

***In the House of Representatives, U. S.,***

*March 27, 2003.*

*Resolved*, That the bill from the Senate (S. 151) entitled “An Act to amend title 18, United States Code, with respect to the sexual exploitation of children”, do pass with the following

**AMENDMENTS:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Child Abduction Preven-*  
3 *tion Act”.*

4 ***TITLE I—SANCTIONS AND***  
5 ***OFFENSES***

6 ***SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFEND-***  
7 ***ERS.***

8 *Section 3583 of title 18, United States Code, is*  
9 *amended—*

10 *(1) in subsection (e)(3), by inserting “on any*  
11 *such revocation” after “required to serve”;*

12 *(2) in subsection (h), by striking “that is less*  
13 *than the maximum term of imprisonment authorized*  
14 *under subsection (e)(3)”;* and

1           (3) *by adding at the end the following:*

2           “(k) *Notwithstanding subsection (b), the authorized*  
 3 *term of supervised release for any offense under section 1201*  
 4 *involving a minor victim, and for any offense under section*  
 5 *1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A,*  
 6 *2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term*  
 7 *of years or life, and the sentence for any such offense that*  
 8 *is a felony shall include a term of supervised release of at*  
 9 *least 5 years.”.*

10   ***SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND***  
 11                           ***CHILD TORTURE MURDERS.***

12           *Section 1111 of title 18, United States Code, is*  
 13 *amended—*

14           (1) *in subsection (a)—*

15                   (A) *by inserting “child abuse,” after “sexual*  
 16 *abuse,”; and*

17                   (B) *by inserting “or perpetrated as part of*  
 18 *a pattern or practice of assault or torture*  
 19 *against a child or children;” after “robbery;”;*  
 20 *and*

21           (2) *by inserting at the end the following:*

22           “(c) *For purposes of this section—*

23                   (1) *the term ‘assault’ has the same meaning as*  
 24 *given that term in section 113;*

1           “(2) the term ‘child’ means a person who has not  
2           attained the age of 18 years and is—

3                   “(A) under the perpetrator’s care or control;

4           or

5                   “(B) at least six years younger than the  
6           perpetrator;

7           “(3) the term ‘child abuse’ means intentionally,  
8           knowingly, or recklessly causing death or serious bod-  
9           ily injury to a child;

10           “(4) the term ‘pattern or practice of assault or  
11           torture’ means assault or torture engaged in on at  
12           least two occasions;

13           “(5) the term ‘recklessly’ with respect to causing  
14           death or serious bodily injury—

15                   “(A) means causing death or serious bodily  
16           injury under circumstances in which the pepe-  
17           rator is aware of and disregards a grave risk of  
18           death or serious bodily injury; and

19                   “(B) such recklessness can be inferred from  
20           the character, manner, and circumstances of the  
21           perpetrator’s conduct;

22           “(6) the term ‘serious bodily injury’ has the  
23           meaning set forth in section 1365; and

1           “(7) the term ‘torture’ means conduct, whether or  
 2           not committed under the color of law, that otherwise  
 3           satisfies the definition set forth in section 2340(1).”.

4   **SEC. 103. SEXUAL ABUSE PENALTIES.**

5           (a) *MAXIMUM PENALTY INCREASES.*—(1) Chapter 110  
 6 of title 18, United States Code, is amended—

7           (A) in section 2251(d)—

8                 (i) by striking “20” and inserting “30”;

9                 and

10                (ii) by striking “30” the first place it ap-  
 11                pears and inserting “50”;

12           (B) in section 2252(b)(1)—

13                 (i) by striking “15” and inserting “20”;

14                 and

15                 (ii) by striking “30” and inserting “40”;

16           (C) in section 2252(b)(2)—

17                 (i) by striking “5” and inserting “10”; and

18                 (ii) by striking “10” and inserting “20”;

19           (D) in section 2252A(b)(1)—

20                 (i) by striking “15” and inserting “20”;

21                 and

22                 (ii) by striking “30” and inserting “40”;

23                 and

24           (E) in section 2252A(b)(2)—

25                 (i) by striking “5” and inserting “10”; and

1                   (ii) by striking “10” and inserting “20”.

2           (2) Chapter 117 of title 18, United States Code, is  
3 amended—

4                   (A) in section 2422(a), by striking “10” and in-  
5 sserting “20”;

6                   (B) in section 2422(b), by striking “15” and in-  
7 sserting “30”; and

8                   (C) in section 2423(a), by striking “15” and in-  
9 sserting “30”.

10          (3) Section 1591(b)(2) of title 18, United States Code,  
11 is amended by striking “20” and inserting “40”.

12          (b) *MINIMUM PENALTY INCREASES.*—(1) Chapter 110  
13 of title 18, United States Code, is amended—

14                   (A) in section 2251(d)—

15                           (i) by striking “or imprisoned not less than  
16 10” and inserting “and imprisoned not less than  
17 15”;

18                           (ii) by striking “and both,”;

19                           (iii) by striking “15” and inserting “25”;  
20 and

21                           (iv) by striking “30” the second place it ap-  
22 pears and inserting “35”;

23                   (B) in section 2251A(a) and (b), by striking  
24 “20” and inserting “30”;

25                   (C) in section 2252(b)(1)—

1           (i) by striking “or imprisoned” and insert-  
2           ing “and imprisoned not less than 10 years  
3           and”;

4           (ii) by striking “or both,”; and

5           (iii) by striking “5” and inserting “15”;

6           (D) in section 2252(b)(2)—

7           (i) by striking “or imprisoned” and insert-  
8           ing “and imprisoned not less than 5 years and”;

9           (ii) by striking “or both,”; and

10          (iii) by striking “2” and inserting “10”;

11          (E) in section 2252A(b)(1)—

12          (i) by striking “or imprisoned” and insert-  
13          ing “and imprisoned not less than 10 years  
14          and”;

15          (ii) by striking “or both,”; and

16          (iii) by striking “5” and inserting “15”;

17          and

18          (F) in section 2252A(b)(2)—

19          (i) by striking “or imprisoned” and insert-  
20          ing “and imprisoned not less than 5 years and”;

21          (ii) by striking “or both,”; and

22          (iii) by striking “2” and inserting “10”.

23          (2) Chapter 117 of title 18, United States Code, is  
24          amended—

25          (A) in section 2422(a)—

1           (i) by striking “or imprisoned” and insert-  
 2           ing “and imprisoned not less than 2 years and”;  
 3           and

4           (ii) by striking “, or both”;

5           (B) in section 2422(b)—

6           (i) by striking “, imprisoned” and inserting  
 7           “and imprisoned not less than 5 years and”; and

8           (ii) by striking “, or both”; and

9           (C) in section 2423(a)—

10          (i) by striking “, imprisoned” and inserting  
 11          “and imprisoned not less than 5 years and”; and

12          (ii) by striking “, or both”.

13   **SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.**

14          (a) *SENTENCING GUIDELINES.*—Notwithstanding any  
 15          other provision of law regarding the amendment of Sen-  
 16          tencing Guidelines, the United States Sentencing Commis-  
 17          sion is directed to amend the Sentencing Guidelines, to take  
 18          effect on the date that is 30 days after the date of the enact-  
 19          ment of this Act—

20               (1) so that the base level for kidnapping in sec-  
 21               tion 2A4.1(a) is increased from level 24 to level 32  
 22               (121–151 months);

23               (2) so as to delete section 2A4.1(b)(4)(C); and

24               (3) so that the increase provided by section  
 25               2A4.1(b)(5) is 6 levels instead of 3.

1       (b) *MINIMUM MANDATORY SENTENCE.*—Section  
 2 1201(g) of title 18, United States Code, is amended by strik-  
 3 ing “shall be subject to paragraph (2)” in paragraph (1)  
 4 and all that follows through paragraph (2) and inserting  
 5 “shall include imprisonment for not less than 20 years.”.

6 **SEC. 105. PENALTIES AGAINST SEX TOURISM.**

7       (a) *IN GENERAL.*—Section 2423 of title 18, United  
 8 States Code, is amended by striking subsection (b) and in-  
 9 serting the following:

10       “(b) *TRAVEL WITH INTENT TO ENGAGE IN ILLICIT*  
 11 *SEXUAL CONDUCT.*—A person who travels in interstate  
 12 commerce or travels into the United States, or a United  
 13 States citizen or an alien admitted for permanent residence  
 14 in the United States who travels in foreign commerce, for  
 15 the purpose of engaging in any illicit sexual conduct with  
 16 another person shall be fined under this title or imprisoned  
 17 not more than 30 years, or both.

18       “(c) *ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOR-*  
 19 *EIGN PLACES.*—Any United States citizen or alien admit-  
 20 ted for permanent residence who travels in foreign com-  
 21 merce, and engages in any illicit sexual conduct with an-  
 22 other person shall be fined under this title or imprisoned  
 23 not more than 30 years, or both.

24       “(d) *ANCILLARY OFFENSES.*—Whoever arranges, in-  
 25 duces, procures, or facilitates the travel of a person knowing



1 *that such a person is traveling in interstate commerce or*  
 2 *foreign commerce for the purpose of engaging in illicit sex-*  
 3 *ual conduct shall be fined under this title, imprisoned not*  
 4 *more than 30 years, or both.*

5       “(e) *ATTEMPT AND CONSPIRACY.*—Whoever attempts  
 6 or conspires to violate subsection (a), (b), (c), or (d) shall  
 7 be punishable in the same manner as a completed violation  
 8 of that subsection.

9       “(f) *DEFINITION.*—As used in this section, the term ‘il-  
 10 licit sexual conduct’ means (1) a sexual act (as defined in  
 11 section 2246) with a person that would be in violation of  
 12 chapter 109A if the sexual act occurred in the special mari-  
 13 time and territorial jurisdiction of the United States; or  
 14 (2) any commercial sex act (as defined in section 1591)  
 15 with a person who has not attained the age of 18 years.

16       “(g) *DEFENSE.*—In a prosecution under this section  
 17 based on illicit sexual conduct as defined in subsection  
 18 (f)(2), it is a defense, which the defendant must establish  
 19 by a preponderance of the evidence, that the defendant rea-  
 20 sonably believed that the person with whom the defendant  
 21 engaged in the commercial sex act had attained the age of  
 22 18 years.”.

23       “(b) *CONFORMING AMENDMENT.*—Section 2423(a) of  
 24 title 18, United States Code, is amended by striking “or  
 25 attempts to do so,”.

1 **SEC. 106. TWO STRIKES YOU'RE OUT.**

2 (a) *IN GENERAL.*—Section 3559 of title 18, United  
3 States Code, is amended by adding at the end the following  
4 new subsection:

5 “(e) *MANDATORY LIFE IMPRISONMENT FOR REPEATED*  
6 *SEX OFFENSES AGAINST CHILDREN.*—

7 “(1) *IN GENERAL.*—A person who is convicted of  
8 a Federal sex offense in which a minor is the victim  
9 shall be sentenced to life imprisonment if the person  
10 has a prior sex conviction in which a minor was the  
11 victim, unless the sentence of death is imposed.

12 “(2) *DEFINITIONS.*—For the purposes of this  
13 subsection—

14 “(A) the term ‘Federal sex offense’ means—

15 “(i) an offense under section 2241 (re-  
16 lating to aggravated sexual abuse), 2242  
17 (relating to sexual abuse), 2244(a)(1) or (2)  
18 (relating to abusive sexual contact), 2245  
19 (relating to sexual abuse resulting in death),  
20 2251 (relating to sexual exploitation of chil-  
21 dren), 2251A (relating to selling or buying  
22 of children), or 2422(b) (relating to coercion  
23 and enticement of a minor into prostitu-  
24 tion); or

25 “(ii) an offense under section 2423(a)  
26 (relating to transportation of minors) in-

1           *volving prostitution or sexual activity con-*  
2           *stituting a State sex offense;*

3           “(B) the term ‘State sex offense’ means an  
4           *offense under State law that consists of conduct*  
5           *that would be a Federal sex offense if, to the ex-*  
6           *tent or in the manner specified in the applicable*  
7           *provision of this title—*

8                     “(i) the offense involved interstate or  
9                     *foreign commerce, or the use of the mails; or*

10                    “(ii) the conduct occurred in any com-  
11                    *monwealth, territory, or possession of the*  
12                    *United States, within the special maritime*  
13                    *and territorial jurisdiction of the United*  
14                    *States, in a Federal prison, on any land or*  
15                    *building owned by, leased to, or otherwise*  
16                    *used by or under the control of the Govern-*  
17                    *ment of the United States, or in the Indian*  
18                    *country (as defined in section 1151);*

19                    “(C) the term ‘prior sex conviction’ means  
20                    *a conviction for which the sentence was imposed*  
21                    *before the conduct occurred constituting the sub-*  
22                    *sequent Federal sex offense, and which was for a*  
23                    *Federal sex offense or a State sex offense;*

24                    “(D) the term ‘minor’ means an individual  
25                    *who has not attained the age of 17 years; and*

1                   “(E) the term ‘State’ has the meaning given  
2                   that term in subsection (c)(2).”.

3           (b) *CONFORMING AMENDMENT.*—Sections 2247(a) and  
4 2426(a) of title 18, United States Code, are each amended  
5 by inserting “, unless section 3559(e) applies” before the  
6 final period.

7   **SEC. 107. ATTEMPT LIABILITY FOR INTERNATIONAL PAREN-**  
8                   **TAL KIDNAPPING.**

9           Section 1204 of title 18, United States Code, is  
10 amended—

11                   (1) in subsection (a), by inserting “, or attempts  
12 to do so,” before “or retains”; and

13                   (2) in subsection (c)—

14                           (A) in paragraph (1), by inserting “or the  
15 Uniform Child Custody Jurisdiction and En-  
16 forcement Act” before “and was”; and

17                           (B) in paragraph (2), by inserting “or”  
18 after the semicolon.

19   **SEC. 108. MISLEADING DOMAIN NAMES ON THE INTERNET.**

20           (a) *IN GENERAL.*—Chapter 110 of title 18, United  
21 States Code, is amended by inserting after section 2252A  
22 the following:

23   **“§ 2252B. Misleading domain names on the Internet**

24                   “(a) Whoever knowingly uses a misleading domain  
25 name with the intent to deceive a person into viewing ob-

1 *scenity on the Internet shall be fined under this title or im-*  
2 *prisoned not more than 2 years, or both.*

3       “(b) *Whoever knowingly uses a misleading domain*  
4 *name with the intent to deceive a minor into viewing mate-*  
5 *rial that is harmful to minors on the Internet shall be fined*  
6 *under this title or imprisoned not more than 4 years, or*  
7 *both.*

8       “(c) *For the purposes of this section, a domain name*  
9 *that includes a word or words to indicate the sexual content*  
10 *of the site, such as ‘sex’ or ‘porn’, is not misleading.*

11       “(d) *For the purposes of this section, the term ‘mate-*  
12 *rial that is harmful to minors’ means any communication*  
13 *that—*

14               “(1) *taken as a whole and with respect to mi-*  
15 *nors, appeals to a prurient interest in nudity, sex, or*  
16 *excretion;*

17               “(2) *depicts, describes, or represents, in a pat-*  
18 *ently offensive way with respect to what is suitable*  
19 *for minors, an actual or simulated sexual act or sex-*  
20 *ual contact, actual or simulated normal or perverted*  
21 *sexual acts, or a lewd exhibition of the genitals; and*

22               “(3) *taken as a whole, lacks serious literary, ar-*  
23 *tistic, political, or scientific value as to minors.”.*

24       (b) *CLERICAL AMENDMENT.—The table of sections at*  
25 *the beginning of chapter 110 of title 18, United States Code,*

1 *is amended by inserting after the time relating to section*  
 2 *2252A the following new item:*

*“2252B. False or misleading domain names on the Internet.”.*

3 ***SEC. 109. SENTENCING REFORM.***

4 *(a) REQUIREMENT TO SPECIFY IN THE GUIDELINES*  
 5 *THE GROUNDS UPON WHICH DOWNWARD DEPARTURES*  
 6 *MAY BE GRANTED.—Section 3553(b) of title 18, United*  
 7 *States Code, is amended to read as follows:*

8 *“(b) APPLICATION OF GUIDELINES IN IMPOSING A*  
 9 *SENTENCE.—The court shall impose a sentence of the kind,*  
 10 *and within the range, referred to in subsection (a)(4) unless*  
 11 *the court finds that—*

12 *“(1) there exists an aggravating circumstance of*  
 13 *a kind, or to a degree, not adequately taken into con-*  
 14 *sideration by the Sentencing Commission in formu-*  
 15 *lating the guidelines that should result in a sentence*  
 16 *different from that described; or*

17 *“(2) there exists a mitigating circumstance of a*  
 18 *kind, or to a degree, that—*

19 *“(A) has been affirmatively and specifically*  
 20 *identified as a permissible ground of downward*  
 21 *departure in the sentencing guidelines or policy*  
 22 *statements issued under section 994(a) of title*  
 23 *28, United States Code, taking account of any*  
 24 *amendments to such sentencing guidelines or pol-*  
 25 *icy statements by act of Congress;*

1           “(B) has not adequately been taken into  
2           consideration by the Sentencing Commission in  
3           formulating the guidelines; and

4           “(C) should result in a sentence different  
5           from that described.

6 *In determining whether a circumstance was adequately*  
7 *taken into consideration, the court shall consider only the*  
8 *sentencing guidelines, policy statements, and official com-*  
9 *mentary of the Sentencing Commission, together with any*  
10 *amendments thereto by act of Congress. In the absence of*  
11 *an applicable sentencing guideline, the court shall impose*  
12 *an appropriate sentence, having due regard for the purposes*  
13 *set forth in subsection (a)(2). In the absence of an applica-*  
14 *ble sentencing guideline in the case of an offense other than*  
15 *a petty offense, the court shall also have due regard for the*  
16 *relationship of the sentence imposed to sentences prescribed*  
17 *by guidelines applicable to similar offenses and offenders,*  
18 *and to the applicable policy statements of the Sentencing*  
19 *Commission, together with any amendments to such guide-*  
20 *lines or policy statements by act of Congress.”.*

21           **(b) REFORM OF EXISTING PERMISSIBLE GROUNDS OF**  
22 **DOWNWARD DEPARTURES.**—*Subject to subsection (j), the*  
23 *Guidelines Manual promulgated by the Sentencing Com-*  
24 *mission pursuant to section 994(a) of title 28, United States*  
25 *Code, is amended as follows:*

1           (1) *Section 5K2.0 is amended as follows:*

2                   (A) *Strike the first and second paragraphs*  
3 *of the Commentary to section 5K2.0 in their*  
4 *entireties.*

5                   (B) *Strike “departure” every place it ap-*  
6 *pears and insert “upward departure”.*

7                   (C) *Strike “depart” every place it appears*  
8 *and insert “depart upward”.*

9                   (D) *In the first sentence of section 5K2.0—*

10                           (i) *strike “outside” and insert “above”;*

11                           (ii) *strike “or mitigating”; and*

12                           (iii) *strike “Under” and insert:*

13                   “(a) *UPWARD DEPARTURES.—*

14 *Under”.*

15                   (E) *In the last sentence of the first para-*  
16 *graph of section 5K2.0, strike “or excessive”.*

17                   (F) *Immediately before the Commentary to*  
18 *section 5K2.0, insert the following:*

19                   “(b) *DOWNWARD DEPARTURES.—*

20 *“Under 18 U.S.C. § 3553(b)(2), the sentencing court may*

21 *impose a sentence below the range established by the appli-*

22 *cable guidelines only if the court finds that there exists a*

23 *mitigating circumstance of a kind, or to a degree, that—*

24                   “(1) *has been affirmatively and specifically identified*

25 *as a permissible ground of downward departure in*



1       *the sentencing guidelines or policy statements issued*  
2       *under section 994(a) of title 28, United States Code,*  
3       *taking account of any amendments to such sentencing*  
4       *guidelines or policy statements by act of Congress;*

5       *“(2) has not adequately been taken into consideration*  
6       *by the Sentencing Commission in formulating the*  
7       *guidelines; and*

8       *“(3) should result in a sentence different from that de-*  
9       *scribed.*

10       *The grounds enumerated in this Part K of chapter 5 are*  
11       *the sole grounds that have been affirmatively and specifi-*  
12       *cally identified as a permissible ground of downward de-*  
13       *parture in these sentencing guidelines and policy state-*  
14       *ments. Thus, notwithstanding any other reference to author-*  
15       *ity to depart downward elsewhere in this Sentencing Man-*  
16       *ual, a ground of downward departure has not been affirma-*  
17       *tively and specifically identified as a permissible ground*  
18       *of downward departure within the meaning of section*  
19       *3553(b)(2) unless it is expressly enumerated in this Part*  
20       *K as a ground upon which a downward departure may be*  
21       *granted.”.*

22                *(2) At the end of part K of chapter 5, add the*  
23        *following new sections:*

1 **“§ 5K2.22 Specific Offender Characteristics as**  
2 **Grounds for Downward Departure (Policy**  
3 **Statement)**

4 *“Age may be a reason to impose a sentence below the appli-*  
5 *cable guideline range only if and to the extent permitted*  
6 *by § 5H1.1.*

7 *“An extraordinary physical impairment may be a reason*  
8 *to impose a sentence below the applicable guideline range*  
9 *only if and to the extent permitted by § 5H1.4. Drug, alco-*  
10 *hol, or gambling dependence or abuse is not a reason for*  
11 *imposing a sentence below the guidelines.*

12 **“§ 5K2.23 Early Disposition Programs as a Ground for**  
13 **Downward Departure (Policy Statement)**

14 *“Upon motion of the government stating that:*

15 *“(1) due to extraordinary resource constraints, not*  
16 *typical of most districts, associated with the dis-*  
17 *proportionately high incidence of illegal reentry or*  
18 *other specific offenses within a particular district, the*  
19 *Attorney General has formally certified that the dis-*  
20 *trict is authorized to implement an early disposition*  
21 *program with respect to those specific categories of of-*  
22 *fenses;*

23 *“(2) pursuant to such specific authorization, the*  
24 *United States Attorney for the district has imple-*  
25 *mented such an early disposition program with re-*

1       *spect to the category of offense for which the defendant*  
2       *has been convicted;*

3       “(3) *pursuant to such an early disposition program,*  
4       *the defendant, within 30 days of his or her first ap-*  
5       *pearance before a judicial officer in connection with*  
6       *such a charge, entered into a plea agreement whereby*  
7       *he or she agrees, inter alia—*

8               “(A) *not to file any of the motions described in*  
9               *Federal Rule of Criminal Procedure 12(b)(3);*

10              “(B) *to waive appeal;*

11              “(C) *to waive the opportunity to pursue collat-*  
12              *eral relief under 28 U.S.C. §§ 2254 and 2555,*  
13              *including ineffective assistance of counsel claims;*  
14              *and*

15              “(D) *if an alien, to submit to uncontested re-*  
16              *moval from the United States upon completion of*  
17              *any sentence of imprisonment;*

18              “(4) *the plea agreement contemplates that the govern-*  
19              *ment will move for a downward departure based on*  
20              *the defendant’s prompt agreement to enter into such*  
21              *an early disposition plea agreement; and*

22              “(5) *the defendant has fully satisfied the conditions of*  
23              *such plea agreement,*

24       *then, if the court finds that these conditions have been met*  
25       *and also finds that the defendant has received the maximum*

1 *adjustment for which he is eligible (given his offense level)*  
2 *under § 3E1.1, the court may depart downward from the*  
3 *guidelines under this section only to the extent agreed to*  
4 *by the parties in the plea agreement, which in no event*  
5 *shall exceed 4 levels.*

6 *“Commentary*

7 *“Several districts, particularly on the southwest bor-*  
8 *der, have early disposition programs that allow them to*  
9 *process very large numbers of cases with relatively limited*  
10 *resources. Such programs are based on the premise that a*  
11 *defendant who promptly agrees to participate in such a*  
12 *program has saved the government significant and scarce*  
13 *resources that can be used in prosecuting other defendants*  
14 *and has demonstrated an acceptance of responsibility above*  
15 *and beyond what is already taken into account by the ad-*  
16 *justments contained in § 3E1.1. This section preserves the*  
17 *authority to grant limited departures pursuant to such pro-*  
18 *grams. In order to avoid unwarranted sentencing dispari-*  
19 *ties within a given district, any departure under this sec-*  
20 *tion must be pursuant to a formal program that is ap-*  
21 *proved by the United States Attorney and that applies gen-*  
22 *erally to a specified class of offenders. Authorization for the*  
23 *district to establish an early disposition program must also*  
24 *have been specifically conferred by the Attorney General,*  
25 *and may be granted only with respect to those particular*

1 *classes of offenses (such as illegal reentry) whose high inci-*  
2 *dence within the district has imposed an extraordinary*  
3 *strain on the resources of that district as compared to other*  
4 *districts. To be eligible for the departure, the plea agreement*  
5 *under the program must reflect that the defendant has*  
6 *agreed to an expeditious plea, as described. A defendant who*  
7 *has not received any adjustment for acceptance of responsi-*  
8 *bility under § 3E1.1 cannot receive a departure under this*  
9 *provision. A defendant whose offense level makes him eligi-*  
10 *ble for the additional adjustment under § 3E1.1(b), but*  
11 *who fails to satisfy the requirements for such an adjustment,*  
12 *is likewise ineligible for a departure under this provision.*  
13 *This section does not confer authority to depart downward*  
14 *on an ad hoc basis in individual cases. Moreover, because*  
15 *the Government’s affirmative acquiescence is essential to the*  
16 *fair and efficient operation of an early disposition pro-*  
17 *gram, a departure under this section may only be granted*  
18 *upon a formal motion by the Government at the time of*  
19 *sentencing. Nothing in this section authorizes a sentence*  
20 *below a statutory mandatory minimum.”.*

21 (3) *Section 5K2.20 is deleted.*

22 (4) *Section 5H1.6 and section 5H1.11 are each*  
23 *amended by striking “ordinarily” every place it ap-*  
24 *pears.*

25 (5) *Section 5K2.13 is amended by—*

1           (A) striking “or” before “(3)”; and

2           (B) replacing “public” with “public; or (4)  
3           the defendant has been convicted of an offense  
4           under chapter 71, 109A, 110, or 117 of title 18,  
5           United States Code.”.

6           (c) *STATEMENT OF REASONS FOR IMPOSING A SEN-*  
7 *TENCE.*—Section 3553(c) of title 18, United States Code,  
8 *is amended—*

9           (1) by striking “described.” and inserting “de-  
10          scribed, which reasons must also be stated with speci-  
11          ficity in the written order of judgment and commit-  
12          ment, except to the extent that the court relies upon  
13          statements received in camera in accordance with  
14          Federal Rule of Criminal Procedure 32. In the event  
15          that the court relies upon statements received in cam-  
16          era in accordance with Federal Rule of Criminal Pro-  
17          cedure 32 the court shall state that such statements  
18          were so received and that it relied upon the content  
19          of such statements.”;

20          (2) by inserting “, together with the order of  
21          judgment and commitment,” after “the court’s state-  
22          ment of reasons”; and

23          (3) by inserting “and to the Sentencing Commis-  
24          sion,” after “to the Probation System”.

25          (d) *REVIEW OF A SENTENCE.*—

1           (1)    *REVIEW OF DEPARTURES.*—Section  
2    3742(e)(3) of title 18, United States Code, is amended  
3    to read as follows:

4           “(3) is outside the applicable guideline range,  
5    and

6           “(A) the district court failed to provide the  
7    written statement of reasons required by section  
8    3553(c);

9           “(B) the sentence departs from the applica-  
10   ble guideline range based on a factor that—

11           “(i) does not advance the objectives set  
12   forth in section 3553(a)(2); or

13           “(ii) is not authorized under section  
14   3553(b); or

15           “(iii) is not justified by the facts of the  
16   case; or

17           “(C) the sentence departs to an unreason-  
18   able degree from the applicable guidelines range,  
19   having regard for the factors to be considered in  
20   imposing a sentence, as set forth in section  
21   3553(a) of this title and the reasons for the im-  
22   position of the particular sentence, as stated by  
23   the district court pursuant to the provisions of  
24   section 3553(c); or”.

1           (2) *STANDARD OF REVIEW.*—*The last paragraph*  
2 *of section 3742(e) of title 18, United States Code, is*  
3 *amended by striking “shall give due deference to the*  
4 *district court’s application of the guidelines to the*  
5 *facts” and inserting “, except with respect to deter-*  
6 *minations under subsection (3)(A) or (3)(B), shall*  
7 *give due deference to the district court’s application*  
8 *of the guidelines to the facts. With respect to deter-*  
9 *minations under subsection (3)(A) or (3)(B), the*  
10 *court of appeals shall review de novo the district*  
11 *court’s application of the guidelines to the facts”.*

12           (3) *DECISION AND DISPOSITION.*—

13           (A) *The first paragraph of section 3742(f)*  
14 *of title 18, United States Code, is amended by*  
15 *striking “the sentence”;*

16           (B) *Section 3742(f)(1) of title 18, United*  
17 *States Code, is amended by inserting “the sen-*  
18 *tence” before “was imposed”;*

19           (C) *Section 3742(f)(2) of title 18, United*  
20 *States Code, is amended to read as follows:*

21           “(2) *the sentence is outside the applicable guide-*  
22 *line range and the district court failed to provide the*  
23 *required statement of reasons in the order of judgment*  
24 *and commitment, or the departure is based on an im-*  
25 *permissible factor, or is to an unreasonable degree, or*



1        *the sentence was imposed for an offense for which*  
2        *there is no applicable sentencing guideline and is*  
3        *plainly unreasonable, it shall state specific reasons for*  
4        *its conclusions and—*

5                *“(A) if it determines that the sentence is too*  
6                *high and the appeal has been filed under sub-*  
7                *section (a), it shall set aside the sentence and re-*  
8                *mand the case for further sentencing proceedings*  
9                *with such instructions as the court considers ap-*  
10               *propriate, subject to subsection (g);*

11               *“(B) if it determines that the sentence is too*  
12               *low and the appeal has been filed under sub-*  
13               *section (b), it shall set aside the sentence and re-*  
14               *mand the case for further sentencing proceedings*  
15               *with such instructions as the court considers ap-*  
16               *propriate, subject to subsection (g);”;* and

17               *(D) Section 3742(f)(3) of title 18, United*  
18               *States Code, is amended by inserting “the sen-*  
19               *tence” before “is not described”.*

20        *(e) IMPOSITION OF SENTENCE UPON REMAND.—Sec-*  
21        *tion 3742 of title 18, United States Code, is amended by*  
22        *redesignating subsections (g) and (h) as subsections (h) and*  
23        *(i) and by inserting the following after subsection (f):*

24               *“(g) SENTENCING UPON REMAND.—A district court to*  
25        *which a case is remanded pursuant to subsection (f)(1) or*

1 *(f)(2) shall resentence a defendant in accordance with sec-*  
2 *tion 3553 and with such instructions as may have been*  
3 *given by the court of appeals, except that—*

4           “(1) *In determining the range referred to in sub-*  
5 *section 3553(a)(4), the court shall apply the guide-*  
6 *lines issued by the Sentencing Commission pursuant*  
7 *to section 994(a)(1) of title 28, United States Code,*  
8 *and that were in effect on the date of the previous*  
9 *sentencing of the defendant prior to the appeal, to-*  
10 *gether with any amendments thereto by any act of*  
11 *Congress that was in effect on such date; and*

12           “(2) *The court shall not impose a sentence out-*  
13 *side the applicable guidelines range except upon a*  
14 *ground that—*

15                   “(A) *was specifically and affirmatively in-*  
16 *cluded in the written statement of reasons re-*  
17 *quired by section 3553(c) in connection with the*  
18 *previous sentencing of the defendant prior to the*  
19 *appeal; and*

20                   “(B) *was held by the court of appeals, in re-*  
21 *manding the case, to be a permissible ground of*  
22 *departure.”.*

23           *(f) DEFINITIONS.—Section 3742 of title 18, United*  
24 *States Code, as amended by subsection (e), is further*  
25 *amended by adding at the end the following:*

1       “(j) *DEFINITIONS.*—*For purposes of this section—*

2               “(1) *a factor is a ‘permissible’ ground of depart-*  
3 *ture if it—*

4                       “(A) *advances the objectives set forth in sec-*  
5 *tion 3553(a)(2); and*

6                       “(B) *is authorized under section 3553(b);*  
7 *and*

8                       “(C) *is justified by the facts of the case; and*

9               “(2) *a factor is an ‘impermissible’ ground of de-*  
10 *parture if it is not a permissible factor within the*  
11 *meaning of subsection (j)(1).”.*

12       “(g) *REFORM OF GUIDELINES GOVERNING ACCEPTANCE*  
13 *OF RESPONSIBILITY.*—*Subject to subsection (j), the Guide-*  
14 *lines Manual promulgated by the Sentencing Commission*  
15 *pursuant to section 994(a) of title 28, United States Code,*  
16 *is amended—*

17               (1) *in section 3E1.1(b)—*

18                       (A) *by inserting “upon motion of the gov-*  
19 *ernment stating that” immediately before “the*  
20 *defendant has assisted authorities”; and*

21                       (B) *by striking “taking one or more” and*  
22 *all that follows through and including “addi-*  
23 *tional level” and insert “timely notifying au-*  
24 *thorities of his intention to enter a plea of*  
25 *guilty, thereby permitting the government to*

1           *avoid preparing for trial and permitting the*  
2           *government and the court to allocate their re-*  
3           *sources efficiently, decrease the offense level by 1*  
4           *additional level”;*

5           *(2) in the Application Notes to the Commentary*  
6           *to section 3E1.1, by amending Application Note 6—*

7                   *(A) by striking “one or both of”; and*

8                   *(B) by adding the following new sentence at*  
9           *the end: “Because the Government is in the best*  
10          *position to determine whether the defendant has*  
11          *assisted authorities in a manner that avoids pre-*  
12          *paring for trial, an adjustment under subsection*  
13          *(b)(2) may only be granted upon a formal mo-*  
14          *tion by the Government at the time of sen-*  
15          *tencing.”; and*

16          *(3) in the Background to section 3E1.1, by strik-*  
17          *ing “one or more of”.*

18          *(h) IMPROVED DATA COLLECTION.—Section 994(w) of*  
19          *title 28, United States Code, is amended to read as follows:*

20                *“(w)(1)The Chief Judge of each district court shall en-*  
21          *sure that, within 30 days following entry of judgment in*  
22          *every criminal case, the sentencing court submits to the*  
23          *Commission a written report of the sentence, the offense for*  
24          *which it is imposed, the age, race, sex of the offender, and*

1 *information regarding factors made relevant by the guide-*  
2 *lines. The report shall also include—*

3           “(A) *the judgment and commitment order;*

4           “(B) *the statement of reasons for the sentence*  
5 *imposed (which shall include the reason for any de-*  
6 *parture from the otherwise applicable guideline*  
7 *range);*

8           “(C) *any plea agreement;*

9           “(D) *the indictment or other charging document;*

10          “(E) *the presentence report; and*

11          “(F) *any other information as the Commission*  
12 *finds appropriate.*

13           “(2) *The Commission shall, upon request, make*  
14 *available to the House and Senate Committees on the*  
15 *Judiciary, the written reports and all underlying*  
16 *records accompanying those reports described in this*  
17 *section, as well as other records received from courts.*

18           “(3) *The Commission shall submit to Congress at*  
19 *least annually an analysis of these documents, any*  
20 *recommendations for legislation that the Commission*  
21 *concludes is warranted by that analysis, and an ac-*  
22 *counting of those districts that the Commission be-*  
23 *lieves have not submitted the appropriate information*  
24 *and documents required by this section.”.*

1       (i) *SENTENCING GUIDELINES AMENDMENTS.—(1)*  
2 *Subject to subsection (j), the Guidelines Manual promul-*  
3 *gated by the Sentencing Commission pursuant to section*  
4 *994(a) of title 28, United States Code, is amended as fol-*  
5 *lows:*

6           (A) *Application Note 4(b)(i) to section 4B1.5 is*  
7 *amended to read as follows:*

8                   “(i) *IN GENERAL.—For purposes of*  
9 *subsection (b), the defendant engaged in a*  
10 *pattern of activity involving prohibited sex-*  
11 *ual conduct if on at least two separate occa-*  
12 *sions, the defendant engaged in prohibited*  
13 *sexual conduct with a minor.”.*

14           (B) *Section 2G2.4(b) is amended by adding at*  
15 *the end the following:*

16                   “(4) *If the offense involved material that por-*  
17 *trays sadistic or masochistic conduct or other depic-*  
18 *tions of violence, increase by 4 levels.*

19                   “(5) *If the offense involved—*

20                           “(A) *at least 10 images, but fewer than 150,*  
21 *increase by 2 levels;*

22                           “(B) *at least 150 images, but fewer than*  
23 *300, increase by 3 levels;*

24                           “(C) *at least 300 images, but fewer than*  
25 *600, increase by 4 levels; and*

1           “(D) 600 or more images, increase by 5 lev-  
2           els.”.

3           (C) Section 2G2.2(b) is amended by adding at  
4           the end the following:

5           “(6) If the offense involved—

6           “(A) at least 10 images, but fewer than 150,  
7           increase by 2 levels;

8           “(B) at least 150 images, but fewer than  
9           300, increase by 3 levels;

10           “(C) at least 300 images, but fewer than  
11           600, increase by 4 levels; and

12           “(D) 600 or more images, increase by 5 lev-  
13           els.”.

14           (2) The Sentencing Commission shall amend the Sen-  
15           tencing Guidelines to ensure that the Guidelines adequately  
16           reflect the seriousness of the offenses under sections 2243(b),  
17           2244(a)(4), and 2244(b) of title 18, United States Code.

18           (j) CONFORMING AMENDMENTS.—

19           (1) Upon enactment of this Act, the Sentencing  
20           Commission shall forthwith distribute to all courts of  
21           the United States and to the United States Probation  
22           System the amendments made by subsections (b), (g),  
23           and (i) of this section to the sentencing guidelines,  
24           policy statements, and official commentary of the  
25           Sentencing Commission. These amendments shall take

1 *effect upon the date of enactment of this Act, in ac-*  
2 *cordance with paragraph (5).*

3 *(2) On or before May 1, 2005, the Sentencing*  
4 *Commission shall not promulgate any amendment to*  
5 *the sentencing guidelines, policy statements, or offi-*  
6 *cial commentary of the Sentencing Commission that*  
7 *is inconsistent with any amendment made by sub-*  
8 *section (b) or that adds any new grounds of down-*  
9 *ward departure to Part K of chapter 5. At no time*  
10 *may the Commission promulgate any amendment*  
11 *that would alter or repeal section 5K2.23 of the Fed-*  
12 *eral Sentencing Guidelines Manual, as added by sub-*  
13 *section (b).*

14 *(3) With respect to cases covered by the amend-*  
15 *ments made by subsection (i) of this section, the Sen-*  
16 *tencing Commission may make further amendments*  
17 *to the sentencing guidelines, policy statements, or offi-*  
18 *cial commentary of the Sentencing Commission, ex-*  
19 *cept the Commission shall not promulgate any*  
20 *amendments that, with respect to such cases, would*  
21 *result in sentencing ranges that are lower than those*  
22 *that would have applied under such subsections.*

23 *(4) At no time may the Commission promulgate*  
24 *any amendment that would alter or repeal the*  
25 *amendments made by subsection (g) of this section.*



1           (5) *Section 3553(a) of title 18, United States*  
2 *Code, is amended—*

3           (A) *by amending paragraph (4)(A) to read*  
4 *as follows:*

5           “(A) *the applicable category of offense com-*  
6 *mitted by the applicable category of defendant as*  
7 *set forth in the guidelines—*

8           “(i) *issued by the Sentencing Commis-*  
9 *sion pursuant to section 994(a)(1) of title*  
10 *28, United States Code, subject to any*  
11 *amendments made to such guidelines by act*  
12 *of Congress (regardless of whether such*  
13 *amendments have yet to be incorporated by*  
14 *the Sentencing Commission into amend-*  
15 *ments issued under section 994(p) of title*  
16 *28); and*

17           “(ii) *that, except as provided in section*  
18 *3742(g), are in effect on the date the defend-*  
19 *ant is sentenced; or”;*

20           (B) *in paragraph (4)(B), by inserting “,*  
21 *taking into account any amendments made to*  
22 *such guidelines or policy statements by act of*  
23 *Congress (regardless of whether such amendments*  
24 *have yet to be incorporated by the Sentencing*

1           *Commission into amendments issued under sec-*  
2           *tion 994(p) of title 28)” after “Code”;*

3           (C) *by amending paragraph (5) to read as*  
4           *follows:*

5           “(5) *any pertinent policy statement—*

6           (A) *issued by the Sentencing Commission*  
7           *pursuant to section 994(a)(1) of title 28, United*  
8           *States Code, subject to any amendments made to*  
9           *such policy statement by act of Congress (regard-*  
10           *less of whether such amendments have yet to be*  
11           *incorporated by the Sentencing Commission into*  
12           *amendments issued under section 994(p) of title*  
13           *28); and*

14           (B) *that, except as provided in section*  
15           *3742(g), is in effect on the date the defendant is*  
16           *sentenced.”.*

17           (k) *COMPLIANCE WITH STATUTE.—Section 994(a) of*  
18           *title 28, United States Code, is amended by striking “con-*  
19           *sistent with all provisions of this title and title 18, United*  
20           *States Code,” and inserting “consistent with all pertinent*  
21           *provisions of any Federal statute”.*

22           (l) *REPORT BY THE ATTORNEY GENERAL.—*

23           (1) *Not later than 15 days after a district court’s*  
24           *grant of a downward departure in any case, other*  
25           *than a case involving a downward departure for sub-*

1        *stantial assistance to authorities pursuant to section*  
2        *5K1.1 of the Sentencing Guidelines, the Attorney Gen-*  
3        *eral shall report to the House and Senate Committees*  
4        *on the Judiciary, setting forth the case, the facts in-*  
5        *volved, the identity of the district court judge, the dis-*  
6        *trict court's stated reasons, whether or not the court*  
7        *provided the United States with advance notice of its*  
8        *intention to depart, the position of the parties with*  
9        *respect to the downward departure, whether or not the*  
10       *United States has filed, or intends to file, a motion*  
11       *for reconsideration; whether or not the defendant has*  
12       *filed a notice of appeal concerning any aspect of the*  
13       *case, and whether or not the United States has filed,*  
14       *or intends to file, a notice of appeal of the departure*  
15       *pursuant to section 3742 of the title 18, United States*  
16       *Code.*

17                *(2) In any such case, the Attorney General shall*  
18        *thereafter report to the House and Senate Committees*  
19        *on the Judiciary not later than 5 days after a deci-*  
20        *sion by the Solicitor General whether or not to au-*  
21        *thorize an appeal of the departure, informing the*  
22        *committees of the decision and the basis for it.*

1 **TITLE II—INVESTIGATIONS AND**  
 2 **PROSECUTIONS**  
 3 **Subtitle A—Law Enforcement Tools**  
 4 **To Protect Children**

5 **SEC. 201. INTERCEPTIONS OF COMMUNICATIONS IN INVES-**  
 6 **TIGATIONS OF SEX OFFENSES.**

7 (a) *IN GENERAL.*—Section 2516(1) of title 18, United  
 8 States Code, is amended—

9 (1) in paragraph (a), by inserting after “chapter  
 10 37 (relating to espionage),” the following: “chapter 55  
 11 (relating to kidnapping),”; and

12 (2) in paragraph (c)—

13 (A) by inserting “1591 (sex trafficking),”  
 14 before “section 1751”;

15 (B) by striking “2251 and 2252 (sexual ex-  
 16 ploitation of children)” and inserting “2251,  
 17 2251A, 2252, 2252A, and 2260 (sexual exploi-  
 18 tation of children)”; and

19 (C) by inserting “sections 2421, 2422, 2423,  
 20 and 2425 (transportation for illegal sexual activ-  
 21 ity and related crimes),” before “section 1029”.

22 (b) *TRANSPORTATION FOR ILLEGAL SEXUAL ACTIV-*  
 23 *ITY.*—Section 2516(1) of title 18, United States Code, is  
 24 amended—

25 (1) by striking “or” at the end of paragraph (g);

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

3           “(r) a violation of section 2422 (relating to coer-  
4           cion and enticement) and section 2423(a) (relating to  
5           transportation of minors) of this title, if, in connec-  
6           tion with that violation, the intended sexual activity  
7           would constitute a felony violation of chapter 109A or  
8           110, including a felony violation of chapter 109A or  
9           110 if the sexual activity occurred, or was intended  
10          to occur, within the special maritime and territorial  
11          jurisdiction of the United States, regardless of where  
12          it actually occurred or was intended to occur; or”;  
13          and

14          (3) by redesignating paragraph (r) as paragraph  
15          (s).

16   **SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUC-**  
17                                   **TION AND SEX CRIMES.**

18          (a) *IN GENERAL.*—(1) Chapter 213 of title 18, United  
19          States Code, is amended by adding at the end the following  
20          new section:

21    **“§ 3297. Child abduction and sex offenses**

22          “Notwithstanding any other provision of law, an in-  
23          dictment may be found or an information instituted at any  
24          time without limitation for any offense under section 1201  
25          involving a minor victim, and for any felony under section

1 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A,  
 2 2252, 2252A, 2260, 2421, 2422, 2423, or 2425.”

3 (2) *The table of sections at the beginning of such chap-*  
 4 *ter is amended by adding at the end the following new item:*  
 “3297. *Child abduction and sex offenses.*”

5 (b) *APPLICATION.*—*The amendments made by this sec-*  
 6 *tion shall apply to the prosecution of any offense committed*  
 7 *before, on, or after the date of the enactment of this section.*

8 ***Subtitle B—No Pretrial Release for***  
 9 ***Those Who Rape or Kidnap Chil-***  
 10 ***dren***

11 ***SEC. 221. NO PRETRIAL RELEASE FOR THOSE WHO RAPE OR***  
 12 ***KIDNAP CHILDREN.***

13 *Section 3142(e) of title 18, United States Code, is*  
 14 *amended by striking “or 2332b” and inserting “1201, 1591,*  
 15 *2241, 2242, 2244(a)(1), 2242(a)(2), 2251, 2251A, 2252,*  
 16 *2252A, 2260, 2332b, 2421, 2422, 2423, or 2425”.*

17 ***SEC. 222. INFORMATION AND DOCUMENTATION REQUIRED***  
 18 ***BY ATTORNEY GENERAL UNDER VICTIMS OF***  
 19 ***CHILD ABUSE ACT OF 1990.***

20 (a) *REGIONAL CHILDREN’S ADVOCACY CENTERS.*—

21 (1) *IN GENERAL.*—*Section 213 of the Victims of*  
 22 *Child Abuse Act of 1990 (42 U.S.C. 13001b) is*  
 23 *amended—*

24 (A) *in subsection (b)(2)—*

1                   (i) by striking “and” at the end of sub-  
2                   paragraph (A);

3                   (ii) by striking the period at the end of  
4                   subparagraph (B) and inserting “; and”;  
5                   and

6                   (iii) by adding at the end the following  
7                   new subparagraph:

8                   “(C) provide such information and docu-  
9                   mentation as the Attorney General shall require  
10                  on an annual basis regarding the use of such  
11                  funds for purposes of evaluation of the effect of  
12                  grants on the community response to child  
13                  abuse.”; and

14                  (B) in subsection (d)(3)(A), by inserting  
15                  after “activities” the following: “or substantially  
16                  fails to provide information or documentation  
17                  required by the Attorney General”.

18                  (2) CLERICAL AMENDMENTS.—Such section is  
19                  further amended—

20                         (A) in subsection (c)(4)—

21                                 (i) by striking “and” at the end of sub-  
22                                 paragraph (B)(ii);

23                                 (ii) in subparagraph (B)(iii), by strik-  
24                                 ing “Board” and inserting “board”; and

1                   (iii) by redesignating subparagraphs  
2                   (C) and (D) as clauses (iv) and (v), respec-  
3                   tively, of subparagraph (B), and by realign-  
4                   ing such clauses so as to have the same in-  
5                   dentation as the preceding clauses of sub-  
6                   paragraph (B);

7                   (B) in subsection (e), by striking “Board”  
8                   in each of paragraphs (1)(B)(ii), (2)(A), and (3),  
9                   and inserting “board”.

10           (b) LOCAL CHILDREN’S ADVOCACY CENTERS.—Section  
11 214 of that Act (42 U.S.C. 13002) is amended in subsection  
12 (b)(2)(J) by inserting before the period at the end the fol-  
13 lowing: “, including such information and documentation  
14 as the Attorney General shall require on an annual basis  
15 regarding the use of such funds for purposes of evaluation  
16 of the effect of grants on the community response to child  
17 abuse.”.

18           (c) GRANTS FOR SPECIALIZED TECHNICAL ASSIST-  
19 ANCE AND TRAINING PROGRAMS.—Section 214A of such Act  
20 (42 U.S.C. 13003) is amended in subsection (c) by adding  
21 at the end the following new paragraph:

22                   “(3) Any recipient of a grant under this section  
23                   shall provide such information and documentation as  
24                   the Attorney General shall require on an annual basis  
25                   regarding the use of such funds for purposes of eval-



1       uation of the effect of grants on the community re-  
2       sponse to child abuse.”.

3       (d) *AUTHORIZATION OF APPROPRIATIONS.*—*The text*  
4 *of section 214B of such Act (42 U.S.C. 13004) is amended*  
5 *to read as follows:*

6       “(a) *SECTIONS 213 AND 214.*—*There are authorized*  
7 *to be appropriated to carry out sections 213 and 214,*  
8 *\$15,000,000 for each of fiscal years 2004 and 2005.*

9       “(b) *SECTION 214A.*—*There are authorized to be ap-*  
10 *propriated to carry out section 214A, \$5,000,000 for each*  
11 *of fiscal years 2004 and 2005.”.*

12       ***Subtitle C—No Waiting Period To***  
13       ***Report Missing Children***  
14       ***“Suzanne’s Law”***

15       ***SEC. 241. AMENDMENT.***

16       *Section 3701(a) of the Crime Control Act of 1990 (42*  
17 *U.S.C. 5779(a)) is amended by striking “age of 18” and*  
18 *inserting “age of 21”.*

19       ***TITLE III—PUBLIC OUTREACH***

20       ***SEC. 301. NATIONAL COORDINATION OF AMBER ALERT***  
21       ***COMMUNICATIONS NETWORK.***

22       (a) *COORDINATION WITHIN DEPARTMENT OF JUS-*  
23 *TICE.*—*The Attorney General shall assign an officer of the*  
24 *Department of Justice to act as the national coordinator*  
25 *of the AMBER Alert communications network regarding*

1 *abducted children. The officer so designated shall be known*  
2 *as the AMBER Alert Coordinator of the Department of Jus-*  
3 *tice.*

4 *(b) DUTIES.—In acting as the national coordinator of*  
5 *the AMBER Alert communications network, the Coordi-*  
6 *nator shall—*

7 *(1) seek to eliminate gaps in the network, includ-*  
8 *ing gaps in areas of interstate travel;*

9 *(2) work with States to encourage the develop-*  
10 *ment of additional elements (known as local AMBER*  
11 *plans) in the network;*

12 *(3) work with States to ensure appropriate re-*  
13 *gional coordination of various elements of the net-*  
14 *work; and*

15 *(4) act as the nationwide point of contact for—*

16 *(A) the development of the network; and*

17 *(B) regional coordination of alerts on ab-*  
18 *ducted children through the network.*

19 *(c) CONSULTATION WITH FEDERAL BUREAU OF IN-*  
20 *VESTIGATION.—In carrying out duties under subsection (b),*  
21 *the Coordinator shall notify and consult with the Director*  
22 *of the Federal Bureau of Investigation concerning each*  
23 *child abduction for which an alert is issued through the*  
24 *AMBER Alert communications network.*

1       (d) *COOPERATION.*—*The Coordinator shall cooperate*  
2 *with the Secretary of Transportation and the Federal Com-*  
3 *munications Commission in carrying out activities under*  
4 *this section.*

5       (e) *REPORT.*—*Not later than March 1, 2005, the Coor-*  
6 *dinator shall submit to Congress a report on the activities*  
7 *of the Coordinator and the effectiveness and status of the*  
8 *AMBER plans of each State that has implemented such a*  
9 *plan. The Coordinator shall prepare the report in consulta-*  
10 *tion with the Secretary of Transportation.*

11 ***SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DIS-***  
12 ***SEMINATION OF ALERTS THROUGH AMBER***  
13 ***ALERT COMMUNICATIONS NETWORK.***

14       (a) *ESTABLISHMENT OF MINIMUM STANDARDS.*—*Sub-*  
15 *ject to subsection (b), the AMBER Alert Coordinator of the*  
16 *Department of Justice shall establish minimum standards*  
17 *for—*

18               (1) *the issuance of alerts through the AMBER*  
19 *Alert communications network; and*

20               (2) *the extent of the dissemination of alerts*  
21 *issued through the network.*

22       (b) *LIMITATIONS.*—(1) *The minimum standards estab-*  
23 *lished under subsection (a) shall be adoptable on a vol-*  
24 *untary basis only.*

1       (2) *The minimum standards shall, to the maximum*  
2 *extent practicable (as determined by the Coordinator in*  
3 *consultation with State and local law enforcement agen-*  
4 *cies), provide that appropriate information relating to the*  
5 *special needs of an abducted child (including health care*  
6 *needs) are disseminated to the appropriate law enforcement,*  
7 *public health, and other public officials.*

8       (3) *The minimum standards shall, to the maximum*  
9 *extent practicable (as determined by the Coordinator in*  
10 *consultation with State and local law enforcement agen-*  
11 *cies), provide that the dissemination of an alert through the*  
12 *AMBER Alert communications network be limited to the*  
13 *geographic areas most likely to facilitate the recovery of the*  
14 *abducted child concerned.*

15       (4) *In carrying out activities under subsection (a), the*  
16 *Coordinator may not interfere with the current system of*  
17 *voluntary coordination between local broadcasters and*  
18 *State and local law enforcement agencies for purposes of*  
19 *the AMBER Alert communications network.*

20       (c) *COOPERATION.—(1) The Coordinator shall cooper-*  
21 *ate with the Secretary of Transportation and the Federal*  
22 *Communications Commission in carrying out activities*  
23 *under this section.*

1       (2) *The Coordinator shall also cooperate with local*  
2 *broadcasters and State and local law enforcement agencies*  
3 *in establishing minimum standards under this section.*

4 ***SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COM-***  
5 ***MUNICATIONS SYSTEMS ALONG HIGHWAYS***  
6 ***FOR RECOVERY OF ABDUCTED CHILDREN.***

7       (a) *PROGRAM REQUIRED.*—*The Secretary of Trans-*  
8 *portation shall carry out a program to provide grants to*  
9 *States for the development or enhancement of notification*  
10 *or communications systems along highways for alerts and*  
11 *other information for the recovery of abducted children.*

12       (b) *DEVELOPMENT GRANTS.*—

13           (1) *IN GENERAL.*—*The Secretary may make a*  
14 *grant to a State under this subsection for the develop-*  
15 *ment of a State program for the use of changeable*  
16 *message signs or other motorist information systems*  
17 *to notify motorists about abductions of children. The*  
18 *State program shall provide for the planning, coordi-*  
19 *nation, and design of systems, protocols, and message*  
20 *sets that support the coordination and communica-*  
21 *tion necessary to notify motorists about abductions of*  
22 *children.*

23           (2) *ELIGIBLE ACTIVITIES.*—*A grant under this*  
24 *subsection may be used by a State for the following*  
25 *purposes:*

1           (A) *To develop general policies and proce-*  
2           *dures to guide the use of changeable message*  
3           *signs or other motorist information systems to*  
4           *notify motorists about abductions of children.*

5           (B) *To develop guidance or policies on the*  
6           *content and format of alert messages to be con-*  
7           *veyed on changeable message signs or other trav-*  
8           *eler information systems.*

9           (C) *To coordinate State, regional, and local*  
10          *plans for the use of changeable message signs or*  
11          *other transportation related issues.*

12          (D) *To plan secure and reliable commu-*  
13          *nications systems and protocols among public*  
14          *safety and transportation agencies or modify ex-*  
15          *isting communications systems to support the*  
16          *notification of motorists about abductions of chil-*  
17          *dren.*

18          (E) *To plan and design improved systems*  
19          *for communicating with motorists, including the*  
20          *capability for issuing wide area alerts to motor-*  
21          *ists.*

22          (F) *To plan systems and protocols to facili-*  
23          *tate the efficient issuance of child abduction noti-*  
24          *fication and other key information to motorists*  
25          *during off-hours.*

1           (G) *To provide training and guidance to*  
2           *transportation authorities to facilitate appro-*  
3           *priate use of changeable message signs and other*  
4           *traveler information systems for the notification*  
5           *of motorists about abductions of children.*

6           (c) *IMPLEMENTATION GRANTS.—*

7           (1) *IN GENERAL.—The Secretary may make a*  
8           *grant to a State under this subsection for the imple-*  
9           *mentation of a program for the use of changeable mes-*  
10          *sage signs or other motorist information systems to*  
11          *notify motorists about abductions of children. A State*  
12          *shall be eligible for a grant under this subsection if*  
13          *the Secretary determines that the State has developed*  
14          *a State program in accordance with subsection (b).*

15          (2) *ELIGIBLE ACTIVITIES.—A grant under this*  
16          *subsection may be used by a State to support the im-*  
17          *plementation of systems that use changeable message*  
18          *signs or other motorist information systems to notify*  
19          *motorists about abductions of children. Such support*  
20          *may include the purchase and installation of change-*  
21          *able message signs or other motorist information sys-*  
22          *tems to notify motorists about abductions of children.*

23          (d) *FEDERAL SHARE.—The Federal share of the cost*  
24          *of any activities funded by a grant under this section may*  
25          *not exceed 80 percent.*

1       (e) *DISTRIBUTION OF GRANT AMOUNTS.*—*The Sec-*  
2 *retary shall, to the maximum extent practicable, distribute*  
3 *grants under this section equally among the States that*  
4 *apply for a grant under this section within the time period*  
5 *prescribed by the Secretary.*

6       (f) *ADMINISTRATION.*—*The Secretary shall prescribe*  
7 *requirements, including application requirements, for the*  
8 *receipt of grants under this section.*

9       (g) *DEFINITION.*—*In this section, the term “State”*  
10 *means any of the 50 States, the District of Columbia, or*  
11 *Puerto Rico.*

12       (h) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
13 *authorized to be appropriated to the Secretary to carry out*  
14 *this section \$20,000,000 for fiscal year 2004. Such amounts*  
15 *shall remain available until expended.*

16       (i) *STUDY OF STATE PROGRAMS.*—

17               (1) *STUDY.*—*The Secretary shall conduct a study*  
18 *to examine State barriers to the adoption and imple-*  
19 *mentation of State programs for the use of commu-*  
20 *nications systems along highways for alerts and other*  
21 *information for the recovery of abducted children.*

22               (2) *REPORT.*—*Not later than 1 year after the*  
23 *date of enactment of this Act, the Secretary shall*  
24 *transmit to Congress a report on the results of the*



1        *study, together with any recommendations the Sec-*  
2        *retary determines appropriate.*

3        **SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER**  
4        **ALERT COMMUNICATIONS PLANS.**

5        *(a) PROGRAM REQUIRED.—The Attorney General shall*  
6        *carry out a program to provide grants to States for the*  
7        *development or enhancement of programs and activities for*  
8        *the support of AMBER Alert communications plans.*

9        *(b) ACTIVITIES.—Activities funded by grants under the*  
10       *program under subsection (a) may include—*

11            *(1) the development and implementation of edu-*  
12            *cation and training programs, and associated mate-*  
13            *rials, relating to AMBER Alert communications*  
14            *plans;*

15            *(2) the development and implementation of law*  
16            *enforcement programs, and associated equipment, re-*  
17            *lating to AMBER Alert communications plans;*

18            *(3) the development and implementation of new*  
19            *technologies to improve AMBER Alert communica-*  
20            *tions; and*

21            *(4) such other activities as the Attorney General*  
22            *considers appropriate for supporting the AMBER*  
23            *Alert communications program.*

1       (c) *FEDERAL SHARE.*—*The Federal share of the cost*  
2 *of any activities funded by a grant under the program*  
3 *under subsection (a) may not exceed 50 percent.*

4       (d) *DISTRIBUTION OF GRANT AMOUNTS ON GEO-*  
5 *GRAPHIC BASIS.*—*The Attorney General shall, to the max-*  
6 *imum extent practicable, ensure the distribution of grants*  
7 *under the program under subsection (a) on an equitable*  
8 *basis throughout the various regions of the United States.*

9       (e) *ADMINISTRATION.*—*The Attorney General shall*  
10 *prescribe requirements, including application requirements,*  
11 *for grants under the program under subsection (a).*

12       (f) *AUTHORIZATION OF APPROPRIATIONS.*—(1) *There*  
13 *is authorized to be appropriated for the Department of Jus-*  
14 *tice \$5,000,000 for fiscal year 2004 to carry out this section*  
15 *and, in addition, \$5,000,000 for fiscal year 2004 to carry*  
16 *out subsection (b)(3).*

17       (2) *Amounts appropriated pursuant to the authoriza-*  
18 *tion of appropriations in paragraph (1) shall remain avail-*  
19 *able until expended.*

20 ***SEC. 305. INCREASED SUPPORT.***

21       *Section 404(b)(2) of the Juvenile Justice and Delin-*  
22 *quency Prevention Act of 1974 (42 U.S.C. 5773(b)(2)) is*  
23 *amended by inserting “and \$20,000,000 for each of fiscal*  
24 *years 2004 and 2005” after “and 2003”.*

1 **SEC. 306. SEX OFFENDER APPREHENSION PROGRAM.**

2 *Section 1701(d) of part Q of title I of the Omnibus*  
3 *Crime Control and Safe Streets Act of 1968 (42 U.S.C.*  
4 *3796dd(d)) is amended—*

5 *(1) by redesignating paragraphs (10) and (11)*  
6 *as (11) and (12), respectively; and*

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

9 *“(10) assist a State in enforcing a law through-*  
10 *out the State which requires that a convicted sex of-*  
11 *fender register his or her address with a State or local*  
12 *law enforcement agency and be subject to criminal*  
13 *prosecution for failure to comply;”.*

14 **SEC. 307. FEASIBILITY STUDY FOR A SYSTEM OF**  
15 **BACKGROUND CHECKS FOR VOLUNTEERS.**

16 *(a) STUDY REQUIRED.—The Attorney General shall*  
17 *conduct a feasibility study within 120 days after the date*  
18 *of the enactment of this Act. The study shall examine, to*  
19 *the extent discernible, the following:*

20 *(1) The current state of fingerprint capture and*  
21 *processing at the State and local level, including the*  
22 *current available infrastructure, State system capac-*  
23 *ities, and the time for each State to process a civil*  
24 *or volunteer print from the time of capture to submis-*  
25 *sion to the Federal Bureau of Investigation (FBI).*

1           (2) *The intent of the States concerning partici-*  
2           *ipation in a nationwide system of criminal*  
3           *background checks to provide information to qualified*  
4           *entities.*

5           (3) *The number of volunteers, employees, and*  
6           *other individuals that would require a fingerprint*  
7           *based criminal background check.*

8           (4) *The impact on the FBI's Integrated Auto-*  
9           *mated Fingerprint Identification System (IAFIS) in*  
10          *terms of capacity and impact on other users of the*  
11          *system, including the effect on FBI work practices*  
12          *and staffing levels.*

13          (5) *The current fees charged by the FBI, States*  
14          *and local agencies, and private companies to process*  
15          *fingerprints.*

16          (6) *The existence of "model" or best practice pro-*  
17          *grams which could easily be expanded and duplicated*  
18          *in other States.*

19          (7) *The extent to which private companies are*  
20          *currently performing background checks and the pos-*  
21          *sibility of using private companies in the future to*  
22          *perform any of the background check process, includ-*  
23          *ing, but not limited to, the capture and transmission*  
24          *of fingerprints and fitness determinations.*

1           (8) *The cost of development and operation of the*  
2           *technology and the infrastructure necessary to estab-*  
3           *lish a nationwide fingerprint based and other crimi-*  
4           *nal background check system.*

5           (9) *Any other information deemed relevant by*  
6           *the Department of Justice.*

7           (b) *REPORT.—Based on the findings of the feasibility*  
8           *study, the Attorney General shall, not later than 120 days*  
9           *after the date of the enactment of this Act, submit to Con-*  
10           *gress a report, including recommendations, which may in-*  
11           *clude a proposal for grants to the States to develop or im-*  
12           *prove programs to collect fingerprints and perform*  
13           *background checks on individuals that seek to volunteer*  
14           *with organizations that work with children, the elderly, or*  
15           *the disabled.*

16           ***SEC. 308. FORENSIC AND INVESTIGATIVE SUPPORT OF***  
17   ***MISSING AND EXPLOITED CHILDREN.***

18           *Section 3056 of title 18, United States Code, is amend-*  
19           *ed by adding at the end the following:*

20           “(f) *Under the direction of the Secretary of the Treas-*  
21           *ury, officers and agents of the Secret Service are authorized,*  
22           *at the request of any State or local law enforcement agency,*  
23           *or at the request of the National Center for Missing and*  
24           *Exploited Children, to provide forensic and investigative*

1 *assistance in support of any investigation involving miss-*  
 2 *ing or exploited children.”.*

3 ***TITLE IV—MISSING CHILDREN***  
 4 ***PROCEDURES IN PUBLIC***  
 5 ***BUILDINGS***

6 ***SEC. 401. SHORT TITLE.***

7 *This title may be cited as the “Code Adam Act”.*

8 ***SEC. 402. DEFINITIONS.***

9 *In this title, the following definitions apply:*

10 (1) *CHILD.*—*The term “child” means an indi-*  
 11 *vidual who is 17 years of age or younger.*

12 (2) *CODE ADAM ALERT.*—*The term “Code Adam*  
 13 *alert” means a set of procedures used in public build-*  
 14 *ings to alert employees and other users of the building*  
 15 *that a child is missing.*

16 (3) *DESIGNATED AUTHORITY.*—*The term “des-*  
 17 *ignated authority” means—*

18 (A) *with respect to a public building owned*  
 19 *or leased for use by an Executive agency—*

20 (i) *except as otherwise provided in this*  
 21 *paragraph, the Administrator of General*  
 22 *Services;*

23 (ii) *in the case of the John F. Kennedy*  
 24 *Center for the Performing Arts, the Board*

1                   *of Trustees of the John F. Kennedy Center*  
2                   *for the Performing Arts;*

3                   *(iii) in the case of buildings under the*  
4                   *jurisdiction, custody, and control of the*  
5                   *Smithsonian Institution, the Board of Re-*  
6                   *gents of the Smithsonian Institution; or*

7                   *(iv) in the case of another public build-*  
8                   *ing for which an Executive agency has, by*  
9                   *specific or general statutory authority, ju-*  
10                  *risdiction, custody, and control over the*  
11                  *building, the head of that agency;*

12                  *(B) with respect to a public building owned*  
13                  *or leased for use by an establishment in the judi-*  
14                  *cial branch of government, the Administrative*  
15                  *Office of the United States Courts; and*

16                  *(C) with respect to a public building owned*  
17                  *or leased for use by an establishment in the legis-*  
18                  *lative branch of government, the Capitol Police*  
19                  *Board.*

20                  (4) *EXECUTIVE AGENCY.*—*The term “Executive*  
21                  *agency” has the same meaning such term has under*  
22                  *section 105 of title 5, United States Code.*

23                  (5) *FEDERAL AGENCY.*—*The term “Federal agen-*  
24                  *cy” means any Executive agency or any establish-*

1        *ment in the legislative or judicial branches of the*  
2        *Government.*

3                (6) *PUBLIC BUILDING.*—*The term “public build-*  
4        *ing” means any building (or portion thereof) owned*  
5        *or leased for use by a Federal agency.*

6        **SEC. 403. PROCEDURES IN PUBLIC BUILDINGS REGARDING**  
7                **A MISSING OR LOST CHILD.**

8                (a) *IN GENERAL.*—*Not later than 180 days after the*  
9        *date of enactment of this Act, the designated authority for*  
10        *a public building shall establish procedures for locating a*  
11        *child that is missing in the building.*

12                (b) *NOTIFICATION AND SEARCH PROCEDURES.*—*Pro-*  
13        *cedures established under this section shall provide, at a*  
14        *minimum, for the following:*

15                        (1) *Notifying security personnel that a child is*  
16        *missing.*

17                        (2) *Obtaining a detailed description of the child,*  
18        *including name, age, eye and hair color, height,*  
19        *weight, clothing, and shoes.*

20                        (3) *Issuing a Code Adam alert and providing a*  
21        *description of the child, using a fast and effective*  
22        *means of communication.*

23                        (4) *Establishing a central point of contact.*

24                        (5) *Monitoring all points of egress from the*  
25        *building while a Code Adam alert is in effect.*



1           (6) *Conducting a thorough search of the building.*

2           (7) *Contacting local law enforcement.*

3           (8) *Documenting the incident.*

4                           ***TITLE V—ADDITIONAL***  
5                           ***PROVISIONS***

6   ***SEC. 501. FINDINGS.***

7           *Congress finds the following:*

8                   (1) *Obscenity and child pornography are not en-*  
9                   *titled to protection under the First Amendment under*  
10                  *Miller v. California, 413 U.S. 15 (1973) (obscenity),*  
11                  *or New York v. Ferber, 458 U.S. 747 (1982) (child*  
12                  *pornography) and thus may be prohibited.*

13                  (2) *The Government has a compelling state in-*  
14                  *terest in protecting children from those who sexually*  
15                  *exploit them, including both child molesters and child*  
16                  *pornographers. “The prevention of sexual exploitation*  
17                  *and abuse of children constitutes a government objec-*  
18                  *tive of surpassing importance,” New York v. Ferber,*  
19                  *458 U.S. 747, 757 (1982), and this interest extends*  
20                  *to stamping out the vice of child pornography at all*  
21                  *levels in the distribution chain. Osborne v. Ohio, 495*  
22                  *U.S. 103, 110 (1990).*

23                  (3) *The Government thus has a compelling inter-*  
24                  *est in ensuring that the criminal prohibitions against*  
25                  *child pornography remain enforceable and effective.*

1       *“The most expeditious if not the only practical meth-*  
2       *od of law enforcement may be to dry up the market*  
3       *for this material by imposing severe criminal pen-*  
4       *alties on persons selling, advertising, or otherwise*  
5       *promoting the product.”* *Ferber, 458 U.S. at 760.*

6               *(4) In 1982, when the Supreme Court decided*  
7       *Ferber, the technology did not exist to:*

8                       *(A) computer generate depictions of children*  
9                       *that are indistinguishable from depictions of real*  
10                      *children;*

11                      *(B) use parts of images of real children to*  
12                      *create a composite image that is unidentifiable*  
13                      *as a particular child and in a way that prevents*  
14                      *even an expert from concluding that parts of im-*  
15                      *ages of real children were used; or*

16                      *(C) disguise pictures of real children being*  
17                      *abused by making the image look computer-gen-*  
18                      *erated.*

19               *(5) Evidence submitted to the Congress, includ-*  
20       *ing from the National Center for Missing and Ex-*  
21       *ploited Children, demonstrates that technology al-*  
22       *ready exists to disguise depictions of real children to*  
23       *make them unidentifiable and to make depictions of*  
24       *real children appear computer-generated. The tech-*

1        *nology will soon exist, if it does not already, to com-*  
2        *puter generate realistic images of children.*

3            *(6) The vast majority of child pornography pros-*  
4        *ecutions today involve images contained on computer*  
5        *hard drives, computer disks, and/or related media.*

6            *(7) There is no substantial evidence that any of*  
7        *the child pornography images being trafficked today*  
8        *were made other than by the abuse of real children.*  
9        *Nevertheless, technological advances since Ferber have*  
10       *led many criminal defendants to suggest that the im-*  
11       *ages of child pornography they possess are not those*  
12       *of real children, insisting that the government prove*  
13       *beyond a reasonable doubt that the images are not*  
14       *computer-generated. Such challenges increased signifi-*  
15       *cantly after the decision in Ashcroft v. Free Speech*  
16       *Coalition 535 U.S. 234 (2002).*

17            *(8) Child pornography circulating on the Inter-*  
18       *net has, by definition, been digitally uploaded or*  
19       *scanned into computers and has been transferred over*  
20       *the Internet, often in different file formats, from traf-*  
21       *ficker to trafficker. An image seized from a collector*  
22       *of child pornography is rarely a first-generation*  
23       *product, and the retransmission of images can alter*  
24       *the image so as to make it difficult for even an expert*  
25       *conclusively to opine that a particular image depicts*

1        *a real child. If the original image has been scanned*  
2        *from a paper version into a digital format, this task*  
3        *can be even harder since proper forensic assessment*  
4        *may depend on the quality of the image scanned and*  
5        *the tools used to scan it.*

6                *(9) The impact of the Free Speech Coalition de-*  
7        *cision on the Government's ability to prosecute child*  
8        *pornography offenders is already evident. The Ninth*  
9        *Circuit has seen a significant adverse effect on pros-*  
10        *ecutions since the 1999 Ninth Circuit Court of Ap-*  
11        *peals decision in Free Speech Coalition. After that de-*  
12        *cision, prosecutions generally have been brought in*  
13        *the Ninth Circuit only in the most clear-cut cases in*  
14        *which the government can specifically identify the*  
15        *child in the depiction or otherwise identify the origin*  
16        *of the image. This is a fraction of meritorious child*  
17        *pornography cases. The National Center for Missing*  
18        *and Exploited Children testified that, in light of the*  
19        *Supreme Court's affirmation of the Ninth Circuit de-*  
20        *cision, prosecutors in various parts of the country*  
21        *have expressed concern about the continued viability*  
22        *of previously indicted cases as well as declined poten-*  
23        *tially meritorious prosecutions.*

24                *(10) Since the Supreme Court's decision in Free*  
25        *Speech Coalition, defendants in child pornography*

1        *cases have almost universally raised the contention*  
2        *that the images in question could be virtual, thereby*  
3        *requiring the government, in nearly every child por-*  
4        *nography prosecution, to find proof that the child is*  
5        *real. Some of these defense efforts have already been*  
6        *successful. In addition, the number of prosecutions*  
7        *being brought has been significantly and adversely af-*  
8        *ected as the resources required to be dedicated to each*  
9        *child pornography case now are significantly higher*  
10       *than ever before.*

11            *(11) Leading experts agree that, to the extent*  
12        *that the technology exists to computer generate real-*  
13        *istic images of child pornography, the cost in terms*  
14        *of time, money, and expertise is—and for the foresee-*  
15        *able future will remain—prohibitively expensive. As a*  
16        *result, for the foreseeable future, it will be more cost-*  
17        *effective to produce child pornography using real chil-*  
18        *dren. It will not, however, be difficult or expensive to*  
19        *use readily available technology to disguise those de-*  
20        *pictions of real children to make them unidentifiable*  
21        *or to make them appear computer-generated.*

22            *(12) Child pornography results from the abuse of*  
23        *real children by sex offenders; the production of child*  
24        *pornography is a byproduct of, and not the primary*  
25        *reason for, the sexual abuse of children. There is no*

1 *evidence that the future development of easy and inex-*  
2 *pensive means of computer generating realistic im-*  
3 *ages of children would stop or even reduce the sexual*  
4 *abuse of real children or the practice of visually re-*  
5 *coding that abuse.*

6 *(13) In the absence of congressional action, the*  
7 *difficulties in enforcing the child pornography laws*  
8 *will continue to grow increasingly worse. The mere*  
9 *prospect that the technology exists to create composite*  
10 *or computer-generated depictions that are indistin-*  
11 *guishable from depictions of real children will allow*  
12 *defendants who possess images of real children to es-*  
13 *cape prosecution; for it threatens to create a reason-*  
14 *able doubt in every case of computer images even*  
15 *when a real child was abused. This threatens to*  
16 *render child pornography laws that protect real chil-*  
17 *dren unenforceable. Moreover, imposing an additional*  
18 *requirement that the Government prove beyond a rea-*  
19 *sonable doubt that the defendant knew that the image*  
20 *was in fact a real child—as some courts have done—*  
21 *threatens to result in the de facto legalization of the*  
22 *possession, receipt, and distribution of child pornog-*  
23 *raphy for all except the original producers of the ma-*  
24 *terial.*

1           (14) *To avoid this grave threat to the Govern-*  
2           *ment’s unquestioned compelling interest in effective*  
3           *enforcement of the child pornography laws that pro-*  
4           *tect real children, a statute must be adopted that pro-*  
5           *hibits a narrowly-defined subcategory of images.*

6           (15) *The Supreme Court’s 1982 Ferber v. New*  
7           *York decision holding that child pornography was not*  
8           *protected drove child pornography off the shelves of*  
9           *adult bookstores. Congressional action is necessary*  
10          *now to ensure that open and notorious trafficking in*  
11          *such materials does not reappear, and even increase,*  
12          *on the Internet.*

13   **SEC. 502. IMPROVEMENTS TO PROHIBITION ON VIRTUAL**  
14                                   **CHILD PORNOGRAPHY.**

15          (a) *Section 2256(8)(B) of title 18, United States Code,*  
16          *is amended to read as follows:*

17                                *“(B) such visual depiction is a digital*  
18                                *image, computer image, or computer-generated*  
19                                *image that is, or is indistinguishable (as defined*  
20                                *in section 1466A) from, that of a minor engag-*  
21                                *ing in sexually explicit conduct; or”.*

22          (b) *Section 2256(2) of title 18, United States Code, is*  
23          *amended to read as follows:*

1           “(2)(A) *Except as provided in subparagraph*  
2           *(B), ‘sexually explicit conduct’ means actual or*  
3           *simulated—*

4                   “(i) *sexual intercourse, including genital-*  
5                   *genital, oral-genital, anal-genital, or oral-anal,*  
6                   *whether between persons of the same or opposite*  
7                   *sex;*

8                   “(ii) *bestiality;*

9                   “(iii) *masturbation;*

10                   “(iv) *sadistic or masochistic abuse; or*

11                   “(v) *lascivious exhibition of the genitals or*  
12                   *pubic area of any person;*

13           “(B) *For purposes of subsection 8(B) of this sec-*  
14           *tion, ‘sexually explicit conduct’ means—*

15                   “(i) *graphic sexual intercourse, including*  
16                   *genital-genital, oral-genital, anal-genital, or*  
17                   *oral-anal, whether between persons of the same*  
18                   *or opposite sex, or lascivious simulated sexual*  
19                   *intercourse where the genitals, breast, or pubic*  
20                   *area of any person is exhibited;*

21                   “(ii) *graphic or lascivious simulated;*

22                   “(I) *bestiality;*

23                   “(II) *masturbation; or*

24                   “(III) *sadistic or masochistic abuse; or*



1                   “(iii) *graphic or simulated lascivious exhi-*  
2                   *bition of the genitals or pubic area of any per-*  
3                   *son;*”.

4           (c) *Section 2256 is amended—*

5                   (1) *in paragraph 8(D), by striking “and” at the*  
6                   *end;*

7                   (2) *in paragraph (9), by striking the period at*  
8                   *the end and inserting “; and”; and*

9                   (3) *by inserting at the end the following new*  
10                  *paragraph:*

11                   “(10) ‘*graphic*’, when used with respect to a de-  
12                   *scription of sexually explicit conduct, means that a*  
13                   *viewer can observe any part of the genitals or pubic*  
14                   *area of any depicted person or animal during any*  
15                   *part of the time that the sexually explicit conduct is*  
16                   *being depicted.*”.

17           (d) *Section 2252A(c) of title 18, United States Code,*  
18           *is amended to read as follows:*

19                   “(c)(1) *Except as provided in paragraph (2), it shall*  
20                   *be an affirmative defense to a charge of violating this sec-*  
21                   *tion that the production of the alleged child pornography*  
22                   *did not involve the use of a minor or an attempt or con-*  
23                   *spiracy to commit an offense under this section involving*  
24                   *such use.*

1       “(2) A violation of, or an attempt or conspiracy to  
 2 violate, this section which involves child pornography as de-  
 3 fined in section 2256(8)(A) or (C) shall be punishable with-  
 4 out regard to the affirmative defense set forth in paragraph  
 5 (1).”.

6       **SEC. 503. PROHIBITION ON PANDERING MATERIALS AS**  
 7                                   **CHILD PORNOGRAPHY.**

8       (a) Section 2256(8) of title 18, United States Code,  
 9 is amended—

10               (1) in subparagraph (C), by striking “or” at the  
 11 end and inserting “and”; and

12               (2) by striking subparagraph (D).

13       (b) Chapter 110 of title 18, United States Code, is  
 14 amended—

15               (1) by inserting after section 2252A the fol-  
 16 lowing:

17       **“§ 2252B. Pandering and solicitation**

18       “(a) Whoever, in a circumstance described in sub-  
 19 section (d), offers, agrees, attempts, or conspires to provide  
 20 or sell a visual depiction to another, and who in connection  
 21 therewith knowingly advertises, promotes, presents, or de-  
 22 scribes the visual depiction with the intent to cause any  
 23 person to believe that the material is, or contains, a visual  
 24 depiction of an actual minor engaging in sexually explicit  
 25 conduct shall be subject to the penalties set forth in section

1 2252A(b)(1), including the penalties provided for cases in-  
2 volving a prior conviction.

3       “(b) Whoever, in a circumstance described in sub-  
4 section (d), offers, agrees, attempts, or conspires to receive  
5 or purchase from another a visual depiction that he believes  
6 to be, or to contain, a visual depiction of an actual minor  
7 engaging in sexually explicit conduct shall be subject to the  
8 penalties set forth in section 2252A(b)(1), including the  
9 penalties provided for cases involving a prior conviction.

10       “(c) It is not a required element of any offense under  
11 this section that any person actually provide, sell, receive,  
12 purchase, possess, or produce any visual depiction.

13       “(d) The circumstance referred to in subsection (a) and  
14 (b) is that—

15               “(1) any communication involved in or made in  
16 furtherance of the offense is communicated or trans-  
17 ported by the mail, or in interstate or foreign com-  
18 merce by any means, including by computer, or any  
19 means or instrumentality of interstate or foreign com-  
20 merce is otherwise used in committing or in further-  
21 ance of the commission of the offense;

22               “(2) any communication involved in or made in  
23 furtherance of the offense contemplates the trans-  
24 mission or transportation of a visual depiction by the

1       *mail, or in interstate or foreign commerce by any*  
 2       *means, including by computer;*

3               “(3) *any person who travels or is transported in*  
 4       *interstate or foreign commerce in the course of the*  
 5       *commission or in furtherance of the commission of the*  
 6       *offense;*

7               “(4) *any visual depiction involved in the offense*  
 8       *has been mailed, or has been shipped or transported*  
 9       *in interstate or foreign commerce by any means, in-*  
 10       *cluding by computer, or was produced using mate-*  
 11       *rials that have been mailed, or that have been shipped*  
 12       *or transported in interstate or foreign commerce by*  
 13       *any means, including by computer; or*

14               “(5) *the offense is committed in the special mari-*  
 15       *time and territorial jurisdiction of the United States*  
 16       *or in any territory or possession of the United*  
 17       *States.”; and*

18               (2) *in the table of sections at the beginning of the*  
 19       *chapter, by inserting after the item relating to section*  
 20       *2252A the following:*

      “2252B. *Pandering and solicitation.*”.

21       **SEC. 504. PROHIBITION OF OBSCENITY DEPICTING YOUNG**  
 22                               **CHILDREN.**

23       (a) *Chapter 71 of title 18, United States Code, is*  
 24       *amended—*

25               (1) *by inserting after section 1466 the following:*

1 **“§ 1466A. Obscene visual depictions of young children**

2       “(a) Whoever, in a circumstance described in sub-  
3 section (d), knowingly produces, distributes, receives, or  
4 possesses with intent to distribute a visual depiction that  
5 is, or is indistinguishable from, that of a pre-pubescent  
6 child engaging in sexually explicit conduct, or attempts or  
7 conspires to do so, shall be subject to the penalties set forth  
8 in section 2252A(b)(1), including the penalties provided for  
9 cases involving a prior conviction.

10       “(b) Whoever, in a circumstance described in sub-  
11 section (d), knowingly possesses a visual depiction that is,  
12 or is indistinguishable from, that of a pre-pubescent child  
13 engaging in sexually explicit conduct, or attempts or con-  
14 spires to do so, shall be subject to the penalties set forth  
15 in section 2252A(b)(2), including the penalties provided for  
16 cases involving a prior conviction.

17       “(c) For purposes of this section—

18               “(1) the term ‘visual depiction’ includes undevel-  
19 oped film and videotape, and data stored on computer  
20 disk or by electronic means which is capable of con-  
21 version into a visual image, and also includes any  
22 photograph, film, video, picture, or computer or com-  
23 puter-generated image or picture, whether made or  
24 produced by electronic, mechanical, or other means;

25               “(2) the term ‘pre-pubescent child’ means that  
26 (A) the child, as depicted, is one whose physical devel-

1        *opment indicates the child is 12 years of age or*  
2        *younger; or (B) the child, as depicted, does not exhibit*  
3        *significant pubescent physical or sexual maturation.*  
4        *Factors that may be considered in determining sig-*  
5        *nificant pubescent physical maturation include body*  
6        *habitus and musculature, height and weight propor-*  
7        *tion, degree of hair distribution over the body, extrem-*  
8        *ity proportion with respect to the torso, and*  
9        *dentition. Factors that may be considered in deter-*  
10       *mining significant pubescent sexual maturation in-*  
11       *clude breast development, presence of axillary hair,*  
12       *pubic hair distribution, and visible growth of the sex-*  
13       *ual organs;*

14                *“(3) the term ‘sexually explicit conduct’ has the*  
15        *meaning set forth in section 2256(2); and*

16                *“(4) the term ‘indistinguishable’ used with re-*  
17        *spect to a depiction, means virtually indistinguish-*  
18        *able, in that the depiction is such that an ordinary*  
19        *person viewing the depiction would conclude that the*  
20        *depiction is of an actual minor engaged in sexually*  
21        *explicit conduct. This definition does not apply to de-*  
22        *pications that are drawings, cartoons, sculptures, or*  
23        *paintings depicting minors or adults.*

24                *“(d) The circumstance referred to in subsections (a)*  
25        *and (b) is that—*

1           “(1) any communication involved in or made in  
2           *furtherance of the offense is communicated or trans-*  
3           *ported by the mail, or in interstate or foreign com-*  
4           *merce by any means, including by computer, or any*  
5           *means or instrumentality of interstate or foreign com-*  
6           *merce is otherwise used in committing or in further-*  
7           *ance of the commission of the offense;*

8           “(2) any communication involved in or made in  
9           *furtherance of the offense contemplates the trans-*  
10          *mission or transportation of a visual depiction by the*  
11          *mail, or in interstate or foreign commerce by any*  
12          *means, including by computer;*

13          “(3) any person travels or is transported in  
14          *interstate or foreign commerce in the course of the*  
15          *commission or in furtherance of the commission of the*  
16          *offense;*

17          “(4) any visual depiction involved in the offense  
18          *has been mailed, or has been shipped or transported*  
19          *in interstate or foreign commerce by any means, in-*  
20          *cluding by computer, or was produced using mate-*  
21          *rials that have been mailed, or that have been shipped*  
22          *or transported in interstate or foreign commerce by*  
23          *any means, including by computer; or*

1           “(5) the offense is committed in the special mari-  
2           time and territorial jurisdiction of the United States  
3           or in any territory or possession of the United States.

4           “(e) In a case under subsection (b), it is an affirmative  
5 defense that the defendant—

6           “(1) possessed less than three such images; and

7           “(2) promptly and in good faith, and without re-  
8           taining or allowing any person, other than a law en-  
9           forcement agency, to access any image or copy  
10          thereof—

11           “(A) took reasonable steps to destroy each  
12          such image; or

13           “(B) reported the matter to a law enforce-  
14          ment agency and afforded that agency access to  
15          each such image.

16       **“§1466B. Obscene visual representations of sexual**  
17                               **abuse of minors**

18           “(a) Whoever, in a circumstance described in sub-  
19          section (e), knowingly produces, distributes, receives, or pos-  
20          sesses with intent to distribute a visual depiction of any  
21          kind, including a drawing, cartoon, sculpture, or painting,  
22          that—

23           “(1) depicts a minor engaging in sexually ex-  
24          plicit conduct; and

25           “(2) is obscene;



1 *or attempts or conspires to do so, shall be subject to the*  
2 *penalties set forth in section 2252A(b)(1), including the*  
3 *penalties provided for cases involving a prior conviction.*

4       “(b) *Whoever, in a circumstance described in sub-*  
5 *section (e), knowingly possesses a visual depiction of any*  
6 *kind, including a drawing, cartoon, sculpture, or painting,*  
7 *that—*

8               “(1) *depicts a minor child engaging in sexually*  
9 *explicit conduct, and*

10              “(2) *is obscene,*

11 *or attempts or conspires to do so, shall be subject to the*  
12 *penalties set forth in section 2252A(b)(2), including the*  
13 *penalties provided for cases involving a prior conviction.*

14       “(c) *It is not a required element of any offense under*  
15 *this section that the minor child depicted actually exist.*

16       “(d) *For purposes of this section, the terms ‘visual de-*  
17 *picture’ has the meaning given that term in section 1466A,*  
18 *and the terms ‘sexually explicit conduct’ and ‘minor’ have*  
19 *the meanings given those terms in section 2256(2)(B).*

20       “(e) *The circumstance referred to in subsection (a) and*  
21 *(b) is that—*

22              “(1) *any communication involved in or made in*  
23 *furtherance of the offense is communicated or trans-*  
24 *ported by the mail, or in interstate or foreign com-*  
25 *merce by any means, including by computer, or any*

1       *means or instrumentality of interstate or foreign com-*  
2       *merce is otherwise used in committing or in further-*  
3       *ance of the commission of the offense;*

4             “(2) *any communication involved in or made in*  
5       *furtherance of the offense contemplates the trans-*  
6       *mission or transportation of a visual depiction by the*  
7       *mail, or in interstate or foreign commerce by any*  
8       *means, including by computer;*

9             “(3) *any person travels or is transported in*  
10       *interstate or foreign commerce in the course of the*  
11       *commission or in furtherance of the commission of the*  
12       *offense;*

13            “(4) *any visual depiction involved in the offense*  
14       *has been mailed, or has been shipped or transported*  
15       *in interstate or foreign commerce by any means, in-*  
16       *cluding by computer, or was produced using mate-*  
17       *rials that have been mailed, or that have been shipped*  
18       *or transported in interstate or foreign commerce by*  
19       *any means, including by computer; or*

20            “(5) *the offense is committed in the special mari-*  
21       *time and territorial jurisdiction of the United States*  
22       *or in any territory or possession of the United States.*

23            “(f) *In a case under subsection (b), it is an affirmative*  
24       *defense that the defendant—*

25            “(1) *possessed less than three such images; and*

1           “(2) promptly and in good faith, and without re-  
2           taining or allowing any person, other than a law en-  
3           forcement agency, to access any image or copy  
4           thereof—

5                   “(A) took reasonable steps to destroy each  
6           such image; or

7                   “(B) reported the matter to a law enforce-  
8           ment agency and afforded that agency access to  
9           each such image.”; and

10           (2) in table of sections at the beginning of the  
11           chapter, by inserting after the item relating to section  
12           1466 the following new items:

“1466A. Obscene visual depictions of young children.

“1466B. Obscene visual representations of pre-pubescent sexual abuse.”.

13           (b)(1) Except as provided in paragraph (2), the appli-  
14           cable category of offense to be used in determining the sen-  
15           tencing range referred to in section 3553(a)(4) of title 18,  
16           United States Code, with respect to any person convicted  
17           under section 1466A or 1466B of such title, shall be the  
18           category of offenses described in section 2G2.2 of the Sen-  
19           tencing Guidelines.

20           (2) The Sentencing Commission may promulgate  
21           guidelines specifically governing offenses under sections  
22           1466A and 1466B of title 18, United States Code, provided  
23           that such guidelines shall not result in sentencing ranges

1 *that are lower than those that would have applied under*  
2 *paragraph (1).*

3 **SEC. 505. PROHIBITION ON USE OF MATERIALS TO FACILI-**  
4 **TATE OFFENSES AGAINST MINORS.**

5 *Chapter 71 of title 18, United States Code, is*  
6 *amended—*

7 *(1) by inserting at the end the following:*

8 **“§ 1471. Use of obscene material or child pornography**  
9 **to facilitate offenses against minors**

10 *“(a) Whoever, in any circumstance described in sub-*  
11 *section (c), knowingly—*

12 *“(1) provides or shows to a person below the age*  
13 *of 16 years any visual depiction that is, or is indis-*  
14 *tinguishable from, that of a pre-pubescent child en-*  
15 *gaging in sexually explicit conduct, any obscene mat-*  
16 *ter, or any child pornography; or*

17 *“(2) provides or shows any obscene matter or*  
18 *child pornography, or any visual depiction that is, or*  
19 *is indistinguishable from, that of a pre-pubescent*  
20 *child engaging in sexually explicit conduct, or pro-*  
21 *vides any other material assistance to any person in*  
22 *connection with any conduct, or any attempt, incite-*  
23 *ment, solicitation, or conspiracy to engage in any*  
24 *conduct, that involves a minor and that violates chap-*  
25 *ter 109A, 110, or 117, or that would violate chapter*

1       109A if the conduct occurred in the special maritime  
2       and territorial jurisdiction of the United States,  
3 shall be subject to the penalties set forth in section  
4 2252A(b)(1), including the penalties provided for cases in-  
5 volving a prior conviction.

6       “(b) For purposes of this section—

7               “(1) the term ‘child pornography’ has the mean-  
8               ing set forth in section 2256(8);

9               “(2) the terms ‘visual depiction’, ‘pre-pubescent  
10              child’, and ‘indistinguishable’ have the meanings re-  
11              spectively set forth for those terms in section  
12              1466A(c); and

13              “(3) the term ‘sexually explicit conduct’ has the  
14              meaning set forth in section 2256(2).

15       “(c) The circumstance referred to in subsection (a) is  
16 that—

17              “(1) any communication involved in or made in  
18              furtherance of the offense is communicated or trans-  
19              ported by the mail, or in interstate or foreign com-  
20              merce by any means, including by computer, or any  
21              means or instrumentality of interstate or foreign com-  
22              merce is otherwise used in committing or in further-  
23              ance of the commission of the offense;

24              “(2) any communication involved in or made in  
25              furtherance of the offense contemplates the trans-

1       *mission or transportation of a visual depiction or ob-*  
2       *scene matter by the mail, or in interstate or foreign*  
3       *commerce by any means, including by computer;*

4               “(3) *any person travels or is transported in*  
5       *interstate or foreign commerce in the course of the*  
6       *commission or in furtherance of the commission of the*  
7       *offense;*

8               “(4) *any visual depiction or obscene matter in-*  
9       *volved in the offense has been mailed, or has been*  
10       *shipped or transported in interstate or foreign com-*  
11       *merce by any means, including by computer, or was*  
12       *produced using materials that have been mailed, or*  
13       *that have been shipped or transported in interstate or*  
14       *foreign commerce by any means, including by com-*  
15       *puter; or*

16               “(5) *the offense is committed in the special mari-*  
17       *time and territorial jurisdiction of the United States*  
18       *or in any territory or possession of the United*  
19       *States.”; and*

20               (2) *in the table of sections at the beginning of the*  
21       *chapter, by inserting at the end the following:*

      “1471. *Use of obscene material or child pornography to facilitate offenses against*  
          *minors.”.*

1 **SEC. 506. EXTRATERRITORIAL PRODUCTION OF CHILD POR-**  
2 **NOGRAPHY FOR DISTRIBUTION IN THE**  
3 **UNITED STATES.**

4 *Section 2251 is amended—*

5 *(1) by striking “subsection (d)” each place it ap-*  
6 *pears in subsections (a), (b), and (c) and inserting*  
7 *“subsection (e)”;*

8 *(2) by redesignating subsections (c) and (d), re-*  
9 *spectively, as subsections (d) and (e); and*

10 *(3) by inserting after subsection (b) a new sub-*  
11 *section (c) as follows:*

12 *“(c)(1) Any person who, in a circumstance described*  
13 *in paragraph (2), employs, uses, persuades, induces, entices,*  
14 *or coerces any minor to engage in, or who has a minor*  
15 *assist any other person to engage in, any sexually explicit*  
16 *conduct outside of the United States, its possessions and*  
17 *Territories, for the purpose of producing any visual depic-*  
18 *tion of such conduct, shall be punished as provided under*  
19 *subsection (e).*

20 *“(2) The circumstance referred to in paragraph (1) is*  
21 *that—*

22 *“(A) the person intends such visual depiction to*  
23 *be transported to the United States, its possessions, or*  
24 *territories, by any means including by computer or*  
25 *mail; or*

1           “(B) the person transports such visual depiction  
2           to, or otherwise makes it available within, the United  
3           States, its possessions, or territories, by any means  
4           including by computer or mail.”.

5   **SEC. 507. STRENGTHENING ENHANCED PENALTIES FOR RE-**  
6                           **PEAT OFFENDERS.**

7           Sections 2251(e) (as redesignated by section 506(2)),  
8   2252(b), and 2252A(b) of title 18, United States Code, are  
9   each amended—

10           (1) by inserting “chapter 71,” immediately be-  
11           fore each occurrence of “chapter 109A,”; and

12           (2) by inserting “or under section 920 of title 10  
13           (article 120 of the Uniform Code of Military Jus-  
14           tice),” immediately before each occurrence of “or  
15           under the laws”.

16   **SEC. 508. SERVICE PROVIDER REPORTING OF CHILD POR-**  
17                           **NOGRAPHY AND RELATED INFORMATION.**

18           (a) Section 227 of the Victims of Child Abuse Act of  
19   1990 (42 U.S.C. 13032) is amended—

20           (1) in subsection (b)(1)—

21                   (A) by inserting “2252B,” after “2252A,”;

22                   and

23                   (B) by inserting “or a violation of section  
24           1466A or 1466B of that title,” after “of that  
25           title,”;



1           (2) *in subsection (c), by inserting “or pursuant*  
2 *to” after “to comply with”;*

3           (3) *by amending subsection (f)(1)(D) to read as*  
4 *follows:*

5                   *“(D) where the report discloses a violation*  
6 *of State criminal law, to an appropriate official*  
7 *of a State or subdivision of a State for the pur-*  
8 *pose of enforcing such State law.”;*

9           (4) *by redesignating paragraph (3) of subsection*  
10 *(b) as paragraph (4); and*

11           (5) *by inserting after paragraph (2) of sub-*  
12 *section (b) the following new paragraph:*

13                   *“(3) In addition to forwarding such reports to*  
14 *those agencies designated in subsection (b)(2), the Na-*  
15 *tional Center for Missing and Exploited Children is*  
16 *authorized to forward any such report to an appro-*  
17 *priate official of a state or subdivision of a state for*  
18 *the purpose of enforcing state criminal law.”.*

19           (6) *Section 2702 of title 18, United States Code is*  
20 *amended—*

21                   (1) *in subsection (b)—*

22                           (A) *in paragraph (6)—*

23                                   (i) *by inserting “or” at the end of sub-*  
24 *paragraph (A)(ii);*

25                                   (ii) *by striking subparagraph (B); and*

1                   (iii) by redesignating subparagraph  
2                   (C) as subparagraph (B);

3                   (B) by redesignating paragraph (6) as  
4                   paragraph (7);

5                   (C) by striking “or” at the end of para-  
6                   graph (5); and

7                   (D) by inserting after paragraph (5) the fol-  
8                   lowing new paragraph:

9                   “(6) to the National Center for Missing and Ex-  
10                  ploited Children, in connection with a report sub-  
11                  mitted thereto under section 227 of the Victims of  
12                  Child Abuse Act of 1990 (42 U.S.C. 13032); or”; and  
13                  (2) in subsection (c)—

14                  (A) by striking “or” at the end of para-  
15                  graph (4);

16                  (B) by redesignating paragraph (5) as  
17                  paragraph (6); and

18                  (C) by adding after paragraph (4) the fol-  
19                  lowing new paragraph:

20                  “(5) to the National Center for Missing and Ex-  
21                  ploited Children, in connection with a report sub-  
22                  mitted thereto under section 227 of the Victims of  
23                  Child Abuse Act of 1990 (42 U.S.C. 13032); or”.

1 **SEC. 509. SEVERABILITY.**

2 *If any provision of this title, or the application of such*  
3 *provision to any person or circumstance, is held invalid,*  
4 *the remainder of this title, and the application of such pro-*  
5 *vision to other persons not similarly situated or to other*  
6 *circumstances, shall not be affected by such invalidation.*

7 **SEC. 510. INVESTIGATIVE AUTHORITY RELATING TO CHILD**  
8 **PORNOGRAPHY.**

9 *Section 3486(a)(1)(C)(i) of title 18, United States*  
10 *Code, is amended by striking “the name, address” and all*  
11 *that follows through “subscriber or customer utilized” and*  
12 *inserting “the information specified in section 2703(c)(2)”.*

13 **SEC. 511. AUTHORIZATION OF INTERCEPTION OF COMMU-**  
14 **NICATIONS IN THE INVESTIGATION OF SEX-**  
15 **UAL CRIMES AGAINST CHILDREN.**

16 *Section 2516(1)(c) of title 18, United States Code, is*  
17 *amended by inserting “1466A, 1466B,” before “2251”.*

18 **SEC. 512. RECORDKEEPING TO DEMONSTRATE MINORS**  
19 **WERE NOT USED IN PRODUCTION OF POR-**  
20 **NOGRAPHY.**

21 *Not later than 1 year after enactment of this Act, the*  
22 *Attorney General shall submit to Congress a report detail-*  
23 *ing the number of times since January 1993 that the De-*  
24 *partment of Justice has inspected the records of any pro-*  
25 *ducer of materials regulated pursuant to section 2257 of*  
26 *title 18, United States Code, and section 75 of title 28 of*

- 1 *the Code of Federal Regulations. The Attorney General shall*
- 2 *indicate the number of violations prosecuted as a result of*
- 3 *those inspections.*

Amend the title so as to read “An Act to prevent child abduction and the sexual exploitation of children, and for other purposes.”.

Attest:

*Clerk.*

108TH CONGRESS  
1ST SESSION

**S. 151**

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**AMENDMENTS**