

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1086

---

## AN ACT

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as—

1           (1) the “Jacob Wetterling, Megan Nicole  
2           Kanka, and Pam Lychner Sex Offender Registration  
3           and Notification Grant Act”;

4           (2) the “Sex Offender Registration and Notifi-  
5           cation Act”; or

6           (3) the “Jetseta Gage Prevention and Deter-  
7           rence of Crimes Against Children Act of 2005”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

TITLE I—JACOB WETTERLING, MEGAN NICOLE KANKA, AND PAM  
LYCHNER SEX OFFENDER REGISTRATION AND NOTIFICATION  
GRANT PROGRAM

Sec. 101. Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Of-  
fender Registration and Notification Grant Program.

Sec. 102. Definitions.

Sec. 103. Assistance grants to participating States.

Sec. 104. Duty of covered individuals to provide information.

Sec. 105. Duties of Attorney General and participating States.

Sec. 106. Participating State sex offender registries.

Sec. 107. Development and availability of registry management software.

Sec. 108. Election by Indian tribes.

Sec. 109. Provision of notice and access to Indian tribes.

Sec. 110. Applicability to minors.

Sec. 111. Rule of construction.

Sec. 112. Immunity for good faith conduct.

Sec. 113. State unconstitutionality.

Sec. 114. Regulations.

Sec. 115. Authorization of appropriations.

Sec. 116. Effect on current law.

TITLE II—DRU SJODIN NATIONAL SEX OFFENDER PUBLIC  
DATABASE ACT OF 2005

Sec. 201. Short title and definitions.

Sec. 202. National sex offender public registry.

Sec. 203. Release of high-risk inmates.

TITLE III—JETSETA GAGE PREVENTION AND DETERRENCE OF  
CRIMES AGAINST CHILDREN ACT OF 2005

Sec. 301. Short title.

Sec. 302. Assured punishment for violent crimes against children.

Sec. 303. Increased penalties for sexual offenses against children.

TITLE IV—JESSICA LUNSFORD AND SARAH LUNDE ACT

Sec. 401. Short title.

Sec. 402. Pilot program for monitoring sexual offenders.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Access to Interstate Identification Index.

Sec. 502. Limitation on liability for NCMEC.

Sec. 503. Missing child reporting requirements.

Sec. 504. Treatment and management of sex offenders in the Bureau of Prisons.

Sec. 505. Authorization for American Prosecutors Research Institute.

Sec. 506. Sex offender apprehension grants.

Sec. 507. Access to Federal crime information databases by educational agencies for certain purposes.

Sec. 508. Grants to combat sexual abuse of children.

Sec. 509. Severability.

Sec. 510. Failure to provide information a deportable offense.

Sec. 511. Repeal.

Sec. 512. Conforming amendments to title 18, United States Code.

TITLE VI—COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES

Sec. 601. Comprehensive examination of sex offender issues.

**1 SEC. 2. EFFECTIVE DATE.**

2       This Act and the amendments made by this Act take  
3 effect on the date that is 6 months after the date of the  
4 enactment of this Act.

1 **TITLE I—JACOB WETTERLING,**  
 2 **MEGAN NICOLE KANKA, AND**  
 3 **PAM LYCHNER SEX OF-**  
 4 **FENDER REGISTRATION AND**  
 5 **NOTIFICATION GRANT PRO-**  
 6 **GRAM**

7 **SEC. 101. JACOB WETTERLING, MEGAN NICOLE KANKA,**  
 8 **AND PAM LYCHNER SEX OFFENDER REG-**  
 9 **ISTRATION AND NOTIFICATION GRANT PRO-**  
 10 **GRAM.**

11 The Attorney General shall establish guidelines for  
 12 States' sex offender registration programs pursuant to  
 13 this title. Collectively, the guidelines and the programs  
 14 shall be known as the "Jacob Wetterling, Megan Nicole  
 15 Kanka, and Pam Lychner Sex Offender Registration and  
 16 Notification Program".

17 **SEC. 102. DEFINITIONS.**

18 In this title:

19 (1) **COVERED INDIVIDUAL.**—The term "covered  
 20 individual" means any adult or juvenile in a partici-  
 21 pating domicile State, participating work State, or  
 22 participating school State convicted as an adult—

23 (A) who has been convicted of a covered  
 24 offense against a minor;

1 (B) who has been convicted of a sexually  
2 violent offense;

3 (C) who has been convicted of an offense  
4 described in paragraph (2);

5 (D) who has been convicted of an offense  
6 under State law that is similar to the offenses  
7 described in described in paragraph (2);

8 (E) who is described in section 4042(e)(4)  
9 of title 18, United States Code, except for those  
10 convicted of a violation of section 2257 or 2258  
11 of title 18, United States Code; or

12 (F) who has been sentenced by a court  
13 martial for conduct in a category specified by  
14 the Secretary of Defense under section  
15 115(a)(8)(C) of title I of Public Law 105–119  
16 (10 U.S.C. 951 note).

17 (2) COVERED OFFENSE AGAINST A MINOR.—

18 (A) IN GENERAL.—Except as provided in  
19 subparagraph (C), the term “covered offense  
20 against a minor” means an offense (whether  
21 under the law of a State, Federal law, or mili-  
22 tary law) that is comparable to or more severe  
23 than any of the following offenses:

24 (i) Kidnapping of a minor, except by  
25 a parent or guardian of the minor, if sex-

1 ual conduct toward the minor is proved be-  
2 yond a reasonable doubt.

3 (ii) False imprisonment of a minor,  
4 except by a parent or guardian of the  
5 minor, if sexual conduct toward the minor  
6 is proved beyond a reasonable doubt.

7 (iii) Criminal sexual conduct toward a  
8 minor.

9 (iv) Solicitation of a minor to engage  
10 in sexual conduct.

11 (v) Use of a minor in a sexual per-  
12 formance.

13 (vi) Solicitation of a minor to practice  
14 prostitution.

15 (vii) Possession, production, or dis-  
16 tribution of child pornography, as de-  
17 scribed in section 2251, 2252, or 2252A of  
18 title 18, United States Code.

19 (viii) Use of the Internet to facilitate  
20 or commit a covered offense against a  
21 minor or to attempt to commit such an of-  
22 fense against an agent of the government  
23 who has been represented to be a minor.

1 (ix) Video voyeurism as described in  
2 section 1801 of title 18, United States  
3 Code, when committed against a minor.

4 (x) An attempt or conspiracy to com-  
5 mit any of the offenses listed in this defini-  
6 tion.

7 (B) CONVICTIONS UNDER THE LAWS OF A  
8 FOREIGN COUNTRY.—The term “covered of-  
9 fense against a minor” includes convictions for  
10 offenses specified in subparagraph (A) that  
11 have been obtained under the laws of any for-  
12 eign nation that has been certified by the Attor-  
13 ney General, after notice and an opportunity for  
14 a hearing, as having a sufficiently reliable  
15 criminal justice system.

16 (C) EXCEPTION FOR CERTAIN OF-  
17 FENSES.—The term “covered offense against a  
18 minor” does not include an offense if the con-  
19 duct on which the offense is based is criminal  
20 only because of the age of the victim, and if in-  
21 dividual had committed the offense either had  
22 not attained the age of 18 years or was less  
23 than 4 years older than the victim when the of-  
24 fense was committed.

1           (3) DOMICILE.—The term “domicile” means,  
2 with respect to an individual, any place that serves  
3 as the primary place at which the individual lives.

4           (4) DOMICILE STATE.—The term “domicile  
5 State” means, with respect to an individual, the  
6 State within the jurisdiction of which is the individ-  
7 ual’s domicile.

8           (5) EDUCATIONAL INSTITUTION.—The term  
9 “educational institution” includes (whether public or  
10 private) any secondary school, trade or professional  
11 institution, and institution of higher education.

12           (6) EMPLOYMENT.—The term “employment”  
13 includes carrying on a vocation and covers any labor  
14 or service rendered (whether as a volunteer or for  
15 compensation or for government or educational ben-  
16 efit) on a full-time or part-time basis.

17           (7) MINOR.—The term “minor” means any per-  
18 son who has not attained the age of 18 years or the  
19 age of consent in the relevant jurisdiction, whichever  
20 age is lower.

21           (8) NATIONAL SEX OFFENDER REGISTRY.—The  
22 term “National Sex Offender Registry” means the  
23 database maintained by the Attorney General pursu-  
24 ant to section 105.

1           (9) NATIONAL SEX OFFENDER PUBLIC REG-  
2           ISTRY.—The term “National Sex Offender Public  
3           Registry” means the Internet site maintained by the  
4           Attorney General pursuant to section 202.

5           (10) PARTICIPATING STATE.—The term “par-  
6           ticipating State” means a State participating in the  
7           grant program authorized under this title.

8           (11) SCHOOL STATE.—The term “school State”  
9           means, with respect to an individual, the State with-  
10          in the jurisdiction of which the educational institu-  
11          tion at which the individual is a student is located.

12          (12) SEXUALLY VIOLENT OFFENSE.—The term  
13          “sexually violent offense” means an offense (whether  
14          under the law of a State, Federal law, military law,  
15          or the law of a foreign country) that is comparable  
16          to or more severe than any of the following offenses:

17                (A) Aggravated sexual abuse or sexual  
18                abuse (as described in sections 2241 and 2242  
19                of title 18, United States Code).

20                (B) An attempt or conspiracy to commit  
21                such an offense.

22          (13) STATE.—The term “State” means any of  
23          the following:

24                (A) A State.

1           (B) The District of Columbia, the Com-  
2           monwealth of Puerto Rico, Guam, American  
3           Samoa, the United States Virgin Islands, or the  
4           Northern Mariana Islands.

5           (C) A federally recognized Indian tribe  
6           that has elected in accordance with section 108  
7           to carry out this Act as a jurisdiction subject  
8           to its provisions.

9           (14) STUDENT.—The term “student” means an  
10          individual who, whether on a full-time or part-time  
11          basis, enrolls in or attends an educational institu-  
12          tion.

13          (15) TIER I INDIVIDUAL.—The term “Tier I in-  
14          dividual” means an individual required to register  
15          under this title who is subject to the least intensive  
16          registration requirements, as determined in accord-  
17          ance with criteria promulgated under section  
18          106(b)(1)(E).

19          (16) TIER II INDIVIDUAL.—The term “Tier II  
20          individual” means an individual required to register  
21          under this title who is subject to more intensive reg-  
22          istration requirements than Tier I individuals, as de-  
23          termined in accordance with criteria promulgated  
24          under section 106(b)(1)(E).

1           (17) TIER III INDIVIDUAL.—The term “Tier III  
2 individual” means an individual required to register  
3 under this title who is subject to the most intensive  
4 registration requirements, as determined in accord-  
5 ance with criteria promulgated under section  
6 106(b)(1)(E).

7           (18) WORK STATE.—The term “work State”  
8 means, with respect to an individual, the State with-  
9 in the jurisdiction of which the individual’s current  
10 place of employment is located or, if the individual  
11 is unemployed, the individual’s most recent place of  
12 employment.

13 **SEC. 103. ASSISTANCE GRANTS TO PARTICIPATING STATES.**

14       (a) SEX OFFENDER MANAGEMENT ASSISTANCE PRO-  
15 GRAM.—

16           (1) IN GENERAL.—From amounts made avail-  
17 able to carry out this subsection, the Attorney Gen-  
18 eral shall carry out a program, to be known as the  
19 Sex Offender Management Assistance program (in  
20 this section referred to as the “SOMA program”),  
21 under which the Attorney General may award grants  
22 to participating States to offset costs directly associ-  
23 ated with implementing this title.

24           (2) DISTRIBUTION OF FUNDS.—Each grant  
25 awarded under the SOMA program shall be distrib-

1       uted directly to the participating State for distribu-  
2       tion by that participating State to public entities, in-  
3       cluding local governments and law enforcement  
4       agencies, within that participating State.

5               (3) USES.—Up to 10 percent of a grant award-  
6       ed under the SOMA program may be used to par-  
7       ticipate in 1 or more databases that identify individ-  
8       uals in custody.

9               (4) ELIGIBILITY.—

10               (A) IN GENERAL.—To be eligible to receive  
11       a grant under the SOMA program in a fiscal  
12       year and except as provided in subparagraph  
13       (B), the chief executive of a participating State  
14       shall submit to the Attorney General an appli-  
15       cation (in such form, at such a time, and con-  
16       taining such information as the Attorney Gen-  
17       eral may reasonably require) assuring that—

18               (i) the participating State has sub-  
19       stantially implemented (or is making a  
20       good faith effort to substantially imple-  
21       ment) this title; and

22               (ii) the participating State has made  
23       the failure of a covered individual to reg-  
24       ister as required a felony.

1           (B) EXCEPTION.—The Attorney General  
2           may waive the requirement of subparagraph (A)  
3           if a participating State demonstrates an over-  
4           riding need for assistance under the SOMA pro-  
5           gram.

6           (5) ALLOCATION OF FUNDS.—In allocating  
7           funds under the SOMA program, the Attorney Gen-  
8           eral may consider the number of covered individuals  
9           registered in each participating State’s registry.

10          (6) INCORPORATION OF CERTAIN TRAINING  
11          PROGRAMS.—

12           (A) STUDY.—During the course of imple-  
13           menting the SOMA program, the Attorney Gen-  
14           eral shall study the feasibility of incorporating  
15           into the SOMA program the activities of any  
16           technical assistance or training program estab-  
17           lished as a result of section 40152 of the Vio-  
18           lent Crime Control and Law Enforcement Act  
19           of 1994 (42 U.S.C. 13941).

20           (B) INCORPORATING.—In a case in which  
21           incorporating such activities into the SOMA  
22           program will eliminate duplication of efforts or  
23           administrative costs, the Attorney General shall  
24           take administrative actions, as allowable, and

1           make recommendations to Congress to incor-  
2           porate such activities into the SOMA program.

3           (b) INCENTIVES; BONUS PAYMENTS FOR EARLY  
4 COMPLIANCE.—

5           (1) BONUS.—A participating State that has  
6           substantially implemented this title within 2 years  
7           after the date of the enactment of this Act is eligible  
8           for a bonus payment under the SOMA program for  
9           the fiscal year after the Attorney General certifies  
10          that the participating State has achieved substantial  
11          implementation.

12          (2) AMOUNT.—The amount of the bonus pay-  
13          ment under paragraph (1) shall be—

14                  (A) equal to 5 percent of the funds that  
15                  the participating State received under the  
16                  SOMA program for the preceding fiscal year; or

17                  (B) if the participating State has substan-  
18                  tially implemented this title within 1 year after  
19                  the date of enactment of this Act, the amount  
20                  of the bonus payment shall be equal to 10 per-  
21                  cent of the funds that the participating State  
22                  received under the SOMA program for the pre-  
23                  ceding fiscal year.



1 (ii) the individual's Social Security  
2 number;

3 (iii) the address where the individual  
4 maintains or will maintain his domicile;

5 (iv) a photocopy of a valid driver's li-  
6 cense or identification card issued to the  
7 individual from the Department of Motor  
8 Vehicles in the individual's domicile State;

9 (v) the license plate number of, and  
10 other identifying information with respect  
11 to, each vehicle owned or operated by the  
12 individual;

13 (vi) the name and address of the place  
14 where the individual is employed or will be  
15 employed; and

16 (vii) the name and address of any  
17 educational institution at which the indi-  
18 vidual is a student or will be a student.

19 (2) PHOTOGRAPH.—Initially during the time  
20 period specified in accordance with paragraph (4),  
21 and thereafter at least once every 12 months, the in-  
22 dividual shall appear before persons designated by  
23 the individual's participating domicile State, partici-  
24 pating work State (if different from the partici-  
25 pating domicile State), and participating school

1 State (if different from the participating domicile  
2 State) and submit to the taking of a photograph.

3 (3) FINGERPRINTS.—During the time period  
4 specified in accordance with paragraph (4), the indi-  
5 vidual shall appear before persons designated by the  
6 individual’s participating domicile State, partici-  
7 pating work State (if different from the partici-  
8 pating domicile State), and participating school  
9 State (if different from the participating domicile  
10 State) and submit to the taking of fingerprints. This  
11 paragraph does not apply if the State determines  
12 that it already has a valid set of fingerprints in its  
13 possession.

14 (4) TIMING OF INITIAL REGISTRATION.—The  
15 Attorney General shall prescribe the time period  
16 within which a covered individual must fulfill the ini-  
17 tial registration requirements set forth in para-  
18 graphs (1), (2), and (3).

19 (5) ONGOING REGISTRATION.—

20 (A) IN GENERAL.—The ongoing registra-  
21 tion requirement under paragraph (1) is—

22 (i) for Tier I individuals every 12  
23 months;

24 (ii) for Tier II individuals every 6  
25 months; and

1 (iii) for Tier III individuals every 3  
2 months.

3 (B) EXEMPTION.—A covered individual is  
4 exempt from the ongoing registration require-  
5 ment of this subsection if the covered individual  
6 is incarcerated at the time specified in subpara-  
7 graph (A).

8 (6) COVERED INDIVIDUAL IN CUSTODY OF A  
9 STATE OTHER THAN DOMICILE STATE.—A covered  
10 individual who, during the time period specified in  
11 accordance with paragraph (4), is in the custody of  
12 a participating State that is not the individual's par-  
13 ticipating domicile State, shall fulfill the initial reg-  
14 istration requirements set forth in paragraphs (1),  
15 (2), and (3) by providing the specified information  
16 to an appropriate official of the jurisdiction that is  
17 holding the individual in custody. The official shall  
18 promptly make available that information to the in-  
19 dividual's domicile State.

20 (7) INDIVIDUAL IN FEDERAL OR MILITARY CUS-  
21 TODY.—Whenever an individual is a covered indi-  
22 vidual on the basis of subparagraph (C), (E) or (F)  
23 of section 102(1), the procedure upon release or sen-  
24 tencing of the individual shall be as provided in sec-  
25 tion 4042(c) of title 18, United States Code, or sec-

1 tion 115(a)(8)(C) of title I of Public Law 105–119.  
2 The individual shall promptly register and continue  
3 to register as provided in this section in each partici-  
4 pating domicile, work, and school State of the indi-  
5 vidual. To the extent that any procedure or require-  
6 ment of this section cannot be applied to the indi-  
7 vidual, the Attorney General may specify alternative  
8 procedures and requirements for the registration of  
9 such individuals in participating domicile, work, and  
10 school States.

11 (8) RETROACTIVE APPLICATION.—The Attorney  
12 General shall have the authority to—

13 (A) specify the applicability of the require-  
14 ments of this title to individuals who are cov-  
15 ered individuals based on a conviction or sen-  
16 tencing that occurred prior to the date of enact-  
17 ment or who are, as of the date of enactment  
18 of this Act, incarcerated or under a non-  
19 incarcerative sentence for some other offense;

20 (B) specify the applicability of the require-  
21 ments of this title to all other individuals who  
22 are covered individuals based on a conviction or  
23 sentencing that occurred prior to the enactment  
24 date of enactment of this Act or the implemen-

1           tation of the requirements of this title by a par-  
2           ticipating State; and

3           (C) specify procedures and methods for the  
4           registration of individuals to whom the require-  
5           ments of this title apply pursuant to subpara-  
6           graph (A) or (B).

7           (b) REQUIREMENT TO REGISTER AND KEEP REG-  
8           ISTRATION INFORMATION CURRENT.—

9           (1) REGISTRATION REQUIREMENT.—A covered  
10          individual shall, for the life of that individual (except  
11          as provided in this section), promptly register in  
12          each participating domicile, work, and school State  
13          of the individual and keep the registration informa-  
14          tion current. To the extent that the procedures or  
15          requirements for registering or updating registration  
16          information in any participating domicile, work, or  
17          school State are not fully specified in this section,  
18          the Attorney General may specify such procedures  
19          and requirements.

20          (2) CHANGES TO REGISTRATION INFORMATION  
21          OF CERTAIN OFFENDERS.—The following shall apply  
22          to changes of registration information under this  
23          section for Tier II and Tier III individuals:

24                (A) CHANGE OF NAME.—Not more than 5  
25                days after changing his or her name, the indi-

1           vidual shall appear before persons designated  
2           by the individual's participating domicile State,  
3           participating work State (if different from the  
4           participating domicile State), and participating  
5           school State (if different from the participating  
6           domicile State) and provide the new name.

7           (B) CHANGE OF ADDRESS.—Not more  
8           than 5 days before or after establishing a new  
9           domicile, the individual shall—

10           (i) appear before persons designated  
11           by the individual's participating domicile  
12           State, participating work State (if different  
13           from the participating domicile State), and  
14           participating school State (if different from  
15           the participating domicile State) and pro-  
16           vide the address of the new domicile and  
17           the address of the previous domicile; and

18           (ii) if the new domicile and the pre-  
19           vious domicile are not both within the ju-  
20           risdiction of a single participating State  
21           under this Act—

22           (I) appear before a person des-  
23           ignated by the individual's previous  
24           participating domicile State (and ap-  
25           pear before persons designated by the

1 individual's participating work State  
2 (if different from the previous partici-  
3 pating domicile State) and partici-  
4 pating school State (if different from  
5 the previous participating domicile  
6 State)) and fulfill the requirements of  
7 clause (i); and

8 (II) appear before a person des-  
9 igned by the individual's new par-  
10 ticipating domicile State to—

11 (aa) provide the designated  
12 person the address of the new  
13 domicile and the address of the  
14 previous domicile; and

15 (bb) submit to the taking of  
16 a photograph and, unless the  
17 participating State determines  
18 that it already possesses a valid  
19 set, fingerprints.

20 (C) CHANGE OF EMPLOYMENT.—Not more  
21 than 5 days before or after beginning, or ceas-  
22 ing, employment by an employer, the individual  
23 shall appear before, and provide notice of the  
24 beginning or ceasing, and the name and address  
25 of the employer, to—

1 (i) a person designated by the individ-  
2 ual's participating domicile State; and

3 (ii) if the individual's participating  
4 work State is different from the domicile  
5 State, a person designated by the individ-  
6 ual's participating work State.

7 (D) CHANGE OF STUDENT STATUS.—Not  
8 more than 5 days before, after beginning, or  
9 ceasing to be a student at an educational insti-  
10 tution, the individual shall appear before, and  
11 provide notice of the beginning or ceasing, and  
12 the name and address of the educational insti-  
13 tution, to—

14 (i) a person designated by the individ-  
15 ual's participating domicile State; and

16 (ii) if the individual's participating  
17 school State is different from the domicile  
18 State, a person designated by the individ-  
19 ual's participating school State.

20 (c) PUNISHMENT.—

21 (1) IN GENERAL.—Whoever—

22 (A) knowingly fails to register in any juris-  
23 diction in which such person is required to reg-  
24 ister under this title; and

1 (B)(i) has been convicted of a Federal of-  
2 fense, an offense under the Uniform Code of  
3 Military Justice, or a tribal offense, for which  
4 registration is required by such Act or law; or

5 (ii) travels in interstate or foreign com-  
6 merce.

7 shall be fined under this title and imprisoned accord-  
8 ing to the penalties in paragraphs (2) and (3).

9 (2) FIRST CONVICTION.—On the first conviction  
10 under paragraph (1)—

11 (A) a Tier I individual shall be fined under  
12 title 18, United States Code, or imprisoned not  
13 more than 3 years, or both;

14 (B) a Tier II individual shall be fined  
15 under title 18, United States code, or impris-  
16 oned not more than 5 years, or both; and

17 (C) a Tier III individual shall be fined  
18 under title 18, United States Code, or impris-  
19 oned not more than 10 years, or both.

20 (3) SUBSEQUENT CONVICTIONS.—On any con-  
21 viction after the first under paragraph (1)—

22 (A) a Tier I individual shall be fined under  
23 title 18, United States Code, or imprisoned not  
24 more than 10 years, or both;

1 (B) a Tier II individual shall be fined  
2 under title 18, United States code, or impris-  
3 oned not more than 20 years, or both; and

4 (C) a Tier III individual shall be fined  
5 under title 18, United States Code, or impris-  
6 oned for any term of years or for life, or both.

7 (4) AFFIRMATIVE DEFENSE.—In a prosecution  
8 for a violation under this section, it is an affirmative  
9 defense—

10 (A) that uncontrollable circumstances pre-  
11 vented the individual from complying;

12 (B) the individual did not contribute to the  
13 creation of such circumstances in reckless dis-  
14 regard of the requirement to comply; and

15 (C) the individual complied as soon as such  
16 circumstances ceased to exist.

17 (5) CONTINUING VIOLATIONS.—A violation  
18 under this section is a continuing violation for pur-  
19 poses of the statute of limitations.

20 (6) EXCEPTIONS.—An individual may petition  
21 for relief from the requirements of subsections (a)  
22 and (b) based on a claim that—

23 (A) the conviction that subjected the indi-  
24 vidual to those requirements has been over-  
25 turned;

1           (B) the individual's inclusion on the appli-  
2           cable registry is the result of an administrative  
3           or clerical error; or

4           (C) the individual has been pardoned by  
5           the chief executive of the jurisdiction in which  
6           the individual was convicted of the crime that  
7           subjected the individual to the requirements of  
8           subsections (a) and (b).

9           (d) EXCEPTIONS FOR CERTAIN INDIVIDUALS.—Sub-  
10          sections (a) and (b) apply to any covered individual, except  
11          as provided as follows:

12           (1) TIER I INDIVIDUALS.—The individual is a  
13          Tier I individual and both of the following apply:

14           (A) The individual has only 1 conviction  
15           for an offense that qualifies the individual as a  
16           covered individual.

17           (B) A period of at least 10 years, exclud-  
18           ing ensuing periods of incarceration, has ex-  
19           pired since the date on which the individual was  
20           sentenced for, or completed the term of impris-  
21           onment for, the conviction described in subpara-  
22           graph (A).

23           (2) TIER II INDIVIDUALS.—The individual is a  
24          Tier II individual and both of the following apply:

1           (A) The individual has only 1 conviction  
2           for an offense that qualifies the individual as a  
3           covered individual.

4           (B) A period of at least 20 years, exclud-  
5           ing ensuing periods of incarceration, has ex-  
6           pired since the date on which the individual was  
7           sentenced for, or completed the term of impris-  
8           onment for, the conviction described in subpara-  
9           graph (A).

10 **SEC. 105. DUTIES OF ATTORNEY GENERAL AND PARTICI-**  
11 **PATING STATES.**

12           (a) DUTY TO OBTAIN ACKNOWLEDGMENT OF OBLI-  
13 GATIONS.—

14           (1) IN GENERAL.—During the time period spec-  
15 ified in paragraph (2), an appropriate official  
16 shall—

17           (A) inform each covered individual of the  
18 duty to register and of that individual’s ongoing  
19 obligations under this title;

20           (B) require the individual to read and sign  
21 a form affirming that—

22           (i) the duty to register has been ex-  
23 plained to the individual;

1           (ii) the individual's ongoing obliga-  
2           tions under this title have been explained  
3           to the individual; and

4           (iii) the individual understands the  
5           registration requirements; and

6           (C) ensure that the individual has com-  
7           pleted the initial registration process.

8           (2) APPROPRIATE TIME PERIOD.—The Attorney  
9           General shall prescribe an appropriate time period  
10          during which the requirements set forth in para-  
11          graph (1) shall be fulfilled.

12          (3) FULFILLMENT.—The requirements of para-  
13          graph (1) shall be fulfilled—

14               (A) before a covered individual has been  
15               released from custody; or

16               (B) if the covered individual is not in cus-  
17               tody, shortly after the individual has been sen-  
18               tenced.

19          (b) OBTAINING AND SHARING INFORMATION.—

20               (1) OBTAINING INFORMATION.—When an indi-  
21               vidual appears before the Attorney General or a par-  
22               ticipating State to provide information pursuant to  
23               this title (including information such as photographs  
24               and fingerprints), the Attorney General (or the par-  
25               ticipating State, or both, as the case may be) shall—

1           (A) ensure that the individual complies  
2 with the applicable requirements of this title;

3           (B) ensure that the information provided is  
4 accurate and complete; and

5           (C) ensure that the information provided is  
6 promptly entered into the appropriate records  
7 or data system of the participating State.

8           (2) SHARING INFORMATION.—

9           (A) DOMICILE STATE.—The domicile State  
10 of an individual, and the State which originally  
11 registers the individual if different from the  
12 domicile State, shall promptly notify each domi-  
13 cile, work, and school State of the individual of  
14 which it is aware concerning the individual's  
15 domicile, employment, or student status in such  
16 State and shall make available to each such  
17 State the information concerning the individual.

18           (B) CHANGE IN DOMICILE.—If a domicile  
19 State of an individual is informed by the indi-  
20 vidual, or otherwise becomes aware, that there  
21 will be or has been a change in the individual's  
22 domicile State, the domicile State shall prompt-  
23 ly notify the new domicile State and make avail-  
24 able to the new domicile State the information  
25 concerning the individual.

1 (C) AVAILABLE INFORMATION.—A domi-  
2 cile State shall promptly make available the in-  
3 formation concerning an individual to a law en-  
4 forcement agency or agencies in the State hav-  
5 ing jurisdiction where—

6 (i) the individual’s domicile is located;

7 (ii) the individual’s place of employ-  
8 ment is located; and

9 (iii) any educational institution at  
10 which the individual is a student is located.

11 (c) ENTRY OF INFORMATION INTO THE NATIONAL  
12 SEX OFFENDER REGISTRY.—

13 (1) MAINTENANCE OF A NATIONAL SEX OF-  
14 FENDER REGISTRY.—The Attorney General shall  
15 maintain a national database at the Federal Bureau  
16 of Investigation, to be known as the National Sex  
17 Offender Registry, which shall include information  
18 concerning covered individuals who are required to  
19 register in the sex offender registry of any jurisdic-  
20 tion. Information may be released from the National  
21 Sex Offender Registry to criminal justice agencies,  
22 and to other entities as the Attorney General may  
23 provide.

24 (2) PARTICIPATION IN THE NATIONAL SEX OF-  
25 FENDER REGISTRIES.—Each participating State

1 shall, in the time and manner provided by the Attor-  
2 ney General—

3 (A) submit to the Attorney General the in-  
4 formation concerning each covered individual  
5 under this title, which shall be included in the  
6 National Sex Offender Registry or other data-  
7 bases as appropriate;

8 (B) submit the information described in  
9 subparagraph (A) in a manner that allows the  
10 Attorney General to include it in the National  
11 Sex Offender Registries; and

12 (C) participate in the National Sex Of-  
13 fender Public Registry maintained pursuant to  
14 section 202.

15 (d) WHEN A COVERED INDIVIDUAL IS MISSING.—

16 (1) STATE.—Whenever a participating State is  
17 unable to verify the address of or locate a covered  
18 individual, the participating State shall promptly no-  
19 tify the Attorney General.

20 (2) ATTORNEY GENERAL.—Whenever informa-  
21 tion is made known to the Attorney General under  
22 paragraph (1) that a State is unable to verify the  
23 address of or locate a covered individual, the Attor-  
24 ney General shall—

1 (A) revise the National Sex Offender Reg-  
2 istry to reflect that information; and

3 (B) add the name of the individual to the  
4 wanted person file of the National Crime Infor-  
5 mation Center and create a wanted persons  
6 record if an arrest warrant that meets the re-  
7 quirements for entry into the file is issued in  
8 connection with the violation.

9 (3) INVESTIGATION.—The Attorney General  
10 shall use the authority provided in section  
11 566(e)(1)(B) of title 28, United States Code, the au-  
12 thority to investigate offenses under chapter 49 of  
13 title 18, United States Code, and the authority pro-  
14 vided in any other relevant provision of law, as ap-  
15 propriate, to assist States and other jurisdictions in  
16 locating and apprehending covered individuals and  
17 any other individuals who violate sex offender reg-  
18 istration requirements.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated such sums as may be  
21 necessary for fiscal years 2006 through 2008 to carry out  
22 this section.

1 **SEC. 106. PARTICIPATING STATE SEX OFFENDER REG-**  
2 **ISTRIES.**

3 (a) STATEWIDE REGISTRY REQUIRED.—Each par-  
4 ticipating State shall maintain, throughout its jurisdiction,  
5 a single comprehensive registry of information collected  
6 under this title.

7 (b) RELEASE OF INFORMATION IN REGISTRY.—Each  
8 participating State shall have in effect, throughout its ju-  
9 risdiction, a single public information program that in-  
10 cludes the following elements:

11 (1) INTERNET SITE.—

12 (A) INFORMATION.—

13 (i) IN GENERAL.—Except as provided  
14 in clause (iii), the participating State shall  
15 release to the public, through an Internet  
16 site maintained by the State that shall  
17 have multiple field search capability, the  
18 following information for Tier II and III  
19 individuals whose domicile State, work  
20 State, or school State is the same as the  
21 participating State:

22 (I) The name and any known  
23 aliases of the individual.

24 (II) The date of birth of the indi-  
25 vidual.

1 (III) A physical description of the  
2 individual.

3 (IV) The current photograph of  
4 the individual.

5 (V) The domicile address of the  
6 individual.

7 (VI) The address of the individ-  
8 ual's place of employment.

9 (VII) The address of any edu-  
10 cational institution at which the indi-  
11 vidual is a student.

12 (VIII) The nature and date of all  
13 offenses qualifying the individual as a  
14 covered individual.

15 (IX) The date on which the indi-  
16 vidual was released from prison, or  
17 placed on parole, supervised release,  
18 or probation, for the most recent of-  
19 fense qualifying the individual as a  
20 covered individual.

21 (X) Tier designation for the indi-  
22 vidual.

23 (XI) Compliance status of the in-  
24 dividual.

1           (ii) TIER I INDIVIDUALS.—The par-  
2           ticipating State may, at its discretion, in-  
3           clude information about Tier I individuals  
4           on its Internet site.

5           (iii) VICTIMS.—The participating  
6           State shall make every effort not to dis-  
7           close the identity of the victim of an of-  
8           fense. Information about a covered indi-  
9           vidual whose duty to register is based sole-  
10          ly on offenses against intrafamilial minors  
11          may, after consultation with the victim, be  
12          limited or withheld in its entirety from an  
13          Internet site or registry, at the discretion  
14          of the participating State.

15          (iv) LINKS.—The site shall include, as  
16          much as practicable, links to sex offender  
17          safety and education resources.

18          (B) INTEGRATION OF STATE SITES.—The  
19          participating State shall consult with other  
20          States to ensure, as much as practicable, that  
21          the site integrates with and shares information  
22          with the sites maintained by those other States.

23          (C) CORRECTION OF ERRORS.—The site  
24          shall contain instructions on the process for

1           correcting information that a person alleges to  
2           be erroneous.

3           (D) WARNING.—The site shall include a  
4           warning that the information presented should  
5           not be used to injure, harass, or commit a  
6           criminal act against any individual named in  
7           the registry or residing or working at any re-  
8           ported address. The warning shall note that any  
9           such action could result in criminal prosecution.

10          (E) TIER DESIGNATION.—

11           (i) IN GENERAL.—The participating  
12           State shall establish 3 tier designations.  
13           The tier designation of an individual shall  
14           be determined under criteria promulgated  
15           by the participating State in accordance  
16           with the participating State’s resources  
17           and local priorities.

18           (ii) SEXUALLY VIOLENT OFFEND-  
19           ERS.—All individuals convicted of sexually  
20           violent offenses shall be designated as Tier  
21           III individuals.

22           (iii) PHYSICAL CONTACT OF A SEXUAL  
23           NATURE WITH A MINOR.—All individuals  
24           convicted of any offense, an element of  
25           which is physical contact of a sexual na-

1           ture with a minor, shall be designated as  
2           Tier II or Tier III individuals.

3           (2) COMMUNITY NOTIFICATION.—

4           (A) TIER II INDIVIDUALS.—Appropriate  
5           law enforcement agencies in participating  
6           States shall release information collected under  
7           this title relating to Tier II individuals to public  
8           and private schools, including institutions of  
9           higher learning, child care providers, and busi-  
10          nesses that provide services or products to chil-  
11          dren, located within a radius, prescribed by the  
12          participating State, of the home or work ad-  
13          dress of the individual.

14          (B) TIER III INDIVIDUALS.—Appropriate  
15          law enforcement agencies in participating  
16          States shall release information collected under  
17          this title relating to Tier III individuals to—

18               (i) public and private schools, includ-  
19               ing institutions of higher learning, child  
20               care providers, and businesses that provide  
21               services or products to children, located  
22               within a radius, prescribed by the partici-  
23               pating State, of the home or work address  
24               of the individual; and

1                   (ii) residents who reside within a ra-  
2                   dius, prescribed by the participating State,  
3                   of the home or work address of the indi-  
4                   vidual.

5           (c) PUBLICATION OF NUMBER OF OFFENDERS REG-  
6   ISTERED.—

7           (1) IN GENERAL.—Every 6 months, the Attor-  
8   ney General shall collect from each State informa-  
9   tion on the total number of covered individuals in-  
10   cluded in the registry maintained by that State.

11           (2) PUBLIC AVAILABILITY AND CONTENTS.—  
12   The Attorney General shall—

13           (A) release information under paragraph  
14           (1) to the public in a manner consistent with  
15           this title; and

16           (B) include in such a release the number  
17           of individuals within each tier and the number  
18           of individuals who are in compliance with this  
19           title within each tier.

20           (3) DOUBLE-COUNTING.—In reporting informa-  
21   tion collected under paragraph (1), the Attorney  
22   General shall ensure, to the extent practicable, that  
23   offenders are not being double-counted.

1 **SEC. 107. DEVELOPMENT AND AVAILABILITY OF REGISTRY**  
2 **MANAGEMENT SOFTWARE.**

3 (a) DEVELOPMENT OF SOFTWARE REQUIRED.—The  
4 Attorney General, in consultation with participating  
5 States, shall—

6 (1) develop a software application that can be  
7 used by participating States for purposes of this  
8 title; and

9 (2) ensure that such software operates in such  
10 a manner that a participating State can, by using  
11 the software, fully comply with all the requirements  
12 under this title for managing and exchanging infor-  
13 mation (including exchanging information with other  
14 States).

15 (b) AVAILABILITY TO STATES.—The Attorney Gen-  
16 eral shall make the software developed under this section  
17 available to States. The first complete edition of the soft-  
18 ware shall be made available within 2 years after the date  
19 of the enactment of this Act.

20 (c) SUPPORT.—The Attorney General shall ensure  
21 that States are provided technical support for the installa-  
22 tion of the software and for maintaining the software.

23 **SEC. 108. ELECTION BY INDIAN TRIBES.**

24 (a) ELECTION.—

25 (1) IN GENERAL.—A federally recognized In-  
26 dian tribe may, by resolution or other enactment of

1 the tribal council or comparable governmental  
2 body—

3 (A) elect to carry out this title as a juris-  
4 diction subject to its provisions; or

5 (B) elect to delegate its functions under  
6 this title to a participating State or partici-  
7 pating States within which the territory of the  
8 tribe is located and to provide access to its ter-  
9 ritory and such other cooperation and assist-  
10 ance as may be needed to enable such partici-  
11 pating State or participating States to carry  
12 out and enforce the requirements of this title.

13 (2) ELECTION.—A tribe shall be treated as if it  
14 had made the election described in paragraph (1)(B)  
15 if—

16 (A) it is a tribe subject to the law enforce-  
17 ment jurisdiction of a participating State under  
18 section 1162 of title 18, United States Code;

19 (B) the tribe does not make an election  
20 under paragraph (1) within 1 year of the enact-  
21 ment of this Act or rescinds an election under  
22 paragraph (1)(A); or

23 (C) the Attorney General determines that  
24 the tribe has not implemented the requirements

1 of this title and is not likely to become capable  
2 of doing so within a reasonable amount of time.

3 (b) COOPERATION BETWEEN PARTICIPATING STATE  
4 AND TRIBAL AUTHORITIES.—

5 (1) NONDUPLICATION.—A tribe subject to this  
6 title is not required for purposes of this title to du-  
7 plicate functions under this title which are fully car-  
8 ried out by a participating State or participating  
9 States within which the territory of the tribe is lo-  
10 cated.

11 (2) COOPERATIVE AGREEMENTS.—A tribe may,  
12 through cooperative agreements with such a partici-  
13 pating State or participating States—

14 (A) arrange for the tribe to carry out any  
15 function of the participating State under this  
16 title with respect to sex offenders subject to the  
17 tribe's jurisdiction; and

18 (B) arrange for the participating State to  
19 carry out any function of the tribe under this  
20 title with respect to sex offenders subject to the  
21 tribe's jurisdiction.

22 **SEC. 109. PROVISION OF NOTICE AND ACCESS TO INDIAN**  
23 **TRIBES.**

24 (a) CONFORMING AMENDMENT TO TITLE 18,  
25 UNITED STATES CODE.—Section 4042(c)(1)(A) of title

1 18, United States Code, is amended by striking “State”  
2 and inserting “State, Indian Country,”.

3 (b) RESPONSIBILITY OF PARTICIPATING STATES.—  
4 An appropriate participating State official, pursuant to  
5 this title and exercising jurisdiction pursuant to Public  
6 Law 93–280, shall ensure that notice is provided to any  
7 Indian tribe of the release into the jurisdiction of the In-  
8 dian tribe of a covered individual.

9 (c) ACCESS TO NATIONAL SEX OFFENDER REG-  
10 ISTRY.—From funds made available under section 107,  
11 the Attorney General shall use such amounts as the Attor-  
12 ney General determines to be appropriate to make grants  
13 to Indian tribes for the development of electronic data-  
14 bases to provide access to information in the National Sex  
15 Offender Registry.

16 **SEC. 110. APPLICABILITY TO MINORS.**

17 Notwithstanding any other provision of this Act, the  
18 requirements of this Act are not applicable with respect  
19 to any individual who is only subject to such requirements  
20 because of a delinquent adjudication that occurred when  
21 the individual was a minor, unless that individual was  
22 charged and convicted as an adult.

23 **SEC. 111. RULE OF CONSTRUCTION.**

24 The provisions of this title that are cast as directions  
25 to participating States or their officials constitute only

1 conditions that must be substantially met, in accordance  
2 with section 107, in order to obtain Federal funding under  
3 this title.

4 **SEC. 112. IMMUNITY FOR GOOD FAITH CONDUCT.**

5 The Federal Government, participating States and  
6 political subdivisions thereof, and their agencies, officers,  
7 employees, and agents shall be immune from liability for  
8 good faith conduct under this Act.

9 **SEC. 113. STATE UNCONSTITUTIONALITY.**

10 (a) IN GENERAL.—Nothing in this title shall be  
11 deemed to require a participating State to take any action  
12 that would violate that participating State’s constitution.

13 (b) FUNDS.—The Attorney General shall not with-  
14 hold funds to any participating State under section 107  
15 if the participating State declines to implement any provi-  
16 sions of this title on the ground that to do so would place  
17 the participating State in violation of its constitution or  
18 a ruling by the participating State’s highest court.

19 (c) DEFERENCE.—In considering whether compliance  
20 with the requirements of this title would likely violate the  
21 participating State’s constitution or rulings by the partici-  
22 pating State’s highest court under this section, the Attor-  
23 ney General shall defer to the participating State’s inter-  
24 pretation of the participating State’s constitution and rul-

1 ings of the participating State’s highest court unless those  
 2 interpretations are clearly erroneous.

3 **SEC. 114. REGULATIONS.**

4 The Attorney General shall issue guidelines and regu-  
 5 lations to interpret and implement this title.

6 **SEC. 115. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated for each of  
 8 fiscal years 2006 through 2009 such sums as may be nec-  
 9 essary to carry out this title.

10 **SEC. 116. EFFECT ON CURRENT LAW.**

11 This title does not diminish any existing conditions  
 12 on participating and non-participating States under cur-  
 13 rent law.

14 **TITLE II—DRU SJODIN NA-**  
 15 **TIONAL SEX OFFENDER PUB-**  
 16 **LIC DATABASE ACT OF 2005**

17 **SEC. 201. SHORT TITLE AND DEFINITIONS.**

18 (a) **SHORT TITLE.**—This title may be cited as the  
 19 “Dru Sjodin National Sex Offender Public Database Act  
 20 of 2005”.

21 (b) **DEFINITIONS.**—The definitions in section 102  
 22 shall apply in this title.

23 **SEC. 202. NATIONAL SEX OFFENDER PUBLIC REGISTRY.**

24 (a) **IN GENERAL.**—The Attorney General shall main-  
 25 tain a national Internet site, to be known as the “National

1 Sex Offender Public Registry,” through which the public  
2 can access information in the public sex offender Internet  
3 sites of all States by means of single-query searches.

4 (b) INFORMATION AVAILABLE IN PUBLIC REG-  
5 ISTRY.—With respect to Tier II and Tier III individuals  
6 and except as provided in subsection (e), the National Sex  
7 Offender Public Registry shall provide the following infor-  
8 mation:

9 (1) The name and any known aliases of the in-  
10 dividual.

11 (2) The date of birth of the individual.

12 (3) A physical description of the individual.

13 (4) The current photograph of the individual.

14 (5) The domicile address of the individual.

15 (6) The address of the individual’s place of em-  
16 ployment.

17 (7) The address of any educational institution  
18 at which the individual is a student.

19 (8) The nature and date of all offenses quali-  
20 fying the individual as a covered individual.

21 (9) The date on which the individual was re-  
22 leased from prison, or placed on parole, supervised  
23 release, or probation, for the most recent offense  
24 qualifying the individual as a covered individual.

25 (10) Tier designation for the individual.

1           (11) Compliance status of the individual.

2           (c) SEARCH CAPABILITIES.—The National Sex Of-  
3 fender Public Registry shall have multiple search capabili-  
4 ties, including—

5           (1) searches by name; and

6           (2) searches by geographic area including  
7 searches by zip code area and searches within a ra-  
8 dius specified by the user.

9           (d) TIER I INDIVIDUALS.—The Attorney General  
10 shall also provide, in accordance with this section, infor-  
11 mation related to a Tier I individual only if such informa-  
12 tion is provided by a State on that State’s Internet site.

13           (e) FAMILY MEMBER OFFENSE.—The Attorney Gen-  
14 eral shall provide, in accordance with this section, infor-  
15 mation related to a covered offense against a minor com-  
16 mitted by a family member of the minor only if such infor-  
17 mation is provided by a State on that State’s Internet site.

18 **SEC. 203. RELEASE OF HIGH-RISK INMATES.**

19           (a) IN GENERAL.—From amounts made available to  
20 carry out this section, the Attorney General may make  
21 grants to participating States for activities specified in  
22 subsections (b) and (c).

23           (b) CIVIL COMMITMENT PROCEEDINGS.—

24           (1) IN GENERAL.—Any participating State that  
25 provides for a civil commitment proceeding, or any

1 equivalent proceeding, shall issue timely notice to a  
2 State official responsible for considering whether to  
3 pursue such proceedings upon the impending release  
4 of any person incarcerated by the participating State  
5 who—

6 (A) has been convicted of a sexually violent  
7 offense; or

8 (B) has been deemed by the participating  
9 State to be at high risk for recommitting any  
10 covered offense against a minor.

11 (2) REVIEW.—Upon receiving notice under  
12 paragraph (1), the State official shall consider  
13 whether or not to pursue a civil commitment pro-  
14 ceeding, or any equivalent proceeding required under  
15 State law.

16 (c) MONITORING OF RELEASED PERSONS.—Each  
17 participating State shall intensively monitor, for not less  
18 than 1 year, any person who—

19 (1) has been deemed by the participating State  
20 to be at high risk for recommitting any covered of-  
21 fense against a minor;

22 (2) has been unconditionally released from in-  
23 carceration by the participating State; and



1 ment is otherwise provided by law and regardless of any  
 2 maximum term of imprisonment otherwise provided for  
 3 the offense—

4 “(1) if the crime of violence results in the death  
 5 of a person who has not attained the age of 12  
 6 years, be imprisoned for not less than 30 years to  
 7 life;

8 “(2) if the crime of violence is a kidnapping or  
 9 maiming (or an attempt or conspiracy to commit  
 10 kidnapping or maiming) or results in serious bodily  
 11 injury (as defined in section 1365), be imprisoned  
 12 for not less than 20 years to life; and

13 “(3) if a dangerous weapon was used during  
 14 and in relation to the crime of violence, be impris-  
 15 oned for not less than 10 years to life.”.

16 **SEC. 303. INCREASED PENALTIES FOR SEXUAL OFFENSES**  
 17 **AGAINST CHILDREN.**

18 (a) **SEXUAL ABUSE.**—

19 (1) **AGGRAVATED SEXUAL ABUSE OF CHIL-**  
 20 **DREN.**—Section 2241(c) of title 18, United States  
 21 Code, is amended by—

22 (A) designating the second sentence as  
 23 paragraph (4); and

24 (B) striking the first sentence and insert-  
 25 ing the following:

1       “(1) Whoever crosses a State line with intent to en-  
2 gage in a sexual act with a person who has not attained  
3 the age of 12 years, or in the special maritime and terri-  
4 torial jurisdiction of the United States or in a Federal  
5 prison, knowingly engages in a sexual act with another  
6 person who has not attained the age of 12 years, or at-  
7 tempts to do so, shall be fined under this title and impris-  
8 oned for not less than 10 years to life, or both.

9       “(2) Whoever crosses a State line with intent to en-  
10 gage in a sexual act under the circumstances described  
11 in subsections (a) or (b) with a person who has not at-  
12 tained the age of 12 years, or in the special maritime and  
13 territorial jurisdiction of the United States or in a Federal  
14 prison, knowingly engages in a sexual act under the cir-  
15 cumstances described in subsections (a) or (b) with an-  
16 other person who has not attained the age of 12 years,  
17 or attempts to do so, shall be fined under this title and  
18 imprisoned not less than 30 years to life, or both.

19       “(3) Whoever crosses a State line with intent to en-  
20 gage in a sexual act under the circumstances described  
21 in subsections (a) or (b) with a person who has not at-  
22 tained the age of 12 years, or in the special maritime and  
23 territorial jurisdiction of the United States or in a Federal  
24 prison, knowingly engages in a sexual act under the cir-  
25 cumstances described in subsections (a) or (b) with an-

1 other person who has attained the age of 12 but has not  
 2 attained the age of 16 years (and is at least 4 years young-  
 3 er than the person so engaging), or attempts to do so,  
 4 shall be fined under this title, imprisoned for any term  
 5 of years or life, or both.”.

6 (2) SEXUAL ABUSE OF CHILDREN RESULTING  
 7 IN DEATH.—Section 2245 of title 18, United States  
 8 Code, is amended—

9 (A) by striking “A person” and inserting  
 10 “(a) IN GENERAL.—A person”; and

11 (B) by adding at the end the following:

12 “(b) OFFENSES INVOLVING YOUNG CHILDREN.—A  
 13 person who, in the course of an offense under this chapter,  
 14 engages in conduct that includes a sex act with a person  
 15 who has not attained the age of 12 years and that results  
 16 in the death of that person, shall be punished by death  
 17 or imprisoned for not less than 30 years to life.”.

18 (b) SEXUAL EXPLOITATION AND OTHER ABUSE OF  
 19 CHILDREN.—

20 (1) SEXUAL EXPLOITATION OF CHILDREN.—  
 21 Section 2251(e) of title 18, United States Code, is  
 22 amended by striking “any term of years or for life”  
 23 and inserting “not less than 30 years to life.”

24 (2) USING MISLEADING DOMAIN NAMES TO DI-  
 25 RECT CHILDREN TO HARMFUL MATERIAL ON THE

1 INTERNET.—Section 2252B(b) of title 18, United  
2 States Code, is amended by striking “or imprisoned  
3 not more than 4 years” and inserting “or impris-  
4 oned not more than 10 years.”.

5 **TITLE IV—JESSICA LUNSFORD**  
6 **AND SARAH LUNDE ACT**

7 **SEC. 401. SHORT TITLE.**

8 This title may be cited as the “Jessica Lunsford and  
9 Sarah Lunde Act”.

10 **SEC. 402. PILOT PROGRAM FOR MONITORING SEXUAL OF-**  
11 **FENDERS.**

12 (a) DEFINITION.—In this section, the term “sexual  
13 offender” means an offender 18 years of age or older who  
14 commits a sexual offense against a minor.

15 (b) SEXUAL PREDATOR MONITORING PROGRAM.—

16 (1) GRANTS AUTHORIZED.—

17 (A) IN GENERAL.—The Attorney General  
18 is authorized to award grants (referred to as  
19 “Jessica Lunsford and Sarah Lunde Grants”)  
20 to State and local governments to assist such  
21 States and local governments in—

22 (i) carrying out programs to outfit  
23 sexual offenders with electronic monitoring  
24 units; and

1 (ii) the employment of law enforce-  
2 ment officials necessary to carry out such  
3 programs.

4 (B) DURATION.—The Attorney General  
5 shall award grants under this section for a pe-  
6 riod not to exceed 3 years.

7 (2) APPLICATION.—

8 (A) IN GENERAL.—Each State or local  
9 government desiring a grant under this section  
10 shall submit an application to the Attorney  
11 General at such time, in such manner, and ac-  
12 companied by such information as the Attorney  
13 General may reasonably require.

14 (B) CONTENTS.—Each application sub-  
15 mitted pursuant to subparagraph (A) shall—

16 (i) describe the activities for which as-  
17 sistance under this section is sought; and

18 (ii) provide such additional assurances  
19 as the Attorney General determines to be  
20 essential to ensure compliance with the re-  
21 quirements of this section.

22 (c) INNOVATION.—In making grants under this sec-  
23 tion, the Attorney General shall ensure that different ap-  
24 proaches to monitoring are funded to allow an assessment  
25 of effectiveness.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be  
3 appropriated \$10,000,000 for each of the fiscal  
4 years 2006 through 2008 to carry out this section.

5 (2) REPORT.—Not later than April 1, 2008, the  
6 Attorney General shall report to Congress—

7 (A) assessing the effectiveness and value of  
8 this section;

9 (B) comparing the cost effectiveness of the  
10 electronic monitoring to reduce sex offenses  
11 compared to other alternatives; and

12 (C) making recommendations for con-  
13 tinuing funding and the appropriate levels for  
14 such funding.

15 **TITLE V—MISCELLANEOUS**  
16 **PROVISIONS**

17 **SEC. 501. ACCESS TO INTERSTATE IDENTIFICATION INDEX.**

18 (a) IN GENERAL.—Notwithstanding any other provi-  
19 sion of law, the Attorney General shall ensure access to  
20 the Interstate Identification Index (established under the  
21 National Crime Prevention and Privacy Compact (42  
22 U.S.C. 14616)) by—

23 (1) the National Center for Missing and Ex-  
24 ploited Children, to be used only within the scope of  
25 the Center’s duties and responsibilities under Fed-

1 eral law to assist or support law enforcement agen-  
2 cies in administration of criminal justice functions;  
3 and

4 (2) governmental social service agencies with  
5 child protection responsibilities, to be used by such  
6 agencies only in investigating or responding to re-  
7 ports of child abuse, neglect, or exploitation.

8 (b) CONDITIONS OF ACCESS.—The access provided  
9 under this section, and associated rules of dissemination,  
10 shall be—

11 (1) defined by the Attorney General; and

12 (2) limited to personnel of the Center or such  
13 agencies that have met all requirements set by the  
14 Attorney General, including training, certification,  
15 and background screening.

16 (c) LIMITATION ON LIABILITY.—

17 (1) IN GENERAL.—Except as provided in para-  
18 graphs (2) and (3), the National Center for Missing  
19 and Exploited Children, including any of its direc-  
20 tors, officers, employees, or agents, is not liable in  
21 any civil action sounding in tort for damages related  
22 to its access to the Interstate Identification Index.

23 (2) INTENTIONAL, RECKLESS, OR OTHER MIS-  
24 CONDUCT.—Paragraph (1) does not apply in an ac-  
25 tion in which a party proves that the National Cen-

1 ter for Missing and Exploited Children, or its offi-  
2 cer, employee, or agent as the case may be, engaged  
3 in intentional misconduct or acted, or failed to act,  
4 with actual malice, with reckless disregard of a sub-  
5 stantial risk of causing injury without legal justifica-  
6 tion, or for a purpose unrelated to its performance  
7 of activities or responsibilities under Federal law.

8 (3) ORDINARY BUSINESS ACTIVITIES.—Para-  
9 graph (1) does not apply to an act or omission re-  
10 lated to an ordinary business activity, such as an ac-  
11 tivity involving general administration or operations,  
12 the use of motor vehicles, or personnel management.

13 **SEC. 502. LIMITATION ON LIABILITY FOR NCMEC.**

14 Section 227 of the Victims of Child Abuse Act of  
15 1990 (42 U.S.C. 13032) is amended by adding at the end  
16 the following:

17 “(g) LIMITATION ON LIABILITY.—

18 “(1) IN GENERAL.—Except as provided in sub-  
19 paragraphs (2) and (3), the National Center for  
20 Missing and Exploited Children, including any of its  
21 directors, officers, employees, or agents, shall not be  
22 liable in any civil or criminal action for the perform-  
23 ance of its CyberTipline responsibilities and func-  
24 tions as defined by section 227 of the Victims of  
25 Child Abuse Act of 1990 (42 U.S.C. 13032) and

1 section 404 of the Missing Children’s Assistance Act  
2 (42 U.S.C. 5773), or for its efforts to identify child  
3 victims.

4 “(2) EXCEPTION FOR INTENTIONAL, RECKLESS,  
5 OR OTHER MISCONDUCT.—The limitation on liability  
6 under subparagraph (1) shall not apply in any ac-  
7 tion in which a plaintiff or prosecutor proves that  
8 the National Center for Missing and Exploited Chil-  
9 dren or its officers, employees, or agents described  
10 in subparagraph (1), as the case may be, engaged in  
11 intentional misconduct or acted, or failed to act,  
12 with actual malice, with reckless disregard to a sub-  
13 stantial risk of causing injury without legal justifica-  
14 tion, or for a purpose unrelated to the performance  
15 of responsibilities or functions under section 227 of  
16 the Victims of Child Abuse Act of 1990 (42 U.S.C.  
17 13032) and section 404 of the Missing Children’s  
18 Assistance Act (42 U.S.C. 5773), or for its efforts  
19 to identify child victims.

20 “(3) EXCEPTION FOR ORDINARY BUSINESS AC-  
21 TIVITIES.—The limitation on liability under para-  
22 graph (1) shall not apply to any alleged act or omis-  
23 sion related to an ordinary business activity, such as  
24 an activity involving general administration or oper-

1       ations, the use of motor vehicles, or personnel man-  
2       agement.”.

3 **SEC. 503. MISSING CHILD REPORTING REQUIREMENTS.**

4       (a) IN GENERAL.—Section 3702 of the Crime Con-  
5       trol Act of 1990 (42 U.S.C. 5780) is amended—

6               (1) by redesignating paragraphs (2) and (3) as  
7       paragraphs (3) and (4), respectively;

8               (2) by inserting after paragraph (1) the fol-  
9       lowing:

10               “(2) ensure that no law enforcement agency  
11       within the State establishes or maintains any policy  
12       that requires the removal of a missing person entry  
13       from its State law enforcement system or the Na-  
14       tional Crime Information Center computer database  
15       based solely on the age of the person;”;

16               (3) in paragraph (3), as redesignated, by strik-  
17       ing “immediately” and inserting “within 2 hours of  
18       receipt”.

19       (b) DEFINITIONS.—Section 403(1) of the Com-  
20       prehensive Crime Control Act of 1984 (42 U.S.C. 5772)  
21       is amended by striking “if” through subparagraph (B)  
22       and inserting a semicolon.

1 **SEC. 504. TREATMENT AND MANAGEMENT OF SEX OFFEND-**  
2 **ERS IN THE BUREAU OF PRISONS.**

3 Section 3621 of title 18, United States Code, is  
4 amended by adding at the end the following new sub-  
5 section:

6 “(f) **SEX OFFENDER MANAGEMENT.**—

7 “(1) **IN GENERAL.**—The Bureau of Prisons  
8 shall make available appropriate treatment to sex of-  
9 fenders who are in need of and suitable for treat-  
10 ment, as follows:

11 “(A) **SEX OFFENDER MANAGEMENT PRO-**  
12 **GRAMS.**—The Bureau of Prisons shall establish  
13 non-residential sex offender management pro-  
14 grams to provide appropriate treatment, moni-  
15 toring, and supervision of sex offenders and to  
16 provide aftercare during prerelease custody.

17 “(B) **RESIDENTIAL SEX OFFENDER**  
18 **TREATMENT PROGRAMS.**—The Bureau of Pris-  
19 ons shall establish residential sex offender  
20 treatment programs to provide treatment to sex  
21 offenders who volunteer for such programs and  
22 are deemed by the Bureau of Prisons to be in  
23 need of and suitable for residential treatment.

24 “(2) **REGIONS.**—At least 1 sex offender man-  
25 agement program under paragraph (1)(A), and at  
26 least 1 residential sex offender treatment program

1 under paragraph (1)(B), shall be established in each  
2 region within the Bureau of Prisons.

3 “(3) AUTHORIZATION OF APPROPRIATIONS.—  
4 There are authorized to be appropriated to the Bu-  
5 reau of Prisons for each fiscal year such sums as  
6 may be necessary to carry out this subsection.”.

7 **SEC. 505. AUTHORIZATION FOR AMERICAN PROSECUTORS**  
8 **RESEARCH INSTITUTE.**

9 In addition to any other amounts authorized by law,  
10 there are authorized to be appropriated for grants to the  
11 American Prosecutors Research Institute under section  
12 214A of the Victims of Child Abuse Act of 1990 (42  
13 U.S.C. 13003) \$7,500,000 for each of fiscal years 2006  
14 through 2010.

15 **SEC. 506. SEX OFFENDER APPREHENSION GRANTS.**

16 Title I of the Omnibus Crime Control and Safe  
17 Streets Act of 1968 is amended by adding at the end the  
18 following:

19 **“PART II—SEX OFFENDER APPREHENSION**  
20 **GRANTS**

21 **“SEC. 2992. AUTHORITY TO MAKE SEX OFFENDER APPRE-**  
22 **HENSION GRANTS.**

23 “(a) IN GENERAL.—From amounts made available to  
24 carry out this part, the Attorney General may make grants  
25 to States, units of local government, Indian tribes, other

1 public and private entities, and multi-jurisdictional or re-  
2 gional consortia thereof for activities specified in sub-  
3 section (b).

4 “(b) COVERED ACTIVITIES.—An activity referred to  
5 in subsection (a) is any program, project, or other activity  
6 to assist a State in enforcing sex offender registration re-  
7 quirements.”.

8 **SEC. 507. ACCESS TO FEDERAL CRIME INFORMATION DATA-**  
9 **BASES BY EDUCATIONAL AGENCIES FOR CER-**  
10 **TAIN PURPOSES.**

11 (a) IN GENERAL.—The Attorney General shall, upon  
12 request of the chief executive of a State, conduct finger-  
13 print-based checks of the national crime information data-  
14 bases (as defined in section 534(e)(3)(A) of title 28,  
15 United States Code), pursuant to a request submitted by  
16 a local educational agency or a State educational agency  
17 in that State, on individuals under consideration for em-  
18 ployment by the agency in a position in which the indi-  
19 vidual would work with or around children. Where pos-  
20 sible, the check shall include a fingerprint-based check of  
21 State criminal history databases. The Attorney General  
22 and the States may charge any applicable fees for these  
23 checks.

24 (b) PROTECTION OF INFORMATION.—An individual  
25 having information derived as a result of a check under

1 subsection (a) may release that information only to an ap-  
2 propriate officer of a local educational agency or State  
3 educational agency, or to another person authorized by  
4 law to receive that information.

5 (c) CRIMINAL PENALTIES.—An individual who know-  
6 ingly exceeds the authority of subsection (a), or knowingly  
7 releases information in violation of subsection (b), shall  
8 be imprisoned not more than 10 years or fined under title  
9 18, United States Code, or both.

10 (d) DEFINITION.—In this section, the terms “local  
11 educational agency” and “State educational agency” have  
12 the meanings given to those terms in section 9101 of the  
13 Elementary and Secondary Education Act of 1965 (20  
14 U.S.C. 7801).

15 **SEC. 508. GRANTS TO COMBAT SEXUAL ABUSE OF CHIL-**  
16 **DREN.**

17 (a) IN GENERAL.—The Bureau of Justice Assistance  
18 is authorized to make grants under this section to—

19 (1) each law enforcement agency that serves a  
20 jurisdiction with 50,000 or more residents; and

21 (2) each law enforcement agency that serves a  
22 jurisdiction with fewer than 50,000 residents, upon  
23 a showing of need.

24 (b) USE OF GRANT AMOUNTS.—Grants under this  
25 section may be used by the law enforcement agency to—

1           (1) hire additional law enforcement personnel,  
2           or train existing staff, to combat the sexual abuse of  
3           children through community education and outreach,  
4           investigation of complaints, enforcement of laws re-  
5           lating to sex offender registries, and management of  
6           released sex offenders;

7           (2) investigate the use of the Internet to facili-  
8           tate the sexual abuse of children; and

9           (3) purchase computer hardware and software  
10          necessary to investigate sexual abuse of children over  
11          the Internet, access local, State, and Federal data-  
12          bases needed to apprehend sex offenders, and facili-  
13          tate the creation and enforcement of sex offender  
14          registries.

15          (c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
16          are authorized to be appropriated such sums as may be  
17          necessary for fiscal years 2006 through 2008 to carry out  
18          this section.

19          **SEC. 509. SEVERABILITY.**

20          If any provisions of this Act, any amendment made  
21          by this Act, or the application of such provisions or  
22          amendment to any person or circumstance is held to be  
23          unconstitutional, the remainder of the provisions of this  
24          Act, the amendments made by this Act, and the applica-

1 tion of such provisions or amendments to any person or  
2 circumstance shall not be affected.

3 **SEC. 510. FAILURE TO PROVIDE INFORMATION A DEPORT-**  
4 **ABLE OFFENSE.**

5 Section 237(a)(2)(A) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1227(a)(2)(A)) is amended—

7 (1) by redesignating clause (v) as clause (vi);

8 and

9 (2) by inserting after clause (iv) the following  
10 new clause:

11 “(v) FAILURE TO PROVIDE REGISTRA-  
12 TION INFORMATION AS A SEX OF-  
13 FENDER.—Any alien who is convicted  
14 under subsection (d) of section 103 of the  
15 Sex Offender Registration and Notification  
16 Act of a violation of subsection (a) or (b)  
17 of such section is deportable.”.

18 **SEC. 511. REPEAL.**

19 Sections 170101 and 170102 of the Violent Crime  
20 Control and Law Enforcement Act of 1994 (42 U.S.C.  
21 14071, 14072) are repealed.

22 **SEC. 512. CONFORMING AMENDMENTS TO TITLE 18, UNITED**  
23 **STATES CODE.**

24 Title 18 of the United States Code is amended—

1           (1) in sections 3563(a)(8) and 3583(d) by  
 2 striking “and that the person register in any State  
 3 where the person resides, is employed, carries on a  
 4 vocation, or is a student (as such terms are defined  
 5 under section 170101(a)(3) of the Violent Crime  
 6 Control and Law Enforcement Act of 1994)” and  
 7 inserting “and that the person comply with the Sex  
 8 Offender Registration and Notification Act”;

9           (2) in section 4042(c)(3) by striking “shall be  
 10 subject” and all that follows through “1994)” and  
 11 inserting “must comply with the Sex Offender Reg-  
 12 istration and Notification Act”; and

13           (3) in section 4209(a) by striking “register in  
 14 any State” and all that follows through “1994)” and  
 15 inserting “comply with the Sex Offender Registra-  
 16 tion and Notification Act.”.

17 **TITLE VI—COMPREHENSIVE EX-**  
 18 **AMINATION OF SEX OF-**  
 19 **FENDER ISSUES**

20 **SEC. 601. COMPREHENSIVE EXAMINATION OF SEX OF-**  
 21 **FENDER ISSUES.**

22           (a) DEFINITION.—In this section, the term “sexual  
 23 offender” means an offender 18 years of age or older who  
 24 commits a sexual offense against a minor.

1 (b) IN GENERAL.—The National Institute of Justice  
2 shall conduct a comprehensive study to examine the con-  
3 trol, prosecution, treatment, and monitoring of sex offend-  
4 ers, with a particular focus on—

5 (1) the effectiveness of State, tribal, and local  
6 responses to the requirements of this Act, including  
7 the effectiveness of particular jurisdictions as com-  
8 pared to others;

9 (2) compliance by sex offenders with the reg-  
10 istration requirements of this Act;

11 (3) how this Act has affected the number of re-  
12 ported sex crimes against children;

13 (4) how this Act has affected the number of  
14 prosecutions and convictions of sex crimes against  
15 children;

16 (5) the utility of the National Sex Offender  
17 Public Registry to the public;

18 (6) the costs to States, tribes, and local entities  
19 of compliance with this Act and the relative costs  
20 and benefits of approaches undertaken by different  
21 jurisdictions;

22 (7) the effectiveness of treatment programs in  
23 reducing recidivism among sex offenders;

24 (8) the potential benefits to Federal, State, and  
25 local law enforcement agencies of access to taxpayer

1 information pertaining to sexual offenders and the  
2 privacy implications to those individuals and others;  
3 and

4 (9) the potential benefits to Federal, State, and  
5 local law enforcement agencies of access to Social  
6 Security information pertaining to sexual offenders  
7 and the privacy implications to those individuals and  
8 others.

9 (c) RECOMMENDATIONS.—The study described in  
10 subsection (b) shall include recommendations for reducing  
11 the number of sex crimes against children and increasing  
12 the rates of compliance with registration requirements.

13 (d) REPORTS.—

14 (1) IN GENERAL.—Not later than 5 years after  
15 the date of enactment of this Act, the National In-  
16 stitute of Justice shall report the results of the  
17 study conducted under subsection (b) together with  
18 findings to Congress, through the Internet to the  
19 public, to each of the 50 governors, to the Mayor of  
20 the District of Columbia, to territory heads, and to  
21 the top official of the various Indian Tribes.

22 (2) INTERIM REPORTS.—The National Institute  
23 of Justice shall submit yearly interim reports.

- 1 (e) APPROPRIATIONS.—There are authorized to be
- 2 appropriated \$3,000,000 to carry out this section.

Passed the Senate May 4, 2006.

Attest:

*Secretary.*

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 1086**

---

---

**AN ACT**

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.