

it involves the intentional torture or pain to a living animal. Congress finds this combination deplorable and worthy of special punishment. That is why the maximum penalty is higher than general obscenity law.

The United States also has a history of prohibiting speech that is integral to criminal conduct. The acts of animal cruelty depicted in many animal crush videos violate State laws, but these laws are hard to enforce. The acts of cruelty are often committed in a clandestine manner that allows the perpetrators to remain anonymous. The nature of the videos also makes it extraordinarily difficult to establish the jurisdiction necessary to prosecute the crimes. Given the severe difficulties that State law enforcement agencies have encountered in attempting to investigate and prosecute the underlying conduct, reaffirming Congress's commitment to closing the distribution network for obscene animal crush videos is an effective means of combating the crimes of extreme animal cruelty that they depict.

I have long been a champion of first amendment rights. As the son of Vermont printers, I know firsthand that the freedom of speech is the cornerstone of our democracy. This is why I have worked hard to pass legislation such as the SPEECH Act, which protects American authors, journalists and publishers from foreign libel lawsuits that undermine the first amendment.

Today the Senate struck the right balance between the first amendment and the needs of law enforcement, while adhering to the separation of powers enshrined in our Constitution. I commend the bipartisan coalition that worked hard, alongside the Humane Society and first amendment experts, to strike this balance, and I look forward to the time when obscene animal crush videos no longer threaten animal welfare.

Mr. DURBIN. Mr. President, I ask unanimous consent the substitute at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements related to the measure be printed in the RECORD.

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

The amendment (No. 4668) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Crush Video Prohibition Act of 2010".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The United States has a long history of prohibiting the interstate sale, marketing, advertising, exchange, and distribution of obscene material and speech that is integral to criminal conduct.

(2) The Federal Government and the States have a compelling interest in preventing intentional acts of extreme animal cruelty.

(3) Each of the several States and the District of Columbia criminalize intentional acts of extreme animal cruelty, such as the intentional crushing, burning, drowning, suffocating, or impaling of animals for no socially redeeming purpose.

(4) There are certain extreme acts of animal cruelty that appeal to a specific sexual fetish. These acts of extreme animal cruelty are videotaped, and the resulting video tapes are commonly referred to as "animal crush videos".

(5) The Supreme Court of the United States has long held that obscenity is an exception to speech protected under the First Amendment to the Constitution of the United States.

(6) In the judgment of Congress, many animal crush videos are obscene in the sense that the depictions, taken as a whole—

(A) appeal to the prurient interest in sex;
(B) are patently offensive; and
(C) lack serious literary, artistic, political, or scientific value.

(7) Serious criminal acts of extreme animal cruelty are integral to the creation, sale, distribution, advertising, marketing, and exchange of animal crush videos.

(8) The creation, sale, distribution, advertising, marketing, and exchange of animal crush videos is intrinsically related and integral to creating an incentive for, directly causing, and perpetuating demand for the serious acts of extreme animal cruelty the videos depict. The primary reason for those criminal acts is the creation, sale, distribution, advertising, marketing, and exchange of the animal crush video image.

(9) The serious acts of extreme animal cruelty necessary to make animal crush videos are committed in a clandestine manner that—

(A) allows the perpetrators of such crimes to remain anonymous;

(B) makes it extraordinarily difficult to establish the jurisdiction within which the underlying criminal acts of extreme animal cruelty occurred; and

(C) often precludes proof that the criminal acts occurred within the statute of limitations.

(10) Each of the difficulties described in paragraph (9) seriously frustrates and impedes the ability of State authorities to enforce the criminal statutes prohibiting such behavior.

SEC. 3. ANIMAL CRUSH VIDEOS.

(a) IN GENERAL.—Section 48 of title 18, United States Code, is amended to read as follows:

"§ 48. Animal crush videos

"(a) DEFINITION.—In this section the term 'animal crush video' means any photograph, motion-picture film, video or digital recording, or electronic image that—

"(1) depicts actual conduct in which 1 or more living non-human mammals, birds, reptiles, or amphibians is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury (as defined in section 1365 and including conduct that, if committed against a person and in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242); and

"(2) is obscene.

"(b) PROHIBITIONS.—

"(1) CREATION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly create an animal crush video, or to attempt or conspire to do so, if—

"(A) the person intends or has reason to know that the animal crush video will be distributed in, or using a means or facility of, interstate or foreign commerce; or

"(B) the animal crush video is distributed in, or using a means or facility of, interstate or foreign commerce.

"(2) DISTRIBUTION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly sell, market, advertise, exchange, or distribute an animal crush video in, or using a means or facility of, interstate or foreign commerce, or to attempt or conspire to do so.

"(c) EXTRATERRITORIAL APPLICATION.—Subsection (b) shall apply to the knowing sale, marketing, advertising, exchange, distribution, or creation of an animal crush video outside of the United States, or any attempt or conspiracy to do so, if—

"(1) the person engaging in such conduct intends or has reason to know that the animal crush video will be transported into the United States or its territories or possessions; or

"(2) the animal crush video is transported into the United States or its territories or possessions."

"(d) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 7 years, or both.

"(e) EXCEPTIONS.—

"(1) IN GENERAL.—This section shall not apply with regard to any visual depiction of—

"(A) customary and normal veterinary or agricultural husbandry practices;

"(B) the slaughter of animals for food; or

"(C) hunting, trapping, or fishing.

"(2) GOOD-FAITH DISTRIBUTION.—This section shall not apply to the good-faith distribution of an animal crush video to—

"(A) a law enforcement agency; or

"(B) a third party for the sole purpose of analysis to determine if referral to a law enforcement agency is appropriate.

"(f) NO PREEMPTION.—Nothing in this section shall be construed to preempt the law of any State or local subdivision thereof to protect animals."

(b) CLERICAL AMENDMENT.—The item relating to section 48 in the table of sections for chapter 3 of title 18, United States Code, is amended to read as follows:

"48. Animal crush videos."

(c) SEVERABILITY.—If any provision of section 48 of title 18, United States Code (as amended by this section), or the application of the provision to any person or circumstance, is held to be unconstitutional, the provision and the application of the provision to other persons or circumstances shall not be affected thereby.

The amendment was ordered to be engrossed and the bill read a third time.

The bill (H.R. 5566), as amended, was read the third time and passed.

ANTI-BORDER CORRUPTION ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 619, S. 3243.

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

The assistant legislative clerk read as follows:

A bill (S. 3243) to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which

had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment.

[Omit the part in boldface brackets]

S. 3243

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 “Anti-Border Corruption Act of 2010”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Office of the Inspector General of the Department of Homeland Security, since 2003, 129 U.S. Customs and Border Protection officials have been arrested on corruption charges and, during 2009, 576 investigations were opened on allegations of improper conduct by U.S. Customs and Border Protection officials.

(2) To foster integrity in the workplace, established policy of U.S. Customs and Border Protection calls for—

(A) all job applicants for law enforcement positions at U.S. Customs and Border Protection to receive a polygraph examination and a background investigation before being offered employment; and

(B) relevant employees to receive a periodic background reinvestigation every 5 years.

(3) According to the Office of Internal Affairs of U.S. Customs and Border Protection—

(A) in 2009, less than 15 percent of applicants for jobs with U.S. Customs and Border Protection received polygraph examinations;

(B) as of March 2010, U.S. Customs and Border Protection had a backlog of approximately 10,000 periodic background reinvestigations of existing employees; and

(C) without additional resources, by the end of fiscal year 2010, the backlog of periodic background reinvestigations will increase to approximately 19,000.

SEC. 3. REQUIREMENTS WITH RESPECT TO ADMINISTERING POLYGRAPH EXAMINATIONS TO LAW ENFORCEMENT PERSONNEL OF U.S. CUSTOMS AND BORDER PROTECTION.

The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after the date of the enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection receive polygraph examinations before being hired for such a position; and

(2) by not later than 180 days after the date of the enactment of this Act, U.S. Customs and Border Protection initiates [or completes] all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before the date of the enactment of this Act.

SEC. 4. PROGRESS REPORT.

Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter through the date that is 2 years after such date of enactment, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress made by U.S. Customs and Border Protection toward complying with section 3.

Amend the title so as to read: “To require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with

U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.”.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the committee-reported title amendment be agreed to, the motions to reconsider be laid upon the table, without intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 3243) was ordered to be engrossed for a third reading, was read the third time, and passed.

The title amendment was agreed to, as follows:

A bill to require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes.

SOCIAL SECURITY NUMBER PROTECTION ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Finance Committee be discharged from S. 3789 and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (S. 3789) to limit access to social security account numbers.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate; and any statements relating to the measure be printed in the RECORD.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3789

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 “Social Security Number Protection Act of 2010”.

SEC. 2. SOCIAL SECURITY NUMBER PROTECTION.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

“(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any

payment by the Federal, State, or local agency.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to checks issued after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (a)) is amended by adding at the end the following:

“(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term ‘prisoner’ means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

CLARIFYING AUTHORITY OF THE SECRETARY OF THE INTERIOR

Mr. DURBIN. I ask unanimous consent that the Energy Committee be discharged from H.R. 3940, and the Senate then proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3940) to amend Public Law 96-597 to clarify the authority of the Secretary of the Interior to extend grants and other assistance to facilitate political status public education programs for people of the non-self-governing territories of the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I ask unanimous consent that the Bingaman substitute amendment, which is at the desk, be considered and agreed to; the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that the title amendment at the desk be considered and agreed to; and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4669) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF CONGRESS REGARDING POLITICAL STATUS EDUCATION IN GUAM.

It is the sense of Congress that the Secretary of the Interior may provide technical assistance to the Government of Guam under section 601(a) of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1469d(a)), for public education regarding political status options only if the political