

113TH CONGRESS
2D SESSION

S. 2344

To amend section 2259 of title 18, United States Code.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2014

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

A BILL

To amend section 2259 of title 18, United States Code.

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 “Justice for Amy Act
5 of 2014”.

6 **SEC. 2. MANDATORY RESTITUTION.**

7 Section 2259 of title 18, United States Code, is
8 amended to read as follows:

9 **“§ 2259. Mandatory restitution**

10 **“(a) MANDATORY RESTITUTION.—**

11 **“(1) IN GENERAL.—**Notwithstanding section
12 3663 or 3663A, and in addition to any other civil

1 or criminal penalty authorized by law, the court
2 shall order restitution for any offense under this
3 chapter.

4 “(2) REQUIREMENTS.—Under this section—

5 “(A) the issuance of a restitution order is
6 mandatory; and

7 “(B) a court may not decline to issue a
8 restitution order because of—

9 “(i) the economic circumstances of the
10 defendant; or

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

15 “(b) RESTITUTION FOR CHILD PORNOGRAPHY OF-
16 FENSES.—

17 “(1) CALCULATION OF VICTIM’S LOSSES.—For
18 a victim of a child pornography offense, the court
19 shall apply the principle of aggregate causation to
20 determine the full amount of the victim’s losses
21 caused by the child pornography offense and all re-
22 lated sexual abuse offenses committed by all persons
23 against the victim. The amount of victim’s losses
24 shall include any costs incurred by the victim for—

1 “(A) medical services relating to physical,
2 psychiatric, or psychological care;

3 “(B) physical and occupational therapy or
4 rehabilitation;

5 “(C) necessary transportation, temporary
6 housing, and child care expenses;

7 “(D) lost income;

8 “(E) attorneys’ fees, as well as other costs
9 incurred; and

10 “(F) any other losses aggregately caused
11 by the offenses.

12 “(2) ENFORCEMENT.—An order of restitution
13 for a child pornography offense shall—

14 “(A) direct the defendant to pay the victim
15 (through the appropriate court mechanism) the
16 full amount of the victim’s losses determined
17 under paragraph (1); and

18 “(B) be issued and enforced in accordance
19 with subsections (a) through (d) and sub-
20 sections (f) through (p) of section 3664.

21 “(3) JOINT AND SEVERAL LIABILITY.—A de-
22 fendant convicted of a child pornography offense or
23 a related sexual abuse offense against a victim shall
24 be jointly and severally liable for the victim’s losses
25 determined under paragraph (1) and each defendant

found to be jointly and severally liable shall pay an equal percentage of such losses.

“(4) CONTRIBUTION.—

“(A) SUIT BY CONVICTED DEFENDANTS.—

A defendant convicted of a child pornography offense or a related sexual abuse offense against a victim may bring a civil action in a district court of the United States, based upon a preponderance of the evidence, for contribution against all other persons who have committed a related sexual abuse offense against the victim.

“(B) SUIT BY OTHER PERSONS.—A person who has been held jointly or severally liable in a civil action under subparagraph (C)(iii) may bring a civil action in a district court of the United States for contribution against all other persons who have committed a related sexual abuse offense against the victim.

“(C) REQUIREMENTS FOR CIVIL ACTION.—

In a civil action filed under subparagraph (A) or (B)—

“(i) the identity of the respondent in the civil action shall be kept confidential if the respondent has not been convicted of

1 the offense alleged in the civil action, ex-
2 cept that the identity of the respondent—

3 “(I) may be released by the
4 Court to a Federal or local law en-
5 forcement agency for law enforcement
6 purposes; and

7 “(II) shall be made public if the
8 respondent—

9 “(aa) enters into a settle-
10 ment agreement in the civil ac-
11 tion; or

12 “(bb) is held liable in the
13 civil action;

14 “(ii) the court shall determine wheth-
15 er the petitioner is entitled to contribution
16 based on a preponderance of the evidence;

17 “(iii) the court shall determine wheth-
18 er the respondent has committed a related
19 sexual abuse offense against the victim
20 based on a preponderance of the evidence;

21 “(iv) if the court finds that the re-
22 spondent has committed a related sexual
23 abuse offense against the victim, the re-
24 spondent shall be jointly and severally lia-

ble for the victim's losses determined under paragraph (1);

“(v) the court shall order each person found to be jointly and severally liable for the victim's losses determined under paragraph (1) to pay an equal percentage of such losses; and

“(vi) in the case of a settlement agreement, if the petitioner has not paid in full the amount owed to the victim under an order of restitution entered under this section, any payment agreed to be made by the respondent shall be paid directly to the victim.

“(c) RESTITUTION FOR OTHER OFFENSES UNDER THIS CHAPTER.—

“(1) CALCULATION OF VICTIM'S LOSSES.—The order of restitution for an offense committed under this chapter, other than a child pornography offense, shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses suffered as a proximate result of the defendant's offense. The amount shall include any costs incurred by the victim for—

1 “(A) medical services relating to physical,
2 psychiatric, or psychological care;

3 “(B) physical and occupational therapy or
4 rehabilitation;

5 “(C) necessary transportation, temporary
6 housing, and child care expenses;

7 “(D) lost income;

8 “(E) attorneys’ fees, as well as other costs
9 incurred; and

10 “(F) any other losses proximately caused
11 by the offense.

12 “(2) ENFORCEMENT.—An order of restitution
13 for an offense committed under this chapter, other
14 than a child pornography offense, shall be issued
15 and enforced in accordance with section 3664.

16 “(d) DEFINITIONS.—For purposes of this section—

17 “(1) the term ‘child pornography offense’
18 means an offense committed under section 2251,
19 2251A, 2252, 2252A, or 2260;

20 “(2) the term ‘related sexual abuse offense’
21 means any offense committed under section 2251,
22 2251A, 2252, 2252A, or 2260 against a victim of a
23 child pornography offense that is related to the pro-
24 duction, transport, shipping, distribution, mail, sale,
25 receipt, access, possession, or viewing of a visual de-

1 piction (as described in section 2251, 2251A, 2252,
2 or 2260) or child pornography (as described in sec-
3 tion 2252A) that is the subject of the child pornog-
4 raphy offense against the victim; and

5 “(3) the term ‘victim’ means the individual
6 harmed as a result of a commission of a crime under
7 this chapter, including, in the case of a victim who
8 is under 18 years of age, incompetent, incapacitated,
9 or deceased, the legal guardian of the victim or rep-
10 resentative of the victim’s estate, another family
11 member, or any other person appointed as suitable
12 by the court, but in no event shall the defendant be
13 named as such representative or guardian.”.

14 **SEC. 3. REPORT.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Attorney General shall submit to Congress
17 a report on the efforts of the Department of Justice to
18 collect restitution for victims of child pornography.

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