

matter that contains any visual depiction that is child pornography, as defined in section 2256(8), or is actual sexually explicit conduct within the definitions in clauses (i) through (iv) of section 2256(2)(A).

(i)(1) Whoever violates this section shall be imprisoned for not more than 1 year, and² fined in accordance with the provisions of this title, or both.

(2) Whoever violates this section in an effort to conceal a substantive offense involving the causing, transporting, permitting or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct in violation of this title, or to conceal a substantive offense that involved trafficking in material involving the sexual exploitation of a minor, including receiving, transporting, advertising, or possessing material involving the sexual exploitation of a minor with intent to traffic, in violation of this title, shall be imprisoned for not more than 5 years and² fined in accordance with the provisions of this title, or both.

(3) Whoever violates paragraph (2) after having been previously convicted of a violation punishable under that paragraph shall be imprisoned for any period of years not more than 10 years but not less than 2 years, and² fined in accordance with the provisions of this title, or both.

The³ provisions of this section shall not become effective until 90 days after the final regulations implementing this section are published in the Federal Register. The provisions of this section shall not apply to any matter, or image therein, produced, in whole or in part, prior to the effective date of this section.

(k) On an annual basis, the Attorney General shall submit a report to Congress—

(1) concerning the enforcement of this section and section 2257 by the Department of Justice during the previous 12-month period; and

(2) including—

(A) the number of inspections undertaken pursuant to this section and section 2257;

(B) the number of open investigations pursuant to this section and section 2257;

(C) the number of cases in which a person has been charged with a violation of this section and section 2257; and

(D) for each case listed in response to subparagraph (C), the name of the lead defendant, the federal district in which the case was brought, the court tracking number, and a synopsis of the violation and its disposition, if any, including settlements, sentences, recoveries and penalties.

(Added Pub. L. 109-248, title V, §503(a), July 27, 2006, 120 Stat. 626.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (f)(4)(A), means the date of enactment of Pub. L. 109-248, which was approved July 27, 2006.

Final regulations implementing this section, referred to in the undesignated subsec. preceding subsec. (k),

²So in original.

³So in original. Probably should be “(j) The”.

were published in the Federal Register on Dec. 18, 2008, see 73 F.R. 77432.

§ 2258. Failure to report child abuse

A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, or a covered individual as described in subsection (a)(2) of such section 226 who, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be fined under this title or imprisoned not more than 1 year or both.

(Added Pub. L. 101-647, title II, §226(g)(1), Nov. 29, 1990, 104 Stat. 4808; amended Pub. L. 109-248, title II, §209, July 27, 2006, 120 Stat. 615; Pub. L. 115-126, title I, §101(b), Feb. 14, 2018, 132 Stat. 319.)

Editorial Notes

REFERENCES IN TEXT

Section 226 of the Victims of Child Abuse Act of 1990, referred to in text, is classified to section 20341 of Title 34, Crime Control and Law Enforcement.

CODIFICATION

Another section 2258 was renumbered section 2260 of this title.

AMENDMENTS

2018—Pub. L. 115-126 inserted “or a covered individual as described in subsection (a)(2) of such section 226 who,” after “facility.”.

2006—Pub. L. 109-248 substituted “fined under this title or imprisoned not more than 1 year or both” for “guilty of a Class B misdemeanor”.

§ 2258A. Reporting requirements of providers

(a) DUTY TO REPORT.—

(1) IN GENERAL.—

(A) DUTY.—In order to reduce the proliferation of online child sexual exploitation and to prevent the online sexual exploitation of children, a provider—

(i) shall, as soon as reasonably possible after obtaining actual knowledge of any facts or circumstances described in paragraph (2)(A), take the actions described in subparagraph (B); and

(ii) may, after obtaining actual knowledge of any facts or circumstances described in paragraph (2)(B), take the actions described in subparagraph (B).

(B) ACTIONS DESCRIBED.—The actions described in this subparagraph are—

(i) providing to the CyberTipline of NCMEC, or any successor to the CyberTipline operated by NCMEC, the mailing address, telephone number, facsimile number, electronic mailing address of, and individual point of contact for, such provider; and

(ii) making a report of such facts or circumstances to the CyberTipline, or any successor to the CyberTipline operated by NCMEC.