Public Law 105–314
105th Congress

An Act

Oct. 30, 1998
[H.R. 3494]

To amend title 18, United States Code, to protect children from sexual abuse and exploitation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Protection of Children From Sexual Predators Act of 1998.
18 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Protection of Children From Sexual Predators Act of 1998".

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

Sec. 1. Short title; table of contents.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

Sec. 101. Use of interstate facilities to transmit identifying information about a minor for criminal sexual purposes.
Sec. 102. Coercion and enticement.
Sec. 103. Increased penalties for transportation of minors or assumed minors for illegal sexual activity and related crimes.
Sec. 104. Repeat offenders in transportation offense.
Sec. 105. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.
Sec. 106. Transportation generally.

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

Sec. 201. Additional jurisdictional base for prosecution of production of child pornography.
Sec. 202. Increased penalties for child pornography offenses.
Sec. 203. "Zero tolerance" for possession of child pornography.

TITLE III—SEXUAL ABUSE PREVENTION

Sec. 301. Elimination of redundancy and ambiguities.
Sec. 302. Increased penalties for abusive sexual contact.
Sec. 303. Repeat offenders in sexual abuse cases.

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

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Sec. 501. Death or life in prison for certain offenses whose victims are children.
Sec. 502. Sentencing enhancement for chapter 117 offenses.
Sec. 503. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.
Sec. 504. Increased penalties for knowing misrepresentation in the sexual abuse or exploitation of a child.
Sec. 505. Increased penalties for pattern of activity of sexual exploitation of children.
Sec. 506. Clarification of definition of distribution of pornography.
Sec. 507. Directive to the United States Sentencing Commission.

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TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

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Sec. 602. Criminal forfeiture for offenses against minors.
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Sec. 604. Reporting of child pornography by electronic communication service providers.
Sec. 605. Civil remedy for personal injuries resulting from certain sex crimes against children.
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TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

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Sec. 901. Study on limiting the availability of pornography on the Internet.
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TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

SEC. 101. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Use of interstate facilities to transmit information about a minor

"Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Use of interstate facilities to transmit information about a minor.".

SEC. 102. COERCION AND ENTICEMENT.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or attempts to do so," before "shall be fined"; and

(B) by striking "five" and inserting "10"; and

(2) by striking subsection (b) and inserting the following:

"(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.".

SEC. 103. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both."; and

(2) in subsection (b), by striking "10 years" and inserting "15 years".

SEC. 104. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2426. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter.

"(b) DEFINITIONS.—In this section—

"(1) the term 'prior sex offense conviction' means a conviction for an offense—

"(A) under this chapter, chapter 109A, or chapter 110; or

"(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

"(2) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2426. Repeat offenders.".

SEC. 105. INCLUSION OF OFFENSES RELATING TO CHILD PORNOGRAPHY IN DEFINITION OF SEXUAL ACTIVITY FOR WHICH ANY PERSON CAN BE CHARGED WITH A CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

"In this chapter, the term 'sexual activity for which any person can be charged with a criminal offense' includes the production of child pornography, as defined in section 2256(8).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.".

SEC. 106. TRANSPORTATION GENERALLY.

Section 2421 of title 18, United States Code, is amended—

(1) by inserting "or attempts to do so," before "shall be fined"; and

(2) by striking "five years" and inserting "10 years".

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

SEC. 201. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.

(a) USE OF A CHILD.—Section 2251(a) of title 18, United States Code, is amended by inserting "if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(b) ALLOWING USE OF A CHILD.—Section 2251(b) of title 18, United States Code, is amended by inserting ", if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(c) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking "or chapter 109A" each place it appears and inserting ", chapter 109A, or chapter 117".

SEC. 202. INCREASED PENALTIES FOR CHILD PORNOGRAPHY OFFENSES.

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

(b) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

SEC. 203. "ZERO TOLERANCE" FOR POSSESSION OF CHILD PORNOGRAPHY.

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

(1) in subsection (a)(4), by striking "3 or more" each place that term appears and inserting "1 or more"; and

(2) by adding at the end the following:

"(c) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

"(1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

"(A) took reasonable steps to destroy each such visual depiction; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.".

(b) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)(5), by striking "3 or more images" each place that term appears and inserting "an image"; and

(2) by adding at the end the following:

"(d) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

"(1) possessed less than three images of child pornography; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

"(A) took reasonable steps to destroy each such image; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.".

TITLE III—SEXUAL ABUSE PREVENTION

SEC. 301. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(b) REDUNDANCY.—Section 2243(a) of title 18, United States Code, is amended by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(c) STATE DEFINED.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.".

SEC. 302. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

"(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.".

SEC. 303. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) PRIOR SEX OFFENSE CONVICTION DEFINED.—In this section, the term 'prior sex offense conviction' has the meaning given that term in section 2426(b).".

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

SEC. 401. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1470. Transfer of obscene material to minors

"Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"1470. Transfer of obscene material to minors.".

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

28 USC 994 note.

SEC. 501. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) DEATH OR IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

"(A) the victim of the offense has not attained the age of 14 years;

"(B) the victim dies as a result of the offense; and

"(C) the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

"(2) EXCEPTION.—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.".

28 USC 944 note.

SEC. 502. SENTENCING ENHANCEMENT FOR CHAPTER 117 OFFENSES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines to provide a sentencing enhancement for offenses under chapter 117 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other Federal Sentencing Guidelines.

28 USC 944 note.

SEC. 503. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and

(D) coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 504. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD. 28 USC 944 note.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 505. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN. 28 USC 944 note.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

28 USC 944 note.

SEC. 506. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

28 USC 944 note.

SEC. 507. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this title, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this title, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the Federal Sentencing Guidelines for substantially the same offense.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

SEC. 601. PRETRIAL DETENTION OF SEXUAL PREDATORS.

Section 3156(a)(4) of title 18, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) any felony under chapter 109A, 110, or 117; and".

SEC. 602. CRIMINAL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2253 of title 18, United States Code, is amended by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,".

SEC. 603. CIVIL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2254(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,"; and

(2) in paragraph (3), by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,".

SEC. 604. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) IN GENERAL.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended by inserting after section 226 the following:

"SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS. 42 USC 13032.

"(a) DEFINITIONS.—In this section—

"(1) the term 'electronic communication service' has the meaning given the term in section 2510 of title 18, United States Code; and

"(2) the term 'remote computing service' has the meaning given the term in section 2711 of title 18, United States Code.

"(b) REQUIREMENTS.—

"(1) DUTY TO REPORT.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.

"(2) DESIGNATION OF AGENCIES.—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).

"(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

"(A) in the case of an initial failure to make a report, not more than $50,000; and

"(B) in the case of any second or subsequent failure to make a report, not more than $100,000.

"(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

"(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

"(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

"(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

"(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information

contained in that report, except that disclosure of such information may be made—

"(A) to an attorney for the government for use in the performance of the official duties of the attorney;

"(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

"(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

"(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

"(2) DEFINITIONS.—In this subsection, the terms 'attorney for the government' and 'State' have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.".

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

"(6) to a law enforcement agency—

"(A) if the contents—

"(i) were inadvertently obtained by the service provider; and

"(ii) appear to pertain to the commission of a crime; or

"(B) if required by section 227 of the Crime Control Act of 1990.".

SEC. 605. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255(a) of title 18, United States Code, is amended by striking "2251 or 2252" and inserting "2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423".

SEC. 606. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended—

(1) in section 3486, by striking the section designation and heading and inserting the following:

"§ 3486. Administrative subpoenas in Federal health care investigations"; and

(2) by adding at the end the following:

"§ 3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—In any investigation relating to any act or activity involving a violation of section 1201, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title in which the victim is an individual who has not attained the age of 18 years, the Attorney General, or

the designee of the Attorney General, may issue in writing and cause to be served a subpoena—

"(A) requiring a provider of electronic communication service or remote computing service to disclose the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, which may be relevant to an authorized law enforcement inquiry; or

"(B) requiring a custodian of records to give testimony concerning the production and authentication of such records or information.

"(2) ATTENDANCE OF WITNESSES.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees.

"(b) PROCEDURES APPLICABLE.—The same procedures for service and enforcement as are provided with respect to investigative demands in section 3486 apply with respect to a subpoena issued under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3486 and inserting the following:

"3486. Administrative subpoenas in Federal health care investigations.
"3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation.".

SEC. 607. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH SEXUALLY VIOLENT OFFENDER REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by redesignating the second subsection designated as subsection (g) as subsection (h); and

(2) by adding at the end the following:

"(i) GRANTS TO STATES FOR COSTS OF COMPLIANCE.—

"(1) PROGRAM AUTHORIZED.—

"(A) IN GENERAL.—The Director of the Bureau of Justice Assistance (in this subsection referred to as the 'Director') shall carry out a program, which shall be known as the 'Sex Offender Management Assistance Program' (in this subsection referred to as the 'SOMA program'), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

"(B) USES OF FUNDS.—Each grant awarded under this subsection shall be—

"(i) distributed directly to the State for distribution to State and local entities; and

"(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

"(2) ELIGIBILITY.—

"(A) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application

(in such form and containing such information as the Director may reasonably require) assuring that—

"(i) the State complies with (or made a good faith effort to comply with) this section; and

"(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

"(B) REGULATIONS.—

Deadline.

"(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

"(ii) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of this Act. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 1999 and 2000.".

Deadline.
42 USC 14071 note.

(b) STUDY.—Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the Sex Offender Management Assistance Program under section 170101(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

SEC. 701. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Investigation of serial killings

"(a) IN GENERAL.—The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.

"(b) DEFINITIONS.—In this section:

"(1) KILLING.—The term 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

"(2) SERIAL KILLINGS.—The term 'serial killings' means a series of three or more killings, not less than one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"540B. Investigation of serial killings.".

SEC. 702. KIDNAPPING.

(a) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a)(1) of title 18, United States Code, is amended by inserting ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began" before the semicolon.

(b) TECHNICAL AMENDMENT.—Section 1201(a)(5) of title 18, United States Code, is amended by striking "designated" and inserting "described".

(c) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.".

SEC. 703. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER. 28 USC 531 note.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish within the Federal Bureau of Investigation a Child Abduction and Serial Murder Investigative Resources Center to be known as the "Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center" (in this section referred to as the "CASMIRC"). Deadline.

(b) PURPOSE.—The CASMIRC shall be managed by the National Center for the Analysis of Violent Crime of the Critical Incident Response Group of the Federal Bureau of Investigation (in this section referred to as the "NCAVC"), and by multidisciplinary resource teams in Federal Bureau of Investigation field offices, in order to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearances of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General determines appropriate to carry out the purposes of the CASMIRC, including—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialities to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the NCAVC in coordination with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with Federal Bureau of Investigation personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearances of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except if appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the National Center For Missing and Exploited Children, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall submit to Congress a report, which shall include—

(1) a description of the goals and activities of the CASMIRC; and

(2) information regarding—

(A) the number and qualifications of the members appointed to the CASMIRC;

(B) the provision of equipment, administrative support, and office space for the CASMIRC; and

(C) the projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, and 2001.

(g) CONFORMING AMENDMENT.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

42 USC 5601 note, 5776a and note, 5777.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

18 USC 4042 note.

SEC. 801. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.

SEC. 802. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that State Governors, State legislators, and State prison administrators should prohibit unsupervised access to the Internet by State prisoners.

SEC. 803. SURVEY.

Deadline.

(a) SURVEY.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) REPORT.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) STATE DEFINED.—In this section, the term "State" means each of the 50 States and the District of Columbia.

TITLE IX—STUDIES

SEC. 901. STUDY ON LIMITING THE AVAILABILITY OF PORNOGRAPHY ON THE INTERNET.

18 USC 1470 note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

Deadline.

(b) CONTENTS OF STUDY.—The study under this section shall address each of the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(c) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

Deadline.

(1) set forth the findings, conclusions, and recommendations of the Council; and

(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.

SEC. 902. STUDY OF HOTLINES.

42 USC 14071 note.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

Deadline.

(b) CONTENTS OF STUDY.—The study under this section shall include an examination of—

(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and

(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification, and the need for, and accuracy and reliability of, the information available through such a hotline.

Approved October 30, 1998.

LEGISLATIVE HISTORY—H.R. 3494:

HOUSE REPORTS: No. 105–557 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 144 (1998):
June 11, considered and passed House.
Oct. 9, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendments.