

113TH CONGRESS
2D SESSION

H. R. 4981

To amend section 2259 of title 18, United States Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2014

Mr. CARTWRIGHT (for himself, Mr. BLUMENAUER, Mr. BRADY of Pennsylvania, Mr. BRALEY of Iowa, Mrs. BROOKS of Indiana, Ms. BROWN of Florida, Ms. CHU, Mr. CICILLINE, Ms. CLARK of Massachusetts, Mr. COFFMAN, Mr. COHEN, Mr. COOPER, Mr. COLE, Mr. COTTON, Mr. CROWLEY, Mr. CUMMINGS, Ms. DELBENE, Ms. DEGETTE, Mr. DEFazio, Mr. DESANTIS, Mr. DEUTCH, Ms. ESHOO, Mr. FARR, Mr. FATTAH, Ms. FUDGE, Mr. GARCIA, Mr. GENE GREEN of Texas, Mr. HASTINGS of Florida, Mr. HASTINGS of Washington, Mr. ISRAEL, Ms. JACKSON LEE, Ms. KAPTUR, Ms. KUSTER, Mrs. LOWEY, Mr. MARINO, Mr. MEEHAN, Ms. MATSUI, Mrs. MCCARTHY of New York, Mr. MEADOWS, Mr. MESSER, Mr. GEORGE MILLER of California, Mr. MEEKS, Mr. MULLIN, Mr. NEAL, Mr. NOLAN, Ms. NORTON, Mr. PASCRELL, Mr. PAYNE, Mr. PERRY, Mr. RANGEL, Mr. REICHERT, Ms. ROS-LEHTINEN, Mr. RUIZ, Ms. SCHWARTZ, Ms. SHEA-PORTER, Ms. SLAUGHTER, Ms. SPEIER, Mr. STOCKMAN, Mr. TERRY, Ms. TITUS, Mr. VAN HOLLEN, Mr. VARGAS, Mr. VELA, Mr. WEBER of Texas, Ms. WILSON of Florida, Mr. YARMUTH, Ms. DELAURO, Mrs. DAVIS of California, Mr. JORDAN, Mr. DUNCAN of Tennessee, Mr. BACHUS, Ms. KELLY of Illinois, Mr. HONDA, Mr. KING of New York, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 2259 of title 18, United States Code,
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 “Amy and Vicky Child
5 Pornography Victim Restitution Improvement Act of
6 2014”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) The demand for child pornography harms
10 children because it drives production, which involves
11 severe and often irreparable child sexual abuse and
12 exploitation.

13 (2) The harms caused by child pornography are
14 more extensive than the harms caused by child sex
15 abuse alone because child pornography is a perma-
16 nent record of the abuse of the depicted child, and
17 the harm to the child is exacerbated by its circula-
18 tion. Every viewing of child pornography is a repeti-
19 tion of the victim’s original childhood sexual abuse.

20 (3) Victims suffer continuing and grievous
21 harm as a result of knowing that a large, indetermi-
22 nate number of individuals have viewed and will in
23 the future view images of their childhood sexual
24 abuse. Harms of this sort are a major reason that
25 child pornography is outlawed.

1 (4) The unlawful collective conduct of every in-
2 dividual who reproduces, distributes, or possesses
3 the images of a victim’s childhood sexual abuse plays
4 a part in sustaining and aggravating the harms to
5 that individual victim. Multiple actors independently
6 commit intentional crimes that combine to produce
7 an indivisible injury to a victim.

8 (5) It is the intent of Congress that victims of
9 child pornography be fully compensated for all the
10 harms resulting from each and every perpetrator
11 who contributes to their anguish.

12 (6) Congress intends to adopt and hereby
13 adopts an aggregate causation standard to address
14 the unique crime of child pornography and the
15 unique harms caused by child pornography.

16 (7) Victims should not be limited to receiving
17 restitution from defendants only for losses caused by
18 each defendant’s own offense of conviction. Courts
19 must apply a less restrictive aggregate causation
20 standard in child pornography cases, while also rec-
21 ognizing appropriate constitutional limits and pro-
22 tections for defendants.

23 **SEC. 3. MANDATORY RESTITUTION.**

24 Section 2259 of title 18, United States Code, is
25 amended—

1 (1) in subsection (b), by striking paragraph (3)
2 and inserting the following:

3 “(3) DEFINITION.—(A) For purposes of this
4 subsection, the term ‘full amount of the victim’s
5 losses’ includes any costs incurred by the victim
6 for—

7 “(i) lifetime medical services relating to
8 physical, psychiatric, or psychological care;

9 “(ii) lifetime physical and occupational
10 therapy or rehabilitation;

11 “(iii) necessary transportation, temporary
12 housing, and child care expenses;

13 “(iv) lifetime lost income; and

14 “(v) attorneys’ fees, as well as other costs
15 incurred.

16 “(B) For purposes of this subsection, the term
17 ‘full amount of the victim’s losses’ also includes any
18 other losses suffered by the victim, in addition to the
19 costs listed in subparagraph (A), if those losses are
20 a proximate result of the offense.

21 “(C) For purposes of this subsection, the term
22 ‘full amount of the victim’s losses’ also includes any
23 losses suffered by the victim from any sexual act or
24 sexual conduct (as those terms are defined in section
25 2246) in preparation for or during the production of

1 child pornography depicting the victim involved in
2 the offense.”;

3 (2) by redesignating subsection (c) as sub-
4 section (d);

5 (3) by inserting after subsection (b) the fol-
6 lowing:

7 “(c) DETERMINING RESTITUTION.—

8 “(1) HARMED BY ONE DEFENDANT.—If the vic-
9 tim was harmed as a result of the commission of an
10 offense under section 2251, 2251A, 2252, 2252A, or
11 2260 by 1 defendant, the court shall determine the
12 full amount of the victim’s losses caused by the de-
13 fendant and enter an order of restitution for an
14 amount that is not less than the full amount of the
15 victim’s losses.

16 “(2) HARMED BY MORE THAN ONE DEFEND-
17 ANT.—If the victim was harmed as a result of of-
18 fenses under section 2251, 2251A, 2252, 2252A, or
19 2260 by more than 1 person, regardless of whether
20 the persons have been charged, prosecuted, or con-
21 victed in any Federal or State court of competent ju-
22 risdiction within the United States, the court shall
23 determine the full amount of the victim’s losses
24 caused by all such persons, or reasonably expected
25 to be caused by such persons, and enter an order of

1 restitution against the defendant in favor of the vic-
2 tim for—

3 “(A) the full amount of the victim’s losses;

4 or

5 “(B) an amount that is not more than the
6 amount described in subparagraph (A) and not
7 less than—

8 “(i) \$250,000 for any offense or of-
9 fenses under section 2251(a), 2251(b),
10 2251(c), 2251A, 2252A(g), or 2260(a);

11 “(ii) \$150,000 for any offense or of-
12 fenses under section 2251(d), 2252(a)(1),
13 2252(a)(2), 2252(a)(3), 2252A(a)(1),
14 2252A(a)(2), 2252A(a)(3), 2252A(a)(4),
15 2252A(a)(6), 2252A(a)(7), or 2260(b); or

16 “(iii) \$25,000 for any offense or of-
17 fenses under section 2252(a)(4) or
18 2252A(a)(5).

19 “(3) MAXIMUM AMOUNT OF RESTITUTION.—No
20 order of restitution issued under this section may ex-
21 ceed the full amount of the victim’s losses.

22 “(4) JOINT AND SEVERAL LIABILITY.—Each
23 defendant against whom an order of restitution is
24 issued under paragraph (2)(A) shall be jointly and
25 severally liable to the victim with all other defend-

ants against whom an order of restitution is issued under paragraph (2)(A) in favor of such victim.

“(5) CONTRIBUTION.—Each defendant who is ordered to pay restitution under paragraph (2)(A), and has made full payment to the victim equal to or exceeding the statutory minimum amount described in paragraph (2)(B), may recover contribution from any defendant who is also ordered to pay restitution under paragraph (2)(A). Such claims shall be brought in accordance with this section and the Federal Rules of Civil Procedure. In resolving contribution claims, the court may allocate payments among liable parties using such equitable factors as the court determines are appropriate so long as no payments to victims are reduced or delayed. No action for contribution may be commenced more than 5 years after the date on which the defendant seeking contribution was ordered to pay restitution under this section.”;

(4) in subsection (d), as redesignated, by striking “a commission of a crime under this chapter,” and inserting “or by the commission of (i) an offense under this chapter or (ii) a series of offenses under this chapter committed by the defendant and other persons causing aggregated losses,”; and

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

2 “(e) REPORT.—Not later than 1 year after the date
3 of enactment of the Amy and Vicky Child Pornography
4 Victim Restitution Improvement Act of 2014, the Attor-
5 ney General shall submit to Congress a report on the
6 progress, if any, of the Department of Justice in obtaining
7 restitution for victims of any offense under section 2251,
8 2251A, 2252, 2252A, or 2260.”.

○