

Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 2:30 p.m. to conduct a hearing entitled "Addressing Cost Growth of Major DOD Weapons Systems."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that two legal interns in my office, Corinne Beth and Arezo Yazd, be granted floor privileges for the remainder of this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMBATING CHILD EXPLOITATION ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 862, S. 1738.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1738) to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Combating Child Exploitation Act of 2008".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

- Sec. 101. Establishment of National Strategy for Child Exploitation Prevention and Interdiction.
- Sec. 102. Establishment of National ICAC Task Force Program.
- Sec. 103. Purpose of ICAC task forces.
- Sec. 104. Duties and functions of task forces.
- Sec. 105. National Internet Crimes Against Children Data System.
- Sec. 106. ICAC grant program.
- Sec. 107. Authorization of appropriations.

TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

- Sec. 201. Additional regional computer forensic labs.
- Sec. 202. Additional field agents for the FBI.
- Sec. 203. Immigration and customs enforcement enhancement.
- Sec. 204. Combating child exploitation via the United States Postal Service.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

- Sec. 301. Effective child pornography prosecution.
- Sec. 302. Prohibit the broadcast of live images of child abuse.
- Sec. 303. Amendment to section 2256 of title 18, United States Code.
- Sec. 304. Amendment to section 2260 of title 18, United States Code.
- Sec. 305. Prohibiting the alteration of an image of a real child to create an image of sexually explicit conduct.
- Sec. 306. Referrals to authorized foreign law enforcement agencies.

TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

- Sec. 401. NIJ Study of Risk Factors for Assessing Dangerousness.

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) **CHILD EXPLOITATION.**—The term "child exploitation" means any conduct, attempted conduct, or conspiracy to engage in conduct involving a minor that violates section 1591, chapter 109A, chapter 110, and chapter 117 of title 18, United States Code, or any sexual activity involving a minor for which any person can be charged with a criminal offense.

(2) **CHILD OBSCENITY.**—The term "child obscenity" means any visual depiction proscribed by section 1466A of title 18, United States Code.

(3) **MINOR.**—The term "minor" means any person under the age of 18 years.

(4) **SEXUALLY EXPLICIT CONDUCT.**—The term "sexually explicit conduct" has the meaning given such term in section 2256 of title 18, United States Code.

TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

SEC. 101. ESTABLISHMENT OF NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.

(a) **IN GENERAL.**—The Attorney General of the United States shall create and implement a National Strategy for Child Exploitation Prevention and Interdiction.

(b) **TIMING.**—Not later than February 1 of each year, the Attorney General shall submit to Congress the National Strategy established under subsection (a).

(c) **REQUIRED CONTENTS OF NATIONAL STRATEGY.**—The National Strategy established under subsection (a) shall include the following:

(1) Comprehensive long-range, goals for reducing child exploitation.

(2) Annual measurable objectives and specific targets to accomplish long-term, quantifiable goals that the Attorney General determines may be achieved during each year beginning on the date when the National Strategy is submitted.

(3) Annual budget priorities and Federal efforts dedicated to combating child exploitation, including resources dedicated to Internet Crimes Against Children task forces, Project Safe Childhood, FBI Innocent Images Initiative, the National Center for Missing and Exploited Children, regional forensic computer labs, Internet Safety programs, and all other entities whose goal or mission is to combat the exploitation of children that receive Federal support.

(4) A 5-year projection for program and budget goals and priorities.

(5) A review of the policies and work of the Department of Justice related to the prevention and investigation of child exploitation crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Federal Bureau of Investigation, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to child exploitation.

(6) A description of the Department's efforts to coordinate with international, State, local, tribal law enforcement, and private sector entities on child exploitation prevention and interdiction efforts.

(7) Plans for interagency coordination regarding the prevention, investigation, and apprehension of individuals exploiting children, including cooperation and collaboration with—

- (A) Immigration and Customs Enforcement;
- (B) the United States Postal Inspection Service;
- (C) the Department of State;
- (D) the Department of Commerce;
- (E) the Department of Education;
- (F) the Department of Health and Human Services; and
- (G) other appropriate Federal agencies.

(8) A review of the Internet Crimes Against Children Task Force Program, including—

- (A) the number of ICAC task forces and location of each ICAC task force;
- (B) the number of trained personnel at each ICAC task force;
- (C) the amount of Federal grants awarded to each ICAC task force;
- (D) an assessment of the Federal, State, and local cooperation in each task force, including—
 - (i) the number of arrests made by each task force;
 - (ii) the number of criminal referrals to United States attorneys for prosecution;
 - (iii) the number of prosecutions and convictions from the referrals made under clause (ii);
 - (iv) the number, if available, of local prosecutions and convictions based on ICAC task force investigations; and
 - (v) any other information demonstrating the level of Federal, State, and local coordination and cooperation, as such information is to be determined by the Attorney General;

(E) an assessment of the training opportunities and technical assistance available to support ICAC task force grantees; and

(F) an assessment of the success of the Internet Crimes Against Children Task Force Program at leveraging State and local resources and matching funds.

(9) An assessment of the technical assistance and support available for Federal, State, local, and tribal law enforcement agencies, in the prevention, investigation, and prosecution of child exploitation crimes.

(10) The backlog of forensic analysis for child exploitation cases at each FBI Regional Forensic lab and an estimate of the backlog at State and local labs.

(11) Plans for reducing the forensic backlog described in paragraph (10), if any, at Federal, State and local forensic labs.

(12) A review of the Federal programs related to child exploitation prevention and education, including those related to Internet safety, including efforts by the private sector and non-profit entities, or any other initiatives, that have proven successful in promoting child safety and Internet safety.

(13) An assessment of the future trends, challenges, and opportunities, including new technologies, that will impact Federal, State, local, and tribal efforts to combat child exploitation.

(14) Plans for liaisons with the judicial branches of the Federal and State governments on matters relating to child exploitation.

(15) An assessment of Federal investigative and prosecution activity relating to reported incidents of child exploitation crimes, which shall include a number of factors, including—

(A) the number of high-priority suspects (identified because of the volume of suspected criminal activity or because of the danger to the community or a potential victim) who were investigated and prosecuted;

(B) the number of investigations, arrests, prosecutions and convictions for a crime of child exploitation; and

(C) the average sentence imposed and statutory maximum for each crime of child exploitation.

(16) A review of all available statistical data indicating the overall magnitude of child pornography trafficking in the United States and internationally, including—

(A) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, peer-to-peer file sharing of child pornography;

(B) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other reporting sources of engaging in, buying and selling, or other commercial activity related to child pornography;

(C) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, all other forms of activity related to child pornography;

(D) the number of tips or other statistical data from the National Center for Missing and Exploited Children's CyberTipline and other data indicating the magnitude of child pornography trafficking; and

(E) any other statistical data indicating the type, nature, and extent of child exploitation crime in the United States and abroad.

(17) Copies of recent relevant research and studies related to child exploitation, including—

(A) studies related to the link between possession or trafficking of child pornography and actual abuse of a child;

(B) studies related to establishing a link between the types of files being viewed or shared and the type of illegal activity; and

(C) any other research, studies, and available information related to child exploitation.

(18) A review of the extent of cooperation, coordination, and mutual support between private sector and other entities and organizations and Federal agencies, including the involvement of States, local and tribal government agencies to the extent Federal programs are involved.

(19) The results of the Project Safe Childhood Conference or other conferences or meetings convened by the Department of Justice related to combating child exploitation

(d) **APPOINTMENT OF HIGH-LEVEL OFFICIAL.**—(1) **IN GENERAL.**—The Attorney General shall designate a senior official at the Department of Justice to be responsible for coordinating the development of the National Strategy established under subsection (a).

(2) **DUTIES.**—The duties of the official designated under paragraph (1) shall include—

(A) acting as a liaison with all Federal agencies regarding the development of the National Strategy;

(B) working to ensure that there is proper coordination among agencies in developing the National Strategy;

(C) being knowledgeable about budget priorities and familiar with all efforts within the Department of Justice and the FBI related to child exploitation prevention and interdiction; and

(D) presenting the National Strategy to Congress and being available to answer questions related to the strategy at congressional hearings, if requested by committees of appropriate jurisdictions, on the contents of the National Strategy and progress of the Department of Justice in implementing the National Strategy.

SEC. 102. ESTABLISHMENT OF NATIONAL ICAC TASK FORCE PROGRAM.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—There is established within the Department of Justice, under the general authority of the Attorney General, a National Internet Crimes Against Children Task Force Program (hereinafter in this title referred to as the "ICAC Task Force Program"), which shall consist of a national program of State and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases.

(2) **INTENT OF CONGRESS.**—It is the purpose and intent of Congress that the ICAC Task Force Program established under paragraph (1) is intended to continue the ICAC Task Force Program authorized under title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) **NATIONAL PROGRAM.**—

(1) **STATE REPRESENTATION.**—The ICAC Task Force Program established under subsection (a) shall include at least 1 ICAC task force in each State.

(2) **CAPACITY AND CONTINUITY OF INVESTIGATIONS.**—In order to maintain established capacity and continuity of investigations and prosecutions of child exploitation cases, the Attorney General, shall, in establishing the ICAC Task Force Program under subsection (a) consult with and consider all 59 task forces in existence on the date of enactment of this Act. The Attorney General shall include all existing ICAC task forces in the ICAC Task Force Program, unless the Attorney General makes a determination that an existing ICAC does not have a proven track record of success.

SEC. 103. PURPOSE OF ICAC TASK FORCES.

The ICAC Task Force Program, and each State or local ICAC task force that is part of the national program of task forces, shall be dedicated toward—

(1) increasing the investigative capabilities of State and local law enforcement officers in the detection, investigation, and apprehension of Internet crimes against children offenses or offenders, including technology-facilitated child exploitation offenses;

(2) conducting proactive and reactive Internet crimes against children investigations;

(3) providing training and technical assistance to ICAC task forces and other Federal, State, and local law enforcement agencies in the areas of investigations, forensics, prosecution, community outreach, and capacity-building, using recognized experts to assist in the development and delivery of training programs;

(4) increasing the number of Internet crimes against children offenses being investigated and prosecuted in both Federal and State courts;

(5) creating a multiagency task force response to Internet crimes against children offenses within each State;

(6) participating in the Department of Justice's Project Safe Childhood initiative, the purpose of which is to combat technology-facilitated sexual exploitation crimes against children;

(7) enhancing nationwide responses to Internet crimes against children offenses, including

assisting other ICAC task forces, as well as other Federal, State, and local agencies with Internet crimes against children investigations and prosecutions;

(8) developing and delivering Internet crimes against children public awareness and prevention programs; and

(9) participating in such other activities, both proactive and reactive, that will enhance investigations and prosecutions of Internet crimes against children.

SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.

Each State or local ICAC task force that is part of the national program of task forces shall—

(1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of such task force;

(2) work consistently toward achieving the purposes described in section 103;

(3) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children;

(4) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children;

(5) develop multijurisdictional, multiagency responses and partnerships to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses;

(6) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force;

(7) establish or adopt investigative and prosecution standards, consistent with established norms, to which such task force shall comply;

(8) investigate, and seek prosecution on, tips related to Internet crimes against children, including tips from the National Internet Crimes Against Children Data System established in section 105, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigative leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community;

(9) develop procedures for handling seized evidence;

(10) maintain—

(A) such reports and records as are required under this title; and

(B) such other reports and records as determined by the Attorney General; and

(11) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

SEC. 105. NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM.

(a) **IN GENERAL.**—The Attorney General shall establish a National Internet Crimes Against Children Data System.

(b) **INTENT OF CONGRESS.**—It is the purpose and intent of Congress that the National Internet Crimes Against Children Data System established in subsection (a) is intended to continue and build upon Operation Fairplay developed by the Wyoming Attorney General's office, which has established a secure, dynamic undercover infrastructure that has facilitated online law enforcement investigations of child exploitation, information sharing, and the capacity to collect and aggregate data on the extent of the problems of child exploitation.

(c) **PURPOSE OF SYSTEM.**—The National Internet Crimes Against Children Data System established under subsection (a) shall be dedicated to assisting and supporting credentialed law enforcement agencies authorized to investigate child exploitation in accordance with Federal, State, local, and tribal laws, including by providing assistance and support to—

(1) Federal agencies investigating and prosecuting child exploitation;

(2) the ICAC Task Force Program established under section 102; and

(3) State, local, and tribal agencies investigating and prosecuting child exploitation.

(d) **CYBER SAFE DECONFLICTION AND INFORMATION SHARING.**—The National Internet Crimes Against Children Data System established under subsection (a)—

(1) shall be housed and maintained within the Department of Justice or a credentialed law enforcement agency;

(2) shall be made available for a nominal charge to support credentialed law enforcement agencies in accordance with subsection (c); and

(3) shall—

(A) allow Federal, State, local, and tribal agencies and ICAC task forces investigating and prosecuting child exploitation to contribute and access data for use in resolving case conflicts;

(B) provide, directly or in partnership with a credentialed law enforcement agency, a dynamic undercover infrastructure to facilitate online law enforcement investigations of child exploitation;

(C) facilitate the development of essential software and network capability for law enforcement participants; and

(D) provide software or direct hosting and support for online investigations of child exploitation activities, or, in the alternative, provide users with a secure connection to an alternative system that provides such capabilities, provided that the system is hosted within a governmental agency or a credentialed law enforcement agency.

(e) **COLLECTION AND REPORTING OF DATA.**—

(1) **IN GENERAL.**—The National Internet Crimes Against Children Data System established under subsection (a) shall ensure the following:

(A) **REAL-TIME REPORTING.**—All child exploitation cases involving local child victims that are reasonably detectable using available software and data are, immediately upon their detection, made available to participating law enforcement agencies.

(B) **HIGH-PRIORITY SUSPECTS.**—Every 30 days, at minimum, the National Internet Crimes Against Children Data System shall—

(i) identify high-priority suspects, as such suspects are determined by the volume of suspected criminal activity or other indicators of seriousness of offense or dangerousness to the community or a potential local victim; and

(ii) report all such identified high-priority suspects to participating law enforcement agencies.

(C) **ANNUAL REPORTS.**—Any statistical data indicating the overall magnitude of child pornography trafficking and child exploitation in the United States and internationally is made available and included in the National Strategy, as is required under section 101(c)(16).

(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to limit the ability of participating law enforcement agencies to disseminate investigative leads or statistical information in accordance with State and local laws.

(f) **MANDATORY REQUIREMENTS OF NETWORK.**—The National Internet Crimes Against Children Data System established under subsection (a) shall develop, deploy, and maintain an integrated technology and training program that provides—

(1) a secure, online system for Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies for use in resolving case conflicts, as provided in subsection (d);

(2) a secure system enabling online communication and collaboration by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies regarding ongoing investigations, investigatory techniques, best practices, and any other relevant news and professional information;

(3) a secure online data storage and analysis system for use by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies;

(4) secure connections or interaction with State and local law enforcement computer networks, consistent with reasonable and established security protocols and guidelines;

(5) guidelines for use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces; and

(6) training and technical assistance on the use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces.

(g) **NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM STEERING COMMITTEE.**—The Attorney General shall establish a National Internet Crimes Against Children Data System Steering Committee to provide guidance to the Network relating to the program under subsection (f), and to assist in the development of strategic plans for the System. The Steering Committee shall consist of 10 members with expertise in child exploitation prevention and interdiction prosecution, investigation, or prevention, including—

(1) 3 representatives elected by the local directors of the ICAC task forces, such representatives shall represent different geographic regions of the country;

(2) 1 representative of the Department of Justice Office of Information Services;

(3) 1 representative from Operation Fairplay, currently hosted at the Wyoming Office of the Attorney General;

(4) 1 representative from the law enforcement agency having primary responsibility for hosting and maintaining the National Internet Crimes Against Children Data System;

(5) 1 representative of the Federal Bureau of Investigation's Innocent Images National Initiative or Regional Computer Forensic Lab program;

(6) 1 representative of the Immigration and Customs Enforcement's Cyber Crimes Center;

(7) 1 representative of the United States Postal Inspection Service; and

(8) 1 representative of the Department of Justice.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of the fiscal years 2009 through 2016, \$2,000,000 to carry out the provisions of this section.

SEC. 106. ICAC GRANT PROGRAM.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Attorney General is authorized to award grants to State and local ICAC task forces to assist in carrying out the duties and functions described under section 104.

(2) **FORMULA GRANTS.**—

(A) **DEVELOPMENT OF FORMULA.**—At least 75 percent of the total funds appropriated to carry out this section shall be available to award or otherwise distribute grants pursuant to a funding formula established by the Attorney General in accordance with the requirements in subparagraph (B).

(B) **FORMULA REQUIREMENTS.**—Any formula established by the Attorney General under subparagraph (A) shall—

(i) ensure that each State or local ICAC task force shall, at a minimum, receive an amount equal to 0.5 percent of the funds available to award or otherwise distribute grants under subparagraph (A); and

(ii) take into consideration the following factors:

(I) The population of each State, as determined by the most recent decennial census performed by the Bureau of the Census.

(II) The number of investigative leads within the applicant's jurisdiction generated by the ICAC Data Network, the CyberTipline, and other sources.

(III) The number of criminal cases related to Internet crimes against children referred to a task force for Federal, State, or local prosecution.

(IV) The number of successful prosecutions of child exploitation cases by a task force.

(V) The amount of training, technical assistance, and public education or outreach by a task force related to the prevention, investigation, or prosecution of child exploitation offenses.

(VI) Such other criteria as the Attorney General determines demonstrate the level of need for additional resources by a task force.

(3) **DISTRIBUTION OF REMAINING FUNDS BASED ON NEED.**—

(A) **IN GENERAL.**—Any funds remaining from the total funds appropriated to carry out this section after funds have been made available to award or otherwise distribute formula grants under paragraph (2)(A) shall be distributed to State and local ICAC task forces based upon need, as set forth by criteria established by the Attorney General. Such criteria shall include the factors under paragraph (2)(B)(ii).

(B) **MATCHING REQUIREMENT.**—A State or local ICAC task force shall contribute matching non-Federal funds in an amount equal to not less than 25 percent of the amount of funds received by the State or local ICAC task force under subparagraph (A). A State or local ICAC task force that is not able or willing to contribute matching funds in accordance with this subparagraph shall not be eligible for funds under subparagraph (A).

(C) **WAIVER.**—The Attorney General may waive, in whole or in part, the matching requirement under subparagraph (B) if the State or local ICAC task force demonstrates good cause or financial hardship.

(b) **APPLICATION.**—

(1) **IN GENERAL.**—Each State or local ICAC task force seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) **CONTENTS.**—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this title.

(c) **ALLOWABLE USES.**—Grants awarded under this section may be used to—

(1) hire personnel, investigators, prosecutors, education specialists, and forensic specialists;

(2) establish and support forensic laboratories utilized in Internet crimes against children investigations;

(3) support investigations and prosecutions of Internet crimes against children;

(4) conduct and assist with education programs to help children and parents protect themselves from Internet predators;

(5) conduct and attend training sessions related to successful investigations and prosecutions of Internet crimes against children; and

(6) fund any other activities directly related to preventing, investigating, or prosecuting Internet crimes against children.

(d) **REPORTING REQUIREMENTS.**—

(1) **ICAC REPORTS.**—To measure the results of the activities funded by grants under this section, and to assist the Attorney General in complying with the Government Performance and Results Act (Public Law 103-62; 107 Stat. 285),

each State or local ICAC task force receiving a grant under this section shall, on an annual basis, submit a report to the Attorney General that sets forth the following:

(A) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

(B) Investigation and prosecution performance measures of the task force, including—

(i) the number of investigations initiated related to Internet crimes against children;

(ii) the number of arrests related to Internet crimes against children; and

(iii) the number of prosecutions for Internet crimes against children, including—

(I) whether the prosecution resulted in a conviction for such crime; and

(II) the sentence and the statutory maximum for such crime under State law.

(C) The number of referrals made by the task force to the United States Attorneys office, including whether the referral was accepted by the United States Attorney.

(D) Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.

(E) The number of investigative technical assistance sessions that the task force provided to nonmember law enforcement agencies.

(F) The number of computer forensic examinations that the task force completed.

(G) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to Congress on—

(A) the progress of the development of the ICAC Task Force Program established under section 102; and

(B) the number of Federal and State investigations, prosecutions, and convictions in the prior 12-month period related to child exploitation.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) \$60,000,000 for fiscal year 2009;

(2) \$75,000,000 for fiscal year 2010;

(3) \$75,000,000 for fiscal year 2011;

(4) \$75,000,000 for fiscal year 2012;

(5) \$75,000,000 for fiscal year 2013;

(6) \$75,000,000 for fiscal year 2014;

(7) \$100,000,000 for fiscal year 2015; and

(8) \$100,000,000 for fiscal year 2016.

(b) AVAILABILITY.—Funds appropriated under subsection (a) shall remain available until expended.

TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC LABS.

(a) ADDITIONAL RESOURCES.—The Attorney General shall establish additional computer forensic capacity to address the current backlog for computer forensics, including for child exploitation investigations. The Attorney General may utilize funds under this title to increase capacity at existing regional forensic laboratories or to add laboratories under the Regional Computer Forensic Laboratories Program operated by the Federal Bureau of Investigation.

(b) PURPOSE OF NEW RESOURCES.—The additional forensic capacity established by resources provided under this section shall be dedicated to assist Federal agencies, State and local Internet Crimes Against Children task forces, and other Federal, State, and local law enforcement agencies in preventing, investigating, and prosecuting Internet crimes against children.

(c) NEW COMPUTER FORENSIC LABS.—If the Attorney General determines that new regional computer forensic laboratories are required

under subsection (a) to best address existing backlogs, such new laboratories shall be established pursuant to subsection (d).

(d) LOCATION OF NEW LABS.—The location of any new regional computer forensic laboratories under this section shall be determined by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, the Regional Computer Forensic Laboratory National Steering Committee, and other relevant stakeholders.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General shall submit a report to the Congress on how the funds appropriated under this section were utilized.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2009 through 2016, \$7,000,000 to carry out the provisions of this section.

SEC. 202. ADDITIONAL FIELD AGENTS FOR THE FBI.

(a) IN GENERAL.—There are authorized to be appropriated to the Attorney General \$30,000,000 for each of the fiscal years 2009 through 2016 to fund the hiring of full-time Federal Bureau of Investigation field agents and associated analysts and support staff in addition to the number of such employees serving in those capacities on the date of enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation cases as part of the Federal Bureau of Investigation's Innocent Images National Initiative.

SEC. 203. IMMIGRATION AND CUSTOMS ENFORCEMENT ENHANCEMENT.

(a) ADDITIONAL AGENTS.—There are authorized to be appropriated to the Secretary of Homeland Security \$15,000,000, for each of the fiscal years 2009 through 2016, to fund the hiring of full-time agents and associated analysts and support staff within the Bureau of Immigration and Customs Enforcement in addition to the number of such employees serving in those capacities on the date of enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation and child obscenity cases.

SEC. 204. COMBATING CHILD EXPLOITATION VIA THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated to the Postmaster General \$5,000,000, for each of the fiscal years 2009 through 2016, to fund the hiring of full-time postal inspectors and associated analysts and support staff in addition to the number of such employees serving in those capacities on the date of the enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation and child obscenity cases and may be used to support the Deliver Me Home program developed by the United States Postal Service.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

SEC. 301. EFFECTIVE CHILD PORNOGRAPHY PROSECUTION.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “knows or has reason to know” and all that follows through the period at the end, and inserting “transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, if such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.”;

(2) in subsection (b), by striking “knows or has reason to know” and all that follows through the period at the end, and inserting “transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, if such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.”;

(3) in subsection (c)(2)—

(A) in subparagraph (A), by striking “computer” and inserting “using a facility or means of interstate or foreign commerce”;

(B) in subparagraph (B), by striking “computer” and inserting “using a facility or means of interstate or foreign commerce”;

(4) in subsection (d)(2)—

(A) in subparagraph (A), by striking “transported in interstate” and all that follows through “computer” and inserting “transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce.”;

(B) in subparagraph (B), by striking “transported in interstate” and all that follows through “computer” and inserting “transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce.”;

(b) SELLING OR BUYING OF CHILDREN.—Subsection (c)(2) of section 2251A of title 18, United States Code, is amended by striking “in interstate or foreign” and all that follows through “computer or” and inserting “in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce, or by”.

(c) MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Subsection (a) of section 2252 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “in interstate or foreign” and all that follows through “computer” and inserting “in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(2) in paragraph (2)—

(A) by striking “has been shipped or transported in interstate or foreign commerce” and inserting “has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(B) by striking “distribution in interstate or foreign commerce” and inserting “distribution in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(3) in paragraph (3)(B), by striking “has been shipped or transported in interstate or foreign commerce” and inserting “has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(4) in paragraph (4)(B), by striking “has been shipped or transported in interstate or foreign commerce” and inserting “has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(d) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) by striking “in interstate or foreign commerce by any means, including by computer” each place that term appears and inserting “in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce”;

(2) in paragraph (6)(C), by striking “or by transmitting or causing to be transmitted any wire communication in interstate or foreign

commerce, including by computer" and inserting "or a facility or means of interstate or foreign commerce".

(e) **OBSCENE VISUAL REPRESENTATIONS OF THE SEXUAL ABUSE OF CHILDREN.**—Subsection (d)(4) of section 1466A of title 18, United States Code, is amended by striking "has been shipped transported in interstate or foreign commerce by any means, including by computer" and inserting "has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce".

(f) **RULE OF CONSTRUCTION.**—Nothing in this title, or any amendment by this title, shall be construed to foreclose any argument or ruling with respect to any Federal law that, for the purposes of Federal jurisdiction, the use of a facility or means of interstate or foreign commerce affects interstate or foreign commerce.

SEC. 302. PROHIBIT THE BROADCAST OF LIVE IMAGES OF CHILD ABUSE.

Section 2251 of title 18, United States Code is amended—

(1) in subsection (a), by—

(A) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct";

(B) inserting "or transmitted" after "if such person knows or has reason to know that such visual depiction will be transported";

(C) inserting "or transmitted" after "if that visual depiction was produced"; and

(D) inserting "or transmitted" after "has actually been transported"; and

(2) in subsection (b), by—

(A) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct";

(B) inserting "or transmitted" after "person knows or has reason to know that such visual depiction will be transported";

(C) inserting "or transmitted" after "if that visual depiction was produced"; and

(D) inserting "or transmitted" after "has actually been transported".

SEC. 303. AMENDMENT TO SECTION 2256 OF TITLE 18, UNITED STATES CODE.

Section 2256(5) of title 18, United States Code is amended by—

(1) striking "and" before "data";

(2) after "visual image" by inserting ", and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format".

SEC. 304. AMENDMENT TO SECTION 2260 OF TITLE 18, UNITED STATES CODE.

Section 2260(a) of title 18, United States Code, is amended by—

(1) inserting "or for the purpose of transmitting a live visual depiction of such conduct" after "for the purpose of producing any visual depiction of such conduct"; and

(2) inserting "or transmitted" after "imported".

SEC. 305. PROHIBITING THE ALTERATION OF AN IMAGE OF A REAL CHILD TO CREATE AN IMAGE OF SEXUALLY EXPLICIT CONDUCT.

(a) **IN GENERAL.**—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) in paragraph (5) by striking "; or" and inserting a semicolon;

(2) in paragraph (6), by striking the period at the end and inserting "; or"; and

(3) by inserting at the end the following:

"(7) knowingly creates, alters, adapts, or modifies a visual depiction of an identifiable minor, as defined in section 2256(9), so that it depicts child pornography as defined in section 2256(8), and intends to distribute or actually distributes that visual depiction by any means, where such person knows or has reason to know that such visual depiction will be transported in

or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, where such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, or where the visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,".

(b) **PENALTY.**—Section 2252A(b) of title 18, United States Code, is amended by striking "(4), or (6)" and inserting "(4), (6), or (7)".

SEC. 306. REFERRALS TO AUTHORIZED FOREIGN LAW ENFORCEMENT AGENCIES.

(a) **VOLUNTARY REPORTS.**—A provider of electronic communication services or remote computing services may voluntarily make a report, as defined at section 227(b)(1) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032(b)(1)), directly to a representative of a foreign law enforcement agency—

(1) of a foreign state that is a signatory to a Mutual Legal Assistance Treaty with the United States that has been ratified by the United States Senate and has come into force; and

(2) that has certified in writing that the request is made for the purpose of investigating, or engaging in enforcement proceedings related to, possible violations of foreign laws related to child pornography and child exploitation similar to practices prohibited by sections 2251, 2251A, 2252, 2252A, 2252B, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), or 1466A of that title.

(b) **REPORTS TO FOREIGN LAW ENFORCEMENT.**—Reports to foreign law enforcement may only be transmitted to the Central Authority designated in the foreign country's Mutual Legal Assistance Treaty with the United States and may only be transmitted via mail or fax, or via electronic mail to a government-owned e-mail domain.

(c) **REPORTS TO NCMEC.**—Nothing in this section shall be construed to relieve providers of electronic communication services or remote computing services of their obligations under section 227(b)(1) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032(b)(1)) to make reports to the National Center for Missing and Exploited Children.

(d) **LIMITATION ON LIABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a provider of electronic communication services or remote computing services, or any of its directors, officers, employees, or agents, is not liable in any civil or criminal action arising from the performance of the reporting activities described in subsection (a).

(2) **INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.**—Paragraph (1) does not apply in an action in which a party proves that the provider of electronic communication services or remote computing services, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted with actual malice, or with reckless disregard to a substantial risk of causing injury without legal justification.

TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

SEC. 401. NIJ STUDY OF RISK FACTORS FOR ASSESSING DANGEROUSNESS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall prepare a report to identify investigative factors that reliably indicate whether a subject of an online child exploitation investigation poses a higher risk of harm to children. Such a report shall be prepared in consultation and coordination with Federal law enforcement agencies, the National Center for Missing and Exploited Children, Operation Fairplay at the Wyoming Attorney General's Office, the Internet Crimes Against Children Task Force, and other State and local law enforcement.

(b) **CONTENTS OF ANALYSIS.**—The report required by subsection (a) shall include a thorough analysis of potential investigative factors in on-line child exploitation cases and an appropriate examination of investigative data from prior prosecutions and case files of identified child victims.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall submit a report to the House and Senate Judiciary Committees that includes the findings of the study required by this section and makes recommendations on technological tools and law enforcement procedures to help investigators prioritize scarce resources to those cases where there is actual hands-on abuse by the suspect.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$1,000,000 to the National Institute of Justice to conduct the study required under this section.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee substitute be withdrawn; a Biden substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5650) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 1738), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The amendment (No. 5651) was agreed to, as follows:

Amend the title so as to read: "To require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators."

RUNAWAY AND HOMELESS PROTECTION ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 751, S. 2982.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2982) to amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Runaway and Homeless Youth Protection Act".

SEC. 2. FINDINGS.

Section 302 of the Runaway and Homeless Youth Act (42 U.S.C. 5701) is amended—