

law that will wear civilian uniforms, that is willing to kill in order to continue the reign of fear of Saddam Hussein. But we are fighting with bravery and courage."

Mr. Speaker, I believe today that there are no Democrats, there are no Republicans in support of our troops; there are only Americans, praying for their quick victory and their speedy return home to their loved ones.

Mr. Speaker, I thank them for their sacrifices in America's time of need.

REVIEWS IN ON FCC DECISION REGARDING RULES GOVERNING TELECOMMUNICATIONS INDUSTRY

(Mr. TERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TERRY. Mr. Speaker, the reviews are in on the February 20 FCC decision on the rules governing the Nation's telecommunications companies, and they are not good. Specifically, the reviews state that the requirements to make the RBOCs networks and systems available on an unbundled and subsidized basis are unsound.

For many Members of this Chamber, economists, and industry observers, the FCC's proceeding was an opportunity to provide clear rules and regulatory rationality to an industry sector that has tumbled in recent years with job losses and reduced capital investments, which has affected a manufacturer in my district.

Unfortunately, from these reviews on this decision, the FCC has failed miserably in their attempt to revitalize this necessary industry.

Has this industry not suffered enough? Two trillion dollars of market cap, half a million telecommunications jobs lost, and \$800 billion in debt have gone away. Hardware equipment and software manufacturers are stumbling.

The FCC has taken a mess and made it harder to clean up. Somebody has to fix this: Congress, the courts, maybe even a miracle itself from the FCC.

PRESIDENT SHOULD DEFER TAX CUTS

(Mr. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD. Mr. Speaker, I want to make one appeal to the President and my Republican colleagues, and Democrats as well. We are a few days away, if not a few weeks away, from debating a tax cut bill that all of us wish and desire, for all of those here and those watching, could receive at home. We have one problem, though.

We have committed some 300,000 and, if the papers are to be believed this morning, an additional 30,000 troops will be deployed overseas. The President has his hands full, as does the national security team, in defining our

goals clearly in Iraq. Yet their domestic team continues to try to advance an enormous tax cut, which all of us again want.

The problem we face is we have States that are struggling, we have a budget that is out of balance, we have a war that needs to be paid for, and we have all of our domestic needs.

Mr. Speaker, I ask the President in the most humble of ways: defer your tax cut, defer new spending. Let us do two things first: one, help the States; and, two, pay for this war. After that, all of the tax cuts and stimulus and spending programs that all of us may want, let us consider those things in that context.

I say to the President: defer your tax cuts, sir, and help our States.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY). Members are reminded to address the Chair and not the President.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1104.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CHILD ABDUCTION PREVENTION ACT

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 160 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1104.

□ 1021

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1104) to prevent child abduction, and for other purposes, with Mr. UPTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 22½ minutes; and the gentleman from Georgia (Mr. GINGREY) and the gentleman from California (Mr. GEORGE MILLER) each will control 7½ minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, sexual predators target America's children every day in

large cities, small towns, and even in cyberspace. Sexual exploitation of children, a prime motive for kidnapping, is on the rise. When it comes to abduction, rape, and murder of children, the United States must have a zero tolerance policy.

H.R. 1104, the Child Abduction Prevention Act, is comprehensive legislation that directly and forcefully addresses these heinous crimes. The bill is virtually identical to H.R. 5422, which overwhelmingly passed the House last October by a vote of 390 to 24. Like so many other meritorious bills sent to the other body in the last Congress, this legislation was allowed to die by the Democrat leadership.

An abducted child is a parent's worst nightmare. We must ensure that law enforcement has every possible tool necessary to try to recover a missing child quickly and safely. H.R. 1104 not only gets the word out after a kidnapping, but it also takes strong steps to prevent them from occurring in the first place. The bill strengthens penalties against kidnapping and aids law enforcement agencies to effectively prevent, investigate, and prosecute crimes against children.

Prompt public alerts of an abducted child could be the difference between life and death for that innocent victim. Recognizing this, the bill codifies the AMBER Alert program currently in place in the Departments of Justice and Transportation and authorizes increased funding to help States deploy child abduction communications warning networks.

For those individuals that would harm a child, we must ensure that punishment is severe, and that sexual predators are not allowed to slip through the cracks of a system and harm other children.

To this end, this legislation provides a 20-year mandatory minimum sentence of imprisonment for nonfamilial abductions of a child under the age of 18, lifetime supervision for sex offenders, and mandatory life imprisonment for second-time offenders. Furthermore, H.R. 1104 removes any statute of limitations and opportunity for pretrial release for crimes of child abduction and sex offenses.

Those who abduct children are often serial offenders who have already been convicted of similar offenses. Sex offenders and child molesters are four times more likely than other violent criminals to recommit their crimes. This number demands attention, especially in light of the fact that a single child molester, on average, destroys the lives of over 100 children. In response, H.R. 1104 provides judges with the discretion to impose lifetime supervision upon such offenders.

The bill also fights against an industry supporting one of the fastest growing areas of international criminal activity. The sex tourism industry obtains its victims through kidnapping and trafficking of women and children. These women and children are then

forced into prostitution. H.R. 1104 works to end this.

This legislation also authorizes increased support through the National Center for Missing and Exploited Children, the Nation's resource center for child protection. The center assists in the recovery of missing children and raises public awareness about ways to protect children from abduction, molestation, and sexual exploitation.

Some have called for a stand-alone AMBER bill instead of the comprehensive approach we have taken to address the problem of child abductions in this country. I note with interest that the DCCC, the political wing of the House Democrats, have labeled provisions of the bill I have just outlined as controversial.

I do not think these provisions are controversial. Neither do the Department of Justice, the National Center for Missing and Exploited Children, or the 390 Members of Congress that voted for this bill last year. Mark Klaas, father of kidnap and murder victim Polly Klaas, supports us. Mr. Klaas said, "I'm behind what Mr. SENSENBRENNER's doing. I like the idea of a 2-strike law for people who are committing sexual offenses against children. And what it says is that if somebody does that, they are going to spend the rest of their miserable life in prison if they are convicted a second time. I see no problem with putting it out on the floor and seeing where people fall on it."

Those who say we need a stand-alone AMBER bill on the President's desk today do not understand the actual impact of such a bill. The fact is that much of the stand-alone AMBER bill has already been implemented and is in place right now.

The stand-alone AMBER bill calls for a national coordinator. On October 2, 2002, President Bush directed the Attorney General to designate a Justice Department officer to serve as AMBER Alert coordinator to help expand the AMBER Alert system nationwide. Assistant Attorney General Deborah J. Daniels was designated as that coordinator and for almost 6 months has been working to assist State and local officials with developing and enhancing AMBER plans and promoting statewide and regional AMBER coordination programs ever since.

The Departments of Justice and Transportation already have \$12.5 million in the bank today, ready to respond and spend on AMBER programs.

Furthermore, in a March 18, 2003, letter to me, the Department of Justice stated that it has not been hampered in its efforts to implement an AMBER Alert program because of any legislation that has yet to be signed into law. Stand-alone AMBER legislation, in the words of the Department of Justice and their statement of administration policy, merely codifies current practice.

□ 1030

This Congress must do better than codifying current practice, and this bill

does that. Let us be clear, if a stand-alone AMBER Alert were enacted into law today, nothing that is already being done would change. This bill merely supplants the Department of Justice general authorization with a specific authorization. It may make some feel good, but it will not help protect America's children from kidnapping and sexual abuse in the first place.

Federal money is in the pipeline for AMBER programs and is ready to be spent. A national coordinator has already been appointed. What we need now is a comprehensive legislative package that will crack down on child abductors, build and expand on the work of the National Center for Missing and Exploited Children, and give Federal authorities additional tools to prevent and to solve these horrific crimes.

I urge my colleagues to ignore the political rhetoric and to protect America's children by supporting this bipartisan and noncontroversial child protection legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1104. I would like to be able to support the AMBER Alert part of the bill, but that bipartisan, noncontroversial part of the bill has been buried behind literally a host of controversial sound-bite-based provisions which have passed the House several times, only to die in the Senate.

The AMBER Alert portion of the bill would codify a program of grants and assistance to States and localities to establish a nationwide system of communications and alerts to assist in locating and returning missing and abducted children. The system has proven itself on the State level and would help save lives and additional heartache on a national basis.

The AMBER Alert bill has already passed the Senate unanimously and could pass unanimously in the House, I believe, absent the controversial sound bites that have been tacked on.

Last Congress, many of us warned the majority that coupling the AMBER Alert bill with controversial sound bites would mean that neither the AMBER Alert nor the sound bites would be passed, but the House passed the same kind of omnibus bill anyway; and, as expected, the whole thing died in the Senate. Yet, here we are again facing the same misguided strategy and this time again with even more reasons for the Senate to reject the bill which the AMBER Alert bill is buried in. Again, we have to protest the strategy that will again defeat the AMBER Alert system and again defeat the sound bites as well.

Mr. Chairman, I think the Senate has chosen not to consider many of the controversial items hitchhiking on the AMBER Alert bill for good reasons: more death penalties, at a time when

we know the death penalty has problems; more mandatory minimums, two strikes and you are out. We are authorizing FBI wiretaps for behavior that is not even a crime; pretrial detention, lifetime supervision, and removing the statute of limitations on crimes such as adults crossing State lines to engage in consensual sex that would be a crime in the home State. I would just remind Members that any kind of sex outside of marriage is a crime in Virginia.

Virtually all of the crimes described in the bill are already crimes with significant penalties. Others have already passed the House in separate bills and are still pending in the Senate, as they have been for the last 6 years.

It is wrong to hijack the AMBER Alert bill to try to pass these things again. It will not help AMBER Alert, and it will not help pass the extraneous provisions.

It is true that the President has not waited for Congress to pass an AMBER Alert bill and has, by executive order, implemented many of the provisions of the bill. But the passage of AMBER Alert is still necessary to make the program permanent and to increase the funding of the program.

Mr. Chairman, we have letters from the National Association of Police Organizations, and I will just read two paragraphs from it:

"On behalf of the National Association of Police Organizations, representing 230,000 rank and file police officers from across the United States, I would applaud your valiant efforts in calling for an immediate passage of stand-alone AMBER Alert legislation. The recent successful recovery of Elizabeth Smart exemplifies the power of an informed public.

"In this light, legislation that will greatly enhance recovery abilities should not be tied down with additional controversial provisions and political wrangling. The Senate quickly passed S. 221 92 to nothing. Like other child abduction bills, H.R. 412 and S. 121 enjoy broad bipartisan support."

We have other letters asking for passage of a stand-alone AMBER Alert bill from the Edward, Lois and Elizabeth Smart family and from the Polly Klaas Foundation. I would ask that we defeat the bill and take up H.R. 412, the stand-alone AMBER Alert bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), the author of the stand-alone AMBER Alert bill on the House side.

Ms. DUNN. Mr. Chairman, on behalf of the Smart family, the Polly Klaas Foundation, the National Center for Missing and Exploited Children, and the thousands of families still searching for their missing children, I rise today to join our chairman in offering hope that we will establish a voluntary, nationwide AMBER Alert system to find children.

I want to compliment the chairman for moving this bill so speedily through the House of Representatives.

The AMBER Alert was named after a little girl named Amber Hagerman who was kidnapped and killed by her abductor. The community rallied around her family to begin a search that resulted in the AMBER Alert program.

In 1997, a Washington State child homicide study, which examined over 600 child abduction murder cases from all over the country, found that the first 3 hours of a child's abduction are critical to bringing this child home safely. This is the reason that we are seeking an AMBER Alert program.

To date, AMBER has been credited with the safe recovery of 52 children, including, very recently, a 12-year-old California girl reunited with her family after a witness saw the car described in AMBER Alert messages transmitted across the State.

We know the AMBER Alert system works by allowing communities to tap into the resources of an educated public, prepare law enforcement and engage the media in reuniting children with their family. The media and an educated public were absolutely critical in the safe return of Elizabeth Smart.

President Bush and his administration showed strong and early support for our legislation last year and took the first steps by providing grants to States and localities to help establish AMBER Alert programs. It is now time for Congress to codify AMBER Alert and provide additional funding to power all communities with the tools and resources to react quickly to child abductions and bring these children home safely to the arms of their parents.

We witnessed a very joyful reunion of Elizabeth Smart and her family 2 weeks ago. I know that President Bush is committed to signing AMBER Alert into law very soon. I also know that our leadership will keep its commitment not to allow it to languish in a conference committee.

Mr. Chairman, would it not be wonderful never again to have to name another piece of legislation after a little child who died? I urge our opponents and supporters everywhere to get together with us on AMBER Alert. It is a wonderful opportunity to establish a great system. Let us support this legislation today.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), the chairman of the Subcommittee on Crime, Terrorism and Homeland Security.

(Mr. COBLE asked and was given permission to revise and extend his remarks.)

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding time to me.

The gentleman from Wisconsin has pretty thoroughly examined this bill. I just want to reiterate that this legislation is good policy. It has the potential

to protect and save lives, the lives of the most innocent among us.

H.R. 1104 is divided into three titles to improve the law related to child abductions by addressing sanctions and offenses, investigation and prosecution, and public outreach. The legislation sends a clear message that child abductors will not escape justice.

Title I, "Sanctions and offenses," strengthens the penalties against kidnapping by providing for a 20-year mandatory minimum sentence of imprisonment for nonfamily abductions of a child under the age of 18. This title also requires lifetime supervision for sex offenders, which is similar to a bill that passed the House last year 409 to 3.

Also included is a provision that requires mandatory life imprisonment for second-time sex offenders that also passed this body 382 to 34 last Congress. In addition, this title directs the U.S. Sentencing Commission to increase offense levels for crimes of kidnapping and adds child abuse that results in death as a predicate for first degree murder.

Title II, "Effective investigation and prosecution," gives law enforcement agencies the tools they need to enforce the laws against child abduction. This title adds four new wiretap predicates that relate to sexual exploitation crimes against children which previously passed the House 396 to 11 last Congress. The title also provides that child abductions and felony sex offenses can be prosecuted without limitation of time and provides a rebuttal presumption that child rapists and kidnapers should not get pretrial release.

Title III, "Public outreach," establishes a national Amber Alert program based on the bill of the gentlewoman from Washington (Ms. DUNN) and the gentleman from Texas (Mr. FROST) to codify the AMBER Alert program currently in place. This is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent alert bulletin in serious child-abduction cases. The goal of the AMBER Alert, as has been explained, is to have the assistance of millions of people in the search for an abducted child.

This title also increases support for the National Center for Missing and Exploited Children, the Nation's resource center for child protection, by doubling its authorization to \$20 million.

Furthermore, Mr. Chairman, the title authorizes COPS funding for local law enforcement agencies to establish sex offender apprehension programs within their States.

Mr. Chairman, the recent wave of high-profile child abductions illustrates the tremendous need for this legislation in this area. The criminals breach the security of our homes to steal, molest, rape and kill our children. Immediate action is necessary.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 6 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Virginia for yielding time to me, and I particularly thank him for his very thoughtful remarks on a very important legislative initiative.

I would like to thank my colleague and friend, the gentleman from Texas (Mr. FROST), and the gentlewoman from Washington (Ms. DUNN) for their insight and leadership on an AMBER Alert national bill and my colleague and friend in the other body from the State of Texas, likewise, for the leadership on this issue.

Mr. Chairman, I am going to eventually vote for final passage. I think it is important to get that on the record. But I also believe it is important to acknowledge the fine analysis the gentleman from Virginia (Mr. SCOTT) has given to this legislation and to be able to share with my colleagues why it is extremely important that we use a different approach in this House.

Many times we are viewed as both partisan and singular in perspective as it is directed to the two bodies that are called Congress. Many times our legislative tactics are perceived as oneness, or "got you." I believe it is important in the instance of this legislation as it initially started out, the AMBER Alert bill, to really be both bipartisan, bicameral, and to respect the underpinnings and the importance, if you will, of passing a clean AMBER Alert bill.

I was disappointed in the Committee on Rules, in the typical response that one receives, in not having an amendment that had to do with added funding for our Juvenile Division in the Department of Justice.

As the war is raging in Iraq, we find there are troubling times in many of our cities as it relates to gang warfare. Many of us thought that we had overcome that over the past years, but in Los Angeles in particular I have had a number of colleagues indicate the tragedies that are going on with the intense gang wars. I believe the more monies that we can invest in rehabilitating our youth, in providing mentoring programs for our youth, that is a good investment. That amendment was not accepted.

But since the process was opened, the amendment was offered. I would have been willing, Mr. Chairman, to have eliminated all efforts at amendment so that a freestanding AMBER Alert bill could be passed. What does that mean? It does not mean that the viable provisions that have been added to this legislation do not have merit. I believe they sufficiently have enough merit that we could proceed with them independently in a separate bill.

My understanding is that the other body is not going to take this bill as it is. There may be the thought that we will go into conference, and what that will do is to cause a delay. I believe

that, in formulating legislation, we should be listening to those that we represent.

I would like to share the words of the Polly Klaas Foundation that urges Congress to pass immediately H.R. 412, a freestanding bill.

"H.R. 412 is a popular bipartisan bill from MARTIN FROST and JENNIFER DUNN that would establish a national AMBER Alert network."

□ 1045

The bill needs to stand as it is, as a Senate-passed stand-alone AMBER bill months ago, and the House should do the same. Every day that the AMBER Alert bill languishes, so does the safety of our children.

As one who can see the AMBER Alert system working in Texas, Mr. Chairman, I can tell my colleagues that it has amazing results when the flashing lights on freeways show that those who are traveling those freeways can immediately respond to local law enforcement. That is what the AMBER Alert does.

Clearly I would say that in the Elizabeth Smart case, her father indicated his desire to see a freestanding AMBER Alert bill passed, and he indicated that the community was largely, in part, the result or the basis upon which Elizabeth Smart was found.

This bill has an expansion of the death penalty. They may be valuable, but we should have separate hearings on that.

This bill increases mandatory sentences. They could be valuable, but we should have separate hearings on that.

This bill expands wiretap authority; and even though I believe child predators are the worst, we should have separate proceedings on that and separate freestanding bills.

The fact that this bill eliminates the statute of limitations is a problem. Eliminating pretrial release should be addressed, although I wholly agree with the idea that we should separate predators from our community. But all of these matters, Mr. Chairman, I believe require an independent assessment and would do well in this body and the Senate if they were freestanding.

The only thing we do today is to get probably an enormous vote in favor, and that will probably occur; but what we do is we stall the process of a legislative initiative that could move quickly through both bodies, and I believe that is not the task of legislators who are sincere about their work on behalf of constituents. I think it is important, Mr. Chairman, that we bifurcate our work, move a freestanding AMBER Alert bill along and begin to assess these very reasonable additions in a freestanding bill so that we can have finally signed by the President of the United States the AMBER National Alert System that so many cities and counties and States need and the funding that goes with it and, might I add, the additional funding that might

come as it relates to other entities that we are interested in.

I would ask my colleagues to speak to the issue of a freestanding AMBER Alert bill and bring this bill back. I wish we could have a motion to recommend to bring it back.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 15 seconds just to point out that neither the Senate-passed stand-alone AMBER Alert bill nor its companions in the House establish a mandatory national AMBER system. All of the bills are voluntary. The States can apply for grants. It is my hope that they will do so.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Chairman, I have been tracking the progress of this bill for some time now, and I applaud the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary. My district had a young girl missing for most of this month, a 14-year-old girl by the name of Lindsay Ryan. It was alleged that she was, in fact, abducted by a convicted murderer, and Michigan's AMBER Alert was initiated.

I called the county sheriff, Joe Underwood, a fine professional, as I tried to lend him my moral support. As I talked with him, I asked him the question of what could I do to help. He shared his frustration that other States did not have a system like we have in Michigan. He felt that, in fact, if other States, and there are 12 that have no AMBER Alert system at all, but if other States had a system like Michigan, the word would have gotten out right away. My district is right along the Indiana border, very close to Illinois.

After our conversation, I called the Committee on the Judiciary; and in fact, they told me about this piece of legislation which I cosponsor. I am delighted to say that it is on the House floor today, and there is good news.

Just like there was good news with Elizabeth Smart last week, there was good news this week with Lindsay Ryan. She was found alive, alive because California had a system. It was probably the good work of a Frito-Lay truck driver that, in fact, spotted the vehicle, and the police were able to get to the scene and rescue Lindsay Ryan, who is now with her family alive and hopefully well.

We want to prevent this tragedy for other families, whether they be in Michigan or North Carolina, Wisconsin or any other State. An AMBER Alert system nationwide is needed, for this family, for every family; and I would urge my colleagues to pass this legislation so that, in fact, we can use the eyes and ears of millions of Americans looking to prevent a nightmare that no family ever wants to have happen in their community or certainly in their family.

Mr. SCOTT of Virginia. Mr. Chairman, could the Chair advise us as to

the amount of time remaining on both sides?

The CHAIRMAN pro tempore (Mr. HOEKSTRA). The gentleman from Virginia (Mr. SCOTT) has 12½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 8¼ minutes remaining.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Chairman, I thank the gentleman from Virginia for yielding time; and I hate to disappoint my good friend, the gentleman from Michigan (Mr. UPTON), to advise him that our fear is that by burdening this bill down with various provisions, other than the AMBER Alert provisions, it will follow the same route that it has followed in the past.

It will be passed here in the House, it will go to the Senate, and it will not receive action because the AMBER Alert part of this bill is burdened with other bills which we have passed many times on this side, but have never been taken up, and the Senate has refused to take them up on the other side. So while I applaud his efforts to support the AMBER Alert part of this bill, doing it in the way that we are doing it is probably the kiss of death for the bill.

Before I go on that, I want to take a moment to praise the efforts of my good friend and colleague from Virginia who for the last 11 years has been the voice of sanity in the criminal law area. He has sat in hearing after hearing after hearing and taken politically difficult positions on bills, trying to reinforce to us that everything that sounds good, that may be politically popular, is not an effective crime tool; and he has done it at a time, on a sustained basis, when many of my colleagues have used as their spring, summer, fall and winter exercises the politically popular exercise of beating on their chest and saying I am hard on crime, without considering the consequences of what they are voting for.

Again, parts of this bill today do exactly the same. I am struck by the argument that the chairman of our committee has put forward to us. On the one hand, he says the AMBER Alert part of this bill really does nothing that is not already able to be done, and then I scratch my head and I said, well, if that is the case, why are we even here doing the AMBER Alert part of this? Is the AMBER Alert part of this bill, which all of us feel so strongly about, which all of us would vote for in a heartbeat if it were a stand-alone bill, is it being used as a bus to load on all of these other controversial provisions that otherwise would not be considered?

If these other provisions have merit, let them be considered as separate stand-alone bills, let us evaluate them, let us evaluate their impact on reducing crime and addressing the problems that exist in our Nation, and let the

Senate and the House vote on those things separately.

What we appeal to the leadership to do and have been for the last 3, 4, 5 weeks is to give us an AMBER Alert bill that is a stand-alone bill, that could pass this House by unanimous consent. There would not be one dissenting vote. And not only would it pass this House by unanimous consent; it would go to the Senate, and the Senate would pass it immediately, probably this week; and it would go to the President's desk and be signed into law probably early next week.

Instead, what we have done is used the AMBER Alert part of the bill as a vehicle to bring other more controversial provisions into a debate; many of those provisions have already been passed by this House and sent to the Senate and have languished there in the past. We have done this before.

The question is why are we doing it again? Is there some real motivation that is different than the one we understand or is there a real desire to pass the AMBER Alert part of the bill? If there is, I would appeal to my colleagues to let that bill, release it, do not hold it as a hostage. Release that bill, and let it stand on its own. Let us vote on it. Let us send it to the Senate; let them vote on it. Let it be sent to the President for signature, and then we would have a national AMBER Alert bill that does and gives us the benefit of that system for the States that wish to use it.

I appreciate the gentleman yielding time; but more importantly, I appreciate him standing and fighting for things that make sense in the criminal justice context, rather than just things that are politically popular, that allow us to beat on our chest and say we are hard on crime regardless of the impact on reducing crime.

Mr. GINGREY. Mr. Chairman, I yield myself 2 minutes.

(Mr. GINGREY asked and was given permission to revise and extend his remarks.)

Mr. GINGREY. Mr. Chairman, I rise in support of H.R. 1104, the Child Abduction Prevention Act, which provides for the national coordination of the AMBER Alert communications network and strengthens criminal penalties for kidnappers, child molesters, and the sexual exploitation of children.

This legislation also provides double, double the current authorization funding for the National Center for Missing and Exploited Children, which serves as the Nation's resource center to aid in finding and rescuing missing and exploited children and helping their families in their time of need.

In section 305 of H.R. 1104, the Committee on Education and the Workforce, of which I am a member, authorizes \$20 million for the National Center for Missing and Exploited Children for fiscal years 2004 and 2005. Again, this is double the current level of funding.

As the Nation's resource center for missing and exploited children, the

center carries out many important responsibilities that provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children. The center is active both nationally and internationally.

Mr. Chairman, it is important to note the center does not investigate abducted, runaway or cases involving sexually exploited youth, but receives leads and relays them to various investigative law enforcement units.

In an effort to assist law enforcement, the center offers both technical assistance, information dissemination, and advice. It also offers a free consulting service to agencies by expert retired law enforcement officers who are skilled in investigating cases involving sexual abuse of children and child abduction.

□ 1100

Mr. Chairman, I could continue on about the need for the Center for Missing and Exploited Children, but in the interest of progressing this debate, I would like to urge my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Illinois (Mr. DAVIS) for purposes of control.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to be associated with the comments that were just made by the gentleman from Georgia (Mr. GINGREY). I rise in strong support of the AMBER Alert provisions of this bill to prevent child abduction and to then do all we can in finding the child. A nationwide AMBER Alert would allow all of America to have the information to assist the family, the community, and the local police in finding a missing child. If already in place, the two Bradley sisters from Chicago would have been located.

Like most stories of missing children, 10-year-old Tionda and 3-year-old Diamond disappeared without a trace, without anyone seeing where they went or who they went with. On Friday, July 6, 2001, Tionda had left a note telling their mother that she and her sister were going to go to the store and then go to the school playground. Several neighborhood children have told police that they did see the sisters playing outside their complex around noon that day. Sadly, no one has seen them since.

The neighborhood surrounding their home and even Lake Michigan has been searched with only disappointing news. No clues, no evidence has been found to place either child. It has been 659 days since this mother has seen her two daughters. I urge America to go to the

Bradley's Web site and see if you have seen either one of them.

Mr. Chairman, all of America would be benefited by the AMBER Alert system put in place now.

Mr. Chairman, I reserve the balance of my time.

Mr. GINGREY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the chairman of the Subcommittee on Select Education.

Mr. HOEKSTRA. Mr. Chairman, I rise in support of H.R. 1104, the Child Abduction Prevention Act, which strengthens the punishment and consequences of criminals who dare to harm our children. An important provision of H.R. 1104 doubles the authorization level for the National Center for Missing and Exploited Children, which serves as the national resource center and clearinghouse to aid missing and exploited children and their families.

The Center is a private, nonprofit organization, mandated by Congress, working in cooperation with the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice. It is a critical resource for aiding the over 18,000 law enforcement agencies throughout the Nation in their search for missing children.

According to statistical data from the National Center for Missing and Exploited Children, from its inception in 1984 through the end of 2002, the Center handled 1,718,784 telephone calls through its national Hotline 1-800-THE-LOST. It trained 179,685 police and other professionals and distributed over 27 million issue-based publications. The Center has also worked with law enforcement on 87,513 missing child cases, resulting in the recovery of over 71,000 children, an incredible success rate of more than 80 percent.

The National Center for Missing and Exploited Children is uniquely positioned to access vital information to aid in the search and recovery of missing kids. It is the only child protection nonprofit organization with access to the FBI's National Crime Information Center Missing Person, Wanted Person and Unidentified Person Files, the National Law Enforcement Telecommunications System, and the Federal Parent Locator Services. Additionally, it is the only organization operating a 24-hour, toll-free Hotline for the recovery of missing children in cooperation with the U.S. Justice Department. It is also the sole organization operating a 24-hour, toll-free child pornography tip line in cooperation with the U.S. Customs Service and the U.S. Postal Inspection Service.

Please join me in voting for and supporting H.R. 1104.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to H.R. 1104. While I am happy to have this time to speak on the floor, I am very disappointed that the Committee on Education and the Workforce did not debate this issue before it came to the

floor. Members on the Committee on Education and the Workforce wanted to review the provisions in the bill that are under our committee's jurisdiction.

It is clear that the AMBER Alert system is highly effective and should be made available nationwide. However, I believe we need a clean AMBER Alert bill; and, once again, my colleagues on the other side of the aisle have failed to bring forth a clean bill. Instead, they have opted to load it up with extra provisions that they know will not be accepted by the other body.

This important legislation could have been passed 6 months ago, but instead today we are considering legislation that is broad and controversial. The controversial provisions include the expansion of the death penalty, mandatory minimum sentencing, criminalization of traveling with a criminal intent, the two-strikes-and-you-are-out provision, the expansion of wiretap authority, the eliminations of the statute of limitations on sexual abuse cases, and eliminating pretrial release.

Mr. Chairman, are all these provisions really necessary to help find and protect missing children?

That is why I have supported and will continue to support the bipartisan Frost-Dunn AMBER Alert Act which will strengthen the AMBER Alert program immediately. The Frost-Dunn bill provides \$25 million in grants and works to build a seamless network of local AMBER plans. What our local communities really need is more resources to increase highway signs, to educate and train law enforcement, and to gain additional equipment. This bill is the clean legislation that we should be considering today.

Mr. Chairman, I urge Members to vote "no" on H.R. 1104, and I demand that we look at a clean AMBER Alert bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 8¼ minutes remaining, the gentleman from Illinois (Mr. DAVIS) has 6 minutes remaining, the gentleman from Georgia (Mr. GINGREY) has 3½ minutes remaining, and the gentlewoman from California (Ms. WOOLSEY) has 5½ minutes remaining.

Mr. GINGREY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROYCE), who is a cosponsor of this very important piece of legislation.

Mr. ROYCE. Mr. Chairman, I rise in strong support of this legislation, which, of course, includes the AMBER Alert bill.

Last September, President George Bush took immediate action to help expand and improve the AMBER Alert system; and he provided a total of \$10 million from existing funds in order to expand and develop the AMBER training and education programs and in order to upgrade the emergency alert system. I support President Bush's efforts, and I urge Congress to pass this

important bill so that we can continue our efforts to ensure that an AMBER Alert system will be there for all of our Nation's children.

As we witnessed, AMBER plans have worked to bring home children safely; and I wanted to share one particular story about a 10-year-old girl from Riverside, California, named Nicole Timmons. We have the system in California, but, luckily, neighboring Nevada also picked up this alert; and on the Nevada radio stations they reported that Nicole had just been kidnapped by an individual and gave a certain amount of information. Luckily, a very alert citizen in Nevada was listening to this broadcast as he was driving next to the vehicle that Nicole was being transported in, being abducted in. He noticed that the driver was behaving rather suspiciously, and he noticed this 10-year-old girl. As a consequence, he immediately notified law enforcement. They moved in, and they rescued Nicole.

What is important here is in 75 percent of the cases where a young child is killed by an abductor, that murder occurs within the first 3 hours. That is why it is necessary that these alerts go up immediately to give other citizens a chance to help apprehend, to help report suspicious behavior, to help look for that abductor.

Of course, we have to ask ourselves, what if Nevada had not picked up the California alert? That is why we want to expand it across the Nation.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it is unfortunate that we will delay the opportunity to find Tionda and to find Diamond. We will delay the opportunity because, instead of having a simple, clean AMBER Alert bill that could be passed immediately in both Houses, we have a complex, complicated, bogged-down bill with all kinds of impediments and extraneous items in it that makes it very difficult for individuals to support if they also want to support a judicial system that deals in a rational, logical, sane, sensible, less-than-punitive way.

I do not know if it is going to be possible to change that, but I would certainly hope there would be some way to extricate, to take out those onerous portions of the bill so that we can move ahead and find missing children, find children who are away from their parents, find children that we do not know where they are. So I would hope when the end comes, we will come to an alert system that puts us on the track to find missing children.

Mr. Chairman, I reserve the balance of my time.

Mr. GINGREY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BURNS) a member of the Committee on Education and the Workforce.

Mr. BURNS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to express my support for H.R. 1104, the Child Abuse

Prevention Act. This legislation is critical for the protection of the greatest resource in America, our children. The bill increases the authorization funding for the National Center for Missing and Exploited Children. It serves as a resource center and a national clearinghouse to aid missing and exploited children and their families.

The National Center for Missing and Exploited Children operates a 24-hour Hotline to report information on missing children; and, through that Center, the information is sent out to law enforcement agencies both here and abroad. The Center verifies information on missing children entered in the FBI's National Crime Information System and instructs law enforcement in the proper handling of these cases.

The act also provides national coordination of the AMBER Alert system, which has already proven successful in multiple States by allowing law enforcement to put out an immediate bulletin when a child has been reported missing.

Finally, and most importantly, this bill dramatically increases the penalties for people who would harm children or use them in pornography. These penalties should be the most severe that society can deliver for such disgusting crimes against our children.

Ms. WOOLSEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, as the chairman and founder of the Congressional Caucus on Missing and Exploited Children, I am proud to be part of this overall issue of child abduction. Missing and exploited children is an issue that I became critically aware of within a few months after coming to Congress when, in 1997, Laura Kate Smither was abducted from her neighborhood, and 2½ weeks later her body was found in a drainage ditch.

Following that, I came back here and met with my staff, and one of my staff had been a volunteer with an organization called the National Center for Missing and Exploited Children during high school.

□ 1115

I quickly went over to the center and met Ernie Allen and have become a good friend of Mr. Allen, who is the president and CEO of that wonderful organization. I think I have found more in that organization than what I ever dreamed of being able to find. It does some amazing work. They have helped raise the overall level of awareness, which is the goal of the congressional caucus since we have formed it in 1997, now with about 150 members.

I am proud of the fact that there are bills, many different bills, plural, that are up on the floor and that are being discussed. Obviously, I too wish that we could take some of them separately. I think the AMBER Alert would instantly become law. We have had that debate; and now we are debating H.R. 1104, of which I am a cosponsor. And I

do ask and urge the passage of H.R. 1104.

The national center does so much varied work in providing their hotline, in providing assistance to communities, to families, to law enforcement, the magnificent work that it has done through its image enhancement activities that have helped find children years later after they were taken. There are a significant number of extremely dedicated, powerful people that they have put together and formed efforts to get information into our schools with curricula that will change the lives of children, with the law enforcement training through the Jimmy Ryce Law Enforcement Center, which offers free training activity to any chief executive of any law enforcement agency in the United States, a powerful organization. The \$20 million that we are asking for in fiscal years 2004 and 2005 will be some of the best money that this Congress can possibly spend. I urge the passage of H.R. 1104.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. GREEN).

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Chairman, I rise in support of the Child Abduction Protection Act and thank my California colleague for yielding me this time. I am a proud supporter of the AMBER program, which was created in Arlington, Texas. Everyone knows the history of the AMBER program, named for Amber Hagerman; but I am particularly proud that about 3 years ago our office in Houston started working on getting our radio network and the law enforcement in Houston, Texas, together.

I have a former staff member who now works for our leader, NANCY PELOSI, Cindy Jimenez, who was instrumental in this. And now in Houston not only this week was the AMBER Alert activated in Houston and a 14-year-old girl returned safely yesterday, but we have used it well over a half a dozen times in my community. My community, I say. We share eight Members of Congress, so it is a large community.

The sooner the word gets out that children are abducted, the better the chances of them being brought home. Particularly in my area we made sure we did it in both Spanish and English. We have had some tragedies in my area that are predominantly Hispanic, so it has to be in both languages, or any language that is available in the community.

H.R. 1104 makes grants to States. Again, we need it for the State of Texas as a whole. I express my disappointment that it has been bogged down, but I intend to support the full bill.

Mr. Chairman, I rise today to voice my support for the Child Abduction Protection Act, which includes language to improve the Amber program.

I am proud supporter of the AMBER program, which was created in Arlington, Texas. The AMBER Plan is named in memory of nine-year-old Amber Hagerman. In 1996, Amber was abducted while playing near her Arlington, Texas home. She was later found murdered.

In response to community concern, the Association of Radio Managers, with the assistance of area law enforcement, created the AMBER Plan to give listeners timely information about area child abductions. The plan calls for law enforcement agencies to provide radio stations with an alert upon the immediate confirmation of a child's abduction. All participating radio stations will break programming to broadcast the alert and any subsequent information provided by police. This program has blossomed into a nationwide effort where 39 states have adopted a statewide AMBER plan. To day the AMBER Plan has been credited with recovering 51 children!

Just this week, the police in my hometown of Houston, Texas, activated the AMBER system when a 14-year-old girl went missing from her middle school. Fortunately, the young lady was returned safely to her home.

The AMBER alert has been successful in Houston, Texas many times and I am proud our office played a part in organizing the Houston effort almost 3 years ago. Ms. Cindy Jimenez, my former staff member now with Democratic leader NANCY PELOSI, worked successfully to coordinate the cooperation between news media and law enforcement.

This kind of success story highlights the needs to ensure that states have the resources they need to set up AMBER plans. Seventy-four percent of abducted children who are murdered are dead within three hours of the abduction. The sooner word gets out that these children have been abducted, the better the chances that they will be brought home safely.

H.R. 1104 makes grants available to the states for them to set up AMBER alert plans, and also creates an Amber alert coordinator within the Department of Justice. I strongly support this provision.

I would like to express my disappointment, however, that this legislation has been weighted down with controversial issues. Issues such as mandatory minimum sentencing and making certain crimes punishable by the death penalty are matters for another day.

These issues are sure to slow down this important legislation. I urge the sponsors of this legislation to remove the controversial provisions so that the AMBER plan legislation can be enacted quickly.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Illinois (Mr. DAVIS) is recognized for 4½ minutes.

Mr. DAVIS of Illinois. Mr. Chairman, as I listened to the debate and as I listened to the virtues of the proposed legislation and as I listened to those who expressed opposition, it would seem to me that there ought to be a middle ground, that there ought to be a point where the children come first, where finding them, making sure that their parents can wake up and see their children that they have not seen. That often requires a bit of give and take.

I think that there could be other opportunities to debate and discuss

criminal justice punishment, to discuss what it is that you do as individuals have committed a crime. It would serve us well if we could arrive at the point where today we are simply talking about finding missing children, not punishing perpetrators, not putting people in jail, but finding missing children.

Mr. Chairman, I yield back the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentlewoman from California (Ms. WOOLSEY) is recognized for 2 minutes.

Ms. WOOLSEY. Mr. Chairman, citizens in my district have a special desire to see clean AMBER Alert legislation passed because of a beautiful teen-aged girl named Polly Klaas. Polly resided in my hometown of Petaluma, California. She was kidnapped from her home and murdered in 1993. It was because of failed communication in the early part of the search that ruined our chances, or any chances, of an early and potentially successful resolution to her kidnapping.

Since then, organizations in my district, namely, the Polly Klaas Foundation and BeyondMissing, have worked to ensure that more is done for missing children. These organizations both advocate a national AMBER Alert system that will define how seriously Americans support child safety and saving lives. But they want a clean AMBER Alert system. That is why it is crucial that we pass a clean bill today, not one that will be filled with extra add-ons, unrelated provisions, provisions not acceptable to the other body, hindering the ultimate goal of creating a system where we can find the children who are lost in this country.

So I ask, please vote for a clean AMBER Alert system, one that will be able to do the job, do it immediately, and not get bogged down in the Senate.

Mr. Chairman, I yield back the balance of my time.

Mr. GINGREY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as the Nation's resource center for child protection, the National Center for Missing and Exploited Children spends 94 percent of its revenue directly on programs and services. Due to their commitment to spend their resources on helping children, the center received an A+ rating in the Winter 2003 American Institute of Philanthropy Charity Rating Guide. This rating is used to recommend charities based on percentage of money spent on charitable purposes versus administrative expenses.

There were an estimated total of 58,200 children abducted by nonfamily members in 1999. Mr. Chairman, that is 160 abductions a day. To reduce this number, we must pass H.R. 1104. I would again urge my colleagues to support this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me this time.

I have to admit some disappointment in the debate that we are having today. There are those who want to focus on process and the structure of legislation, and there are those who want to get at the serious problem of child molesters and abductors and removing them from the streets. Mr. Chairman, we have been fighting this battle against child abduction and molesting for a long time. We have been fighting it a long time because it is a battle that we dare not lose.

I do not have much time to speak, but let me give Members three quick facts that I think point out the scope of this problem. Mr. Chairman, the average child molester in America will commit crimes for 16 years before he is caught. So when we see on television or when we read in the newspaper about someone who is caught, a child molester who is caught, an abductor who is caught, remember that the chances are that they have been doing this for years before they were caught.

Fact number two. According to former Attorney General Janet Reno, the recidivism rate for child molesters is 75 percent. That is on the low side of the estimates that I have seen. When we find someone, when we catch someone who has molested our young children, the chances are that they have done it before and the chances are that they will do it again unless we stop them.

My final fact is one that I find devastating. According to a number of surveys, the average child molester will commit 511 crimes in his lifetime. The number of repeat child molesters fortunately is relatively small, but the damage and the destruction that they do in America today is incredible. It is outrageous. Every child molester that we put away is a life saved, is a family rescued.

Mr. Chairman, today is a good day. I want to thank the chairman for leading us to this point. Today we fight back against child molestation. Today we fight back against those monsters who would prey upon our kids.

I would like to speak quickly to one provision in here because it is one of these provisions that is, quote-unquote, "bogging down this bill." It is called two strikes. It says that if you have been arrested and convicted of a serious sex crime against our kids and after you are released you do it yet again, you are going to go to prison for the rest of your life, no questions, no parole. We will stop this terrible, terrible scourge. This is not a controversial provision. It had 382 votes last session.

The speaker before me referred to BeyondMissing, an organization I helped launch. I have a letter here that I will place into the RECORD from BeyondMissing asking us to pass this bill with two strikes in it. They want the bill as has been presented. AMBER

Alert after we pass this bill will become the law of the land very quickly, but we must not back down. For the sake of the crimes that we can prevent, for the sake of the innocents we can protect, let us pass this bill as it is constituted, let us get it over to the President's desk, and let us make this the law of the land.

BEYOND MISSING, INC.,

Sausalito, CA, March 26, 2003.

Re HR 1104 Child Abduction Prevention Act.

MEMBERS OF THE HOUSE OF REPRESENTATIVES,

107th Congress (2001-2002), Washington, DC.

DEAR MEMBER OF CONGRESS: As the father of a child kidnapped and murdered by a recidivist violent offender I understand the need to do what ever is necessary to protect America's children from abuse, abduction and neglect. That is why I implore you to vote aye on HR 1104 the "Child Abduction Prevention Act".

Although there is a groundswell of support for a National Amber Alert, this important tool to assist in the recovery of kidnapped children is but one piece in a very complex puzzle that must be assembled if we are to truly protect America's children from victimization.

Strict, mandated prison sentences for those who would kidnap children; denial of pretrial release for child rapists or kidnappers; a "Two Strike" law for sexual predators and COPS funding for a sex offender apprehension program are equally important pieces of the same child protection puzzle.

HR 1104 can deliver the message that America will no longer tolerate those who would terrorize innocent citizens through the exploitation and victimization of our children. Although America's focus is currently on foreign terrorists, it is the domestic variety that truly threatens our safety. We should never forget that homeland security begins at home.

I join Chairman Sensenbrenner and Representative Mark Green in asking you to vote aye on HR 1104 the "Child Abduction Prevention Act". With the unprecedented attention that has been afforded child abduction in the past year you are in a position to memorialize America's recent child victims in accomplishment. If you fail to do so, they will be remembered only as statistics and surely they deserve better than that. Please take advantage of this opportunity to send a loud and clear message that we will no longer tolerate the abduction and abuse of America's children.

Sincerely,

MARC KLAAS,

President, Beyond Missing, Inc.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

(Mr. CANNON asked and was given permission to revise and extend his remarks.)

Mr. CANNON. I thank the gentleman from Wisconsin for yielding me this time.

Mr. Chairman, I rise in support of H.R. 1104, the Child Abduction Prevention Act. I would like to commend Chairman SENSENBRENNER for crafting such thoughtful and meaningful legislation to help protect our children from the sick people who would do them harm. It is essential that we enact legislation to help prevent kidnapping and recover abducted children. Over 70 percent of abducted children

who are murdered are killed within the first 3 hours after they are taken, and almost two-thirds of the killers have had prior records of violent crimes. This legislation goes a long way toward providing protections by establishing the means to help prevent abductions and to aid in the quick return of children who have been kidnapped.

With this bill, we enhance the operation of the AMBER Alert communications network to facilitate the recovery of abducted children. As it now stands, AMBER Alert is in place in 38 States. I hope that every State will implement this program. We are all aware of the important role that the National Center for Missing and Exploited Children has played in the search for abducted children for nearly 20 years. This bill helps ensure it will continue to play a crucial role by reauthorizing and doubling its annual grant to \$20 million each year.

Another important provision of this legislation will help prevent repeat offenses by child abductors. In addition to mandating a minimum 20-year sentence for kidnapping or abducting a person under the age of 18 years, it contains a "two strikes and you're out" provision that requires a mandatory sentence of life imprisonment for twice-convicted child offenders.

I would like to say once again how blessed we are for the return of Elizabeth Smart in my home State of Utah. Many prayers were answered, including those of my 5-year-old daughter. It is a miracle. We are all thrilled and grateful with this wonderful news. Yesterday, I had the pleasure of speaking with Elizabeth's father, Ed Smart, about the importance of this legislation. He is supportive and appreciative of the work Chairman SENSENBRENNER and the House have done to protect our children. Ed hopes, as I do, that today's child protection legislation will be sent to the President's desk and signed into law as soon as possible.

Mr. Chairman, I support all of the provisions of this bill. I urge my colleagues to join with us in voting for it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 3¼ minutes.

Mr. SENSENBRENNER. Mr. Chairman, on the other side of the aisle some Members have come up and stated that we ought to bust this bill apart and strip out all of the non-AMBER Alert-related issues. That would be a big mistake. It would be a huge mistake because most of these provisions are designed to prevent kidnappings and molestations from happening in the first place.

I support AMBER Alert. It is important once a kidnapping takes place that the police and the public and the news media know about that kidnapping so that an alert public can hopefully spot the abducted child and return the child to his or her parents.

□ 1130

But even more important in my opinion is to prevent the kidnappings and the molestations in the first place because if that ever happens, those people's lives are scorched for life.

In H.R. 1104 there are a number of provisions. I do not think they are controversial, but let me enumerate them. It provides the judge with the discretion to extend the supervision of a released child sex offender up to a maximum of life, eliminates the statute of limitations for child abductions and sex crimes, denies pretrial release for child rapists and child abductors, requires a mandatory sentence of life imprisonment for twice-convicted child sex offenders, reauthorizes and doubles the annual grant to the National Center for Missing and Exploited Children to \$20 million a year through fiscal 2005, mandates a minimum 20-year prison sentence for the kidnapping of a person under the age of 18 by a non-family member, authorizes COPS funding for a sex offender apprehension program, adds four new wiretap predicates that relate to sexual exploitation crimes against children.

We give these predicates so that the police will have the same authority to seek court wiretap authority when someone is using the Internet to try to entice children that the police presently have in cases of organized crime, international terrorism, or drug trafficking.

The bill facilitates the prevention of international parental kidnapping by adding an attempt to liability to the statute defining that offense, and it punishes persons who travel to foreign countries to engage in illegal sexual relations with minors and criminalizes the actions of sex tourism operators.

These are provisions that the opponents of this bill want to strip out. They are important provisions. They ought to be the law of the land, and we ought to pass H.R. 1104 intact today to make them the law of the land.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in reluctant support of H.R. 1104, the Child Abduction Prevention Act. While there are some provisions in this bill which I oppose, I feel it is crucial that the House pass legislation as soon as possible that would help foster the establishment of a coordinated, national AMBER Alert system.

I believe that the government must do all it can to facilitate the expansion of the AMBER Alert program which has been credited with recovering at least 27 children. I am proud to say that Illinois has a statewide AMBER Alert program. However, I am disappointed that the House leadership did not give us the opportunity to vote on a stand-alone AMBER Alert bill, H.R. 412, of which I am a cosponsor, and instead forced us to vote on a bill that includes controversial provisions.

Specifically, this bill expands cases in which the death penalty can be imposed. I strongly oppose capital punishment, and therefore oppose this provision. In addition, this bill includes an amendment which I voted against which turns the Sentencing guidelines into little more than mandatory minimum sentencing

laws by revising the standards and procedures under which a judge can depart from sentencing guidelines in order to account for specific circumstances. I oppose this provision because I strongly oppose mandatory minimum sentencing laws. This provision not only overturns an important Supreme Court decision which left some room for judicial discretion in sentencing, but, like other mandatory minimum sentencing laws, it takes away a judge's ability to be fair and exacts a one-size-fits-all standard on our judicial system.

It is my hope that this bill will move to Conference with the Senate and that the majority of these controversial provisions will be stripped out in order to pass a clean AMBER Alert bill. We should not be tainting a bill that is intended to help recover missing children with provisions that threaten the fairness and justice of our judicial system. I urge my colleagues to put aside their own agendas to ensure that all states have the ability to start their own AMBER Alert programs and work together so that families of abducted children will have some hope of the real possibility that their child could soon be returned to them.

Mr. HOLT. Mr. Chairman, I rise today to express my serious reservations with the Child Abduction Prevention Act. Although these reservations were not sufficient enough to compel me to vote against it, I want to make it clear that I am not pleased with the tactics employed by the House leadership that brought this bill to the Floor.

By introducing the Child Abduction Prevention Act today and passing a rule to prevent the clean Frost-Dunn AMBER Alert Network Act from coming to a vote, this House Leadership has imperiled chances for the AMBER Alert to become law in the near-term. In fact, AMBER Alert could have become law this week if the leadership so willed it. The House Leadership, however, has chosen repeatedly to undermine all heartfelt attempts by me and many of my colleagues to make the AMBER Alert national law right now. Today's vote is only another indication of the Leadership's willful intransigence. This bill was supposed to be about protecting our nation's children. It was supposed to be about supporting a National AMBER Alert Network. Sadly, this bill was really about politics.

I ran for Congress more than four years ago because I wanted to restore the trust of the American people in our system of self-government. I wanted to break through the cynicism that had poisoned the people's faith in our democracy and in our elected representatives. The cynical tactics employed by the House Leadership today on the AMBER Alert are exactly what I came here to Congress to fight.

Last October, this same House Leadership had the opportunity to make the AMBER Alert national law. The Senate had passed an AMBER Alert bill. The House had an opportunity to pass it quickly into law, but the Leadership decided to play politics with the bill and added a list of other provisions. At the time I took a stand against the Leadership and opposed their political games, and I took on the nay-sayers back home who said I should have backed down. The facts are the same today as they were then: these tactics are designed to prevent AMBER Alert from becoming law. As a result, six months have passed and we still don't have AMBER Alert.

I wanted to bring a clean AMBER Alert bill to the House floor identical to the one passed

twice now by the Senate. I am an original co-sponsor of the Frost-Dunn National AMBER Alert bill and I have tried to convince the Leadership to bring it to the Floor for a vote.

I voted for this version of the Child Abduction Act today because I support AMBER Alert, but it was not an easy vote. I voted for this bill despite the fact that I know there is a better way to turn AMBER Alert into national Law. I voted for this bill, despite the fact that I have serious reservations about provisions that would impose the death penalty for certain crimes where it does not now apply, increase mandatory sentences for certain offenses, and expand the wiretapping authority of the federal government.

In the end, however, I voted for this bill because I am now convinced after months of struggle that neither the principle of my protest nor the strength of my argument will change the collectively obstinate mind of the House Leadership. If even the personal pleas of Elizabeth Smart and her family cannot influence the House Leadership to bring a clean AMBER Alert bill to a vote, then I must conclude that neither can mine. I am now convinced that the only way AMBER will become law is by the overwhelming force of conscience—from the public, from Congress, and from me personally—to communicate in no uncertain terms that AMBER Alert will not be stopped by cynical political games. The only true loser today are America's children who will now have to wait even longer for Congress and the President to strengthen our national AMBER Alert system.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of H.R. 1104, the Child Abduction Prevention Act. Last Congress the House of Representatives passed parts of this bill, unfortunately these reforms were never taken up by the other body.

Mr. Chairman, the longer I work with this issue of the vulnerability of children to sexual molestation and exploitation, the starker the picture becomes. According to the United States Department of Justice, the number of missing persons reported to law enforcement increased 468 percent in the past 20 years. And every year 3,000 to 5,000 children are kidnapped by sexual predators.

Mr. Chairman, right now while we debate this bill sexual predators are trolling the internet looking for potential victims. They manipulate children, convince them they are a friend, and force the child to not trust anyone else. These predators are serial offenders who often travel to conduct multiple sexual offenses against multiple children.

We need to stop these sexual predators before they can lay a hand on a child, because once a child comes into contact with a predator it is often too late. 3 out of 4 children who are kidnapped and murdered are killed within three hours of their abduction.

Mr. Chairman, the average victim is an 11-year-old-girl with a stable family relationship who has initial contact with the abductor within a quarter mile of her home. Our law enforcement officers are fighting a difficult battle, and this legislation acknowledges that technological advances have fundamentally changed the method through which a sex predator lures a child into an exploitive relationship.

When Detective James Wardwell, from my hometown of New Britain, Connecticut, testified before the Crime Subcommittee on this very issue he told us that as a matter of

course, sex predators want to know who they are communicating with. Invariable, sex predators move their conversations off-line and onto the telephone, especially when they are preparing to meet the child. The authorities need the ability to track these conversations, if we are to effectively protect our children.

In addition to fighting the sexual exploitation of children in the United States, this bill also helps the FBI and the Customs service fight the growing sex tourism industry. More and more Americans are traveling overseas to nations that have limited child prostitution laws or enforcement. Travel agencies have sprung up that cater to these pedophiles, and so called "situation abusers." Just because their intended victims are not American citizens does not absolve us of the need to capture dangerous criminals. These people do not only act on their predatory impulses overseas. They return to the United States emboldened by their experiences. They are often people who commit multiple offenses, with multiple victims. Capturing these dangerous criminals at the earliest opportunity can prevent the needless destruction of the life of any number of children. This bill focuses on the reprehensible agencies which facilitate this travel and makes it easier for law enforcement to track them and their rogue clientele.

We must modernize our laws because sex predators no longer lurk at the school yard. Today they lurk in Internet chatrooms. Today our children are under attack on the Internet, and under siege in chat rooms. Sex predators seek out children on-line, manipulate, meet, molest and murder them. We must act to give our law enforcement agencies all the tools necessary to stop sexual predators before they can strike.

Wiretapping is an effective tool that will prove especially useful in dealing with sex predators and persons involved in the sex tourism industry. Law enforcement officers will still have to present their case to a judge to authorize the use of the wiretap. Wiretapping provides the best physical evidence to secure a conviction and get pedophiles off the street, especially when the child victims are unable to cooperate with authorities. Also, it is worth noting that wiretap transcripts can be used in lieu of a child's testimony when prosecuting these sexual predators.

I urge my colleagues to support the Child Abduction Prevention Act.

Mr. REYES. Mr. Chairman, I rise today in support of H.R. 1104, the Child Abduction Prevention Act. This bill is important to ensure that there are enough resources dedicated to the recovery of missing and abducted children.

I am proud to have associated myself as an original cosponsor of H.R. 412, the AMBER Alert Network Act, a bill introduced by my colleague from Texas, Mr. FROST, and my colleague from Washington, Ms. DUNN.

This AMBER bill strengthens missing child alerts by providing state and local plans with grants to fund communications improvements like highway signs so an abductor can't escape simply by traveling outside the reach of radio and TV broadcasts. It also formally establishes a national AMBER coordinator office at the Justice Department to establish voluntary standards, provide training and help states coordinate their AMBER plans.

I am deeply disappointed that the Republican Leadership has failed to see the importance of the expeditious review of this bill. By

bringing to the floor the Senate-passed bill identical to the Frost/Dunn AMBER Bill, resources could have been made available to our state and local governments more quickly. Instead the decision of the Republican Leadership will only serve to further delay these valuable resources for months.

Mr. Chairman, our children deserve better. It was my hope, that given the recent high-profile abductions, the Leadership of this House would put partisanship aside and focus on the lives of our children before anything else.

Regardless of this, I support this bill brought before us today. Although I am disappointed with the way this issue has come to surface, my support for the legislation remains the same.

Mr. Chairman, I wish to take a moment to commend Mr. FROST and Ms. DUNN for their continued pursuit to help our children and families.

I respectfully urge my colleagues to vote in favor of this bill, and to continue to work on behalf of our nation's children.

Mr. STARK. Mr. Chairman, I rise today to opposition to H.R. 1104, the Child Abduction Prevention Act. I am greatly troubled by this vote.

I support the AMBER Alert program as a vital means to prevent child abduction and track down those who prey upon our children. I am a cosponsor of the bipartisan Frost-Dunn AMBER Alert Network Act that would help all states implement this vital program. It would ensure that a strong nation-wide network exists to protect our children from these horrific crimes.

Yet, Republicans have never allowed a clean vote on this legislation. They have decided once again to include this legislation within a larger criminal justice bill that includes new, draconian sentencing guidelines and abuses to our basic Constitutional rights. I cannot in good conscience support these provisions. They will ultimately doom this bill when it comes before the Senate, just like last year.

Just as with the child abduction bill brought to the House floor last October, I object to allowing the government to abuse fundamental privacy rights as this bill does. The Republicans continue to push provisions giving the FBI unprecedented wiretap authority to engage in secret surveillance of our homes. This is unconstitutional and I will support it.

Chairman SENSENBRENNER and the Republican Leadership again insisted on including a "2 strikes and you're out" sentencing provision. This type of mandatory minimum sentence is not only draconian, it is ineffective in deterring these types of crimes.

This bill again will expand the number of crimes punishable under the death penalty. This is done despite evidence that many Americans have been wrongly sentenced to death. This is wrong and I will not support it.

I urge my colleagues to join me in voting again against this legislation. Lets send a message to the House Republicans to stop putting their blind allegiance to right wing politics ahead of the safety of our kids. Let's get the national AMBER Alert network off the ground once and for all—for the sake of all America's families and their children.

Mr. DELAY. Mr. Chairman, today the House will consider the "Child Abduction Prevention Act" sponsored by Chairman SENSENBRENNER.

This bill, H.R. 1104, is drafted to do two important things: increase the communication

systems to locate a missing child and put in place stronger penalties to prevent child abductions and sexual exploitation. Both things are needed to make our children safer.

Support of the AMBER Alert communications plans is a key component of this legislation. AMBER Alert is used by state and local enforcement agencies to search for abducted children. Currently there are 87 AMBER plans across the country with 38 of them statewide. Forty seven children have been recovered as a direct result of AMBER.

AMBER Alert systems must be coordinated and funded to increase communication when a child is a abducted or reported missing. This bill increases AMBER funding and puts in law the national coordinator already in place at the Department of Justice.

But increasing communication alone will not deter child abductors or child predators from abusing children. It will take the strong penalties contained in this legislation to prevent child abductions and child exploitation.

This legislation puts in place the necessary enforcement tools to assure that child abductors and child predators will not escape justice.

This bill offers a comprehensive package of child abduction prevention tools that make severe child abuse and torture a capital crime; provide stronger penalties against kidnapping and sexual trafficking; keep child kidnappers behind bars until trial; and put a "two strikes you're out" law in place.

After all, how many children's lives do you have to ruin before you should be locked up for life?

Additionally, this legislation keeps all the safeguards in place for wiretapping, but creates 4 new circumstances to allow better monitoring of criminals' abuse of children's chat rooms.

We used to be able to keep an eye on our children at the playground in order to keep them safe. Chat rooms pose a dangerous new challenge that we must confront.

I believe that H.R. 1104 shows the American people that communication and prevention are necessary to protect our children and keep them safe.

Mr. BOEHNER. Mr. Chairman, I speak in support of H.R. 1104, the Child Abduction Prevention Act, which strengthens the punishment and consequences of those criminals who would dare to harm our children, as well as provides for the national coordination of the AMBER Alert communications network. This legislation also increases the authorization for the National Center for Missing and Exploited Children (NCMEC), which serves as the national resource center and clearinghouse to aid missing and exploited children and their families.

H.R. 1104 includes Section 305, which increases the authorization level of the National Center for Missing and Exploited Children to \$20,000,000 for fiscal years 2004 and 2005. As the nation's resource center and clearinghouse for missing and exploited children, the Center carries out many important responsibilities that provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

In order to do this, the Center operates a national 24-hour toll-free telephone line for individuals to report information regarding the location of any missing child. A call to NCMEC's

Hotline sets into motion the Missing Children's Division where Case Management staff:

Disseminate lead information to the investigating agency in charge of a missing or sexually exploited child's case;

Assist citizens and law enforcement in filing missing person reports;

Verify information on missing children entered into the FBI's National Crime Information Center (NCIC) computer system and instruct law enforcement in the proper handling of these cases;

Offer resources and information to assist in local, regional, national, or international searches;

Coordinate with and send publications to enhance the investigative skills of law enforcement officers handling these cases; and

Work in conjunction with INTERPOL, the U.S. Department of State, FBI, and the U.S. Customs Service.

And on behalf of the U.S. Department of State, NCMC handles cases coming into the United States arising from the Hague Convention on International Child Abduction.

This worthwhile organization deserves our support. I urge my colleagues to support H.R. 1104.

Mr. UDALL of New Mexico. Mr. Chairman, I rise to express my strong disappointment in the House Leadership's politics-as-usual tactics that effectively continue to hold the AMBER bill hostage, a word I do not use lightly considering the gravity of this important legislation.

Yesterday, the House had yet another opportunity to expedite the enactment of a national AMBER Alert System. The AMBER bill has had strong bipartisan support for several months now. The national alert system would be law today but for Leadership's permitting Judiciary Committee Chairman SENSENBRENNER to hinder passage of a widely supported stands alone AMBER bill. Instead of a simple House bill narrowly tailored to address the abduction of missing children in the United States, the Chairman instead presented for a vote a broader and more complicated bill riddled with controversial provisions. Yet as a result of yesterday's vote on the rule for the Sensenbrenner bill, the national AMBER Alert System faces further delay and an uncertain outcome due to the impending conference with the Senate.

The Senate first passed a clean AMBER bill six months ago, and did so again this past January, both times by unanimous consent. H.R. 412, the popular bipartisan bill that I proudly and fervently cosponsored in the House that same month, contains the same language as the uncontroversial Senate bill. However, Chairman SENSENBRENNER has refused to allow his committee to consider H.R. 412 as a freestanding bill and instead insists on pushing his version containing unrelated provisions that the Senate has previously contested. As such, the debate of what should be a simple, common sense proposal must continue.

Prolonging the debate on this important legislation is outrageous and unnecessary. The AMBER Alert System is a proven and invaluable tool for aiding the recovery of abducted children. Sadly though, children continue to go missing in this country every day. How many of these will be affected by the failure to enact a national AMBER Alert bill in a timely manner?

The Congress needed to enact this critically important legislation sooner rather than later. Accordingly, I reiterate my disappointment in the political wrangling that continues to prolong this bill's eventual presentation to the President.

Mrs. BLACKBURN. Mr. Chairman, as we debate H.R. 1104, the Child Abduction Prevention Act of 2003, it is important to talk about not only the AMBER Alert provision in the bill, but to also praise additional measures of the legislation that serve and protect our Nation's children. Certainly the AMBER Alert system has helped to find missing children throughout the nation and in my home state of Tennessee, but this bill has a wider scope by working to stop abductions before they occur.

H.R. 1104 gives us the ability to provide stronger penalties against kidnappers, sex offenders and child abductors. It aids law enforcement by giving them the ability to prosecute the criminals responsible for these crimes. For example, it requires a minimum 20-year sentence for criminals that kidnap or abduct a child under the age of 18.

Of great importance, it denies pretrial release for child kidnappers or child rapists and eliminates the statute of limitations for child kidnapping or sex crimes.

Further, it gives a judge the discretion to rule that a released sex offender's supervision be extended up to a maximum of life. It also requires a mandatory life in prison sentence to twice convicted child sex offenders. These two provisions may give parents a small sense of relief that a sex offender will not move into their neighborhood and prey on their children.

Each of these measures will work to enhance the good work being done at the local level by our child advocacy centers and organizations.

In addition, the Child Abduction and Prevention Act of 2003 provides extra money for the Missing and Exploited Youth Program—an essential element to both finding missing children and preventing child abductions. It reauthorizes the annual grant to the National Center for Missing and Exploited Youth and doubles the funding level to \$20 million each year through 2005.

Unquestionably, the AMBER Alert provision in this bill is an essential one. But it is also imperative that we act to stop abductions before they happen. The Child Prevention Act of 2003 does just that.

Mr. GOODLATTE. Mr. Chairman, I rise today in support of H.R. 1104, the Child Abduction Prevention Act. This important legislation cracks down on child predators and provides the resources to help ensure that abducted children are safely returned home.

Specifically, H.R. 1104 increases the minimum and maximum penalties for the sexual exploitation and sex trafficking of children. It also directs the Sentencing Commission to increase the base offense level for kidnapping.

Furthermore, it removes the statute of limitations for child abductions and for many felony sex offenses. This provision will be particularly helpful in situations where DNA evidence conclusively proves the identity of a perpetrator years after the crime was committed.

In addition to increasing criminal penalties for child predators, H.R. 1104 also establishes and funds an AMBER alert coordination program. To accomplish this, the bill first establishes an AMBER alert coordinator within the Department of Justice to assist States with de-

veloping, enhancing, and coordinating their AMBER alert plans. Second, the bill authorizes \$5 million to be distributed to the Department of Justice to award grants to encourage the development of AMBER alert activities. The establishment of this AMBER alert coordination program is a crucial step toward bringing missing and abducted children home safely.

As a member of the Congressional Missing and Exploited Children's Caucus, I have long been concerned about the safety of children, the most vulnerable members of our society. The caucus has worked to build awareness about missing children, and to create a cohesive voice in Congress so that we might introduce and pass legislation that will strengthen law enforcement and community mobilization efforts to combat child abduction. H.R. 1104 achieves both of these goals and I encourage each of my colleagues to support this important legislation.

Mr. HEFLEY. Mr. Chairman, I rise today in strong support of H.R. 1104, the Child Abduction Prevention Act. This important legislation has several provisions that go a long way toward securing the safety of our Nation's children.

H.R. 1104 allows judges to extend supervision of released sex offenders for the rest of their life. This bill will eliminate the statute of limitations for child abductions and sex crimes so that we can prosecute these criminals whenever and wherever we find them. The clock will never run out and these criminals will not get away with their despicable crimes. H.R. 1104 will deny pre-trial release for child rapists or child abductors so they cannot flee this country and escape prosecution. This bill establishes a mandatory two-strikes-you're-out sentence for twice-convicted child sex offenders. H.R. 1104 will also mandate a minimum 20-year prison sentence for kidnaping of a minor non-family member.

Another important part of this legislation is the re-authorization and doubling of the annual grant to the National Center for Missing and Exploited Children. H.R. 1104 also allows the COPS program to use federal funds for a sex offender apprehension program to track sex offenders that violate the terms of their release. Finally, Mr. Chairman this bill establishes a national AMBER Alert program to facilitate the recovery of abducted children.

On this final point Mr. Chairman I would like to take a minute to discuss the importance of this program. Many people in both chambers of Congress have worked long and hard to create the AMBER Alert program on a national level. I was the first member of this Congress to introduce legislation in the House that would establish a national AMBER Alert program because I feel very strongly that our Nation's youth need to be protected. As many of you are aware, the AMBER Alert program would require the Attorney General to assign a national coordinator for the AMBER Alert communications network. This coordinator would be responsible for (1) eliminating the gaps in this network; (2) working with the States to develop additional networks and ensure regional coordination; (3) act as the nationwide point of contact for network development for regional coordination. The AMBER Alert coordinator would notify the FBI concerning each child abduction for which the AMBER Alert network is activated and establish minimum standards for issuing and disseminating alerts.

The AMBER Alert legislation would require the Secretary of Transportation to provide grants to the States for the development and enhancement of the communications system along highways for the AMBER Alert network. These grants will improve the development or enhancement of electronic message boards and placement of additional signs along highways.

Finally this legislation will direct the Attorney General to provide grants to States for the development of programs and activities for the support of the AMBER Alert communications plans.

Mr. Chairman, I would like to thank all the members who have worked so hard on this legislation. This is a vital piece of legislation that, when enacted, will go a long way toward securing this country's youth.

Mr. TERRY. Mr. Chairman, I rise in strong support of H.R. 1104, the Child Abduction Prevention Act.

Our nation rejoiced with the family of Elizabeth Smart when she was recovered safely after spending nine months at the mercy of her kidnapper. We will always remember her courage in the face of terror, the steadfastness of her family, the determination of law enforcement officers, and the life-saving help of the two couples who alerted police to her abductor. The remarkable conclusion to this kidnapping has inspired our nation and drawn further attention to the plight of missing children and their families.

According to the U.S. Department of Justice, there were 58,200 children abducted by non-family members in 1999. Nearly half of these children were sexually assaulted, and about 100 were murdered. The National Center for Missing and Exploited Children reports that "74 percent of abducted children who are murdered are dead within three hours of the abduction."

H.R. 1104 will help recover children in these first crucial hours by aiding more states with setting up AMBER alert systems to utilize the eyes and ears of the public. This legislation will also help to keep career child rapists and killers off our streets by establishing a mandatory lifetime prison sentence for twice-convicted child molesters, and a 20-year sentence for non-family child abductors. These critical steps will help more families with missing children experience the joy of having their child come back home.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation to help save the lives of kidnapped children and prevent future abductions. I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abduction Prevention Act".

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)"; and

(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, and the sentence for any such offense that is a felony shall include a term of supervised release of at least 5 years."

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

(B) by inserting "or perpetrated as part of a pattern or practice of assault or torture against a child or children;" after "robbery";; and

(2) by inserting at the end the following:

"(c) For purposes of this section—

"(1) the term 'assault' has the same meaning as given that term in section 113;

"(2) the term 'child' means a person who has not attained the age of 18 years and is—

"(A) under the perpetrator's care or control;

or

"(B) at least six years younger than the perpetrator;

"(3) the term 'child abuse' means intentionally, knowingly, or recklessly causing death or serious bodily injury to a child;

"(4) the term 'pattern or practice of assault or torture' means assault or torture engaged in on at least two occasions;

"(5) the term 'recklessly' with respect to causing death or serious bodily injury—

"(A) means causing death or serious bodily injury under circumstances in which the perpetrator is aware of and disregards a grave risk of death or serious bodily injury; and

"(B) such recklessness can be inferred from the character, manner, and circumstances of the perpetrator's conduct;

"(6) the term 'serious bodily injury' has the meaning set forth in section 1365; and

"(7) the term 'torture' means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1)."

SEC. 103. SEXUAL ABUSE PENALTIES.

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

(A) in section 2251(d)—

(i) by striking "20" and inserting "30"; and

(ii) by striking "30" the first place it appears and inserting "50";

(B) in section 2252(b)(1)—

(i) by striking "15" and inserting "20"; and

(ii) by striking "30" and inserting "40";

(C) in section 2252(b)(2)—

(i) by striking "5" and inserting "10"; and

(ii) by striking "10" and inserting "20";

(D) in section 2252A(b)(1)—

(i) by striking "15" and inserting "20"; and

(ii) by striking "30" and inserting "40"; and

(E) in section 2252A(b)(2)—

(i) by striking "5" and inserting "10"; and

(ii) by striking "10" and inserting "20".

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

(A) in section 2422(a), by striking "10" and inserting "20";

(B) in section 2422(b), by striking "15" and inserting "30"; and

(C) in section 2423(a), by striking "15" and inserting "30".

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

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

(A) in section 2251(d)—

(i) by striking "or imprisoned not less than 10" and inserting "and imprisoned not less than 15";

(ii) by striking "and both,";

(iii) by striking "15" and inserting "25"; and

(iv) by striking "30" the second place it appears and inserting "35";

(B) in section 2251A(a) and (b), by striking "20" and inserting "30";

(C) in section 2252(b)(1)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 10 years and";

(ii) by striking "or both,"; and

(iii) by striking "5" and inserting "15";

(D) in section 2252(b)(2)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 5 years and";

(ii) by striking "or both,"; and

(iii) by striking "2" and inserting "10";

(E) in section 2252A(b)(1)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 10 years and";

(ii) by striking "or both,"; and

(iii) by striking "5" and inserting "15"; and

(F) in section 2252A(b)(2)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 5 years and";

(ii) by striking "or both,"; and

(iii) by striking "2" and inserting "10".

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

(A) in section 2422(a)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 2 years and";

and

(ii) by striking "or both";

(B) in section 2422(b)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 5 years and";

and

(ii) by striking "or both"; and

(C) in section 2423(a)—

(i) by striking "or imprisoned" and inserting "and imprisoned not less than 5 years and";

and

(ii) by striking "or both".

SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.

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

(1) so that the base level for kidnapping in section 2A4.1(a) is increased from level 24 to level 32 (121–151 months);

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

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

(b) MINIMUM MANDATORY SENTENCE.—Section 1201(g) of title 18, United States Code, is amended by striking "shall be subject to paragraph (2)" in paragraph (1) and all that follows through paragraph (2) and inserting "shall include imprisonment for not less than 20 years."

SEC. 105. PENALTIES AGAINST SEX TOURISM.

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

"(b) TRAVEL WITH INTENT TO ENGAGE IN ILLEGAL SEXUAL CONDUCT.—A person who travels in interstate commerce or travels into the United

States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 30 years, or both.

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

“(d) **ANCILLARY OFFENSES.**—Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 30 years, or both.

“(e) **ATTEMPT AND CONSPIRACY.**—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

“(f) **DEFINITION.**—As used in this section, the term ‘illicit sexual conduct’ means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who has not attained the age of 18 years.

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

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

SEC. 106. TWO STRIKES YOU'RE OUT.

(a) **IN GENERAL.**—Section 3559 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(e) **MANDATORY LIFE IMPRISONMENT FOR REPEATED SEX OFFENSES AGAINST CHILDREN.**—

“(1) **IN GENERAL.**—A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

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

“(A) the term ‘Federal sex offense’ means—

“(i) an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2244(a)(1) or (2) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), 2251 (relating to sexual exploitation of children), 2251A (relating to selling or buying of children), or 2422(b) (relating to coercion and enticement of a minor into prostitution); or

“(ii) an offense under section 2423(a) (relating to transportation of minors) involving prostitution or sexual activity constituting a State sex offense;

“(B) the term ‘State sex offense’ means an offense under State law that consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title—

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

“(ii) the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or

in the Indian country (as defined in section 1151);

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

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

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

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

SEC. 107. ATTEMPT LIABILITY FOR INTERNATIONAL PARENTAL KIDNAPPING.

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

(1) in subsection (a), by inserting “, or attempts to do so,” before “or retains”; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting “or the Uniform Child Custody Jurisdiction and Enforcement Act” before “and was”; and

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

TITLE II—INVESTIGATIONS AND PROSECUTIONS

Subtitle A—Law Enforcement Tools To Protect Children

SEC. 201. INTERCEPTIONS OF COMMUNICATIONS IN INVESTIGATIONS OF SEX OFFENSES.

(a) **IN GENERAL.**—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting after “chapter 37 (relating to espionage),” the following: “chapter 55 (relating to kidnapping).”; and

(2) in paragraph (c)—

(A) by inserting “1591 (sex trafficking),” before “section 1751”; and

(B) by striking “2251 and 2252 (sexual exploitation of children)” and inserting “2251, 2251A, 2252, 2252A, and 2260 (sexual exploitation of children)”; and

(C) by inserting “sections 2421, 2422, 2423, and 2425 (transportation for illegal sexual activity and related crimes),” before “section 1029”.

(b) **TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.**—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking “or” at the end of paragraph (q);

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

“(r) a violation of section 2422 (relating to coercion and enticement) and section 2423(a) (relating to transportation of minors) of this title, if, in connection with that violation, the intended sexual activity would constitute a felony violation of chapter 109A or 110, including a felony violation of chapter 109A or 110 if the sexual activity occurred, or was intended to occur, within the special maritime and territorial jurisdiction of the United States, regardless of where it actually occurred or was intended to occur; or”; and

(3) by redesignating paragraph (r) as paragraph (s).

SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

(a) **IN GENERAL.**—(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 3297. Child abduction and sex offenses

“Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under section 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3297. Child abduction and sex offenses.”

(b) **APPLICATION.**—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

Subtitle B—No Pretrial Release for Those Who Rape or Kidnap Children

SEC. 221. NO PRETRIAL RELEASE FOR THOSE WHO RAPE OR KIDNAP CHILDREN.

Section 3142(e) of title 18, United States Code, is amended by striking “or 2332b” and inserting “1201, 1591, 2241, 2242, 2244(a)(1), 2242(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2332b, 2421, 2422, 2423, or 2425”.

Subtitle C—No Waiting Period To Report Missing Children “Suzanne’s Law”

SEC. 241. AMENDMENT.

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

TITLE III—PUBLIC OUTREACH

SEC. 301. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) **COORDINATION WITHIN DEPARTMENT OF JUSTICE.**—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) **DUTIES.**—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

(3) work with States to ensure appropriate regional coordination of various elements of the network; and

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

(A) the development of the network; and

(B) regional coordination of alerts on abducted children through the network.

(c) **CONSULTATION WITH FEDERAL BUREAU OF INVESTIGATION.**—In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

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

SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

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

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

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

(b) **LIMITATIONS.**—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

(2) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that appropriate information relating to the special needs of an abducted child (including health care needs) are disseminated to the appropriate law enforcement, public health, and other public officials.

(3) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the

AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

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

(c) COOPERATION.—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

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

SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

(b) DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the development of a State program for the use of changeable message signs or other motorist information systems to notify motorists about abductions of children. The State program shall provide for the planning, coordination, and design of systems, protocols, and message sets that support the coordination and communication necessary to notify motorists about abductions of children.

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

(A) To develop general policies and procedures to guide the use of changeable message signs or other motorist information systems to notify motorists about abductions of children.

(B) To develop guidance or policies on the content and format of alert messages to be conveyed on changeable message signs or other traveler information systems.

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

(D) To plan secure and reliable communications systems and protocols among public safety and transportation agencies or modify existing communications systems to support the notification of motorists about abductions of children.

(E) To plan and design improved systems for communicating with motorists, including the capability for issuing wide area alerts to motorists.

(F) To plan systems and protocols to facilitate the efficient issuance of child abduction notification and other key information to motorists during off-hours.

(G) To provide training and guidance to transportation authorities to facilitate appropriate use of changeable message signs and other traveler information systems for the notification of motorists about abductions of children.

(c) IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State under this subsection for the implementation of a program for the use of changeable message signs or other motorist information systems to notify motorists about abductions of children. A State shall be eligible for a grant under this subsection if the Secretary determines that the State has developed a State program in accordance with subsection (b).

(2) ELIGIBLE ACTIVITIES.—A grant under this subsection may be used by a State to support the implementation of systems that use changeable message signs or other motorist information systems to notify motorists about abductions of children. Such support may include the purchase and installation of changeable message

signs or other motorist information systems to notify motorists about abductions of children.

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

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

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

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

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

(i) STUDY OF STATE PROGRAMS.—

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

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

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

(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

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

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

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

(3) such other activities as the Attorney General considers appropriate for supporting the AMBER Alert communications program.

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

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Justice \$5,000,000 for fiscal year 2004 to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 305. INCREASED SUPPORT.

Section 404(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5773(b)(2)) is amended by inserting “and \$20,000,000 for each of fiscal years 2004 and 2005” after “and 2003”.

SEC. 306. SEX OFFENDER APPREHENSION PROGRAM.

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

The CHAIRMAN pro tempore. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 108-48. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108-48.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

Mr. PENCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. PENCE:

At the end of title I (page ____, after line ____,) insert the following:

SEC. 108. MISLEADING DOMAIN NAMES ON THE INTERNET.

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

“§2252B. Misleading domain names on the Internet

“(a) Whoever knowingly uses a misleading domain name with the intent to deceive a person into viewing obscenity on the Internet shall be fined under this title or imprisoned not more than 2 years, or both.

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

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

“(d) For the purposes of this section, the term ‘material that is harmful to minors’ means any communication that—

“(1) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

“(2) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

“(3) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.”.

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

“2252B. False or misleading domain names on the Internet.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Indiana (Mr. PENCE) and a

Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today as the author of the Pence amendment, the Truth in Domain Names Act, as a legislator, as a member of the Committee on the Judiciary, its Subcommittee on Courts, the Internet, and Intellectual Property; but also, most importantly, Mr. Chairman, I rise today as a dad who loves to sit my 9-year-old daughter or my 11-year-old son on my knee and help them with their homework on the Internet. It was the experience of doing that that inspired me in the last Congress to author the Truth in Domain Names Act, and it has inspired me to bring this amendment to the underlying bill, the Child Abduction Prevention Act, today.

Thanks to the extraordinary leadership of the gentleman from Wisconsin (Chairman SENSENBRENNER), we are considering a bill today that will make measurable progress in protecting our children from child predators. I would offer humbly today, Mr. Chairman, that the Pence amendment is just such a bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. PENCE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe the gentleman's amendment is a very constructive amendment. I urge the committee to adopt it.

Mr. PENCE. Mr. Chairman, I thank the gentleman. The Pence amendment will make it a criminal act to knowingly use a misleading domain name with the intent to deceive a person into viewing obscenity on the Internet; and, most especially, it would make it a criminal act to knowingly use a misleading domain name with the intent to deceive a minor into viewing material on the Internet that is harmful.

Like many of the Members, I believe the Internet should remain free of regulation, Mr. Chairman. The Pence amendment is not regulation of the Internet. It is an anti-fraud bill. It does not prevent any material from being displayed on the Internet. In fact, a domain name that includes word or words to indicate sexual content on the site like the word "sex" or "porn" is by definition in this law not considered misleading. The amendment simply requires Web site owners to be honest about the content of their site, preventing families just like mine from surfing the Internet as their children do homework and all of a sudden finding themselves in a place of prurient and pornographic material.

I am not the only one with this problem. A recent survey conducted in the year 2000 by the Crimes Against Children Research Center found that 71 percent of teens had accidentally come across inappropriate sexual material on the Internet. Another study con-

ducted by the Berkeman Center at Harvard Law School reviewed 5,000 domain names that were just slight misspellings of existing Web sites and found, and I am quoting, "A majority of these domain names are variations on sites frequently used by children; and although their domain names do not suggest the presence of sexually explicit content, more than 89 percent of the Web sites examined contained sexually explicit material."

The Pence amendment is endorsed by leading organizations of a child advocate nature, and I urge its passage.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Is there any Member seeking time in opposition?

Mr. SCOTT of Virginia. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

This is one of the reasons why it is difficult to consider legislation on the floor that had not been considered by committee. Reading the legislation, it appears that they have defined things that are obscene and, if that is the case, the whole site can be busted for obscenity. If it is not obscene, I am not sure that the amendment even applies. Adding "misleading" will just add complications to the prosecution because if we can prosecute for the obscenity, we do not have to get into the question of whether the title was misleading or not. We have constitutional implications with this because "misleading" may apply to adults as well as children.

There have been no hearings on this to my knowledge and certainly no committee consideration of this. I would point out that if the exemption on the bill, if we have a sexual implication in the name of the Web site, that might cause as many problems as it does solutions because it would make it easier to find the pornographic and obscene sites.

The AMBER alert bill ought to be passed by itself. We ought not be complicated with amendments such as this that have not been considered on the floor. So I would hope we would defeat the amendment, take the AMBER alert portion of the bill by itself so that that could be passed and considered, and deal with this kind of a measure in committee where we can deliberate and get all the fact and implications.

Mr. Chairman, I reserve the balance of my time.

Mr. PENCE. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT), a distinguished member of the Committee on Appropriations, one of the leading advocates of pro-family issues in Congress.

(Mr. ADERHOLT asked and was given permission to revise and extend his remarks.)

Mr. ADERHOLT. Mr. Chairman, first of all, let me thank the full committee Chair for his support for this amendment. We think this is certainly important, and it speaks well of him and his committee for accepting this amendment, support of it.

I am proud to stand here today in strong support of this amendment offered by the gentleman from Indiana (Mr. PENCE), my good friend and colleague. Passage of this legislation represents a positive step towards protecting our children from pornographic Web sites.

As the dad of a 3-year-old, I know personally that there is no substitute for parental supervision when it comes to the safety of our children. This bill does not assume to be the solution to parents who make the Internet a babysitter for their kids. Instead, this is meant to be a tool in the arsenal of responsible parenting. I believe this is why the National Center for Missing and Exploited Children is supporting this amendment.

The purpose of this bill is to punish those who use misleading domain names to attract children to pornographic Web sites. These sites use legitimate-sounding names to lure children to view pornographic material. This amendment, as has been cited, would authorize punishment of up to a quarter million dollars and imprisonment to 4 years. I would urge my colleagues to support this amendment and support final passage.

Mr. SCOTT of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. PENCE. Mr. Chairman, I have one remaining speaker on this amendment and would reserve the right to close.

The CHAIRMAN pro tempore. The gentleman in opposition has the right to close.

Mr. PENCE. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. OSBORNE), probably one of the leading congressional advocates for youth issues, the gentleman from the Committee on Education and the Workforce.

Mr. OSBORNE. Mr. Chairman, I thank the gentleman from Indiana (Mr. PENCE) for yielding me this time. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his support of this amendment.

A year ago, my staff brought to my attention the fact that my name uses a search word that brought up a porn site so that meant that anyone in my District who was doing research on their Congressman was subject to a porn site and anyone doing research on athletics or football quite often would be subjected to the same pornographic material. I have grandchildren who are ages 6, 7, and 10, who all use the computer much better than I do, and it really concerns me that innocent words like "Barbie" or "Disneyland" can bring up graphic pornographic material or invite them into chat rooms that are frequented by pedophiles. So this is an issue that is very personal with me.

Of course, we are concerned about first amendment rights, but what about the rights of children who grow up in a wholesome environment to maintain some innocence, to not be exploited? The Pence amendment makes the use of domain names to deliberately mislead children viewing pornography to be a criminal activity. I urge support of the Pence amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

In closing, I would like to say that this bill has significant constitutional implications. I include for the RECORD a letter from Artist Empowerment Coalition in opposition to the amendment.

ARTIST EMPOWERMENT COALITION,
New York, NY, March 26, 2003.

Honorable Member,
House Committee on Judiciary,
Washington, DC.

Dear MEMBER: The Artist Empowerment Coalition (AEC) strongly opposes the language in Section 108 of the Amber Bill, which refers to MISLEADING DOMAIN NAMES ON THE INTERNET. The AEC represents a nationwide coalition of artists, songwriters, producers and industry executives. On behalf of the coalition, we ask that you oppose this amendment and prevent its inclusion in the legislation. The impact of its passage would be much broader and more harmful than the intent in our view, for the following reasons:

1. It is the artists' 1st Amendment right to express themselves creatively on the web or otherwise.

2. Recording artists of all genres have website domain names, which vary in origin and may reflect simply their names, titles, who they are and/or what they represent musically.

3. In some instances, an artists website content can include language and lyrics which are part of their overall body of work.

4. The content of the website and their creative expression is not and cannot always be reflected within the domain name.

5. Under Section 108 of this proposed amendment, content of an artists' website, judged subjectively, may be deemed "obscene" and therefore, based upon absence of labeling to that effect, exposes an artist to punishment under the law which can include, but is not limited to imprisonment.

6. The domain name selection, and its use on the part of an artist, is not, in this case, "knowingly misleading," rather it is selected based upon an artists rights under the 1st Amendment of the Constitution.

Further, the AEC believes artists should have the right to use domain names, which are not subject to "labeling" and third party interpretations. We believe it is wrong to imply that an artist intends to "knowingly deceive" a person or persons simply by using his or her name, for instance, as the domain name rather than a description of the website contents.

While the AEC supports efforts to protect children from kidnapping and efforts to apprehend criminals, we oppose this and any measure, which wrongly makes criminals of the creative community, hinders the creative process and violates creative rights under the law. Please vote "NO" on this bill as amended.

Sincerely,

TRACEY WALKER,
Director of Public Affairs.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. PENCE).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House Report 108-48.

AMENDMENT NO. 2 OFFERED BY MR. FEENEY

Mr. FEENEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FEENEY:

At the end of title I (page , after line), insert the following:

SEC. . SENTENCING REFORM.

(a) REQUIREMENT TO SPECIFY IN THE GUIDELINES THE GROUNDS UPON WHICH DOWNWARD DEPARTURES MAY BE GRANTED.—Section 3553(b) of title 18, United States Code, is amended to read as follows:

“(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that—

“(1) there exists an aggravating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described; or

“(2) there exists a mitigating circumstance of a kind, or to a degree, that—

“(A) has been affirmatively and specifically identified as a permissible ground of downward departure in the sentencing guidelines or policy statements issued under section 994(a) of title 28, United States Code, taking account of any amendments to such sentencing guidelines or policy statements by act of Congress;

“(B) has not adequately been taken into consideration by the Sentencing Commission in formulating the guidelines; and

“(C) should result in a sentence different from that described.

In determining whether a circumstance was adequately taken into consideration, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission, together with any amendments thereto by act of Congress. In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the purposes set forth in subsection (a)(2). In the absence of an applicable sentencing guideline in the case of an offense other than a petty offense, the court shall also have due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, and to the applicable policy statements of the Sentencing Commission, together with any amendments to such guidelines or policy statements by act of Congress.”.

(b) REFORM OF EXISTING PERMISSIBLE GROUNDS OF DOWNWARD DEPARTURES.—Subject to subsection (j), the Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended as follows:

(1) Section 5K2.0 is amended as follows:

(A) Strike the first and second paragraphs of the Commentary to section 5K2.0 in their entirety.

(B) Strike “departure” every place it appears and insert “upward departure”.

(C) Strike “depart” every place it appears and insert “depart upward”.

(D) In the first sentence of section 5K2.0—

(i) strike “outside” and insert “above”;

(ii) strike “or mitigating”; and

(iii) strike “Under” and insert:

“(a) UPWARD DEPARTURES.—Under”.

(E) In the last sentence of the first paragraph of section 5K2.0, strike “or excessive”.

(F) Immediately before the Commentary to section 5K2.0, insert the following:

“(b) DOWNWARD DEPARTURES.—

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

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

“(2) has not adequately been taken into consideration by the Sentencing Commission in formulating the guidelines; and

“(C) should result in a sentence different from that described.

“The grounds enumerated in this Part K of chapter 5 are the sole grounds that have been affirmatively and specifically identified as a permissible ground of downward departure in these sentencing guidelines and policy statements. Thus, notwithstanding any other reference to authority to depart downward elsewhere in this Sentencing Manual, a ground of downward departure has not been affirmatively and specifically identified as a permissible ground of downward departure within the meaning of section 3553(b)(2) unless it is expressly enumerated in this Part K as a ground upon which a downward departure may be granted.”.

(2) At the end of part K of chapter 5, add the following new sections:

“§5K2.22 Specific Offender Characteristics as Grounds for Downward Departure (Policy Statement)

“Age may be a reason to impose a sentence below the applicable guideline range only if and to the extent permitted by §5H1.1.

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

“§5K2.23 Early Disposition Programs as a Ground for Downward Departure (Policy Statement)

“Upon motion of the government stating that:

“(1) due to extraordinary resource constraints, not typical of most districts, associated with the disproportionately high incidence of illegal reentry or other specific offenses within a particular district, the Attorney General has formally certified that the district is authorized to implement an early disposition program with respect to those specific categories of offenses;

“(2) pursuant to such specific authorization, the United States Attorney for the district has implemented such an early disposition program with respect to the category of offense for which the defendant has been convicted;

“(3) pursuant to such an early disposition program, the defendant, within 30 days of his or her first appearance before a judicial officer in connection with such a charge, entered into a plea agreement whereby he or she agrees, inter alia—

“(A) not to file any of the motions described in Federal Rule of Criminal Procedure 12(b)(3);

“(B) to waive appeal;
 “(C) to waive the opportunity to pursue collateral relief under 28 U.S.C. §§2254 and 2255, including ineffective assistance of counsel claims; and

“(D) if an alien, to submit to uncontested removal from the United States upon completion of any sentence of imprisonment;

“(4) the plea agreement contemplates that the government will move for a downward departure based on the defendant’s prompt agreement to enter into such an early disposition plea agreement; and “(5) the defendant has fully satisfied the conditions of such plea agreement,

then, if the court finds that these conditions have been met and also finds that the defendant has received the maximum adjustment for which he is eligible (given his offense level) under §3E1.1, the court may depart downward from the guidelines under this section only to the extent agreed to by the parties in the plea agreement, which in no event shall exceed 4 levels.

“Commentary

“Several districts, particularly on the southwest border, have early disposition programs that allow them to process very large numbers of cases with relatively limited resources. Such programs are based on the premise that a defendant who promptly agrees to participate in such a program has saved the government significant and scarce resources that can be used in prosecuting other defendants and has demonstrated an acceptance of responsibility above and beyond what is already taken into account by the adjustments contained in §3E1.1. This section preserves the authority to grant limited departures pursuant to such programs. In order to avoid unwarranted sentencing disparities within a given district, any departure under this section must be pursuant to a formal program that is approved by the United States Attorney and that applies generally to a specified class of offenders. Authorization for the district to establish an early disposition program must also have been specifically conferred by the Attorney General, and may be granted only with respect to those particular classes of offenses (such as illegal reentry) whose high incidence within the district has imposed an extraordinary strain on the resources of that district as compared to other districts. To be eligible for the departure, the plea agreement under the program must reflect that the defendant has agreed to an expeditious plea, as described. A defendant who has not received any adjustment for acceptance of responsibility under §3E1.1 cannot receive a departure under this provision. A defendant whose offense level makes him eligible for the additional adjustment under §3E1.1(b), but who fails to satisfy the requirements for such an adjustment, is likewise ineligible for a departure under this provision. This section does not confer authority to depart downward on an ad hoc basis in individual cases. Moreover, because the Government’s affirmative acquiescence is essential to the fair and efficient operation of an early disposition program, a departure under this section may only be granted upon a formal motion by the Government at the time of sentencing. Nothing in this section authorizes a sentence below a statutory mandatory minimum.”

(3) Section 5K2.20 is deleted.
 (4) Section 5H1.6 and section 5H1.11 are each amended by striking “ordinarily” every place it appears.

(5) Section 5K2.13 is amended by—
 (A) striking “or” before “(3)”; and
 (B) replacing “public” with “public; or (4) the defendant has been convicted of an offense under chapter 71, 109A, 1110, or 117 of title 18, United States Code.”.

(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—Section 3553(c) of title 18, United States Code, is amended—

(1) by striking “described.” and inserting “described, which reasons must also be stated with specificity in the written order of judgment and commitment, except to the extent that the court relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32. In the event that the court relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32 the court shall state that such statements were so received and that it relied upon the content of such statements.”;

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

(3) by inserting “and to the Sentencing Commission,” after “to the Probation System”.

(d) REVIEW OF A SENTENCE.—

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

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

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

“(B) the sentence departs from the applicable guideline range based on a factor that—

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

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

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

“(C) the sentence departs to an unreasonable degree from the applicable guidelines range, having regard for the factors to be considered in imposing a sentence, as set forth in section 3553(a) of this title and the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c); or”.

(2) STANDARD OF REVIEW.—The last paragraph of section 3742(e) of title 18, United States Code, is amended by striking “shall give due deference to the district court’s application of the guidelines to the facts” and inserting “, except with respect to determinations under subsection (3)(A) or (3)(B), shall give due deference to the district court’s application of the guidelines to the facts. With respect to determinations under subsection (3)(A) or (3)(B), the court of appeals shall review de novo the district court’s application of the guidelines to the facts”.

(3) DECISION AND DISPOSITION.—

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

(B) Section 3742(f)(1) of title 18, United States Code, is amended by inserting “the sentence” before “was imposed”;

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

“(2) the sentence is outside the applicable guideline range and the district court failed to provide the required statement of reasons in the order of judgment and commitment, or the departure is based on an impermissible factor, or is to an unreasonable degree, or the sentence was imposed for an offense for which there is no applicable sentencing guideline and is plainly unreasonable, it shall state specific reasons for its conclusions and—

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

“(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and remand the case for further sentencing proceedings with such instructions as the court considers appropriate, subject to subsection (g);”;

(D) Section 3742(f)(3) of title 18, United States Code, is amended by inserting “the sentence” before “is not described”.

(e) IMPOSITION OF SENTENCE UPON REMAND.—Section 3742 of title 18, United States Code, is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting the following after subsection (f):

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

“(1) In determining the range referred to in subsection 3553(a)(4), the court shall apply the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that were in effect on the date of the previous sentencing of the defendant prior to the appeal, together with any amendments thereto by any act of Congress that was in effect on such date; and “(2) The court shall not impose a sentence outside the applicable guidelines range except upon a ground that—

“(A) was specifically and affirmatively included in the written statement of reasons required by section 3553(c) in connection with the previous sentencing of the defendant prior to the appeal; and

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

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

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

“(1) a factor is a ‘permissible’ ground of departure if it—

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

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

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

“(2) a factor is an ‘impermissible’ ground of departure if it is not a permissible factor within the meaning of subsection (j)(1).”.

(g) REFORM OF GUIDELINES GOVERNING ACCEPTANCE OF RESPONSIBILITY.—Subject to subsection (j), the Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended—

(1) in section 3E1.1(b)—

(A) by inserting “upon motion of the government stating that” immediately before “the defendant has assisted authorities”; and

(B) by striking “taking one or more” and all that follows through and including “additional level” and insert “timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, decrease the offense level by 1 additional level”;

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

(A) by striking “one or both of”; and

(B) by adding the following new sentence at the end: “Because the Government is in the best position to determine whether the defendant has assisted authorities in a manner that avoids preparing for trial, an adjustment under subsection (b)(2) may only be

granted upon a formal motion by the Government at the time of sentencing.”; and

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

(h) IMPROVED DATA COLLECTION.—Section 994(w) of title 28, United States Code, is amended to read as follows:

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

“(A) the judgment and commitment order;

“(B) the statement of reasons for the sentence imposed (which shall include the reason for any departure from the otherwise applicable guideline range);

“(C) any plea agreement;

“(D) the indictment or other charging document;

“(E) the presentence report; and

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

“(2) The Commission shall, upon request, make available to the House and Senate Committees on the Judiciary, the written reports and all underlying records accompanying those reports described in this section, as well as other records received from courts.

“(3) The Commission shall submit to Congress at least annually an analysis of these documents, any recommendations for legislation that the Commission concludes is warranted by that analysis, and an accounting of those districts that the Commission believes have not submitted the appropriate information and documents required by this section.”.

(i) SENTENCING GUIDELINES AMENDMENTS.—(1) Subject to subsection (j), the Guidelines Manual promulgated by the Sentencing Commission pursuant to section 994(a) of title 28, United States Code, is amended as follows:

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

“(i) IN GENERAL.—For purposes of subsection (b), the defendant engaged in a pattern of activity involving prohibited sexual conduct if on at least two separate occasions, the defendant engaged in prohibited sexual conduct with a minor.”.

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

“(4) If the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence, increase by 4 levels.

“(5) If the offense involved—

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

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

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

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

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

“(6) If the offense involved—

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

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

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

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

(2) The Sentencing Commission shall amend the Sentencing Guidelines to ensure that the Guidelines adequately reflect the seriousness of the offenses under sections 2243(b), 2244(a)(4), and 2244(b) of title 18, United States Code.

(j) CONFORMING AMENDMENTS.—

(1) Upon enactment of this Act, the Sentencing Commission shall forthwith distribute to all courts of the United States and to the United States Probation System the amendments made by subsections (b), (g), and (i) of this section to the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission. These amendments shall take effect upon the date of enactment of this Act, in accordance with paragraph (5).

(2) On or before May 1, 2005, the Sentencing Commission shall not promulgate any amendment to the sentencing guidelines, policy statements, or official commentary of the Sentencing Commission that is inconsistent with any amendment made by subsection (b) or that adds any new grounds of downward departure to Part K of chapter 5. At no time may the Commission promulgate any amendment that would alter or repeal section 5K2.23 of the Federal Sentencing Guidelines Manual, as added by subsection (b).

(3) With respect to cases covered by the amendments made by subsection (i) of this section, the Sentencing Commission may make further amendments to the sentencing guidelines, policy statements, or official commentary of the Sentencing Commission, except the Commission shall not promulgate any amendments that, with respect to such cases, would result in sentencing ranges that are lower than those that would have applied under such subsections.

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

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

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

“(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

“(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

“(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or”;

(B) in paragraph (4)(B), by inserting “, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28)” after “Code”;

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

“(5) any pertinent policy statement—

“(A) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

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

(k) COMPLIANCE WITH STATUTE.—Section 994(a) of title 28, United States Code, is amended by striking “consistent with all provisions of this title and title 18, United States Code,” and inserting “consistent with all pertinent provisions of any Federal statute”.

(l) REPORT BY THE ATTORNEY GENERAL.—

(1) Not later than 15 days after a district court’s grant of a downward departure in any case, other than a case involving a downward departure for substantial assistance to authorities pursuant to section 5K1.1 of the Sentencing Guidelines, the Attorney General shall report to the House and Senate Committees on the Judiciary, setting forth the case, the facts involved, the identity of the district court judge, the district court’s stated reasons, whether or not the court provided the United States with advance notice of its intention to depart, the position of the parties with respect to the downward departure, whether or not the United States has filed, or intends to file, a motion for reconsideration; whether or not the defendant has filed a notice of appeal concerning any aspect of the case, and whether or not the United States has filed, or intends to file, a notice of appeal of the departure pursuant to section 3742 of the title 18, United States Code.

(2) In any such case, the Attorney General shall thereafter report to the House and Senate Committees on the Judiciary not later than 5 days after a decision by the Solicitor General whether or not to authorize an appeal of the departure, informing the committees of the decision and the basis for it.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Florida (Mr. FEENEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this amendment addresses long-standing and increasing problems of downward departures from the Federal sentencing guidelines. According to the testimony of the Department of Justice, this is especially a problem in child pornography cases.

Although the guidelines continue to state that departures should be very rare occurrences, they have in fact proved to be anything but. The Department of Justice testified before the Subcommittee on Crime, Terrorism, and Homeland Security that the rate of downward departures on grounds other than substantial assistance to the government has climbed steadily every year for many years. In fact, the rate of such departures for nonimmigration cases has climbed to 50 percent in the last 4 years from 9.6 percent in fiscal year 1996 to 14.7 percent in fiscal year 2001.

□ 1145

Increasingly, the exceptions are overriding the rule.

By contrast, Mr. Chairman, upward departures are virtually nonexistent. During the same period of time, from fiscal year 1996 to fiscal year 2001, the upward departure rate has held steady at 0.6 percent. That means that judges, by a 33 to 1 ratio, are deviating from the guidelines in order to basically help convicted defendants.

The Department of Justice believes that much of this damage is traceable to the Supreme Court’s 1996 decision in Koon versus the United States. In the Koon case, the court held that any factor not explicitly disapproved by the

sentencing commission or by statute could serve as grounds for departure. So judges can make up exceptions as they go along. This has led to an accelerated rate of downward departures.

Judges who dislike the Sentencing Reform Act and the sentencing guidelines now have significant discretion to avoid applying a sentence within the range established by the commission, and it is difficult for government to effectively appeal such cases.

The amendment I offer today contains a number of provisions designed to ensure more faithful adherence to the guidelines so defendants in cases involving child pornography and sexual abuse receive the sentences that Congress intended.

Specifically, this amendment would put strict limitations on departures by allowing sentences outside the guidelines range only upon grounds specifically enumerated in the guidelines as proper for departure. This would eliminate ad hoc departures based on vague grounds, such as "general mitigating circumstances." This amendment would also reform the existing grounds of departure set forth in the current guidelines by eliminating those that have been most frequently abused, such as "aberrant behavior," which is already taken into account in a person's past criminal history.

In addition, Mr. Chairman, this amendment would require courts to give specific responses for any departure from the guidelines. It would change the standard of review for appellate courts to a de novo review, which would be more effective to review illegal and inappropriate downward departures. It would prevent sentencing courts upon remand from imposing the same illegal departure on some different theory and only allow courts to reduce a person's sentence for acceptance of responsibility when the government agrees with that finding.

Additionally, the definition of "pattern of activity involving prohibited sexual conduct" in the sentencing guidelines is hereby broadened. Currently, the guideline provides that such a pattern exists only where the defendant engaged in prohibited sexual contact on at least two separate occasions with at least two different minor victims. This definition does not adequately take account of the frequent occurrence where repeated sexual abuse against a single child occurs and the severity of the harm to such victims from such repeated abuse. The amendment would broaden the definition to include repeated abuse of the same victim on separate occasions.

Mr. Chairman, finally, the guidelines are remanded with regard to penalties for the possession of child pornography in two ways. First, penalties are increased if the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence; and, second, penalties are increased based on the amount of child pornography involved in the offense.

The famous philosopher and statesman Cicero said that justice is the set and constant purpose which gives every man his due. Unfortunately, judges in our country all too often are arbitrarily deviating from the sentencing guidelines enacted by the United States Congress based on their personal biases and prejudices, resulting in wide disparity in sentencing.

Mr. Chairman, I would ask my colleagues to support this amendment. I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his great work on the bill, H.R. 1104, in protecting children and for his support for this amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Does the gentleman from Virginia (Mr. SCOTT) claim the time in opposition?

Mr. SCOTT of Virginia. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. SCOTT) is recognized for 10 minutes.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would have the effect of turning the sentencing guidelines into mandatory sentences in the cases it affects. We have not had hearings or markups on this matter; and this is not the way we should amend the sentencing guidelines, without thought or consideration.

The purpose of the sentencing guidelines is to provide intelligent consistency in sentencing, considering each sentence within the overall framework of other sentences, and ensuring that more serious crimes get more serious punishment. That is impossible when you just take one crime at a time outside of that context with a floor amendment such as this.

The fact is, it makes no sense to have people with different degrees of criminality getting equal sentences or people with equal degrees of criminality getting vastly different sentences.

The evidence is that the guidelines are operating the way they are supposed to. About 85 percent of the sentences are either within the guideline range or outside of the guidelines at the request of the prosecution.

The sentencing commission should retain the appropriate discretion, since that discretion has been essentially taken away from judges. If we want the commission to look at this specific problem of downward departures in these cases, we should direct the sentencing commission to do just that and not take it upon ourselves to do it all by ourselves in a vacuum.

Mr. Chairman, I reserve the balance of my time.

Mr. FEENEY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I compliment the gentleman from Florida for proposing an excellent amendment. Let me say I am really puzzled that my friend the gentleman from Virginia (Mr. SCOTT) is opposing this amendment.

Back in 1992, there was a citizen of Los Angeles County named Rodney King that was beaten up by a bunch of police officers. Those police officers were tried and convicted of a civil rights violation in a Federal Court.

The judge there had a downward departure from the sentence that Police Officer Koon would have received, which would have been 70 to 87 months under the sentencing guidelines. The District Court said, as a result of the widespread publicity and emotional outrage which would have surrounded this case, the officers were particularly likely to be targets of abuse in prison, had they been burdened by having been subjected to successive State and Federal prosecutions. So Mr. Koon only got 30 months in prison, when the guidelines required 70 to 87 months in prison.

Now, the Congressional Black Caucus sent a letter to Attorney General Janet Reno; and that was reported in the August 13, 1993, edition of the Los Angeles Times. The Black Caucus, the gentleman from California (Ms. WATERS), and 24 other members of the CBC wrote the Attorney General asking that this be appealed.

The government did appeal that sentence and won its case in the Appeals Court, and the Appeals Court held that there should be a de novo review of the sentence. Then there was an appeal to the United States Supreme Court which reversed the Appeals Court and said that the only time a district judge's departure from sentencing guidelines could be reviewed and reversed was if there was an abuse of discretion.

There is a provision in the amendment offered by the gentleman from Florida (Mr. FEENEY) that does precisely what the Congressional Black Caucus asked for almost 10 years ago, and that is to give appeals courts de novo review over sentencing guidelines.

So I am puzzled at the gentleman from Virginia's opposition. We are doing what he asked for, but maybe 10 years too late.

Now, I think it is outrageous that one out of every five cases of those convicted of sexually abusing a child or sexually exploiting a child through child pornography have received a downward departure from the sentencing guidelines. The law says this is supposed to be rare, but, instead, a 20 percent downward departure rate is not rare.

Mr. Chairman, I think that the amendment that has been offered by the gentleman from Florida plugs this loophole. It ought to be passed.

Mr. Chairman, I include for the RECORD the August 6, 1993, letter from

the Congressional Black Caucus to the Attorney General of the United States.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 6, 1993.

Hon. JANET RENO,
Attorney General, Department of Justice, Wash-
ington, DC.

DEAR ATTORNEY GENERAL RENO: As mem-
bers of the Congressional Black Caucus, we
are writing to you because of our concern
about the sentencing of Officer Laurence
Powell and Sergeant Stacey Koon by Judge
John Davies in the Rodney King civil rights
case.

We are troubled that the sentence for the
crime was reduced to 30 months upon the
court's consideration of mitigating facts.
Such a reduction for mitigation factors may
be appropriate in other circumstances. How-
ever, we feel that the dependents' special
status as police officers, with special duties
owned to the public, should have mitigated
against such a significant reduction.

As you well know, the maximum possible
penalty was ten years and fines of up to
\$250,000. Your federal prosecutors were ask-
ing for seven to nine years. Our federal sen-
tencing guidelines recommended minimum
sentences in a range of four to seven years in
prison.

Instead, Judge John Davies made broad use
of subjective factors. He stated that he read
only letters addressed to him from the
friends and families of Officer Powell and
Sergeant Koon. He argued that much of the
violence visited on Rodney King was justi-
fied by King's own actions. However, these
officers were convicted on charges of vio-
lating Rodney King's civil rights. We believe
these mitigating factors did not justify so
large a reduction given the defendant's spe-
cial responsibilities as police officers.

In addition, Judge Davies did not afford
proper weight to the racist comments made
over police radio by those convicted on the
night of the beating in discounting race as a
motivation for the beating. He similarly
failed to take into account the remarkable
lack of remorse shown by Officer Powell and
Sergeant Koon since their conviction.

People of good will all over this country
and of all races were heartened when Officer
Powell and Sergeant Koon were convicted by
a jury of their peers, a verdict made possible
by the Justice Department's resolve to file
civil rights charges and by the phenominal
performance of federal prosecutors. With
these severely reduced sentences, however,
we are sending a mixed message. Are police
officers going to be held responsible for ex-
cessive use of force or not?

We think what has been lost, in all this, is
the police officers have an enhanced respon-
sibility to uphold the law.

Notwithstanding Judge Davies' authority
to modify the sentencing guidelines, most
experts agreed that the minimum four to
seven years sentence should have been fol-
lowed in this case.

We realize that the trial judge is afforded
sufficient latitude in sentencing, but we urge
the Department of Justice to appeal these
sentences. We need to reexamine these sen-
tences so that justice can finally be done in
this difficult, painful case. Only then can we
begin to put this behind us.

Sincerely,

Maxine Waters, Eva M. Clayton, Sanford
Bishop, Major R. Owens, Eddie Bernice
Johnson, Walter Tucker, Floyd H.
Flake, William Clay, Albert R. Wynn,
Charles B. Rangel, Carrie P. Meek, Wil-
liam J. Jefferson, James E. Clyburn,
Donald M. Payne, Earl Hilliard, Alcee
Hastings, Bennie M. Thompson, Kweisi
Mfume, Glee Fields, Louis Stokes, Cyn-
thia McKinney, Melvin L. Watt, John

Lewis, Ronald V. Dellums, Corrine
Brown.

Mr. SCOTT of Virginia. Mr. Chair-
man, I reserve the balance of my time,
and reserve the right to close.

The CHAIRMAN pro tempore. The
gentleman from Florida (Mr. FEENEY)
has 2½ minutes remaining.

Mr. FEENEY. Mr. Chairman, I yield
myself such time as I may consume.

Mr. Chairman, it does not surprise
me that the Congressional Black Cau-
cus long before I got here took the po-
sition that we should not have the
whims and biases and prejudices of in-
dividual judges responsible for deviat-
ing widely in the sentencing in the
same exact types of cases. So I think
the chairman of the Committee on the
Judiciary has done a wonderful job
pointing out the problem when you
allow widespread deviation.

There really had been no standards.
Why have guidelines at all, if judges
can make up ad hoc reasons to imple-
ment those guidelines?

This is an especially important prob-
lem in cases of child abuse and in cases
of sexual offenses because of the enor-
mously high recidivism rate. We have
heard Attorney General Reno says
something like 75 percent of sexual of-
fenders are going to repeat their of-
fenses. We know that exhibitionists,
for example, have some of the highest
sex offense recidivism rates, something
like between 41 and 71 percent. The
next highest recidivism rate is found
among child molesters who offend
against boys, somewhere upwards of 40
or 45 percent.

Now, it does the People's Congress no
good to pass laws prohibiting child por-
nography or kidnapping or sexual
abuse, for example, if we are going to
have liberal judges deviate on a regular
basis.

Mr. Chairman, I am delighted to have
the endorsement of the Congressional
Black Caucus for my idea, if not my
amendment necessarily.

Mr. Chairman, in closing, I would
just say that equality in sentencing is
important for a number of reasons.
Number one, we want to send a mes-
sage to criminals and would-be crimi-
nals; and, number two, we wanted to
make sure that all criminals are treat-
ed equally.

I think that is what this amendment
does. I think it provides certainty. I
think it provides a very important de-
terrent effect. We will have a lot less
child abuse, a lot less child pornog-
raphy, and perhaps less kidnapping if
we adopt this amendment.

Mr. Chairman, I yield back the bal-
ance of my time.

Mr. SCOTT of Virginia. Mr. Chair-
man, I yield myself such time as I may
consume.

Mr. Chairman, when you ask for the
courts to review it, that is so it can be
considered in the courts with all the
evidence, not in the political branch. It
is better to leave it to the sentencing
commission and the courts than to
floor amendments in the House of Rep-
resentatives.

If this is such a good idea, then let us
do it through the regular order. Let us
have some hearings, subcommittee
markup, committee markup, and then
we can slowly and deliberately consider
such an amendment.

The purpose of the sentencing com-
mission is to get away from the floor
amendments and the sound bites so
you can have intelligent sentencing.
We have had situations where you have
had sentences that are way out of pro-
portion to crimes that are just as seri-
ous, or less serious, totally out of con-
text. That is why we try to get away
from it, so that serious crimes get seri-
ous punishment, lesser crimes get less-
er punishment.

That is the purpose of the sentencing
commission. You cannot do that with
floor amendments in the House of Rep-
resentatives. That is why we would
hope this amendment could be de-
feated. We could get a clean Amber
Alert bill passed so we can get that en-
acted and not have to get bogged down
in consideration of amendments such
as this.

The CHAIRMAN pro tempore. The
question is on the amendment offered
by the gentleman from Florida (Mr.
FEENEY).

The question was taken; and the
Chairman pro tempore announced that
the ayes appeared to have it.

Mr. FEENEY. Mr. Chairman, I de-
mand a recorded vote.

The CHAIRMAN pro tempore. Pursu-
ant to clause 6 of rule XVIII, further
proceedings on the amendment offered
by the gentleman from Florida (Mr.
FEENEY) will be postponed.

It is now in order to consider amend-
ment No. 3 printed in House Report
108-48.

AMENDMENT NO. 3 OFFERED BY MR. POMEROY

Mr. POMEROY. Mr. Chairman, I offer
an amendment.

The CHAIRMAN pro tempore. The
Clerk will designate the amendment.

The text of the amendment is as fol-
lows:

Amendment No. 3 offered by Mr. POMEROY:

At the end of subtitle B of title II (page ,
after line), insert the following new sec-
tion:

**SEC. . INFORMATION AND DOCUMENTATION RE-
QUIRED BY ATTORNEY GENERAL
UNDER VICTIMS OF CHILD ABUSE
ACT OF 1990.**

(a) REGIONAL CHILDREN'S ADVOCACY CEN-
TERS.—

(1) IN GENERAL.—Section 213 of the Victims
of Child Abuse Act of 1990 (42 U.S.C. 13001b)
is amended—

(A) in subsection (b)(2)—

(i) by striking "and" at the end of subpara-
graph (A);

(ii) by striking the period at the end of
subparagraph (B) and inserting "; and"; and

(iii) by adding at the end the following new
subparagraph:

"(C) provide such information and docu-
mentation as the Attorney General shall re-
quire on an annual basis regarding the use of
such funds for purposes of evaluation of the
effect of grants on the community response
to child abuse."; and

(B) in subsection (d)(3)(A), by inserting
after "activities" the following: "or substan-
tially fails to provide information or docu-
mentation required by the Attorney Gen-
eral".

(2) CLERICAL AMENDMENTS.—Such section is further amended—

(A) in subsection (c)(4)—

(i) by striking “and” at the end of subparagraph (B)(ii);

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

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

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

(b) LOCAL CHILDREN'S ADVOCACY CENTERS.—Section 214 of that Act (42 U.S.C. 13002) is amended in subsection (b)(2)(J) by inserting before the period at the end the following: “, including such information and documentation as the Attorney General shall require on an annual basis regarding the use of such funds for purposes of evaluation of the effect of grants on the community response to child abuse.”

(c) GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of such Act (42 U.S.C. 13003) is amended in subsection (c) by adding at the end the following new paragraph:

“(3) Any recipient of a grant under this section shall provide such information and documentation as the Attorney General shall require on an annual basis regarding the use of such funds for purposes of evaluation of the effect of grants on the community response to child abuse.”

(d) AUTHORIZATION OF APPROPRIATIONS.—The text of section 214B of such Act (42 U.S.C. 13004) is amended to read as follows:

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

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

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from North Dakota (Mr. POMEROY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we consider this bill, which will strengthen penalties against kidnapping and aid law enforcement agencies to effectively prevent, investigate and prosecute crimes against children, we should also take this opportunity to reauthorize the Victims of Child Abuse Act. This law, initially passed in 1992, supports grants for programs to assist the victims of child abuse.

Our colleague, the gentleman from Alabama (Mr. CRAMER), was involved in the original enactment of this legislation and continues to be very active in the programs administered through this program and deserves a great deal of credit for the activity underlying the amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe this amendment is a

very good amendment. This program is a very important one. It is too important to let go by the wayside. I believe we should take this opportunity to reauthorize it in the context of this bill and would urge the committee to support the gentleman's amendment.

Mr. POMEROY. Mr. Chairman, I appreciate very much the chairman's comments in that regard. They are similar to comments made by the district attorneys in a letter from the National District Attorneys Association citing the extraordinary value of these programs.

In the interest of time and in the interest of debate and with the endorsement of the Committee on the Judiciary chairman, I would put into the record the statement that I make on behalf of this amendment, along with the letter from the National District Attorneys Association, and urge its adoption.

Mr. Chairman, as we consider this bill which would strengthen penalties against kidnapping and aid law enforcement agencies to effectively prevent, investigate, and prosecute crimes against children, we should also take this opportunity to reauthorize the Victims of Child Abuse Act. This law supports grants for programs to assist victims of child abuse.

Congress passed the Victims of Child Abuse Act in 1992. This Act provided for the establishment of four Regional Children's Advocacy Centers to provide information, technical assistance, and training to assist communities in establishing programs, particularly children's advocacy centers, that respond to child abuse. Since that time, these local and regional centers have served and assisted victims of child abuse heal and recover.

The need for these centers and programs is increasing. In my home state of North Dakota, we have one Children's Advocacy Center (CAC), located in Bismarck. It opened in 1996 and is completely funded by grants. Since its opening, it has assessed and closed over 4,000 cases of abuse and/or neglect. Unfortunately, over 7,000 children have been suspected to be victims during this time. Referrals have increased by 49 percent since 2000 and 72 percent of all victims were 8 and under. As you can see, this center serves a fragile population and addresses a vital need. The Center serves 49 out of 53 counties and all four Native American reservations.

Children's Advocacy Centers are important because they make the process of reporting child abuse and receiving treatment easier on children. They provide consistent and timely response to abuse reports; effective medical and mental health treatment or referrals; and reduce the number of child interviews by prosecutors and investigators, lessening the mental impact of continued exposure to the abuser.

Nationally, there are 464 Children Advocacy Centers in the United States that are members of the National Children's Alliance (NCA). There are an additional 221 programs that are recognized by NCA as being engaged in the process of creating a CAC. The National Children's Advocacy Center (NCAC) in Huntsville, Alabama has had a significant impact on CAC development, and I want to acknowledge Representative BUD CRAMER of his outstanding work in developing the first CAC program.

I support Representative CRAMER in his work and seek to extend the legislation that helps fund its programs. The authorization for this funding expired in fiscal year 2000. While funding has continued through the annual appropriations process, Congress should reauthorize the program and demonstrate our support for its mission. The amendment would authorize \$15 million for Regional and Local Children's Advocacy Centers through 2005, and would provide \$5 million for grants for specialized technical assistance and training programs.

This amendment also adds tools for the Department of Justice to evaluate these grant programs to ensure that these funds are being used to achieve the very important goals they were designed for—helping children and families deal with the tragedy of child abuse. These tools are to be used only to improve the current delivery of child abuse prosecution and recovery.

Let's make sure every victim of child abuse has access to the resources he or she may need to assist in the prosecution of their abuser and recovery. I urge my colleagues to support this vital amendment.

Alexandria, VA, March 27, 2003.

Hon. JIM SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the National District Attorneys Association I want to urge the passage of the Pomperoy amendment to H.R. 1104, the Child Abduction Prevention Act. This amendment reauthorizes funding for the National Center for the Prosecution of Child Abuse, a vitally important resource for the local prosecutors of this country.

The National Center for the Prosecution of Child Abuse is dedicated to training prosecutors, police investigators, medical personnel and social workers on the intricacies of investigating and prosecuting cases of child abuse and neglect. Additionally they provide on going technical assistance to prosecutors in the field—even in the midst of a case.

Child abuse cases are some of the most complex to investigate and prosecute. The training and assistance that the Center provides is crucial to fight this scourge. I urge speedy acceptance of Mr. Pomeroy's effort to ensure that our children are protected to the utmost extent of the law.

Sincerely,

DAN M. ALSOBROOKS,
President.

Mr. POMEROY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Is there any Member seeking time in opposition?

There being none, all time for debate has expired.

The question is on the amendment offered by the gentleman from North Dakota (Mr. POMEROY).

The amendment was agreed to.

□ 1200

The CHAIRMAN pro tempore (Mr. SHIMKUS). It is now in order to consider amendment No. 4 printed in House Report 108-48.

AMENDMENT NO. 4 OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. FOLEY:

At the end of section 301 of the bill, insert the following:

(e) REPORT.—Not later than March 1, 2005, the Coordinator shall submit to Congress a report on the activities of the Coordinator and the effectiveness and status of the AMBER plans of each State that has implemented such a plan. The Coordinator shall prepare the report in consultation with the Secretary of Transportation.

In section 304(b) of the bill, strike “and” at the end of paragraph (2), redesignate paragraph (3) as paragraph (4), and insert after paragraph (2) the following:

(3) the development and implementation of new technologies to improve AMBER Alert communications; and

In section 304(f)(1) of the bill, strike the period at the end insert the following: and, in addition, \$5,000,000 for fiscal year 2004 to carry out subsection (b)(3).

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of my amendment to H.R. 1104, which will help strengthen the AMBER Alert provision being considered today.

First let me thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, for his efforts to move this important package through the House today. Provisions like the “two strikes and you’re out” for repeat child sex offenders, penalties for international sex tourism, the doubling of funding for the National Center for Missing and Exploited Children, and, of course, the AMBER Alert Act all make this legislation another nail in the coffin for those who prey on the most innocent of our society, and that is our children.

Last summer we were all shocked and horrified by the high-profile abduction cases of children from all over our country. Every time there was a new report of a missing child, one could almost feel the collective shudder of parents from the east coast to the west. The only comfort we had was the successful recovery of several children as a result of the AMBER Alert system.

AMBER, which stands for America’s Missing Broadcast Emergency Response plan, is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child abduction cases. Just like with severe weather alerts, broadcasters use the Emergency Alert System to air a description of the missing child and suspected abductor.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is also a very good amendment. I commend the gentleman from

Florida for drafting and offering it, and I would urge the Committee to adopt it.

Mr. FOLEY. Mr. Chairman, I appreciate the support of the chairman of the committee.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. LAMPSON), the cochair of the Congressional Caucus for Missing and Exploited Children.

Mr. LAMPSON. Mr. Chairman, I thank the gentleman from Florida for yielding to me to speak in favor of the amendment that the gentleman is offering.

The gentleman’s amendment is designed to enhance the AMBER Alert provisions contained in H.R. 1104. Specifically, the amendment provides an additional \$5 million in grant funding to help States implement new technologies designed to improve the dissemination of AMBER alerts.

Though the use of highway signs and media outlets is a start, we must begin to look at new technologies like the Internet and e-mail to get these important alerts out.

The amendment will also require the new AMBER Alert coordinator to submit a report by March 1, 2005, to Congress on the effectiveness and status of the AMBER Alert plans in each State. This report will provide the information Congress needs to determine the progress that the national coordinator and the States are making toward statewide integrated AMBER Alert systems.

AMBER Alert is one of the most effective tools that we have to bring kids home. I thank the gentleman for the work that he has done on this issue and for joining me as the cochair on the Congressional Caucus for Missing and Exploited Children, and I hope the Congress passes the AMBER Alert legislation immediately, and this amendment.

Mr. FOLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone seek time in opposition?

The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 108-48.

AMENDMENT NO. 5 OFFERED BY MR. CARTER

Mr. CARTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. CARTER:

Add at the end the following:

SEC. . FEASIBILITY STUDY FOR A SYSTEM OF BACKGROUND CHECKS FOR VOLUNTEERS.

(a) STUDY REQUIRED.—The Attorney General shall conduct a feasibility study within 120 days after the date of the enactment of this Act. The study shall examine, to the extent discernible, the following:

(1) The current state of fingerprint capture and processing at the State and local level,

including the current available infrastructure, State system capacities, and the time for each State to process a civil or volunteer print from the time of capture to submission to the Federal Bureau of Investigation (FBI).

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

(3) The number of volunteers, employees, and other individuals that would require a fingerprint based criminal background check.

(4) The impact on the FBI’s Integrated Automated Fingerprint Identification System (IAFIS) in terms of capacity and impact on other users of the system, including the effect on FBI work practices and staffing levels.

(5) The current fees charged by the FBI, States and local agencies, and private companies to process fingerprints.

(6) The existence of “model” or best practice programs which could easily be expanded and duplicated in other States.

(7) The extent to which private companies are currently performing background checks and the possibility of using private companies in the future to perform any of the background check process, including, but not limited to, the capture and transmission of fingerprints and fitness determinations.

(8) The cost of development and operation of the technology and the infrastructure necessary to establish a nationwide fingerprint based and other criminal background check system.

(9) Any other information deemed relevant by the Department of Justice.

(b) REPORT.—Based on the findings of the feasibility study, the Attorney General shall, not later than 120 days after the date of the enactment of this Act, submit to Congress a report, including recommendations, which may include a proposal for grants to the States to develop or improve programs to collect fingerprints and perform background checks on individuals that seek to volunteer with organizations that work with children, the elderly, or the disabled.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Texas (Mr. CARTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

The National Child Protection Act was enacted in 1993. It was followed by legislation to include this through the Volunteers for Children Act. These acts provided a process for background checks for volunteers to ensure that individuals who are allowed the privilege of working with our children have nothing but good intentions. But according to groups that depend on volunteers to work with children, this process is not working.

No one has been able to provide an explanation as to why the process has failed. There are a number of different factors which could be hampering the process, including the existing capacity or infrastructure of the FBI and the States to collect and process and share fingerprint background information and the cost to run such a program.

My amendment requests the Department of Justice to conduct a feasibility study to determine the extent of the

problem and requests the Department of Justice to propose a solution based on its findings.

The study will examine the current state of the fingerprint capture and processing at the State and local level, including the current available infrastructure, the State capacities, and time for each State to process a civil-volunteer print from the time of capture to submission to the FBI.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe this amendment is a very necessary amendment, if I could just take a minute to explain why.

In 1993, the National Child Protection Act was passed to provide a process for background checks for volunteers. It did not get up and running.

Additional legislation to improve the process was enacted through the Volunteers for Children Act of 1998. It still is not up and running.

What the gentleman from Texas is proposing is to tell the Justice Department that they have 120 days to tell us why these programs are not up and running, what is needed to fix them, and to get on with the background check system so that those who do volunteer to work not only with children, but also the disabled and the elderly, can be checked out to see if altruism is not their sole motivation for working with these groups of people.

I think that this is a very good amendment, and I hope that it would be adopted.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I would point out that this is going in the right direction. We need to work on this as quickly as possible, in this bill or outside of this bill. I think it is a good idea, and I am in support of the amendment.

Mr. CARTER. In light of the support of the chairman of the committee, I would like to conclude by saying that over the last 20 years I have tried over 100 of these cases, and last year I had a lady come up to me in a grocery store and told me about her child who was going to Colorado to testify in a case against a child sex molester who had molested him in a case that I tried back in 1985; and he was going to testify in the case that was now pending in Colorado. If this system had been up and in effect at that time, we would have been able to find that predator and prevent him from doing this again.

Mr. Chairman, I yield the remaining time to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I will submit my comments for the RECORD.

I rise to strongly support the Carter amendment. The gentleman from Texas (Mr. LAMPSON) and I both were authors in 1998 for the Volunteers for Children Act. It is working very successfully in Florida. The FDLA has told us it is one of the most aggressive

tools that they have to protect our children. I strongly support the gentleman's inquiry to Justice. I hope they will yield the important results that this is an enormously helpful program. So I support the gentleman's efforts.

Mr. Chairman, I rise today in support of my friend from Texas's amendment.

In 1993, Congress passed a critical safeguard for children—the National Child Protection Act, commonly known as the Oprah Winfrey Act. The law gave groups such as schools, day care facilities and youth volunteer organizations access to FBI fingerprinting checks to help ensure that they weren't inadvertently hiring convicted child molesters to tend their young charges.

But there was a hitch. Under the law, these national fingerprint-based checks are only available if states put into place laws approved by the U.S. Attorney General specifically allowing access to them. As a result, while nearly all states had laws providing background checks for various people, such as school personnel or day care workers, only about six had laws specifically giving nonprofit youth-serving organizations like the Boys and Girls Clubs access to do national fingerprint checks on would-be volunteers.

In 1998, I along with Congressman LAMPSON and Senator BIDEN introduced the Volunteers for Children Act which would allow youth-serving nonprofit organizations to request national fingerprint background checks in the absence of state laws providing such access. This bill, which has since been enacted into law, has only been followed by a few states.

The amendment my friend from Texas offers today will require the Department of Justice to conduct a study on the implementation of the Volunteers for Children Act by the states and to provide recommendations to Congress on how to improve state compliance.

In encourage all of my colleagues to vote for the amendment and I look forward to working with Chairman SENSENBRENNER and Chairman COBLE to once and for all fix this very important law.

Mr. CARTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Is there anyone seeking time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Texas (Mr. CARTER).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 108-48.

AMENDMENT NO. 6 OFFERED BY MR. LAMPSON

Mr. LAMPSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. LAMPSON:
Add at the end the following:

SEC. . FORENSIC AND INVESTIGATIVE SUPPORT OF MISSING AND EXPLOITED CHILDREN.

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

“(f) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized, at the request of any State or local law enforcement agency, or at the request of the National Center for

Missing and Exploited Children, to provide forensic and investigative assistance in support of any investigation involving missing or exploited children.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Texas (Mr. LAMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, I yield myself such time as I may consume.

For 2½ years I have stood on this floor almost every day talking about the issue of missing and exploited children, encouraging our colleagues to join us in developing legislation to help raise the level of awareness of this horrendous issue across the United States of America to higher and higher heights, and I am proud of the fact that we are here today discussing the legislation that we are.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. LAMPSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

This is also a very good amendment. It broadens the tools that law enforcement can use to track down missing children through better forensic investigation. I commend the gentleman from Texas for offering this amendment, and I hope that the committee adopts it.

Mr. LAMPSON. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his support.

It was about a decade ago, I guess, that Congress authorized the United States Secret Service to participate in a multi-agency task force for the purpose of providing resources, expertise, and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children in cases involving missing and exploited children. This began a very strong partnership between the Secret Service and the National Center for Missing and Exploited Children and resulted in the Secret Service providing critical forensic support, including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions and regressions, and audio and video enhancements to NCMEC and law enforcement in numerous missing children's cases.

However, there is a clear need to provide explicit statutory jurisdiction to the Secret Service to continue this forensic and investigative support upon request from local law enforcement and from the National Center for Missing and Exploited Children, and this amendment will do just that.

Ernie Allen, who is the President of the National Center, has strongly endorsed this legislation and has said the

following: "When the National Center was created, President Reagan envisioned a national clearinghouse that worked hand in hand with Federal and local law enforcement, the private sector, and the public, each playing a strong, diverse role in the effort to reunite families and better protect children. The United States Secret Service has played a key role in this effort, and we could not be more enthusiastic about their partnership with us."

Mr. Chairman, I think this is a good amendment. I appreciate very much the gentleman's speaking in favor of the amendment, the chairman of the committee; and I urge its adoption.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. LAMPSON. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Chairman, I want to enter my comments into the RECORD and commend the gentleman for this amendment. It is very, very important work.

Mr. Chairman, I rise today in support of my friend from Texas's amendment. For the past several years, as co-chairs of the Congressional Missing and Exploited Children's Caucus, we have worked diligently to provide the resources to law enforcement necessary to protect our children and this amendment is further proof of Mr. LAMPSON's commitment and service to that goal.

Nearly a decade ago, Congress authorized the U.S. Secret Service to participate in a multi-agency task force with the purpose of providing resources, expertise and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children (NCMEC) in cases involving missing and exploited children.

This began a strong partnership between the Secret Service and NCMEC, and resulted in the Secret Service providing critical forensic support—including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions/regressions and audio and video enhancements—to NCMEC and local law enforcement in numerous missing children cases.

However, there is a clear need to provide explicit statutory jurisdiction to the Secret Service to continue this forensic and investigative support upon request from local law enforcement or NCMEC.

This amendment will do just that and I encourage all of my colleagues today to join with me in voting for this important measure.

Mr. LAMPSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone rise in opposition to the amendment?

The question is on the amendment offered by the gentleman from Texas (Mr. LAMPSON).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 7 printed in House Report 108-48.

AMENDMENT NO. 7 OFFERED BY MR. ACEVEDO-VILÁ

Mr. ACEVEDO-VILÁ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. ACEVEDO-VILÁ:

At the end of the bill, add the following:

TITLE IV—MISSING CHILDREN
PROCEDURES IN PUBLIC BUILDINGS

SEC. 401. SHORT TITLE.

This title may be cited as the "Code Adam Act".

SEC. 402. DEFINITIONS.

In this title, the following definitions apply:

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

(2) CODE ADAM ALERT.—The term "Code Adam alert" means a set of procedures used in public buildings to alert employees and other users of the building that a child is missing.

(3) DESIGNATED AUTHORITY.—The term "designated authority" means—

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

(i) except as otherwise provided in this paragraph, the Administrator of General Services;

(ii) in the case of the John F. Kennedy Center for the Performing Arts, the Board of Trustees of the John F. Kennedy Center for the Performing Arts;

(iii) in the case of buildings under the jurisdiction, custody, and control of the Smithsonian Institution, the Board of Regents of the Smithsonian Institution; or

(iv) in the case of another public building for which an Executive agency has, by specific or general statutory authority, jurisdiction, custody, and control over the building, the head of that agency;

(B) with respect to a public building owned or leased for use by an establishment in the judicial branch of government, the Administrative Office of the United States Courts; and

(C) with respect to a public building owned or leased for use by an establishment in the legislative branch of government, the Capitol Police Board.

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

(5) FEDERAL AGENCY.—The term "Federal agency" means any Executive agency or any establishment in the legislative or judicial branches of the Government.

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

SEC. 403. PROCEDURES IN PUBLIC BUILDINGS REGARDING A MISSING OR LOST CHILD.

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

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

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

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

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

(4) Establishing a central point of contact.

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

(6) Conducting a thorough search of the building.

(7) Contacting local law enforcement.

(8) Documenting the incident.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ.)

Mr. ACEVEDO-VILÁ. Mr. Chairman, I yield myself 3 minutes.

The amendment that I am offering today requires certain procedures be established and followed when a child is reported lost or missing in a Federal building. The purpose of this set of procedures, called Code Adam, is to prevent child abductions in Federal buildings. Code Adam has proven extremely successful in thwarting many attempted abductions through the issuance of a Code Adam Alert in commercial establishments.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. ACEVEDO-VILÁ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I also believe that this is a very constructive amendment, and I commend the gentleman from Puerto Rico for offering it; and I hope that it is adopted.

Let me say that one of the first things I did when I came to Congress was I helped pass the Missing Children's Act which was in response to the abduction and gruesome murder of Adam Walsh, whose father, John Walsh, has obtained quite a bit of fame in being an advocate for missing and exploited children.

The Code Adam proposal has been very successful when privately implemented in Wal-Mart stores around the country, and I think that having a Code Adam alert system in place nationwide for all public buildings will significantly improve the chance of recovering children who might be abducted in a shopping mall or some other public building. I think the gentleman from Puerto Rico has done the children of this country a great service by offering this amendment, and I hope that it is adopted.

Mr. ACEVEDO-VILÁ. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary. I appreciate his support for this amendment.

As the chairman said, this was created by Wal-Mart in 1994 as a private initiative, and it has become one of the country's largest child safety programs.

□ 1215

With the help of the National Center for Missing and Exploited Children that also is supporting my amendment, over 36,000 stores across the United States have already used it successfully. Code Adam, as the chairman just mentioned, is named in memory of 6-year-old Adam Walsh, whose abduction from a Florida shopping mall and murder in 1981 brought the horror of child abduction to national attention.

I ask for Members' support for this bipartisan amendment. Its enactment will complement existing security procedures and others being considered in this bill, including the AMBER Alert, in order to guarantee immediate preventive action against successful child abductions.

Effective procedures required by this amendment include notification of security personnel that a child is missing, issuance of a Code Adam alert, and distribution of the child's description to all employees using fast and effective means of communication.

It also provides that all points of egress must be monitored while the Code Adam alert is in effect and the local law enforcement be notified if the child remains missing after all established procedures are followed.

I am very proud to say that Puerto Rico has already enacted a law adopting Code Adam in its government buildings. With the adoption of this amendment, all Federal buildings will also establish Code Adam to ensure that we are prepared to respond quickly if a child is reported missing.

Mr. Chairman, I urge my colleagues to vote yes on the Code Adam amendment. Let us draw from the success achieved in stores across the country and adopt it in Federal buildings, those that belong to the people of the United States, and where all of us, but especially our children, should be safest.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, last year I joined my colleague, the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ), and Senator HILLARY RODHAM CLINTON to introduce the Code Adam Act. Code Adam is a proven, successful program that has saved lives in the retail environment, and it is time that we bring that same measure of safety to children in Federal buildings, just as we have done with the effort to put bulletin boards throughout all Federal buildings and display the pictures of missing children.

Code Adam was created, as we have already heard, by Wal-Mart as a special alert through a store's customer address system when a customer reports a missing child. Since Code Adam began in 1994, it has been a powerful tool against child abductions and lost children in more than 25,000 stores across the Nation.

This amendment would require the implementation of this protocol in all Federal buildings. Wal-Mart started this fantastic program in the name of Adam Walsh, John Walsh's son, who was abducted and murdered in Florida over 20 years ago.

Every day I see children walking through the halls of Congress and in Federal buildings back at home in Texas. God forbid, if a child would go missing in one of these buildings, this amendment would make sure a plan was in place to secure that building and find the child before something tragic occurs.

Mr. FOLEY. Mr. Chairman, I rise today in support of my friend from Puerto Rico's amendment.

Code Adam, one of the country's largest child-safety programs, was created and promoted by the Wal-Mart retail stores and named in memory of 6-year-old Adam Walsh whose abduction from a Florida shopping mall and murder in 1981 brought the horror of child abduction to national attention.

When a customer reports a missing child to a store employee, a "Code Adam" alert is announced over the public-address system. A brief description of the child is obtained and provided to all designated employees who immediately stop their normal work to search for the child, and monitor all exits to help prevent the child from leaving the store.

If the child is not found within 10 minutes of initiating a store-wide search, or if the child is seen accompanied by someone other than a parent or guardian, store personnel contact the local police department and request assistance.

Since the Code Adam program began in 1994, it has been a powerful preventive tool against child abductions and lost children in more than 36,000 stores across the nation.

Despite its success, however, the only jurisdiction that has adopted Code Adam for government buildings is Puerto Rico.

This amendment will direct each federal building (including here on Capitol Hill) to establish a Code Adam program and procedures for locating a child who is missing in a federal building.

As co-chair of the Congressional Missing and Exploited Children's Caucus, I urge all of my colleagues to vote for this very important amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, as the Chairman of the Government Reform Committee, which has jurisdiction over federal buildings, including buildings owned or leased by the U.S. Postal Service, I rise in support of the Acevedo-Vilá amendment.

My Committee did not have the opportunity to examine this proposal before its consideration here on the floor as an amendment to the Child Abduction Prevention Act. Nevertheless, since the underlying intent of this legislation is to not only return abducted children to their parents, which we do through the national AMBER Alert network, but to keep them from being abducted in the first place, I believe establishing procedures to locate missing children in public buildings is a positive step.

This time of year, we all see the large numbers of children that come to our nation's capital to visit the Smithsonian Museums, the monuments, or to see the cherry blossoms. It makes sense for our public facilities to have an established system to help keep these children from either wandering away on their own or being taken away by a kidnapper.

Every parent knows the heart-stopping panic that ensues when a child suddenly is nowhere to be found. Having a "Code Adam alert" system in place gives parents the peace of mind of knowing their children can be returned to them quickly and safely. I urge my colleagues to give it their support.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Does any Member seek time in opposition?

The question is on the amendment offered by the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 8 printed in House Report 108-48.

AMENDMENT NO. 8 OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of amendment No. 8 is as follows:

Amendment No. 8 offered by Mr. SMITH of Texas:

Add at the end the following:

TITLE —

SEC. 01. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under *Miller v. California*, 413 U.S. 15 (1973) (obscenity), or *New York v. Ferber*, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. "The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance," *New York v. Ferber*, 458 U.S. 747, 757 (1982), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. *Osborne v. Ohio*, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. "The most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product." *Ferber*, 458 U.S. at 760.

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

(A) computer generate depictions of children that are indistinguishable from depictions of real children;

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

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

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer-generated. The technology will soon exist, if it does not already, to computer generate realistic images of children.

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

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

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic assessment may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact of the Free Speech Coalition decision on the Government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) Since the Supreme Court's decision in Free Speech Coalition, defendants in child pornography cases have almost universally raised the contention that the images in question could be virtual, thereby requiring the government, in nearly every child pornography prosecution, to find proof that the child is real. Some of these defense efforts have already been successful. In addition, the number of prosecutions being brought has been significantly and adversely affected as the resources required to be dedicated to each child pornography case now are significantly higher than ever before.

(11) Leading experts agree that, to the extent that the technology exists to computer generate realistic images of child pornography, the cost in terms of time, money, and expertise is—and for the foreseeable future will remain—prohibitively expensive. As a result, for the foreseeable future, it will be more cost-effective to produce child pornography using real children. It will not, however, be difficult or expensive to use readily available technology to disguise those depictions of real children to make them unidentifiable or to make them appear computer-generated.

(12) Child pornography results from the abuse of real children by sex offenders; the production of child pornography is a byproduct of, and not the primary reason for, the sexual abuse of children. There is no evidence that the future development of easy and inexpensive means of computer generating realistic images of children would stop or even reduce the sexual abuse of real children or the practice of visually recording that abuse.

(13) In the absence of congressional action, the difficulties in enforcing the child pornography laws will continue to grow increasingly worse. The mere prospect that the technology exists to create composite or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution; for it threatens to create a reasonable doubt

in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable. Moreover, imposing an additional requirement that the Government provide beyond a reasonable doubt that the defendant knew that the image was in fact a real child—as some courts have done—threatens to result in the de facto legalization of the possession, receipt, and distribution of child pornography for all except the original producers of the material.

(14) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(15) The Supreme Court's 1982 *Feber v. New York* decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary now to ensure that open and notorious trafficking in such materials does not reappear, and even increase, on the Internet.

SEC. 02. IMPROVEMENTS TO PROHIBITION ON VIRTUAL CHILD PORNOGRAPHY.

(a) Section 2256(8)(B) of title 18, United States Code, is amended to read as follows:

"(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or in indistinguishable (as defined in section 1466A) from, that of a minor engaging in sexually explicit conduct; or"

(b) Section 2256(2) of title 19, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), 'sexually explicit conduct' means actual or simulated—

"(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(ii) bestiality;

"(iii) masturbation;

"(iv) sadistic or masochistic abuses; or

"(v) lascivious exhibition of the genitals or pubic area of any person;

"(B) For purposes of subsection 8(B) of this section, 'sexually explicit conduct' means—

"(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

"(ii) graphic or lascivious simulated;

"(I) bestiality;

"(II) masturbation; or

"(III) sadistic or masochistic abuse; or

"(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person;"

(c) Section 2256 is amended—

(1) in paragraph 8(D), by striking "and" at the end;

(2) in paragraph (9), by striking the period at the end and inserting "and"; and

(3) by inserting at the end the following new paragraph:

"(10) 'graphic', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted."

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

"(c)(1) Except as provided in paragraph (2), it shall be an affirmative defense to a charge of violating this section that the production of the alleged child pornography did not involve the use of a minor or an attempt or

conspiracy to commit an offense under this section involving such use.

"(2) A violation of, or an attempt or conspiracy to violate, this section which involves child pornography as defined in section 2256(8)(A) or (C) shall be punishable without regard to the affirmative defense set forth in paragraph (1)."

SEC. 03. PROHIBITION ON PANDERING MATERIALS AS CHILD PORNOGRAPHY.

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

(1) in subparagraph (C), by striking "or" at the end and inserting "and"; and

(2) by striking subparagraph (D).

(b) Chapter 110 of title 18, United States Code, is amended—

(1) by inserting after section 2252A the following:

"§ 2252B. Pandering and solicitation

"(a) Whoever, in a circumstance described in subsection (d), offers, agrees, attempts, or conspires to provide or sell a visual depiction to another, and who in connection therewith knowingly advertises, promotes, presents, or describes the visual depiction with the intent to cause any person to believe that the material is, or contains, a visual depiction of an actual minor engaging in sexually explicit conduct shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

"(b) Whoever, in a circumstance described in subsection (d), offers, agrees, attempts, or conspires to receive or purchase from another a visual depiction that he believes to be, or to contain, a visual depiction of an actual minor engaging in sexually explicit conduct shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

"(c) It is not a required element of any offense under this section that any person actually provide, sell, receive, purchase, possess, or produce any visual depiction.

"(d) The circumstance referred to in subsection (a) and (b) is that—

"(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

"(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

"(3) any person who travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

"(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

"(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States;" and

(2) in the table of sections at the beginning of the chapter, by inserting after the item relating to section 2252A the following:

"2252B. Pandering and solicitation."

SEC. 04. PROHIBITION OF OBSCENITY DEPICTING YOUNG CHILDREN.

(a) Chapter 71 of title 18, United States Code, is amended—

(1) by inserting after section 1466 the following:

“§ 1466A. Obscene visual depictions of young children

“(a) Whoever, in a circumstance described in subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute a visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) Whoever, in a circumstance described in subsection (d), knowingly possesses a visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or attempts or conspires to do so, shall be subject to the penalties set forth in section 2252A(b)(2), including the penalties provided for cases involving a prior conviction.

“(c) For purposes of this section—
“(1) the term ‘visual depiction’ includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means;

“(2) the term ‘pre-pubescent child’ means that (A) the child, as depicted, is one whose physical development indicates the child is 12 years of age or younger; or (B) the child, as depicted, does not exhibit significant pubescent physical or sexual maturation. Factors that may be considered in determining significant pubescent physical maturation include body habitus and musculature, height and weight proportion, degree of hair distribution over the body, extremity proportion with respect to the torso, and dentition. Factors that may be considered in determining significant pubescent sexual maturation include breast development, presence of axillary hair, pubic hair distribution, and visual growth of the sexual organs;

“(3) the term ‘sexually explicit conduct’ has the meaning set forth in section 2256(2); and

“(4) the term ‘indistinguishable’ used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

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

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means of instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

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

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign com-

merce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means; include by computer; or

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

“(e) In a case under subsection (b), it is an affirmative defense that the defendant—

“(1) possessed less than three such images; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

“(A) took reasonable steps to destroy each such image; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

“§ 1466B. Obscene visual representations of sexual abuse of minors

“(a) Whoever, in a circumstance described in subsection (e), knowingly produces, distributes, receives, or possesses with intent to distribute a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

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

“(2) is obscene;

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

“(b) Whoever, in a circumstance described in subsection (e), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

“(1) depicts a minor child engaging in sexually explicit conduct, and

“(2) is obscene,

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

“(c) It is not a required element of any offense under this section that the minor child depicted actually exist.

“(d) For purposes of this section, the terms ‘visual depiction’ has the meaning given that term in section 1466A, and the terms ‘sexually explicit conduct’ and ‘minor’ have the meanings given those terms in section 2256(2)(B).

“(e) The circumstance referred to in subsection (a) and (b) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means of instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

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

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign com-

or

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

“(f) In a case under subsection (b), it is an affirmative defense that the defendant—

“(1) possessed less than three such images; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

“(A) took reasonable steps to destroy each such image; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.”; and

(2) in table of sections at the beginning of the chapter, by inserting after the item relating to section 1466 the following new items:

“1466A. Obscene visual depictions of young children.

“1466B. Obscene visual representations of pre-pubescent sexual abuse”.

(b)(1) Except as provided in paragraph (2), the applicable category of offense to be used in determining the sentencing range referred to in section 3553(a)(4) of title 18, United States Code, with respect to any person convicted under section 1466A or 1466B of such title, shall be the category of offenses described in section 2G2.2 of the Sentencing Guidelines.

(2) The Sentencing Commission may promulgate guidelines specifically governing offenses under sections 1466A and 1466B of title 18, United States Code, provided that such guidelines shall not result in sentencing ranges that are lower than those that would have applied under paragraph (1).

SEC. 05. PROHIBITION ON USE OF MATERIALS TO FACILITATE OFFENSES AGAINST MINORS.

Chapter 71 of title 18, United States Code, is amended—

(1) by inserting at the end the following:

“§ 1471. Use of obscene material or child pornography to facilitate offenses against minors

“(a) Whoever, in any circumstance described in subsection (c), knowingly—

“(1) provides or shows to a person below the age of 16 years any visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, any obscene matter, or any child pornography; or

“(2) provides or shows any obscene matter or child pornography, or any visual depiction that is, or is indistinguishable from, that of a pre-pubescent child engaging in sexually explicit conduct, or provides any other material assistance to any person in connection with any conduct, or any attempt, incitement, solicitation, or conspiracy to engage in any conduct, that involves a minor and that violates chapter 109A, 110, or 117, or that would violate chapter 109A if the conduct occurred in the special maritime and territorial jurisdiction of the United States,

shall be subject to the penalties set forth in section 2252A(b)(1), including the penalties provided for cases involving a prior conviction.

“(b) For purposes of this section—

“(1) the term ‘child pornography’ has the meaning set forth in section 2256(8);

“(2) the terms ‘visual depiction’, ‘pre-pubescent child’, and ‘indistinguishable’ have the meanings respectively set forth for those terms in section 1466A(c); and

“(3) the term ‘sexually explicit conduct’ has the meaning set forth in section 2256(2).

“(c) The circumstance referred to in subsection (a) is that—

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in

interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

"(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction or obscene matter by the mail, or in interstate or foreign commerce by any means, including by computer;

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

"(4) any visual depiction or obscene matter involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

"(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.";

"(2) in the table of sections at the beginning of the chapter, by inserting at the end the following:

"1471. Use of obscene material or child pornography to facilitate offenses against minors."

SEC. 06. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 is amended—

(1) by striking "subsection (d)" each place it appears in subsections (a), (b), and (c) and inserting "subsection (e)";

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

"(3) by inserting after subsection (b) a new subsection (c) as follows:

"(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its possessions and Territories, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

"(2) The circumstances referred to in paragraph (1) is that—

"(A) the person intends such visual depiction to be transported to the United States, its possessions, or territories, by any means including by computer or mail, or

"(B) the person transports such visual depiction to, or otherwise makes it available within, the United States, its possessions, or territories, by any means including by computer or mail."

SEC. 07. STRENGTHENING ENHANCED PENALTIES FOR REPEAT OFFENDERS.

Sections 2251(e) (as redesignated by section 06(2)), 2252(b), and 2252A(b) of title 18, United States Code, are each amended—

(1) by inserting "chapter 71," immediately before each occurrence of "chapter 109A,"; and

(2) by inserting "or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice)," immediately before each occurrence of "or under the laws".

SEC. 08. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

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

(1) in subsection (b)(1)—

(A) by inserting "2252B," after "2252A,"; and

(B) by inserting "or a violation of section 1466A or 1466B of that title," after "of that title,";

(2) in subsection (c), by inserting "or pursuant to" after "to comply with";

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

"(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.";

(4) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(5) by inserting after paragraph (2) of subsection (b) the following new paragraph:

"(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law."

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

(1) in subsection (b)—

(A) in paragraph (6)—

(i) by inserting "or" at the end of subparagraph (A)(ii);

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(B) by redesignating paragraph (6) as paragraph (7);

(C) by striking "or" at the end of paragraph (5); and

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

"(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or"; and

(2) in subsection (c)—

(A) by striking "or" at the end of paragraph (4);

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

(C) by adding after paragraph (4) the following new paragraph:

"(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or".

SEC. 09. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

SEC. 10. INVESTIGATIVE AUTHORITY RELATING TO CHILD PORNOGRAPHY.

Section 3486(A)(1)(C)(i) of title 18, United States Code, is amended by striking "the name, address" and all that follows through "subscriber or customer utilized" and inserting "the information specified in section 2703(c)(2)".

SEC. 11. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AGAINST CHILDREN.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting "1466A, 1466B," before "2251".

SEC. 12. RECORDKEEPING TO DEMONSTRATE MINORS WERE NOT USED IN PRODUCTION OF PORNOGRAPHY.

Not later than 1 year after enactment of this Act, the Attorney General shall submit to Congress a report detailing the number of times since January 1993 that the Depart-

ment of Justice has inspected the records of any producer of materials regulated pursuant to section 2257 of title 18, United States Code, and section 75 of title 28 of the Code of Federal Regulations. The Attorney General shall indicate the number of violations prosecuted as a result of those inspections.

The CHAIRMAN pro tempore. Pursuant to House Resolution 160, the gentleman from Texas (Mr. SMITH) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I support this amendment as an important step to stop the exploitation of our children. This amendment is directly connected to the abduction of children, since children are abducted and sold into the sex industry for both pornography and for prostitution.

The amendment addresses growing challenges to the government's ability to prosecute child pornographers. It also includes a provision to address child pornography that is produced overseas to be distributed in the United States. The exploitation of any child is unacceptable, and the United States must take affirmative steps to prevent this exploitation wherever it occurs.

The amendment is essentially the same as the Child Obscenity and Pornography Prevention Act, which passed the House in the last Congress by a vote of 413 to 8. This legislation had strong bipartisan support. Congress understood then what has become even more clear now, that this legislation ensures the enforceability of existing child pornography laws.

During the 1990s, advances in computer technology threatened the government's ability to protect real children. Congress attempted to address this concern in 1996 with the Child Pornography Prevention Act, parts of which were subsequently struck down by the Supreme Court in the Free Speech Coalition decision.

Regardless of whether we agree or disagree with the court's decision, we must now deal with its consequences. Since that decision, defendants in child pornography cases have routinely claimed that the depictions of child pornography could be virtual, thus requiring the government to prove first that the depicted image is a real person.

The mere existence of computer technology that creates virtual depictions which are indistinguishable from depictions of actual children allows defendants who possess images of real children to escape prosecution. This Congress has an obligation to correct this absurd permutation in the law.

Given the prevalence of the Internet, we absolutely cannot protect our children if prosecutors must first complete

the almost impossible task of identifying the children depicted in child pornography. Unless this amendment is adopted, the Supreme Court's decision will effectively legalize all child pornography by throwing an insurmountable burden in the face of the prosecution.

I urge my colleagues to support this critical amendment.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I seek time in opposition.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. SCOTT) is recognized for 10 minutes in opposition.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is designed as a fix for last year's decision in *Ashcroft versus Free Speech Coalition*. The problem with the amendment is that it has the same problems as the law that was struck down. The *Ashcroft* case held that sale or possession of non-obscene computer-generated material depicting child-like characters engaged in explicit sexual activities does not constitute a crime. This bill says it is a crime, just like the law that was struck down.

Child pornography and object are despicable and illegal and can and are banned and prosecuted. These crimes and their severe punishments are left intact by the *Ashcroft* decision. What the court struck down was the criminalization of computer-generated and other depictions of children, which is not obscene, in undesirable, including sexual, situations where no child was actually involved in making the material.

We all see pornography as despicable, period. But under our laws, pornography that is not obscene and does not involve real children is just that, pornography. Whether we like it or not, the Supreme Court has told us that pornography is not illegal. It is a category of speech that is despicable but not illegal.

While pornography is legal, child pornography is illegal. But to constitute child pornography, the Supreme Court has told us that a child has to be involved in the production. Virtual computer-generated images, therefore, unless they are obscene, are not illegal.

The law called into question in *Ashcroft* was a law enacted in 1996. The problem the court found with the law was that, while it prohibited images that constituted child pornography, it also prohibited images that did not constitute child pornography, because actual children were not involved in the production.

The court made it clear that protected speech may not be banned as a means to ban unprotected speech. This would turn the first amendment upside down.

Proponents of the bill believe that the court left intact or left open the question of whether government can

establish a sufficiently compelling State interest to justify criminalization of computer-generated images that are not obscene and do not involve real children. However, the court cited in its decision *New York versus Ferber* from 1992 when it said, virtual images record no crime and creates no victims by its production and therefore are legal.

Proponents also argue that the court did not consider the harm to real children which would occur when, through technological advances, it will become difficult to tell real children from virtual children, thereby allowing real children to be harmed because the government cannot tell the difference for the purpose of bringing prosecution.

But the court did clearly consider that, and stated, and I quote from the decision, "The government next argues that its objective of eliminating the market for pornography produced using real children necessitates a prohibition on virtual images as well. Virtual images, the government contends, are indistinguishable from the real ones. They are part of the same market and often exchanged. In this way, it is said virtual images promote the trafficking in works produced through the exploitation of real children."

But then the court says, and I continue quoting, "The hypothesis is somewhat implausible. If virtual images are identical to illegal child pornography, the illegal images will be driven from the market by indistinguishable substitutes. Few pornographers would risk prosecution by abusing real children if fictional computer-generated images would suffice."

Nor was the court persuaded by the argument that virtual images will make it difficult for the government to prosecute cases. As to that concern, the court said, "Finally, the government says that the possibility of producing images by using computer imaging makes it difficult for it to prosecute those who produce pornography using real children. Experts, we are told, may have difficulty in saying whether the pictures were made using real children or by using computer imaging. The necessary solution, the argument runs, is to prohibit both kinds of images."

"The argument," the court said, "in essence is that protected speech may be banned as a means to ban unprotected speech. This analysis turns the first amendment upside down. The government may not suppress lawful speech as a means to suppress unlawful speech."

Finally, Mr. Chairman, the government suggests that because the court determined that it did not decide whether an affirmative defense could save an otherwise unconstitutional law, it left open that possibility. That may be technically true, but listen to what the court said: "In order to force this objection, the government would have us read the CPPA as not a measure suppressing speech but as a law

shifting the burden to the accused to prove the speech is lawful. In this connection, the government relies on an affirmative defense under the statute which allows a defendant to avoid conviction for nonpossession offenses by showing that the materials were produced using only adults and were not otherwise distributed in a manner conveying the impression that they depicted real children.

"The government raises serious constitutional difficulties by seeking to impose on the defendant the burden of proving his speech was not unlawful. The affirmative defense applies only after the prosecution has begun, and the speaker must himself prove, on the pain of felony conviction, that his conduct falls within the affirmative defense.

"In cases under the CPPA, the evidentiary burden is not trivial. Where the defendant is not the producer of the work, he may have no way of establishing the identity or even the existence of the actors. If the evidentiary issue is a serious problem for the government, as it asserts, it will be at least as difficult for the innocent possessor."

This statute, however, Mr. Chairman, by its very words, makes illegal what the court said was legal. Five Justices joined in the majority opinion. One concurred, one concurred in part and dissented in part, two dissented.

With five Justices, all of whom are still on the court, agreeing with the whole decision and only three dissenting in any part at all, this is not a close decision with wavering members.

So, Mr. Chairman, I think we should avoid the necessity of the court's telling us again that we cannot prosecute child pornography unless real children were, in fact, involved in the production of the material or unless they are otherwise legally obscene.

Finally, Mr. Chairman, we should note the subsequent action in the *Ashcroft* case. The trial court on February 7, just a few weeks ago, ordered attorney's fees to the plaintiff on the grounds that the government's defense of the statute was not substantially justified. This is essentially the same statute. It says that virtual child images can be made illegal. The court has said that virtual images cannot be made illegal. Those of us who are familiar with our system of government recognize that the same ruling by the same Supreme Court will find this bill unconstitutional and unenforceable; and, therefore, the amendment should be opposed.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment addresses the April 16, 2002, Supreme Court decision in *Ashcroft versus Free*

Speech Coalition. That decision struck down in 1996 a law written to combat computer-generated pornography because it was too broad.

□ 1230

The overturning of this law to combat child pornography has emboldened those who would have used children. Regrettably, the prediction of the president of the National Center for Missing and Exploited Children has come true. He said, "The court's decision will result in the proliferation of child pornography in America unlike anything we have seen in more than 20 years."

A Government Accounting Office report just 2 weeks ago found that in the weight of the Supreme Court decision, child pornographers now are increasing their presence on the Internet and are engaging in their depraved actions with relative ease. The Internet has proved a useful tool for pedophiles and sex predators as they distribute child pornography, engage in sexually explicit conversations with children, and hunt for victims in chat rooms.

Every parent should know what their children see and do online. Unfortunately, the new playground for child pornographers is the Internet.

Our children are the most vulnerable among us, and we need to protect them. If this amendment becomes law, child pornographers will be a mere click away from a lengthy prison sentence. This amendment increases penalties and provides prosecutors with the tools they need to win convictions against child pornographers, and it responds to the Supreme Court's constitutional concerns by narrowing the definition of child pornography and includes an affirmative defense when real children are not depicted.

This amendment passed the House as separate legislation last year by a vote of 413 to 8, but the Senate failed to act. I hope my colleagues again will support the provisions in this amendment which will reduce child pornography on the Internet.

Mr. Chairman, I insert for the RECORD the analysis of the constitutionality of this legislation.

CONSTITUTIONAL ANALYSIS OF THE SMITH AMENDMENT TO H.R. 1104—THE "CHILD OBSCENITY AND PORNOGRAPHY PREVENTION ACT"

On April 16, 2002, the Supreme Court in *Ashcroft v. Free Speech Coalition*, held that two of Federal definitions of child pornography unconstitutional. §18 U.S.C. §2256(8)(B), defined child pornography to include wholly computer generated pictures that appear to be of a minor engaging in sexually explicit conduct. §18 U.S.C. §2256(8)(D), defined child pornography to include a visual depiction where it is advertised, promoted, or presented, to convey the impression that the material contains a visual depiction of a minor engaging in sexually explicit conduct.

The Court's decision does not bar Congress from outlawing virtual child pornography when the prohibition is narrowly drawn to promote a compelling government interest. In fact, the Court in its opinion, expressly left that option open for Congress. The Court

stated: "We need not decide, however, whether the Government could impose this burden on a speaker. Even if an affirmative defense can save a statute from First Amendment challenge, here the defense is incomplete and insufficient, even on its own terms." Justice Thomas, concurring, stated that the "Court does leave open the possibility that a more complete affirmative defense could save a statute's constitutionality, see ante, at 1405, implicitly accepting that some regulation of virtual child pornography might be constitutional." No member of the Court took exception with his conclusion.

Congress clearly has a compelling interest to protect children from sexual exploitation. That interest extends to the prosecution of those who exploit children. These prosecutions are seriously threatened by the mere possibility that technology exists to create a depiction of a virtual child. This possibility allows those who harm real children to claim that the child pornography they possess does not contain real children.

Computer technology already exists today to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. Furthermore, evidence was presented to the Congress that the technology may already exist to depict virtual children to look real and completely indistinguishable.

Compounding the problem, is the fact that the vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, or related media and that a computer image seized from a child pornographer is rarely a first-generation product. These pictures are e-mailed over and over again or scanned from photographs of real children being abused and exploited. The transmission of images over an e-mail system can alter the image and make it impossible even for an expert to know whether or not a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

To prove a child is real will require identifying the actual child. This is usually an impossible task. The quandary is that while there is no substantial evidence that any of the child pornography images being trafficked today were made in any other way than by the abuse of real children, technological advances are leading many criminal defendants to suggest otherwise. These defendants are claiming that the images they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. This is not a new defense, but without a narrowly drafted statute intended to prohibit the use of virtual child pornography that an ordinary person viewing the depiction could not distinguish from a depiction of a real child, it will be impossible for the government to prosecute child pornography cases involving computer images. Some in the Court are cognizant that technology may threaten the Government's compelling state interest of effective prosecution of those who sexually exploit children and thus threaten the Government's ability to protect children.

A representative from the Department of Justice testified:

As Justice Thomas noted in his concurring opinion, "if technological advances thwart prosecution of 'unlawful speech,' the Government may well have a compelling interest in barring or otherwise regulating some narrow category of 'lawful speech' in order to enforce effectively laws against pornography

made through the abuse of real children." 122 S. Ct. at 1406-07 (Thomas, J., concurring in the judgment). Similarly, Justice O'Connor noted in her opinion concurring in part and dissenting in part that, "given the rapid pace of advances in computer-graphics technology, the Government's concern is reasonable." Id. at 1409. Moreover, to avert serious harms, Congress may rely on reasonable predictive judgments, even when legislating in an area implicating freedom of speech. See *Turner Broad. Sys. Inc. v. FCC* 520 U.S. 180, 210-11 (1997). We believe that Congress has a strong basis for concluding that the very existence of sexually explicit computer images that are virtually indistinguishable from images of real minors engaged in sexually explicit conduct poses a serious danger to future prosecutions involving child pornography. Indeed, we already have some sense of the impact of the Court's decision. The Ninth Circuit had invalidated the same provisions of law in 1999, and all accounts indicate that the number and scope of child pornography prosecutions brought by our prosecutors in the Ninth Circuit has been adversely impacted.

Since the Supreme Court's decision in *Free Speech Coalition*, evidence of this growing threat is clear as defendants in almost every child pornography case contend that the depictions could be virtual, requiring the prosecutors to prove that the children depicted are real. Some of the defense efforts are succeeding. For example, after *Free Speech Coalition*, a court granted the defendant's motion to withdraw a guilty plea and held that the government must prove beyond a reasonable doubt that the defendant knew that the images depicted real children.

Moreover, the existence of computer generated images of child pornography that is indistinguishable from depictions of real children will bolster the child pornography market and those who abuse children to produce such pictures. The majority opinion in *Free speech Coalition* stated, in dicta, that "if virtual images were identical to illegal child pornography, the illegal images would be driven from the market by the indistinguishable substitutes." Contrary to that belief, the President and CEO of NCMEC "believe[s] that the Court's decision will result in the proliferation of child pornography in America, unlike anything we have seen in more than twenty years." He concluded that "as a result of the Court's decision, thousands of children will be sexually victimized, most of whom will not report the offense."

The Court stated that "[f]ew pornographers would risk prosecution by abusing real children if fictional, computerized images would suffice." This conclusion is simply wrong. The individuals who produce, trade, and exchange child pornography are rarely profit motivated. Pictures of abuse of real children are sold, but they are also traded and displayed—they are trophies and signs of validation for deviant behavior.

While the Supreme Court has certainly opened the door for the adult entertainment industry to enter the child pornography market, legalizing virtual child pornography will not reduce the market for real children. Rather, the result will be a market that contains both real and virtual children (as it does now). The only difference is that now child molesters will be able to hide their abuse with altered or merely e-mailed photographs of their victims and the market will no longer be underground but will return to the public "adult book stores."

Child pornography—virtual or otherwise—is detrimental to the nation's most precious and vulnerable asset, our children. Regardless of the method of its production, child pornography is used to promote and incite deviant and dangerous behavior in our society. As the President and CEO of the NCMEC

testified "there is compelling evidence that visual depictions of sexually explicit conduct involving children cause real physical, emotional and psychological damage not only to depicted children but also to non-depicted children. It is just as insidious, whether it is a photographic record of a child's actual victimization, or a photographic depiction used as a tool or device to subsequently victimize other children."

Sex predators produce, trade, and use child pornography for several insidious purposes. Pedophiles not only like to create a permanent record for arousal and gratification, but also like to trade these pictures with other pedophiles to validate their actions. Additionally, sex offenders use child pornography to lower children's inhibitions to make them believe that such behavior is acceptable and normal. There are also those who sell it for profit.

Prior to 1982, child pornography lined the shelves of many "adult" entertainment stores. This changed after the 1982 Supreme Court's *New York v. Ferber* decision that found child pornography was not entitled to First Amendment protection. In *Ferber*, the Court found that: "[i]t is evident beyond the need for elaboration that a State's interest in 'safeguarding the physical and psychological well-being of a minor' is 'compelling.'" Further the Court found that: "[t]he distribution of photographs and films depicting sexual activity by juveniles is intrinsically related to the sexual abuse of children in at least two ways. First, the material produced are a permanent record of the children's participation and the harm to the child is exacerbated by their circulation. Second, the distribution network for child pornography must be closed if the production of material which requires the sexual exploitation of children is to be effectively controlled."

While child pornography disappeared from bookstores following *Ferber*, it did not disappear from existence." The child pornography market merely went underground, but this underground market was spurred by the advent of the Internet. Nevertheless, law enforcement had begun to make enormous strides in the enforcement and prosecution of child pornography crimes.

Again, the Government has a compelling state interest in protecting children from those who sexually exploit them including both child molesters and child pornographers. The Supreme Court in *New York v. Ferber*, concluded that "[t]he prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance." In *Osborne v. Ohio*, the Court recognized that this compelling state interest extends to stamping out the vice of child pornography "at all levels in the distribution chain."

It follows that the Government has a compelling interest to ensure that the criminal prohibitions against child pornography remain enforceable and effective. As the Court stated in *Ferber*, "[t]he most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product."

It became apparent in the 1990's that advances in technology threatened the Government's compelling state interest in protecting real children through the effective prosecution of the child pornography laws that cover the visual depictions of real children. In 1996, the Congress attempted to address this concern with the Child Pornography Prevention Act. The 1996 language included a prohibition of any virtual depictions as well as pictures of youthful-looking adults. The Supreme Court found the 1996

statutory language overbroad, and therefore, unconstitutional.

This legislation is constitutional as it narrows the definition in significant ways and strengthens the affirmative defense. Furthermore, there is a compelling state interest for the narrowly drawn prohibition. The Government's compelling state interest is to protect children from exploitation. And the protection includes the prosecution of those who would or do exploit children. The Court gave the Congress an opportunity to address its concerns, and the Congress has an obligation to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me the time.

I have the greatest respect for the legal skill of my friend and colleague from Virginia. I disagree with his take on this particular amendment, however. I am a cosponsor of the legislation represented by the amendment and am pleased today to speak for its passage.

I want to commend, in particular, the gentleman from Texas (Mr. SMITH), who in an exemplary bipartisan manner worked to build this legislation, crafted around a very careful reading of the Supreme Court ruling, a reference by the gentleman from Virginia (Mr. SCOTT), and then forged the legislative response that will withstand Supreme Court review.

This is not an exercise of making a statement only to be followed by the inevitable Supreme Court ruling throwing out the legislation. This one is written to withstand review to answer the constitutional objections raised about the earlier legislation, and it comes at a critical point in time for our country.

The Internet, as this wonderful new technology is changing so many things, has had the unfortunate effect of enabling child pornographers beyond ever before, at the very time when we have computer technology being used in the creation and dissemination of graphic, completely unacceptable child pornography. The legislation responds to that, includes several different components that go beyond any component of what might be in a free-speech argument, banning the use by an adult to a minor, the exchange of this material over the Internet, commonly used as part of an enticement procedure by perpetrators of those who would exploit children and lure them into contact.

It creates a per se definition that explicit sexual acts depicted between very young children is per se obscene. I believe this will make a very useful contribution to our judges as they evaluate the unseemly cases brought before them.

This is an important amendment. I urge its adoption.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from North Dakota (Mr. POMEROY) for his remarks.

Mr. Chairman, may I ask how much time remains on our side.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas (Mr. SMITH) has 5 minutes remaining, and the gentleman from Virginia (Mr. SCOTT) has 30 seconds remaining.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from Wisconsin (Mr. GREEN) the vice-chairman of the Subcommittee on Crime, Terrorism and Homeland Security.

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman from Texas for yielding me the time, and I want to commend the gentleman for this legislation.

This is a terribly important tool for prosecutors; and it is yet another reason why this bill, this larger legislation, is such a historic advance in the battle against those who would prey on our kids. I know we all recognize that technology, quite frankly, is outpacing our ability to deal with it, ethically and legally.

The computer information revolution has created a wonderful window on the world for our young people, but its darker shadows and darker moments can allow monsters into our home and, quite frankly, allow monsters closer to our children.

We cannot and must not allow the porn industry to hide behind emerging technologies and hyperlegal nuances. I refuse to say what the opponents imply today, that is, that somehow child pornography becomes a victimless crime with a couple of key strokes.

It is time to chase those dark shadows away. It is time to give prosecutors the tools to fight back. It is time to give them what they are asking for, the ability to shine a light on child pornography, the ability to fight back and to end this terrible scourge. This is a critical part, in my view, to a comprehensive response of child abduction and those who would prey on our kids.

Again, I want to compliment the gentleman. I think this is a great addition to this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield the balance of my time to the gentlewoman from Pennsylvania (Ms. HART), a very active member of the Committee on the Judiciary.

Ms. HART. Mr. Chairman, I would like to thank the gentleman from Texas (Mr. SMITH) as sponsor of the amendment.

A little over a year ago, a 13-year-old girl was abducted from her home near Pittsburgh. She was found tied to a bed in a Herndon, Virginia, townhome. The adult male abductor had met this girl on the Internet and had bragged to other would-be child molesters that he had finally found a young girl to make his sex slave.

The man had a history of viewing and exchanging child pornography over the Internet. Currently, law enforcement has little power to stop this. The bill today, which includes the AMBER

Alert, which helps to locate abducted children, it also includes, most importantly, laws to strengthen the ability to ensure children are not abducted in the first place.

The amendment further strengthens the bill by making it illegal to possess, distribute or create computer or computer-related images depicting child pornography. Child pornography feeds the sick desires of pedophiles. It entices its viewers to take advantage of real young children.

This amendment provides another tool to get perpetrators of child abuse and child pornography off the streets and out of Internet chat rooms before more children are targeted.

With the Smith amendment, this bill will close the door left open by the Supreme Court decision last April that overturned similar provisions of a 1996 law. I encourage my colleagues to think first of the children and the families who have been so unnecessarily harmed by child abductors and child molesters in our Nation.

This law, with this amendment attached, will go a long way to preventing those horrible stories that we so hate to hear on the news.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

The Supreme Court told us that virtual images produced without real children cannot be prohibited unless they are obscene. The bright line is a person has got to use real children for it to be illegal. This bill says that virtual images without using children are illegal. The same Supreme Court will make the same decision.

This amendment is unconstitutional and ought to be rejected.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. SMITH).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote; and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. SMITH) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 2 offered by the gentleman from Florida (Mr. FEENEY), amendment No. 8 offered by the gentleman from Texas (Mr. SMITH).

The Chair will reduce to 5 minutes the time for the second vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. FEENEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 2 offered by the gentleman from Florida (Mr. FEENEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 357, noes 58, answered “present” 1, not voting 18, as follows:

[Roll No. 87]

AYES—357

- | | | |
|---------------|-----------------|---------------|
| Ackerman | Cox | Greenwood |
| Aderholt | Cramer | Gutierrez |
| Akin | Crane | Gutknecht |
| Alexander | Crenshaw | Hall |
| Andrews | Crowley | Harman |
| Baca | Cubin | Harris |
| Bachus | Culberson | Hart |
| Baker | Cunningham | Hastings (WA) |
| Baldwin | Davis (CA) | Hayes |
| Ballenger | Davis (FL) | Hayworth |
| Barrett (SC) | Davis (TN) | Hefley |
| Bartlett (MD) | Davis, Jo Ann | Hensarling |
| Barton (TX) | Davis, Tom | Herger |
| Bass | Deal (GA) | Hill |
| Beauprez | DeFazio | Hinojosa |
| Bell | DeLauro | Hobson |
| Bereuter | DeLay | Hoefl |
| Berkley | DeMint | Hoekstra |
| Berry | Deutsch | Holden |
| Biggart | Diaz-Balart, L. | Holt |
| Bilirakis | Diaz-Balart, M. | Hooley (OR) |
| Bishop (GA) | Dicks | Hostettler |
| Bishop (NY) | Doggett | Houghton |
| Bishop (UT) | Dooley (CA) | Hulshof |
| Blackburn | Doolittle | Hunter |
| Blumenauer | Doyle | Inslee |
| Blunt | Dreier | Isakson |
| Boehler | Duncan | Israel |
| Boehner | Dunn | Issa |
| Bonilla | Edwards | Istook |
| Bonner | Ehlers | Janklow |
| Bono | Emanuel | Jenkins |
| Boozman | Emerson | John |
| Boswell | Engel | Johnson (CT) |
| Boucher | English | Johnson (IL) |
| Boyd | Eshoo | Johnson, Sam |
| Bradley (NH) | Etheridge | Jones (NC) |
| Brady (PA) | Evans | Kanjorski |
| Brady (TX) | Everett | Kaptur |
| Brown (SC) | Feeney | Keller |
| Brown-Waite, | Ferguson | Kelly |
| Ginny | Flake | Kennedy (MN) |
| Burgess | Foley | Kennedy (RI) |
| Burns | Forbes | Kildee |
| Burr | Ford | Kilpatrick |
| Burton (IN) | Fossella | Kind |
| Calvert | Frank (MA) | King (IA) |
| Camp | Franks (AZ) | King (NY) |
| Cannon | Frelinghuysen | Kingston |
| Cantor | Frost | Kirk |
| Capito | Gallegly | Kleczka |
| Capps | Garrett (NJ) | Kline |
| Capuano | Gerlach | Knollenberg |
| Carson (OK) | Gibbons | Kolbe |
| Carter | Gilchrest | LaHood |
| Case | Gillmor | Lampson |
| Castle | Gingrey | Langevin |
| Chabot | Gonzalez | Lantos |
| Chocola | Goode | Larsen (WA) |
| Clyburn | Goodlatte | Larson (CT) |
| Coble | Gordon | Latham |
| Cole | Goss | Leach |
| Collins | Granger | Levin |
| Cooper | Graves | Lewis (CA) |
| Costello | Green (TX) | Lewis (KY) |
| | Green (WI) | Linder |

- | | | |
|---------------|------------------|---------------|
| Lipinski | Pelosi | Smith (NJ) |
| LoBiondo | Pence | Smith (TX) |
| Lofgren | Peterson (MN) | Smith (WA) |
| Lowey | Peterson (PA) | Souder |
| Lucas (KY) | Petri | Spratt |
| Lucas (OK) | Pickering | Stearns |
| Lynch | Pitts | Stenholm |
| Maloney | Platts | Strickland |
| Manzullo | Pombo | Stupak |
| Markey | Pomeroy | Sullivan |
| Marshall | Porter | Sweeney |
| Matheson | Portman | Tancredo |
| Matsui | Price (NC) | Tanner |
| McCarthy (NY) | Pryce (OH) | Tauscher |
| McCrery | Putnam | Tauzin |
| McGovern | Quinn | Taylor (MS) |
| McHugh | Radanovich | Taylor (NC) |
| McInnis | Ramstad | Terry |
| McIntyre | Regula | Thomas |
| McKeon | Rehberg | Thompson (CA) |
| McNulty | Renzi | Thompson (MS) |
| Meehan | Reyes | Thornberry |
| Meeks (NY) | Reynolds | Tiahrt |
| Menendez | Rodriguez | Tiberi |
| Mica | Rogers (AL) | Tierney |
| Michaud | Rogers (KY) | Toomey |
| Miller (FL) | Rogers (MI) | Towns |
| Miller (MI) | Rohrabacher | Turner (OH) |
| Miller (NC) | Ros-Lehtinen | Turner (TX) |
| Miller, Gary | Ross | Udall (CO) |
| Moore | Rothman | Upton |
| Moran (KS) | Royce | Van Hollen |
| Moran (VA) | Ruppersberger | Viscosky |
| Murphy | Ryan (OH) | Vitter |
| Murtha | Ryan (WI) | Walden (OR) |
| Musgrave | Ryun (KS) | Walsh |
| Myrick | Sanchez, Loretta | Wamp |
| Napolitano | Sandin | Watson |
| Neal (MA) | Saxton | Weiner |
| Nethercutt | Schrock | Weldon (PA) |
| Ney | Scott (GA) | Weldon (FL) |
| Northup | Sensenbrenner | Weller |
| Norwood | Sessions | Wexler |
| Nunes | Shadegg | Whitfield |
| Nussle | Shaw | Wicker |
| Obey | Shays | Wilson (NM) |
| Ortiz | Sherwood | Wilson (SC) |
| Osborne | Shimkus | Wolf |
| Ose | Shuster | Wu |
| Otter | Simmons | Wynn |
| Pallone | Simpson | Young (AK) |
| Pascrell | Skelton | Young (FL) |
| Pastor | Slaughter | |
| Pearce | Smith (MI) | |

NOES—58

- | | | |
|---------------|----------------|----------------|
| Abercrombie | Jackson-Lee | Rangel |
| Allen | (TX) | Rybal-Allard |
| Baird | Johnson, E. B. | Rush |
| Becerra | Jones (OH) | Sabo |
| Berman | Kucinich | Sanchez, Linda |
| Cardin | LaTourette | T. |
| Carson (IN) | Lee | Sanders |
| Davis (AL) | Lewis (GA) | Schakowsky |
| Davis (IL) | Majette | Schiff |
| DeGette | McCollum | Scott (VA) |
| Delahunt | McDermott | Serrano |
| Farr | Meek (FL) | Sherman |
| Fattah | Millender- | Snyder |
| Filner | McDonald | Stark |
| Grijalva | Mollohan | Udall (NM) |
| Hastings (FL) | Nadler | Velazquez |
| Hinche | Oberstar | Waters |
| Honda | Olver | Watt |
| Hoyer | Paul | Waxman |
| Jackson (IL) | Payne | Woolsey |
| | Rahall | |

ANSWERED “PRESENT”—1

Owens

NOT VOTING—18

- | | | |
|----------------|----------|----------------|
| Ballance | Conyers | Jefferson |
| Brown (OH) | Cummings | McCarthy (MO) |
| Brown, Corrine | Dingell | McCotter |
| Buyer | Fletcher | Miller, George |
| Clay | Gephardt | Oxley |
| Combest | Hyde | Solis |

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington) (during the vote). The Chair advises Members there are 2 minutes remaining in this vote.

□ 1302

Ms. WOOLSEY, Ms. DEGETTE, Mr. DAVIS of Illinois, Ms. MILLENDER-McDONALD, Messrs. RUSH, MEEK of Florida, KUCINICH, BECERRA, Ms. JACKSON-LEE of Texas, Mr. LEWIS of Georgia and Mr. RAHALL changed their vote from "aye" to "no."

Mrs. TAUSCHER, Ms. BERKLEY, Messrs. HINOJOSA, LARSON of Connecticut, WEXLER, PETERSON of Pennsylvania and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. BALLANCE. Mr. Chairman, on rollcall No. 87, I was in attendance at a meeting of the CBC Foundation at the National Press Club and did not return in time to vote. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The remaining question in this series will be a 5-minute vote.

AMENDMENT NO. 8 OFFERED BY MR. SMITH OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. SMITH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 406, noes 15, not voting 13, as follows:

[Roll No. 88]

AYES—406

| | | |
|---------------|--------------|---------------|
| Ackerman | Blunt | Carson (OK) |
| Aderholt | Boehler | Carter |
| Akin | Boehner | Case |
| Alexander | Bonilla | Castle |
| Allen | Bonner | Chabot |
| Andrews | Bono | Chocola |
| Baca | Boozman | Clyburn |
| Bachus | Boswell | Coble |
| Baird | Boucher | Cole |
| Baker | Boyd | Collins |
| Baldwin | Bradley (NH) | Cooper |
| Ballance | Brady (PA) | Costello |
| Ballenger | Brady (TX) | Cox |
| Barrett (SC) | Brown (OH) | Cramer |
| Bartlett (MD) | Brown (SC) | Crane |
| Barton (TX) | Brown-Waite, | Crenshaw |
| Bass | Ginny | Crowley |
| Beauprez | Burgess | Cubin |
| Becerra | Burns | Culberson |
| Bell | Burr | Cummings |
| Bereuter | Burton (IN) | Cunningham |
| Berkley | Calvert | Davis (AL) |
| Berman | Camp | Davis (CA) |
| Berry | Cannon | Davis (FL) |
| Biggart | Cantor | Davis (TN) |
| Bilirakis | Capito | Davis, Jo Ann |
| Bishop (GA) | Capps | Davis, Tom |
| Bishop (NY) | Capuano | Deal (GA) |
| Bishop (UT) | Cardin | DeFazio |
| Blackburn | Cardoza | DeGette |
| Blumenauer | Carson (IN) | Delahunt |

| | | |
|-----------------|--------------|------------------|
| DeLauro | Johnson, Sam | Pence |
| DeLay | Jones (NC) | Peterson (MN) |
| DeMint | Kanjorski | Peterson (PA) |
| Deutsch | Kaptur | Petri |
| Diaz-Balart, L. | Keller | Pickering |
| Diaz-Balart, M. | Kelly | Pitts |
| Dicks | Kennedy (MN) | Platts |
| Dingell | Kennedy (RI) | Pombo |
| Doggett | Kildee | Pomeroy |
| Dooley (CA) | Kilpatrick | Porter |
| Doolittle | Kind | Portman |
| Doyle | King (IA) | Price (NC) |
| Dreier | King (NY) | Pryce (OH) |
| Duncan | Kingston | Putnam |
| Dunn | Kirk | Quinn |
| Edwards | Kleczka | Radanovich |
| Ehlers | Kline | Rahall |
| Emanuel | Knollenberg | Ramstad |
| Emerson | Kolbe | Rangel |
| Engel | Kucinich | Regula |
| English | LaHood | Rehberg |
| Eshoo | Lampson | Renzi |
| Etheridge | Langevin | Reyes |
| Evans | Lantos | Reynolds |
| Everett | Larsen (WA) | Rogers (AL) |
| Farr | Larson (CT) | Rogers (KY) |
| Fattah | Latham | Rogers (MI) |
| Feeney | LaTourette | Rohrabacher |
| Ferguson | Leach | Ros-Lehtinen |
| Filner | Levin | Ross |
| Flake | Lewis (CA) | Rothman |
| Foley | Lewis (GA) | Roybal-Allard |
| Forbes | Lewis (KY) | Royce |
| Ford | Linder | Ruppersberger |
| Fossella | Lipinski | Ryan (OH) |
| Frank (MA) | LoBiondo | Ryan (WI) |
| Franks (AZ) | Lofgren | Ryun (KS) |
| Frelinghuysen | Lowe | Sabo |
| Frost | Lucas (KY) | Sanchez, Linda |
| Gallegly | Lucas (OK) | T. |
| Garrett (NJ) | Lynch | Sanchez, Loretta |
| Gerlach | Majette | Sandlin |
| Gibbons | Maloney | Saxton |
| Gilchrest | Manzullo | Schakowsky |
| Gillmor | Markey | Schiff |
| Gingrey | Marshall | Schrock |
| Gonzalez | Matheson | Scott (GA) |
| Goode | Matsui | Sensenbrenner |
| Goodlatte | McCollum | Serrano |
| Gordon | McCrery | Sessions |
| Goss | McGovern | Shadegg |
| Granger | McHugh | Shaw |
| Graves | McInnis | Shays |
| Green (TX) | McIntyre | Sherman |
| Green (WI) | McKeon | Sherwood |
| Greenwood | McNulty | Shimkus |
| Grijalva | Meehan | Shuster |
| Gutierrez | MEEK (FL) | Simmons |
| Gutknecht | Meeks (NY) | Simpson |
| Hall | Menendez | Slaughter |
| Harman | Mica | Smith (MI) |
| Harris | Michaud | Smith (NJ) |
| Hart | Millender- | Smith (TX) |
| Hastings (FL) | McDonald | Smith (WA) |
| Hastings (WA) | Miller (FL) | Snyder |
| Hayes | Miller (MI) | Solis |
| Hayworth | Miller (NC) | Souder |
| Hefley | Miller, Gary | Spratt |
| Hensarling | Mollohan | Stearns |
| Herger | Moore | Stenholm |
| Hill | Moran (KS) | Strickland |
| Hinches | Moran (VA) | Stupak |
| Hinojosa | Murphy | Sullivan |
| Hobson | Murtha | Sweeney |
| Hoefel | Musgrave | Tancredo |
| Hoekstra | Myrick | Tanner |
| Holden | Napolitano | Tauscher |
| Holt | Neal (MA) | Tauzin |
| Honda | Nethercutt | Taylor (MS) |
| Hooley (OR) | Ney | Taylor (NC) |
| Hostettler | Northup | Terry |
| Houghton | Norwood | Thomas |
| Hoyer | Nunes | Thompson (CA) |
| Hulshof | Nussle | Thompson (MS) |
| Hunter | Oberstar | Thornberry |
| Inslee | Obey | Tiahrt |
| Isakson | Olver | Tiberi |
| Israel | Ortiz | Tierney |
| Issa | Osborne | Toomey |
| Istook | Ose | Towns |
| Jackson-Lee | Otter | Turner (OH) |
| (TX) | Owens | Turner (TX) |
| Janklow | Oxley | Udall (CO) |
| Jefferson | Pallone | Udall (NM) |
| Jenkins | Pascrell | Upton |
| John | Pastor | Van Hollen |
| Johnson (CT) | Payne | Velazquez |
| Johnson (IL) | Pearce | Visclosky |
| Johnson, E. B. | Pelosi | Vitter |

| | | |
|-------------|-------------|-------------|
| Walden (OR) | Weldon (FL) | Wilson (SC) |
| Walsh | Weldon (PA) | Wolf |
| Wamp | Weller | Wu |
| Waters | Wexler | Wynn |
| Watson | Whitfield | Young (AK) |
| Waxman | Wicker | Young (FL) |
| Weiner | Wilson (NM) | |

NOES—15

| | | |
|--------------|-----------|------------|
| Abercrombie | Lee | Sanders |
| Conyers | McDermott | Scott (VA) |
| Davis (IL) | Nadler | Stark |
| Jackson (IL) | Paul | Watt |
| Jones (OH) | Rush | Woolsey |

NOT VOTING—13

| | | |
|----------------|---------------|----------------|
| Brown, Corrine | Gephardt | Miller, George |
| Buyer | Hyde | Rodriguez |
| Clay | McCarthy (MO) | Skelton |
| Combest | McCarthy (NY) | |
| Fletcher | McCotter | |

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1311

Mr. DAVIS of Illinois and Mr. RUSH changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. SKELTON. Mr. Chairman, on rollcall No. 88, I was unavoidably detained. Had I been present, I would have voted "aye."

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. HASTINGS of Washington, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1104) to prevent child abduction, and for other purposes, pursuant to House Resolution 160, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This 15-minute vote on the passage of H.R. 1104 will be followed by two 5-minute votes on postponed suspensions.

The vote was taken by electronic device, and there were—ayes 410, noes 14, not voting 10, as follows:

[Roll No. 89]
AYES—410

| | | |
|---------------|-----------------|----------------|
| Abercrombie | Davis (FL) | Holt |
| Ackerman | Davis (IL) | Honda |
| Aderholt | Davis (TN) | Hooley (OR) |
| Akin | Davis, Jo Ann | Hostettler |
| Alexander | Davis, Tom | Houghton |
| Allen | Deal (GA) | Hoyer |
| Andrews | DeFazio | Hulshof |
| Baca | DeGette | Hunter |
| Bachus | Delahunt | Inslee |
| Baird | DeLauro | Isakson |
| Baker | DeLay | Israel |
| Baldwin | DeMint | Issa |
| Ballance | Deutsch | Istook |
| Ballenger | Diaz-Balart, L. | Jackson-Lee |
| Barrett (SC) | Diaz-Balart, M. | (TX) |
| Bartlett (MD) | Dicks | Janklow |
| Barton (TX) | Dingell | Jefferson |
| Bass | Doggett | Jenkins |
| Beauprez | Dooley (CA) | John |
| Becerra | Doolittle | Johnson (CT) |
| Bell | Doyle | Johnson (IL) |
| Bereuter | Dreier | Johnson, E. B. |
| Berkley | Duncan | Johnson, Sam |
| Berman | Dunn | Jones (NC) |
| Berry | Edwards | Jones (MN) |
| Biggert | Ehlers | Kanjorski |
| Billirakis | Emanuel | Kaptur |
| Bishop (GA) | Emerson | Keller |
| Bishop (NY) | Engel | Kelly |
| Bishop (UT) | English | Kennedy (RI) |
| Blackburn | Eshoo | Kildee |
| Blumenauer | Etheridge | Kilpatrick |
| Blunt | Evans | Kind |
| Boehlert | Everett | King (IA) |
| Boehner | Farr | King (NY) |
| Bonilla | Fattah | Kingston |
| Bonner | Feeney | Kirk |
| Bono | Ferguson | Kleczyka |
| Boozman | Filner | Kline |
| Boswell | Flake | Knollenberg |
| Boucher | Foley | Kolbe |
| Boyd | Forbes | Kucinich |
| Bradley (NH) | Ford | LaHood |
| Brady (PA) | Fossella | Lampson |
| Brady (TX) | Frank (MA) | Langevin |
| Brown (OH) | Franks (AZ) | Lantos |
| Brown (SC) | Frelinghuysen | Larsen (WA) |
| Brown-Waite, | Frost | Larson (CT) |
| Ginny | Galleghy | Latham |
| Burgess | Garrett (NJ) | LaTourette |
| Burns | Gerlach | Leach |
| Burr | Gibbons | Levin |
| Burton (IN) | Gilchrest | Lewis (CA) |
| Calvert | Gillmor | Lewis (GA) |
| Camp | Gingrey | Lewis (KY) |
| Cannon | Gonzalez | Linder |
| Cantor | Goode | Lipinski |
| Capito | Goodlatte | LoBiondo |
| Capps | Gordon | Lofgren |
| Capuano | Goss | Lowe |
| Cardin | Granger | Lucas (KY) |
| Cardoza | Graves | Lucas (OK) |
| Carson (IN) | Green (TX) | Lynch |
| Carson (OK) | Green (WI) | Majette |
| Carter | Greenwood | Maloney |
| Case | Grijalva | Manzullo |
| Castle | Gutierrez | Markey |
| Chabot | Gutknecht | Marshall |
| Chocola | Hall | Matheson |
| Clyburn | Harman | Matsui |
| Coble | Harris | Hart |
| Cole | Hart | McCarthy (NY) |
| Collins | Hastings (FL) | McCollum |
| Cooper | Hastings (WA) | McCrery |
| Costello | Hayes | McGovern |
| Cox | Hayworth | McHugh |
| Cramer | Hefley | McInnis |
| Crane | Hensarling | McIntyre |
| Crenshaw | Herger | McKeon |
| Crowley | Hill | McNulty |
| Cubin | Hinchee | Meehan |
| Culberson | Hinojosa | Meek (FL) |
| Cummings | Hobson | Meeks (NY) |
| Cunningham | Hoefel | Menendez |
| Davis (AL) | Hoekstra | Mica |
| Davis (CA) | Holden | Michaud |

| | |
|--------------------|-------------------|
| Millender-McDonald | Ramstad |
| Miller (FL) | Rangel |
| Miller (MI) | Regula |
| Miller (NC) | Rehberg |
| Miller, Gary | Renzi |
| Moore | Reyes |
| Moran (KS) | Reynolds |
| Moran (VA) | Rodriguez |
| Murphy | Rogers (AL) |
| Murtha | Rogers (KY) |
| Musgrave | Rogers (MI) |
| Myrick | Rohrabacher |
| Nadler | Ros-Lehtinen |
| Napolitano | Ross |
| Neal (MA) | Rothman |
| Nethercutt | Roybal-Allard |
| Ney | Royce |
| Northup | Ruppersberger |
| Norwood | Rush |
| Nunes | Ryan (OH) |
| Nussle | Ryan (WI) |
| Obey | Ryun (KS) |
| Oliver | Sanchez, Linda T. |
| Ortiz | Sanchez, Loretta |
| Osborne | Sandlin |
| Ose | Saxton |
| Otter | Schakowsky |
| Owens | Schiff |
| Oxley | Schrock |
| Pallone | Scott (GA) |
| Pascrell | Sensenbrenner |
| Pastor | Serrano |
| Payne | Sessions |
| Pearce | Shadegg |
| Pelosi | Shaw |
| Pence | Shays |
| Peterson (MN) | Sherman |
| Peterson (PA) | Sherwood |
| Petri | Shimkus |
| Pickering | Shuster |
| Pitts | Simmons |
| Platts | Simpson |
| Pombo | Skelton |
| Pomeroy | Slaughter |
| Porter | Smith (MI) |
| Portman | Smith (NJ) |
| Price (NC) | Smith (TX) |
| Pryce (OH) | Smith (WA) |
| Putnam | Snyder |
| Quinn | Solis |
| Radanovich | Souder |
| Rahall | Spratt |

NOES—14

| | |
|--------------|----------|
| Conyers | Mollohan |
| Jackson (IL) | Oberstar |
| Jones (OH) | Paul |
| Lee | Sabo |
| McDermott | Sanders |

NOT VOTING—10

| | | |
|----------------|---------------|----------------|
| Brown, Corrine | Fletcher | McCotter |
| Buyer | Gephardt | Miller, George |
| Clay | Hyde | |
| Combest | McCarthy (MO) | |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that there are 2 minutes remaining on this vote.

□ 1330

Mr. JACKSON of Illinois, Ms. LEE and Mr. SANDERS changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 99

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable

Daniel Patrick Moynihan, former Member of the United States Senate.

The message also announced that pursuant to Public Law 96-388, as amended by Public Law 97-84 and Public Law 106-292, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, appoints the following Senators to the United States Holocaust Memorial Council for the One Hundred Eighth Congress—

the Senator from Utah (Mr. HATCH);
the Senator from Maine (Ms. COLLINS); and
the Senator from Minnesota (Mr. COLEMAN).

The message also announced that pursuant to Public Law 106-398, as amended by Public Law 108-7, in accordance with the qualifications specified under section 1237(E) of Public Law 106-398, the Chair, on behalf of the President pro tempore and upon the recommendation of the Democratic Leader, in consultation with the Ranking Members of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individuals to the United States-China Economic Security Review Commission—

C. Richard D'Amato of Maryland, for a term expiring December 31, 2005;

Patrick A. Mulloy of Virginia, for a term expiring December 31, 2004; and

William A. Reinsch of Maryland, for a term expiring December 31, 2003.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the remainder of this series of votes will be conducted as 5-minute votes.

SECURING BLESSINGS OF PROVIDENCE FOR PEOPLE OF THE UNITED STATES AND OUR ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 153.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 153, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 346, nays 49, answered "present" 23, not voting 16, as follows:

[Roll No. 90]
YEAS—346

| | | |
|-------------|-----------|---------------|
| Abercrombie | Baca | Barrett (SC) |
| Aderholt | Bachus | Bartlett (MD) |
| Akin | Baker | Barton (TX) |
| Alexander | Baldwin | Bass |
| Andrews | Ballenger | Beauprez |