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**KEEPING THE INTERNET DEVOID OF SEXUAL
PREDATORS (KIDS) ACT OF 2007**

APRIL 28, 2008.—Ordered to be printed

Mr. LEAHY, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 431]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 431) to require convicted sex offenders to register online identifiers, and for other purposes, having considered the same, reports favorably thereon, with amendments, and recommends that the bill as amended do pass.

CONTENTS

	Page
I. Background and Purpose of the KIDS Act of 2007	1
II. History of the Bill and Committee Consideration	3
III. Section-by-Section Summary of the Bill	3
IV. Congressional Budget Office Cost Estimate	5
V. Regulatory Impact Evaluation	7
VI. Conclusion	7
VII. Changes to Existing Law Made by the Bill, as Reported	7

I. BACKGROUND AND PURPOSE OF THE KIDS ACT OF 2007

Numerous crimes involving sexual exploitation of children are perpetrated through the use of the Internet. One category of offenses involves the use of the Internet by sexual predators to infiltrate social networking websites in order to identify underage persons for purposes of arranging sexual encounters. According to the National Center for Missing and Exploited Children (NCMEC) An-

nual Report, its “CyberTipline” received reports of 6,384 cases of online enticement of children for sexual acts in 2006.¹

The increasing popularity of social networking websites, their ready availability to children, and the faceless, anonymous nature of online communications have made the Internet a source for sexual predators to use in soliciting minors. Sexual predators can easily camouflage themselves, often posing as children themselves to initiate online communications with children.

A study funded by Congress through a grant to the National Center for Missing and Exploited Children found that of 1,500 youths surveyed about their Internet activity:

- 1 in 7 had received sexual solicitations;
- 1 in 3 had been exposed to unwanted sexual material;
- 1 in 11 had been harassed;
- 1 in 3 communicated with someone they did not know in person; and
- approximately 1 in 9 formed close relationships with someone they met online.²

Past Congresses have enacted sex offender registration laws in order to better protect the public from recidivist predators. The most recent, the Adam Walsh Act (the “AWA”) reformulated the Federal standards for sex offender registration in State, territorial and tribal communities to create a uniform system that was inclusive, informative and readily available to the public online. Under the AWA, convicted sex offenders are required to register with State law enforcement agencies their name, social security number, the name and address of their employers, the name and address where they attend school, and the license plate numbers and descriptions of vehicles they own or operate. The jurisdiction of registration must also include a physical description and current photograph of the registrant and a copy of the registrant’s driver’s license or government-issued identification card; a set of fingerprints, palm prints, and a DNA sample; the text of the law under which the registrant was convicted; and a criminal record that includes the dates of any arrests and convictions, any outstanding warrants, as well as parole, probation, supervisory release, and registration status.

Senators Schumer and McCain introduced the Keeping the Internet Devoid of Sexual Predators (KIDS) Act, S. 431, to fill a gap left by earlier sex offender registration laws and to curtail the anonymity that sexual predators currently enjoy while using Internet sites frequented by children. The KIDS Act will require a convicted sex offender to register, in addition to the information required by the AWA, his or her e-mail addresses, instant message addresses, or other similar Internet identifiers with the National Sex Offender Registry. The Department of Justice is empowered to make this information available to social networking sites, chat rooms or other qualified websites. Qualifying sites may—but are not required to—screen their users against the convicted sex offenders included in the registry. Furthermore, the KIDS Act will make it a crime for any person 18 years or older to knowingly misrepresent his or her

¹*CyberTipline Annual Report Totals*. National Center for Missing & Exploited Children (NCMEC), 2007.

²Wolak, Mitchell & Finkelhor, *Online Victimization of Youth: Five Years Later*, National Center for Missing & Exploited Children (NCMEC), 2006.

age with the intent to use the Internet to engage in, or facilitate, criminal sexual conduct involving a minor four years younger than the person so engaged.

The KIDS Act will also fill gaps in existing law that have led some courts to overturn convictions of possessors of child pornography. It does so by amending the child pornography possession offense to clarify that it also covers knowingly accessing child pornography on the Internet with the intent to view child pornography. And finally, it clarifies the jurisdictional predicates for the Federal laws proscribing the manufacture, sale, dissemination, or possession of child pornography in relation to the use of the Internet.

With this bill, convicted sexual predators can no longer hide under the cloak of a fake Internet identity to ensnare children without facing serious penalties, including the automatic revocation of probation or supervised release.

II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

The KIDS Act was introduced on January 30, 2007 by Senator Schumer and Senator McCain. It was referred to the Committee on the Judiciary. The following Senators have cosponsored the bill: Stevens, Snowe, Grassley, Obama, Specter, Clinton, Landrieu, Kyl, Klobuchar, Hutchison, Kerry, Johnson, Feinstein, Cornyn, Cardin, Leahy, and Lieberman.

It has received the endorsement of a number of organizations, including: the National Center for Missing and Exploited Children (NCMEC), MySpace, Facebook, Enough is Enough, the Rape, Abuse and Incest National Network (RAINN), the American Family Association, the National Association of School Resource Officers, and the American Association of Christian Schools.

The bill was placed on the agenda for the Judiciary Committee executive business meeting on December 6, 2007. It was held over and during the intervening week, a number of changes and additions were drafted for an amendment to address both Democratic and Republican concerns, as well as those of privacy groups and industry.

On December 13, 2007, the amendment was unanimously agreed to by voice vote. The Committee then voted to report the KIDS Act of 2007, with amendments, favorably to the Senate unanimously by voice vote.

III. SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1. Short title

This section provides that the legislation may be cited as the “Keeping the Internet Devoid of Sexual Predators Act of 2007” or the “KIDS Act of 2007”.

Section 2. Registration of online identifiers of sex offenders

This section amends the Sex Offender Registration and Notification Act to add registration requirements. Specifically, it requires a convicted sex offender to register his or her e-mail addresses, instant message addresses, or other similar Internet identifiers with the National Sex Offender Registry. It further requires the offender to update the information before any new e-mail address, instant message address, or other similar Internet identifier is used. To the

extent possible, law enforcement should verify provided e-mail addresses, instant message addresses, and other similar Internet identifiers before releasing this information for use in the registry. If the offender knowingly fails to register this information, the offender may be fined or imprisoned for not more than ten years.

Subsection (d) extends a directive to the United States Sentencing Commission included in the Adam Walsh Act of 2006 to the new reporting requirements of S. 431. This directive allows the Commission to consider sex offender Tier levels (among other factors) when recommending sentences arising from convictions for the knowing failure to register online identifiers.

Section 3. Release of electronic mail address, instant message address, or other similar Internet identifiers

This section establishes standards governing the release of Internet identifier information, ensuring that the Internet identifiers outlined in Section 2 are not released to the general public. It provides that the Department of Justice may release this information to a social networking website, chat room or other qualified website if the website provides to the Department: (1) The name, address and telephone number of the website; (2) the legal nature of the website; (3) an affirmation signed by the website's chief legal officer stating that this information will not be disclosed for any purpose other than for comparing the database of registered users of that commercial website against the registry information in order to protect children from online sexual predators; and (4) the name, address and telephone number of a person who consents to service of process.

Subsection (c)(3) sets forth the intended use of the National Sex Offender Registry's Internet identifier database for social networking sites. It allows social networking sites access to the registry database as frequently as the Attorney General will allow for the purpose of identifying sex offenders among the social networking site's users.

Subsection (c)(4) prohibits the Attorney General from authorizing the release of any Internet identifier contained in the registry unless the above conditions are met or for a necessary law enforcement purpose.

Subsection (c)(5) makes clear that suits are allowed only where a social networking site engages in actual malice, intentional misconduct or reckless disregard to a substantial risk of injury. This language is modeled after the limitation on liability contained in Section 130 of the AWA, relating to the National Center for Missing and Exploited Children.

Subsection (c)(6) further makes clear that no liability attaches to a social networking website for a decision not to participate in the opportunity to screen users against the registry of Internet identifiers.

Section 4. Definitions

This section sets forth definitions for "commercial social networking website", "chat room", and "instant message address". This section also adds definitions for "Internet" and "electronic mail address", both previously codified into law.

Section 5. Criminalization of age misrepresentation in connection with online solicitation of a minor

This section makes it a crime for any person 18 years or older to knowingly misrepresent his or her age with the intent to use the Internet to engage in criminal sexual content involving a minor who is at least four years younger than the person engaging in such conduct, or to facilitate such conduct. This crime carries a prison term of up to 20 years.

Section 6. Knowingly accessing child pornography with the intent to watch child pornography

This section fills a gap in existing law that has led some courts to overturn convictions of possessors of child pornography. It amends the child pornography possession offense to clarify that it also covers knowingly accessing child pornography on the Internet with the intent to view child pornography. In *United States v. Kuchinski*,³ the Ninth Circuit ruled that such conduct is not covered by the current possession offense.

Section 7. Clarifying ban of child pornography

This section modifies the jurisdictional predicates for Federal laws proscribing the manufacture, sale, dissemination, or possession of child pornography. Currently those proscriptions apply only if the activity occurs “in interstate or foreign commerce.” Section 7 expands this predicate to include activities occurring “in or affecting interstate or foreign commerce,” as well as activities “using a means or facility of interstate commerce.”

This language was added in light of the Supreme Court’s decisions in *United States v. Lopez*⁴ and *United States v. Morrison*,⁵ that narrowly construed Congress’s power under the Commerce Clause. In cases such as the Tenth Circuit’s recent decision in *United States v. Schaffer*,⁶ courts have held that even if child pornography was transmitted via the Internet, it did not necessarily travel “in interstate commerce” and therefore is outside the scope of the statute. Because the Internet is a facility of interstate commerce, however, the defendant in *Schaffer* would have been within the statute if the words “means or facility” had been added to the statute. By adding such explicit language to the Federal child pornography statute, section 7 effectively clarifies the statute’s originally intended scope.

IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 431, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

³*United States v. Kuchinski*, 469 F.3d 853 (9th Cir. 2006).

⁴*United States v. Lopez*, 514 U.S. 549 (1995).

⁵*United States v. Morrison*, 529 U.S. 598 (2000).

⁶*United States v. Schaffer*, 472 F.3d 1219 (10th Cir. 2007).

JANUARY 18, 2008.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 431, the Keeping the Internet Devoid of Sexual Predators Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 431—Keeping the Internet Devoid of Sexual Predators Act of 2007

S. 431 would establish new federal crimes and expand the scope of existing offenses relating to sexual exploitation of children. CBO estimates that implementing S. 431 would have no significant net cost to the federal government. Enacting the bill could affect direct spending and revenues, but CBO estimates that any such effects would not be significant.

Current law requires sex offenders to register with state officials and provide certain information to those officials. Because the bill would establish new offenses, the government would be able to pursue cases that it otherwise would not be able to prosecute. We expect that S. 431 would apply to a relatively small number of offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under S. 431 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, then deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the relatively small number of cases likely to be affected.

In addition, S. 431 would require the Department of Justice (DOJ) to establish a system to allow social networking Web sites (such as MySpace) to compare databases of their users with the electronic mail addresses or other Internet identifiers maintained in the National Sex Offender Registry administered by DOJ. The bill would permit the department to charge user fees to the social networking Web sites to offset any costs, so we expect that the net costs to DOJ would be insignificant.

S. 431 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) on individuals who have been convicted of certain sex offenses by increasing reporting requirements for such individuals. CBO estimates that the direct cost of the mandate would be small and would fall well below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

Sex offenders are currently required to register in person and provide information to law enforcement agencies in each state in

which the offender resides, is an employee, or is a student. The bill would expand the information that registered offenders must report and periodically update by requiring them to provide self-identifying information used on the Internet, including email addresses and screen names. We expect that such additional information could be provided at little additional cost. S. 431 contains no inter-governmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), and MarDestinee Perez (for the private-sector impact). This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 431.

VI. CONCLUSION

The same protection extended to children in physical neighborhoods needs to be extended to online communities. The KIDS Act of 2007 represents a vital step toward giving owners of Internet sites and law enforcement the tools they need to protect children from online sexual predators and to create a safer place for children to communicate online with their peers. The use of the Internet as a communication tool will continue to expand as time passes, and it is important to put safeguards in place, so that children can continue to benefit from advances in communications technology without being in harm's way.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 431, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 109B—SEX OFFENDER AND CRIMES AGAINST CHILDREN REGISTRY

* * * * *

§ 2250. Failure to Register

* * * * *

(b) AFFIRMATIVE DEFENSE.—In a prosecution for a violation under subsection (a) or (d), it is an affirmative defense that—

* * * * *

(d) *KNOWING FAILURE TO REGISTER ONLINE IDENTIFIERS.*—

(1) *IN GENERAL.*—*It shall be unlawful for any person who is required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.) to knowingly fail to provide an electronic mail address, instant message address, or other designation used for self-identification or routing in an Internet communication or posting to the appropriate official for inclusion in the sex offender registry, as required under that Act.*

(2) *PENALTY.*—*Any person who violates paragraph (1) shall be fined under this title, imprisoned not more than 10 years, or both.*

* * * * *

CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

* * * * *

§ 2251. Sexual exploitation of children

(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor **[in interstate]** *in or affecting interstate* or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e), if such person knows or has reason to know that such visual depiction will be transported *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce or mailed.

(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (e) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported *using any means or*

facility of interstate or foreign commerce or [in interstate] in or affecting interstate or foreign commerce or mailed.

* * * * *

(d)

* * * * *

(2) The circumstance referred to in paragraph (1) is that—

(A) such person knows or has reason to know that such notice or advertisement will be transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means including by computer or mailed; or

(B) such notice or advertisement is transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means including by computer or mailed.

* * * * *

§ 2251A. Selling or buying of children

* * * * *

(c) The circumstances referred to in subsections (a) and (b) are that—

(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported **[in interstate] in or affecting interstate** or foreign commerce;

(2) any offer described in such subsections was communicated or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means including by computer or mail; or

* * * * *

§ 2252. Certain activities relating to material involving the sexual exploitation of minors

(a) Any person who—

(1) knowingly transports or ships *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means including by computer or mails, any visual depiction, if—

* * * * *

(2) knowingly receives, or distributes any visual depiction *using any means or facility of interstate or foreign commerce* or that has been mailed, or has been shipped or transported **[in interstate] in or affecting interstate** or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means including by computer or through the mails, if—

* * * * *

(3)

* * * * *

(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed *using any means or facility of interstate or foreign commerce*, or has been shipped or transported **[in interstate]** *in or affecting interstate* or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if—

* * * * *

(4)

* * * * *

(B) knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

* * * * *

§ 2252A. Certain activities relating to material constituting or containing child pornography

(a) Any person who—

(1) knowingly mails, or transports or ships *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer, any child pornography;

(2) knowingly receives or distributes—

(A) any child pornography that has been mailed, or shipped or transported **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer; or

(B) any material that contains child pornography that has been mailed, or shipped or transported **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer;

(3) knowingly—

(A) reproduces any child pornography for distribution through the mails, or *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer; or

(B) advertises, promotes, presents, distributes, or solicits through the mails, or *using any means or facility of interstate or foreign commerce* or **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another

to believe, that the material or purported material is, or contains—

* * * * *

(4) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses, or *knowingly accesses with intent to view*, with the intent to sell any child pornography; or

(B) knowingly sells or possesses, or *knowingly accesses with intent to view*, with the intent to sell any child pornography that has been mailed, or shipped or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means, including by computer;

(5) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses, or *knowingly accesses with intent to view*, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or

(B) knowingly possesses, or *knowingly accesses with intent to view*, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means, including by computer; or

(6)

* * * * *

(A) that has been mailed, shipped, or transported **[in interstate]** *in or affecting interstate* or foreign commerce by any means, including by computer;

(B) that was produced using materials that have been mailed, shipped, or transported *using any means or facility of interstate or foreign commerce or [in interstate] in or affecting interstate* or foreign commerce by any means, including by computer; or

(C) which distribution, offer, sending, or provision is accomplished using the mails [or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer] or any means or facility of interstate or foreign commerce, for purposes of inducing or persuading a minor to participate in any activity that is illegal; shall be punished as provided in subsection (b); or

* * * * *

§ 2252C. Misleading words or digital images on the Internet

* * * * *

(c) *AGE OF MISREPRESENTATION.*—Any person 18 years or older who knowingly misrepresents his or her age with the intent to use the Internet, to operate a facility, by mail, or by any other means of interstate or foreign commerce to engage in criminal sexual conduct involving a minor who is at least 4 years younger than the person engaging in such conduct, or to facilitate or attempt such conduct, shall be fined under this title and imprisoned for not more than 20 years. Such penalty shall be in addition to any penalty pursuant to the laws of any jurisdiction for the crime of using the Internet to engage in criminal sexual conduct involving a minor, or to facilitate or attempt such conduct.

[(c)] (d) *CONSTRUCTION.*—For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as “sex” or “porn”, is not misleading.

[(d)] (e) *DEFINITIONS.*—As used in this section—

* * * * *

TITLE 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 151—CHILD PROTECTION AND SAFETY, SEX OFFENDER REGISTRATION AND NOTIFICATION

* * * * *

§ 16911. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators

In this title the following definitions apply:

* * * * *

(15) *The term “commercial social networking website” means a commercially operated Internet website that—*

(A) allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available publicly or to other users; and

(B) offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger

(16) *The term “chat room” means any Internet service through which a number of users can communicate in real time so that*

communications are almost immediately available to all other users or to a designated segment of all other users.

(17) The term "Internet" has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

(18) The term "electronic mail address" has the meaning given that term in section 3 of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (15 U.S.C. 7702).

(19) The term "instant message address" means an identifier that allows a person to communicate in real-time with another person using the Internet.

* * * * *

§ 16913. Registry requirements for sex offenders

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(c) Keeping the registration current. A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, *and before any use of an electronic mail address, instant message address, or other designation used for self-identification or routing in an Internet communication or posting that is not included in the sex offender's registration information*, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

* * * * *

§ 16914. Information required in registration

(a) PROVIDED BY THE OFFENDER.—The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

* * * * *

(4) Any electronic mail address, instant message address, or other designation the sex offender uses or will use for self-identification or routing in an Internet communication or posting.

[(4)] (5) The name and address of any place where the sex offender is an employee or will be an employee.

[(5)] (6) The name and address of any place where the sex offender is a student or will be a student.

[(6)] (7) The license plate number and a description of any vehicle owned or operated by the sex offender.

[(7)] (8) Any other information required by the Attorney General.

* * * * *

§ 16918. Public access to sex offender information through the internet

* * * * *

(b) MANDATORY EXEMPTIONS.—A jurisdiction shall exempt from disclosure—

- * * * * *
- (4) any electronic mail address, instant message address, or other similar Internet identifier used by the sex offender; and
- [(4)] (5) any other information exempted from disclosure by the Attorney General.

* * * * *

§ 16919. National Sex Offender Registry

* * * * *

(c) RELEASE OF ELECTRONIC MAIL ADDRESSES, INSTANT MESSAGE ADDRESSES, OR OTHER SIMILAR INTERNET IDENTIFIERS TO COMMERCIAL SOCIAL NETWORKING WEBSITE.—

(1) IN GENERAL.—The Attorney General shall maintain a system allowing a commercial social networking website to compare the database of registered users of that commercial social networking website to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry.

(2) PROCESS FOR RELEASE OF ELECTRONIC MAIL ADDRESSES, INSTANT MESSAGE ADDRESSES, OR OTHER SIMILAR INTERNET IDENTIFIERS.—A commercial social networking website desiring to compare its database of registered users to the list of electronic mail addresses, instant messages, and other similar Internet identifiers of persons in the National Sex Offender Registry shall provide to the Attorney General—

(A) the name, address, and telephone number of the commercial social networking website;

(B) the specific legal nature and corporate status of the commercial social networking website; and

(C) an affirmation signed by the chief legal officer of the commercial social networking website that the information obtained from that database shall not be disclosed for any purpose other than for comparing the database of registered users of that commercial social networking website against the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry to protect individuals from online sexual predators and that disclosure of this information for purposes other than those under this section may be unlawful.

(3) USE OF DATABASE.—After a commercial social networking website has complied with paragraph (2) and paid any fee established by the Attorney General, the commercial social networking website may screen new users or compare its database of registered users to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry as frequently as the Attorney General may allow for the purpose of identifying a registered user associated with an electronic mail address, instant message address, or other similar Internet identifier contained in the National Sex Offender Registry.

(4) *LIMITATION ON RELEASE OF INTERNET IDENTIFIERS.*—*Except as explicitly provided for in this section or for a necessary law enforcement purpose, the Attorney General may not authorize the release or dissemination of any Internet identifier contained in the National Sex Offender Registry.*

(5) *LIMITATION ON LIABILITY.*—

(A) *IN GENERAL.*—*A civil claim against a commercial social networking website, including any director, officer, employee, or agent of that commercial social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.*

(B) *INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.*—*Subsection (a) shall not apply to a claim if the commercial social networking website, or a director, officer, employee, or agent of that commercial social networking website—*

(i) engaged in intentional misconduct; or

(ii) acted, or failed to act—

(I) with actual malice;

(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

(III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).

(C) *ORDINARY BUSINESS ACTIVITIES.*—*Subsection (a) shall not apply to an act or omission to act relating to an ordinary business activity of any commercial social networking website, including to any acts related to the general administration or operations of such website, the use of motor vehicles by employees or agents of such website, or any personnel management decisions of such websites.*

(D) *MINIMIZING ACCESS.*—*A commercial social networking website shall minimize the number of employees that are provided access to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry.*

(6) *RULE OF CONSTRUCTION.*—*Nothing in this section shall be construed to require any Internet website, including a commercial social networking website, to compare its database of registered users with the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to compare its database with such list.*