1) who
 15 knowingly and willfully fails to make a report
 16 under that paragraph shall be fined—

17 “(i) in the case of an initial failure to
 18 make a report, not more than \$150,000;
 19 and

20 “(ii) in the case of any second or sub-
 21 sequent failure to make a report, not more
 22 than \$300,000.

23 “(B) NEGLIGENCE.—A provider of elec-
 24 tronic communication services or remote com-
 25 puting services described in paragraph (1) who

negligently fails to make a report under that paragraph shall be subject to a civil penalty of—

“(i) in the case of an initial failure to make a report, not more than \$50,000; and

“(ii) in the case of any second or subsequent failure to make a report, not more than \$100,000.

“(C) FCC AUTHORITY.—For the purposes of this paragraph, the Federal Communications Commission shall have the authority to levy civil penalties and shall promulgate regulations, in consultation with the Attorney General, to effectuate the purposes of this paragraph and to provide for appropriate administrative review of any civil penalties levied thereunder.”.

SEC. 4. KNOWINGLY ACCESSING CHILD PORNOGRAPHY.

Section 2252(a) of title 18, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by inserting after “possesses,” the following: “or knowingly accesses with intent to view,”;

1 (B) in subparagraph (B), by inserting
 2 after “possesses,” the following: “or knowingly
 3 accesses with intent to view,”; and
 4 (2) in paragraph (5)—

5 (A) in subparagraph (A), by inserting after
 6 “possesses,” the following: “or knowingly ac-
 7 cesses with intent to view,”; and

8 (B) in subparagraph (B), by inserting
 9 after “possesses,” the following: “or knowingly
 10 accesses with intent to view,”.

11 **SEC. 5. CONSPIRACY PROVISION FOR CHAPTER 77 OF-**
 12 **FENSES.**

13 Section 1594(a) of title 18, United States Code, is
 14 amended by inserting after “attempts” the following: “or
 15 conspires to”.

16 **SEC. 6. MANDATORY RESTITUTION FOR CERTAIN CHILD**
 17 **SEX OFFENSES.**

18 (a) IN GENERAL.—Chapter 117 of title 18, United
 19 States Code, is amended by adding at the end the fol-
 20 lowing:

21 **“§ 2429. Mandatory restitution**

22 “(a) IN GENERAL.—Notwithstanding section 3663 or
 23 3663A of this title, and in addition to any other civil or
 24 criminal penalty authorized by law, the court shall order
 25 restitution for any offense under this chapter.

1 “(b) SCOPE AND NATURE OF ORDER.—

2 “(1) DIRECTIONS.—The order of restitution
3 under this section shall direct the defendant to pay
4 the victim (through the appropriate court mecha-
5 nism) the full amount of the victim’s losses as deter-
6 mined by the court pursuant to paragraph (2).

7 “(2) ENFORCEMENT.—An order of restitution
8 under this section shall be issued and enforced in ac-
9 cordance with section 3664 in the same manner as
10 an order under section 3663A.

11 “(3) DEFINITION.—For purposes of this sub-
12 section, the term ‘full amount of the victim’s losses’
13 includes any costs incurred by the victim for—

14 “(A) medical services relating to physical,
15 psychiatric, or psychological care as a proxi-
16 mate result of the offense;

17 “(B) physical and occupational therapy or
18 rehabilitation as a proximate result of the of-
19 fense;

20 “(C) necessary transportation, temporary
21 housing, and child care expenses as a proximate
22 result of the offense;

23 “(D) lost income as a proximate result of
24 the offense;

1 “(E) attorney’s fees, as well as other costs
2 incurred as a proximate result of the offense;
3 and

4 “(F) any other losses suffered by the vic-
5 tim as a proximate result of the offense.

6 “(4) ORDER MANDATORY.—

7 “(A) IN GENERAL.—The issuance of a res-
8 titution order under this section is mandatory.

9 “(B) CONSIDERATION.—A court may not
10 decline to issue an order under this section be-
11 cause of—

12 “(i) the economic circumstances of the
13 defendant; or

14 “(ii) the fact that a victim has re-
15 ceived, or is entitled to receive, compensa-
16 tion for his or her injuries from the pro-
17 ceeds of insurance or any other source.

18 “(c) DEFINITION.—For purposes of this section, the
19 term ‘victim’ means the individual harmed as a result of
20 a commission of a crime under this chapter, including, in
21 the case of a victim who is under 18 years of age, incom-
22 petent, incapacitated, or deceased, the legal guardian of
23 the victim or representative of the victim’s estate, another
24 family member, or any other person appointed as suitable

1 by the court, but in no event shall the defendant be named
 2 as such representative or guardian.”.

3 (b) CHAPTER ANALYSIS.—The chapter analysis etc.

4 **SEC. 7. AMEND DEFINITION OF ILLICIT SEXUAL CONDUCT.**

5 Section 2423(f) of title 18, United States Code, is
 6 amended by—

7 (1) striking “or”; and

8 (2) striking the period at the end of the sub-
 9 section and inserting “; or (3) production of child
 10 pornography, as defined in section 2256(8).”.

11 **SEC. 8. EXPAND THE USE OF THE SEX TRAFFICKING STAT-**
 12 **UTE.**

13 (a) SEXUAL EXPLOITATION.—Section 2252(b)(2) of
 14 title 18, United States Code, is amended by inserting after
 15 “this chapter,” the following: “section 1591,”.

16 (b) PORNOGRAPHY.—Section 2252A(b)(2) of title 18,
 17 United States Code, is amended by inserting after “this
 18 chapter,” the following: “section 1591,”.

19 (c) REPEAT OFFENDERS.—Section 2426(b)(1)(A) of
 20 title 18, United States Code, is amended by—

21 (1) striking “or following 109A,”; and

22 (2) inserting after “chapter 110” the following
 23 “or section 1591”.

24 (d) RELEASE AND DETENTION.—Section
 25 3156(a)(4)(C) of title 18, United States Code, is amended

1 by inserting after “117” the following: “, or section
2 1591”.

3 (e) ADMINISTRATIVE SUBPOENAS.—Section
4 3486(a)(1)(D) of title 18, United States Code, is amended
5 by inserting after “1201,” the following: “1591,”.

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