

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Prosecutorial Remedies and Other Tools to end the Ex-
4 ploitation of Children Today Act of 2003” or “PROTECT
5 Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Severability.

TITLE I—SANCTIONS AND OFFENSES

- Sec. 101. Supervised release term for sex offenders.
- Sec. 102. First degree murder for child abuse and child torture murders.
- Sec. 103. Sexual abuse penalties.
- Sec. 104. Stronger penalties against kidnapping.
- Sec. 105. Penalties against sex tourism.
- Sec. 106. Two strikes you’re out.
- Sec. 107. Attempt liability for international parental kidnapping.
- Sec. 108. Pilot program for national criminal history background checks and feasibility study.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

- Sec. 201. Interceptions of communications in investigations of sex offenses.
- Sec. 202. No statute of limitations for child abduction and sex crimes.
- Sec. 203. No pretrial release for those who rape or kidnap children.
- Sec. 204. Suzanne’s law.

TITLE III—PUBLIC OUTREACH

Subtitle A—AMBER Alert

- Sec. 301. National coordination of AMBER alert communications network.
- Sec. 302. Minimum standards for issuance and dissemination of alerts through AMBER alert communications network.
- Sec. 303. Grant program for notification and communications systems along highways for recovery of abducted children.
- Sec. 304. Grant program for support of AMBER alert communications plans.
- Sec. 305. Limitation on liability.

Subtitle B—National Center for Missing and Exploited Children

- Sec. 321. Increased support.
- Sec. 322. Forensic and investigative support of missing and exploited children.
- Sec. 323. Creation of cyber tipline.

Subtitle C—Sex Offender Apprehension Program

- Sec. 341. Authorization.



Subtitle D—Missing Children Procedures in Public Buildings

- Sec. 361. Short title.
- Sec. 362. Definitions.
- Sec. 363. Procedures in public buildings regarding a missing or lost child.

Subtitle E—Child Advocacy Center Grants

- Sec. 381. Information and documentation required by Attorney General under Victims of Child Abuse Act of 1990.

TITLE IV—SENTENCING REFORM

- Sec. 401. Sentencing reform.

TITLE V—OBSCENITY AND PORNOGRAPHY

Subtitle A—Child Obscenity and Pornography Prevention

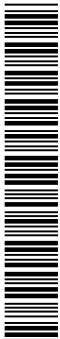
- Sec. 501. Findings.
- Sec. 502. Improvements to prohibition on virtual child pornography.
- Sec. 503. Certain activities relating to material constituting or containing child pornography.
- Sec. 504. Obscene child pornography.
- Sec. 505. Admissibility of evidence.
- Sec. 506. Extraterritorial production of child pornography for distribution in the United States.
- Sec. 507. Strengthening enhanced penalties for repeat offenders.
- Sec. 508. Service provider reporting of child pornography and related information.
- Sec. 509. Investigative authority relating to child pornography.
- Sec. 510. Civil remedies.
- Sec. 511. Recordkeeping requirements.
- Sec. 512. Sentencing enhancements for interstate travel to engage in sexual act with a juvenile.
- Sec. 513. Miscellaneous provisions.

Subtitle B—Truth in Domain Names

- Sec. 521. Misleading domain names on the Internet.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Penalties for use of minors in crimes of violence.
- Sec. 602. Sense of congress.
- Sec. 603. Communications decency act of 1996.
- Sec. 604. Internet availability of information concerning registered sex offenders.
- Sec. 605. Registration of child pornographers in the national sex offender registry.
- Sec. 606. Grants to States for costs of compliance with new sex offender registry requirements.
- Sec. 607. Safe id act.
- Sec. 608. Illicit Drug Anti-Proliferation Act.
- Sec. 609. Definition of vehicle.
- Sec. 610. Authorization of John Doe DNA indictments.
- Sec. 611. Transitional housing assistance grants for child victims of domestic violence, stalking, or sexual assault.



1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held invalid,
4 the remainder of this Act, 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 **TITLE I—SANCTIONS AND**
8 **OFFENSES**

9 **SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFEND-**
10 **ERS.**

11 Section 3583 of title 18, United States Code, is
12 amended—

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

15 (2) in subsection (h), by striking “that is less
16 than the maximum term of imprisonment authorized
17 under subsection (e)(3)”; and

18 (3) by adding at the end the following:

19 “(k) Notwithstanding subsection (b), the authorized
20 term of supervised release for any offense under section
21 1201 involving a minor victim, and for any offense under
22 section 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251,
23 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425,
24 is any term of years or life.”.



1 **SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND**
2 **CHILD TORTURE MURDERS.**

3 Section 1111 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) by inserting “child abuse,” after “sex-
7 ual abuse,”; and

8 (B) by inserting “or perpetrated as part of
9 a pattern or practice of assault or torture
10 against a child or children;” after “robbery;”;
11 and

12 (2) by inserting at the end the following:

13 “(c) For purposes of this section—

14 “(1) the term ‘assault’ has the same meaning
15 as given that term in section 113;

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

18 “(A) under the perpetrator’s care or con-
19 trol; or

20 “(B) at least six years younger than the
21 perpetrator;

22 “(3) the term ‘child abuse’ means intentionally
23 or knowingly causing death or serious bodily injury
24 to a child;



1 “(4) the term ‘pattern or practice of assault or
2 torture’ means assault or torture engaged in on at
3 least two occasions;

4 “(5) the term ‘serious bodily injury’ has the
5 meaning set forth in section 1365; and

6 “(6) the term ‘torture’ means conduct, whether
7 or not committed under the color of law, that other-
8 wise satisfies the definition set forth in section
9 2340(1).”.

10 **SEC. 103. SEXUAL ABUSE PENALTIES.**

11 (a) MAXIMUM PENALTY INCREASES.—(1) Chapter
12 110 of title 18, United States Code, is amended—

13 (A) in section 2251(d)—

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

15 and

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

18 (B) in section 2252(b)(1)—

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

20 and

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

22 (C) in section 2252(b)(2)—

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

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

25 (D) in section 2252A(b)(1)—



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

2 and

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

4 and

5 (E) in section 2252A(b)(2)—

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

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

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

10 (A) in section 2422(a), by striking “10” and in-
11 serting “20”;

12 (B) in section 2422(b), by striking “15” and
13 inserting “30”; and

14 (C) in section 2423(a), by striking “15” and in-
15 serting “30”.

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

18 (b) MINIMUM PENALTY INCREASES.—(1) Chapter
19 110 of title 18, United States Code, is amended—

20 (A) in section 2251(d)—

21 (i) by striking “or imprisoned not less than
22 10” and inserting “and imprisoned not less
23 than 15”;

24 (ii) by striking “and both,”;



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

2 and

3 (iv) by striking “30” the second place it
4 appears and inserting “35”;

5 (B) in section 2251A(a) and (b), by striking
6 “20” and inserting “30”;

7 (C) in section 2252(b)(1)—

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

11 (ii) by striking “or both,”; and

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

13 (D) in section 2252(b)(2), by striking “2” and
14 inserting “10”;

15 (E) in section 2252A(b)(1)—

16 (i) by striking “or imprisoned” and insert-
17 ing “and imprisoned not less than 5 years
18 and”;

19 (ii) by striking “or both,”; and

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

21 and

22 (F) in section 2252A(b)(2), by striking “2” and
23 inserting “10”.

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



1 (A) in section 2422(b)—

2 (i) by striking “, imprisoned” and inserting
3 “and imprisoned not less than 5 years and”;
4 and

5 (ii) by striking “, or both”; and

6 (B) in section 2423(a)—

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

10 (ii) by striking “, or both”.

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

12 (a) SENTENCING GUIDELINES.—Notwithstanding
13 any other provision of law regarding the amendment of
14 Sentencing Guidelines, the United States Sentencing
15 Commission is directed to amend the Sentencing Guide-
16 lines, to take effect on the date that is 30 days after the
17 date of the enactment of this Act—

18 (1) so that the base offense level for kidnapping
19 in section 2A4.1(a) is increased from level 24 to
20 level 32;

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

22 (3) so that the increase provided by section
23 2A4.1(b)(5) is 6 levels instead of 3.

24 (b) MINIMUM MANDATORY SENTENCE.—Section
25 1201(g) of title 18, United States Code, is amended by



1 striking “shall be subject to paragraph (2)” in paragraph
2 (1) and all that follows through paragraph (2) and insert-
3 ing “shall include imprisonment for not less than 20
4 years.”.

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

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

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

17 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
18 FOREIGN PLACES.—Any United States citizen or alien ad-
19 mitted for permanent residence who travels in foreign
20 commerce, and engages in any illicit sexual conduct with
21 another person shall be fined under this title or imprisoned
22 not more than 30 years, or both.

23 “(d) ANCILLARY OFFENSES.—Whoever, for the pur-
24 pose of commercial advantage or private financial gain,
25 arranges, induces, procures, or facilitates the travel of a

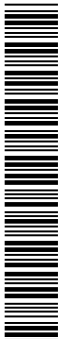


1 person knowing that such a person is traveling in inter-
2 state commerce or foreign commerce for the purpose of
3 engaging in illicit sexual conduct shall be fined under this
4 title, imprisoned not more than 30 years, or both.

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

9 “(f) DEFINITION.—As used in this section, the term
10 ‘illicit sexual conduct’ means (1) a sexual act (as defined
11 in section 2246) with a person under 18 years of age that
12 would be in violation of chapter 109A if the sexual act
13 occurred in the special maritime and territorial jurisdic-
14 tion of the United States; or (2) any commercial sex act
15 (as defined in section 1591) with a person under 18 years
16 of age.

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



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

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

5 (a) IN GENERAL.—Section 3559 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing new subsection:

8 “(e) MANDATORY LIFE IMPRISONMENT FOR RE-
9 PEATED SEX OFFENSES AGAINST CHILDREN.—

10 “(1) IN GENERAL.—A person who is convicted
11 of a Federal sex offense in which a minor is the vic-
12 tim shall be sentenced to life imprisonment if the
13 person has a prior sex conviction in which a minor
14 was the victim, unless the sentence of death is im-
15 posed.

16 “(2) DEFINITIONS.—For the purposes of this
17 subsection—

18 “(A) the term ‘Federal sex offense’ means
19 an offense under section 2241 (relating to ag-
20 gravated sexual abuse), 2242 (relating to sexual
21 abuse), 2244(a)(1) (relating to abusive sexual
22 contact), 2245 (relating to sexual abuse result-
23 ing in death), 2251 (relating to sexual exploi-
24 tation of children), 2251A (relating to selling or
25 buying of children), 2422(b) (relating to coer-



1 cion and enticement of a minor into prostitu-
2 tion), or 2423(a) (relating to transportation of
3 minors);

4 “(B) the term ‘State sex offense’ means an
5 offense under State law that is punishable by
6 more than one year in prison and consists of
7 conduct that would be a Federal sex offense if,
8 to the extent or in the manner specified in the
9 applicable provision of this title—

10 “(i) the offense involved interstate or
11 foreign commerce, or the use of the mails;
12 or

13 “(ii) the conduct occurred in any com-
14 monwealth, territory, or possession of the
15 United States, within the special maritime
16 and territorial jurisdiction of the United
17 States, in a Federal prison, on any land or
18 building owned by, leased to, or otherwise
19 used by or under the control of the Gov-
20 ernment of the United States, or in the In-
21 dian country (as defined in section 1151);

22 “(C) the term ‘prior sex conviction’ means
23 a conviction for which the sentence was imposed
24 before the conduct occurred constituting the



1 subsequent Federal sex offense, and which was
2 for a Federal sex offense or a State sex offense;

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

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

7 “(3) NONQUALIFYING FELONIES.—An offense
8 described in section 2422(b) or 2423(a) shall not
9 serve as a basis for sentencing under this subsection
10 if the defendant establishes by clear and convincing
11 evidence that—

12 “(A) the sexual act or activity was consen-
13 sual and not for the purpose of commercial or
14 pecuniary gain;

15 “(B) the sexual act or activity would not
16 be punishable by more than one year in prison
17 under the law of the State in which it occurred;
18 or

19 “(C) no sexual act or activity occurred.”.

20 (b) CONFORMING AMENDMENT.—Sections 2247(a)
21 and 2426(a) of title 18, United States Code, are each
22 amended by inserting “, unless section 3559(e) applies”
23 before the final period.



1 **SEC. 107. ATTEMPT LIABILITY FOR INTERNATIONAL PA-**
2 **RENTAL KIDNAPPING.**

3 Section 1204 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a), by inserting “, or at-
6 tempts to do so,” before “or retains”; and

7 (2) in subsection (c)—

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

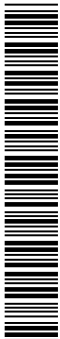
11 (B) in paragraph (2), by inserting “or”
12 after the semicolon.

13 **SEC. 108. PILOT PROGRAM FOR NATIONAL CRIMINAL HIS-**
14 **TORY BACKGROUND CHECKS AND FEASI-**
15 **BILITY STUDY.**

16 (a) ESTABLISHMENT OF PILOT PROGRAM.—

17 (1) IN GENERAL.—Not later than 90 days after
18 the date of the enactment of this Act, the Attorney
19 General shall establish a pilot program for volunteer
20 groups to obtain national and State criminal history
21 background checks through a 10-fingerprint check to
22 be conducted utilizing State criminal records and the
23 Integrated Automated Finger Print Identification
24 system of the Federal Bureau of Investigation.

25 (2) STATE PILOT PROGRAM.—



1 (A) IN GENERAL.—The Attorney General
2 shall designate 3 States as participants in an
3 18-month State pilot program.

4 (B) VOLUNTEER ORGANIZATION RE-
5 QUESTS.—A volunteer organization in one of
6 the 3 States participating in the State pilot pro-
7 gram under this paragraph that is part of the
8 Boys and Girls Clubs of America, the National
9 Mentoring Partnerships, or the National Coun-
10 cil of Youth Sports may submit a request for a
11 10-fingerprint check from the participating
12 State. A volunteer organization in a partici-
13 pating State may not submit background check
14 requests under paragraph (3).

15 (C) STATE CHECK.—The participating
16 State under this paragraph after receiving a re-
17 quest under subparagraph (B) shall conduct a
18 State background check and submit a request
19 that a Federal check be performed through the
20 Integrated Automated Fingerprint Identifica-
21 tion System of the Federal Bureau of Investiga-
22 tion, to the Attorney General, in a manner to
23 be determined by the Attorney General.

24 (D) INFORMATION PROVIDED.—Under pro-
25 cedures established by the Attorney General,

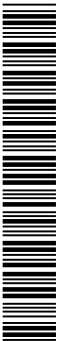


1 any criminal history record information result-
2 ing from the State and Federal check under
3 subparagraph (C) shall be provided to the State
4 or National Center for Missing and Exploited
5 Children consistent with the National Child
6 Protection Act.

7 (E) COSTS.—A State may collect a fee to
8 perform a criminal background check under this
9 paragraph which may not exceed the actual
10 costs to the State to perform such a check.

11 (F) TIMING.—For any background check
12 performed under this paragraph, the State shall
13 provide the State criminal record information to
14 the Attorney General within 7 days after receiv-
15 ing the request from the organization, unless
16 the Attorney General determines during the
17 feasibility study that such a check cannot rea-
18 sonably be performed within that time period.
19 The Attorney General shall provide the criminal
20 history records information to the National
21 Center for Missing and Exploited Children
22 within 7 business days after receiving the re-
23 quest from the State.

24 (3) CHILD SAFETY PILOT PROGRAM.—



1 (A) IN GENERAL.—The Attorney General
2 shall establish an 18-month Child Safety Pilot
3 Program that shall provide for the processing of
4 100,000 10-fingerprint check requests from or-
5 ganizations described in subparagraph (B) con-
6 ducted through the Integrated Automated Fin-
7 gerprint Identification System of the Federal
8 Bureau of Investigation.

9 (B) ELIGIBLE ORGANIZATIONS.—An orga-
10 nization described in this subparagraph is an
11 organization in a State not designated under
12 paragraph (2) that has received a request allot-
13 ment pursuant to subparagraph (C).

14 (C) REQUEST ALLOTMENTS.—The fol-
15 lowing organizations may allot requests as fol-
16 lows:

17 (i) 33,334 for the Boys and Girls
18 Clubs of America.

19 (ii) 33,333 for the National Mentoring
20 Partnership.

21 (iii) 33,333 for the National Council
22 of Youth Sports.

23 (D) PROCEDURES.—The Attorney General
24 shall notify the organizations described in sub-
25 paragraph (C) of a process by which the organi-



1 zations may provide fingerprint cards to the At-
2 torney General.

3 (E) VOLUNTEER INFORMATION RE-
4 QUIRED.—An organization authorized to re-
5 quest a background check under this paragraph
6 shall—

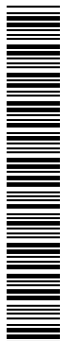
7 (i) forward to the Attorney General
8 the volunteer’s fingerprints; and

9 (ii) obtain a statement completed and
10 signed by the volunteer that—

11 (I) sets out the provider or volun-
12 teer’s name, address, date of birth ap-
13 pearing on a valid identification docu-
14 ment as defined in section 1028 of
15 title 18, United States Code, and a
16 photocopy of the valid identifying doc-
17 ument;

18 (II) states whether the volunteer
19 has a criminal record, and, if so, sets
20 out the particulars of such record;

21 (III) notifies the volunteer that
22 the Attorney General may perform a
23 criminal history background check
24 and that the volunteer’s signature to
25 the statement constitutes an acknowl-



1 edgment that such a check may be
2 conducted;

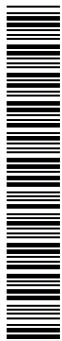
3 (IV) notifies the volunteer that
4 prior to and after the completion of
5 the background check, the organiza-
6 tion may choose to deny the provider
7 access to children; and

8 (V) notifies the volunteer of his
9 right to correct an erroneous record
10 held by the Attorney General.

11 (F) TIMING.—For any background checks
12 performed under this paragraph, the Attorney
13 General shall provide the criminal history
14 records information to the National Center for
15 Missing and Exploited Children within 14 busi-
16 ness days after receiving the request from the
17 organization.

18 (G) DETERMINATIONS OF FITNESS.—

19 (i) IN GENERAL.—Consistent with the
20 privacy protections delineated in the Na-
21 tional Child Protection Act (42 U.S.C.
22 5119), the National Center for Missing
23 and Exploited Children may make a deter-
24 mination whether the criminal history
25 record information received in response to



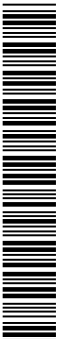
1 the criminal history background checks
2 conducted under this paragraph indicates
3 that the provider or volunteer has a crimi-
4 nal history record that renders the pro-
5 vider or volunteer unfit to provide care to
6 children based upon criteria established
7 jointly, the National Center for Missing
8 and Exploited Children, the Boys and Girls
9 Clubs of America, the National Mentoring
10 Partnership, and the National Council of
11 Youth Sports.

12 (ii) CHILD SAFETY PILOT PRO-
13 GRAM.—The National Center for Missing
14 and Exploited Children shall convey that
15 determination to the organizations making
16 requests under this paragraph.

17 (4) FEES COLLECTED BY ATTORNEY GENERAL.

18 The Attorney General may collect a fee which may
19 not exceed \$18 to cover the cost to the Federal Bu-
20 reau of Investigation to conduct the background
21 check under paragraph (2) or (3).

22 (b) RIGHTS OF VOLUNTEERS.—Each volunteer who
23 is the subject of a criminal history background check
24 under this section is entitled to contact the Attorney Gen-
25 eral to initiate procedures to—



1 (1) obtain a copy of their criminal history
2 record report; and

3 (2) challenge the accuracy and completeness of
4 the criminal history record information in the report.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There is authorized to be
7 appropriated such sums as may be necessary to the
8 National Center for Missing and Exploited Children
9 for fiscal years 2004 and 2005 to carry out the re-
10 quirements of this section.

11 (2) STATE PROGRAM.—There is authorized to
12 be appropriated such sums as may be necessary to
13 the Attorney General for the States designated in
14 subsection (a)(1) for fiscal years 2004 and 2005 to
15 establish and enhance finger print technology infra-
16 structure of the participating State.

17 (d) FEASIBILITY STUDY FOR A SYSTEM OF BACK-
18 GROUND CHECKS FOR EMPLOYEES AND VOLUNTEERS.—

19 (1) STUDY REQUIRED.—The Attorney General
20 shall conduct a feasibility study within 180 days
21 after the date of the enactment of this Act. The
22 study shall examine, to the extent discernible, the
23 following:

24 (A) The current state of fingerprint cap-
25 ture and processing at the State and local level,



1 including the current available infrastructure,
2 State system capacities, and the time for each
3 State to process a civil or volunteer print from
4 the time of capture to submission to the Fed-
5 eral Bureau of Investigation (FBI).

6 (B) The intent of the States concerning
7 participation in a nationwide system of criminal
8 background checks to provide information to
9 qualified entities.

10 (C) The number of volunteers, employees,
11 and other individuals that would require a fin-
12 gerprint-based criminal background check.

13 (D) The impact on the Integrated Auto-
14 mated Fingerprint Identification System
15 (IAFIS) of the Federal Bureau of Investigation
16 in terms of capacity and impact on other users
17 of the system, including the effect on Federal
18 Bureau of Investigation work practices and
19 staffing levels.

20 (E) The current fees charged by the Fed-
21 eral Bureau of Investigation, States and local
22 agencies, and private companies to process fin-
23 gerprints and conduct background checks.



1 (F) The existence of “model” or best prac-
2 tice programs which could easily be expanded
3 and duplicated in other States.

4 (G) The extent to which private companies
5 are currently performing background checks
6 and the possibility of using private companies
7 in the future to perform any of the background
8 check process, including, but not limited to, the
9 capture and transmission of fingerprints and
10 fitness determinations.

11 (H) The cost of development and operation
12 of the technology and the infrastructure nec-
13 essary to establish a nationwide fingerprint-
14 based and other criminal background check sys-
15 tem.

16 (I) The extent of State participation in the
17 procedures for background checks authorized in
18 the National Child Protection Act (Public Law
19 103–209), as amended by the Volunteers for
20 Children Act (sections 221 and 222 of Public
21 Law 105–251).

22 (J) The extent to which States currently
23 provide access to nationwide criminal history
24 background checks to organizations that serve
25 children.



1 (K) The extent to which States currently
2 permit volunteers to appeal adverse fitness de-
3 terminations, and whether similar procedures
4 are required at the Federal level.

5 (L) The implementation of the 2 pilot pro-
6 grams created in subsection (a).

7 (M) Any privacy concerns that may arise
8 from nationwide criminal background checks.

9 (N) Any other information deemed relevant
10 by the Department of Justice.

11 (2) INTERIM REPORT.—Based on the findings
12 of the feasibility study under paragraph (1), the At-
13 torney General shall, not later than 180 days after
14 the date of the enactment of this Act, submit to
15 Congress an interim report, which may include rec-
16 ommendations for a pilot project to develop or im-
17 prove programs to collect fingerprints and perform
18 background checks on individuals that seek to volun-
19 teer with organizations that work with children, the
20 elderly, or the disabled.

21 (3) FINAL REPORT.—Based on the findings of
22 the pilot project, the Attorney General shall, not
23 later than 60 days after completion of the pilot
24 project under this section, submit to Congress a
25 final report, including recommendations, which may



1 include a proposal for grants to the States to de-
2 velop or improve programs to collect fingerprints
3 and perform background checks on individuals that
4 seek to volunteer with organizations that work with
5 children, the elderly, or the disabled, and which may
6 include recommendations for amendments to the Na-
7 tional Child Protection Act and the Volunteers for
8 Children Act so that qualified entities can promptly
9 and affordably conduct nationwide criminal history
10 background checks on their employees and volun-
11 teers.

12 **TITLE II—INVESTIGATIONS AND**
13 **PROSECUTIONS**

14 **SEC. 201. INTERCEPTIONS OF COMMUNICATIONS IN INVES-**
15 **TIGATIONS OF SEX OFFENSES.**

16 Section 2516(1) of title 18, United States Code, is
17 amended—

18 (1) in paragraph (a), by inserting after “chap-
19 ter 37 (relating to espionage),” the following: “chap-
20 ter 55 (relating to kidnapping),”; and

21 (2) in paragraph (c)—

22 (A) by inserting “section 1591 (sex traf-
23 ficking of children by force, fraud, or coer-
24 cion),” after “section 1511 (obstruction of
25 State or local law enforcement),”; and



1 (B) by inserting “section 2251A (selling or
2 buying of children), section 2252A (relating to
3 material constituting or containing child por-
4 nography), section 1466A (relating to child ob-
5 scenity), section 2260 (production of sexually
6 explicit depictions of a minor for importation
7 into the United States), sections 2421, 2422,
8 2423, and 2425 (relating to transportation for
9 illegal sexual activity and related crimes),” after
10 “sections 2251 and 2252 (sexual exploitation of
11 children),”.

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

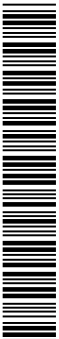
14 Section 3283 of title 18, United States Code, is
15 amended to read as follows:

16 **“§ 3283. Offenses against children**

17 “No statute of limitations that would otherwise pre-
18 clude prosecution for an offense involving the sexual or
19 physical abuse, or kidnaping, of a child under the age of
20 18 years shall preclude such prosecution during the life
21 of the child.”.

22 **SEC. 203. NO PRETRIAL RELEASE FOR THOSE WHO RAPE**
23 **OR KIDNAP CHILDREN.**

24 Section 3142(e) of title 18, United States Code, is
25 amended—



1 (1) by striking “1901 et seq.), or” and insert-
2 ing “1901 et seq.”; and

3 (2) by striking “of title 18 of the United States
4 Code” and inserting “of this title, or an offense in-
5 volving a minor victim under section 1201, 1591,
6 2241, 2242, 2244(a)(1), 2245, 2251, 2251A,
7 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
8 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
9 2421, 2422, 2423, or 2425 of this title”.

10 **SEC. 204. SUZANNE’S LAW.**

11 Section 3701(a) of the Crime Control Act of 1990
12 (42 U.S.C. 5779(a)) is amended by striking “age of 18”
13 and inserting “age of 21”.

14 **TITLE III—PUBLIC OUTREACH**
15 **Subtitle A—AMBER Alert**

16 **SEC. 301. NATIONAL COORDINATION OF AMBER ALERT**
17 **COMMUNICATIONS NETWORK.**

18 (a) COORDINATION WITHIN DEPARTMENT OF JUS-
19 TICE.—The Attorney General shall assign an officer of the
20 Department of Justice to act as the national coordinator
21 of the AMBER Alert communications network regarding
22 abducted children. The officer so designated shall be
23 known as the AMBER Alert Coordinator of the Depart-
24 ment of Justice.



1 (b) DUTIES.—In acting as the national coordinator
2 of the AMBER Alert communications network, the Coor-
3 dinator shall—

4 (1) seek to eliminate gaps in the network, in-
5 cluding gaps in areas of interstate travel;

6 (2) work with States to encourage the develop-
7 ment of additional elements (known as local
8 AMBER plans) in the network;

9 (3) work with States to ensure appropriate re-
10 gional coordination of various elements of the net-
11 work; and

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

13 (A) the development of the network; and

14 (B) regional coordination of alerts on ab-
15 ducted children through the network.

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

22 (d) COOPERATION.—The Coordinator shall cooperate
23 with the Secretary of Transportation and the Federal
24 Communications Commission in carrying out activities
25 under this section.



1 (e) REPORT.—Not later than March 1, 2005, the Co-
2 ordinator shall submit to Congress a report on the activi-
3 ties of the Coordinator and the effectiveness and status
4 of the AMBER plans of each State that has implemented
5 such a plan. The Coordinator shall prepare the report in
6 consultation with the Secretary of Transportation.

7 **SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DIS-**
8 **SEMINATION OF ALERTS THROUGH AMBER**
9 **ALERT COMMUNICATIONS NETWORK.**

10 (a) ESTABLISHMENT OF MINIMUM STANDARDS.—
11 Subject to subsection (b), the AMBER Alert Coordinator
12 of the Department of Justice shall establish minimum
13 standards for—

14 (1) the issuance of alerts through the AMBER
15 Alert communications network; and

16 (2) the extent of the dissemination of alerts
17 issued through the network.

18 (b) LIMITATIONS.—(1) The minimum standards es-
19 tablished under subsection (a) shall be adoptable on a vol-
20 untary basis only.

21 (2) The minimum standards shall, to the maximum
22 extent practicable (as determined by the Coordinator in
23 consultation with State and local law enforcement agen-
24 cies), provide that appropriate information relating to the
25 special needs of an abducted child (including health care



1 needs) are disseminated to the appropriate law enforce-
2 ment, public health, and other public officials.

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

10 (4) In carrying out activities under subsection (a),
11 the Coordinator may not interfere with the current system
12 of voluntary coordination between local broadcasters and
13 State and local law enforcement agencies for purposes of
14 the AMBER Alert communications network.

15 (c) COOPERATION.—(1) The Coordinator shall co-
16 operate with the Secretary of Transportation and the Fed-
17 eral Communications Commission in carrying out activi-
18 ties under this section.

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



1 **SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COM-**
 2 **MUNICATIONS SYSTEMS ALONG HIGHWAYS**
 3 **FOR RECOVERY OF ABDUCTED CHILDREN.**

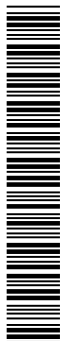
4 (a) PROGRAM REQUIRED.—The Secretary of Trans-
 5 portation shall carry out a program to provide grants to
 6 States for the development or enhancement of notification
 7 or communications systems along highways for alerts and
 8 other information for the recovery of abducted children.

9 (b) DEVELOPMENT GRANTS.—

10 (1) IN GENERAL.—The Secretary may make a
 11 grant to a State under this subsection for the devel-
 12 opment of a State program for the use of changeable
 13 message signs or other motorist information systems
 14 to notify motorists about abductions of children. The
 15 State program shall provide for the planning, coordi-
 16 nation, and design of systems, protocols, and mes-
 17 sages that support the coordination and commu-
 18 nication necessary to notify motorists about abduc-
 19 tions of children.

20 (2) ELIGIBLE ACTIVITIES.—A grant under this
 21 subsection may be used by a State for the following
 22 purposes:

23 (A) To develop general policies and proce-
 24 dures to guide the use of changeable message
 25 signs or other motorist information systems to
 26 notify motorists about abductions of children.



1 (B) To develop guidance or policies on the
2 content and format of alert messages to be con-
3 veyed on changeable message signs or other
4 traveler information systems.

5 (C) To coordinate State, regional, and
6 local plans for the use of changeable message
7 signs or other transportation related issues.

8 (D) To plan secure and reliable commu-
9 nications systems and protocols among public
10 safety and transportation agencies or modify
11 existing communications systems to support the
12 notification of motorists about abductions of
13 children.

14 (E) To plan and design improved systems
15 for communicating with motorists, including the
16 capability for issuing wide area alerts to motor-
17 ists.

18 (F) To plan systems and protocols to fa-
19 cilitate the efficient issuance of child abduction
20 notification and other key information to motor-
21 ists during off-hours.

22 (G) To provide training and guidance to
23 transportation authorities to facilitate appro-
24 priate use of changeable message signs and
25 other traveler information systems for the noti-



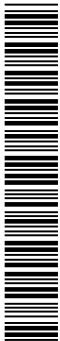
1 fication of motorists about abductions of chil-
2 dren.

3 (c) IMPLEMENTATION GRANTS.—

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

13 (2) ELIGIBLE ACTIVITIES.—A grant under this
14 subsection may be used by a State to support the
15 implementation of systems that use changeable mes-
16 sage signs or other motorist information systems to
17 notify motorists about abductions of children. Such
18 support may include the purchase and installation of
19 changeable message signs or other motorist informa-
20 tion systems to notify motorists about abductions of
21 children.

22 (d) FEDERAL SHARE.—The Federal share of the cost
23 of any activities funded by a grant under this section may
24 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
14 out this section \$20,000,000 for fiscal year 2004. Such
15 amounts shall remain available until expended.

16 (i) STUDY OF STATE PROGRAMS.—

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

23 (2) REPORT.—Not later than 1 year after the
24 date of enactment of this Act, the Secretary shall
25 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
6 shall carry out a program to provide grants to States for
7 the development or enhancement of programs and activi-
8 ties for the support of AMBER Alert communications
9 plans.

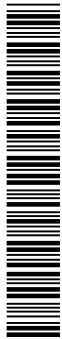
10 (b) ACTIVITIES.—Activities funded by grants under
11 the program under subsection (a) may include—

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

16 (2) the development and implementation of law
17 enforcement programs, and associated equipment,
18 relating to AMBER Alert communications plans;

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

22 (4) such other activities as the Attorney Gen-
23 eral considers appropriate for supporting the
24 AMBER 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.

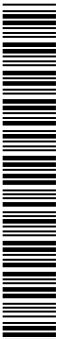
9 (e) ADMINISTRATION.—The Attorney General shall
10 prescribe requirements, including application require-
11 ments, for grants under the program under subsection (a).

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

21 (a) Except as provided in subsection (b), the National
22 Center for Missing and Exploited Children, including any
23 of its officers, employees, or agents, shall not be liable for
24 damages in any civil action for defamation, libel, slander,
25 or harm to reputation arising out of any action or commu-



1 nication by the National Center for Missing and Exploited
2 Children, its officers, employees, or agents, in connection
3 with any clearinghouse, hotline or complaint intake or for-
4 warding program or in connection with activity that is
5 wholly or partially funded by the United States and under-
6 taken in cooperation with, or at the direction of a Federal
7 law enforcement agency.

8 (b) The limitation in subsection (a) does not apply
9 in any action in which the plaintiff proves that the Na-
10 tional Center for Missing and Exploited Children, its offi-
11 cers, employees, or agents acted with actual malice, or pro-
12 vided information or took action for a purpose unrelated
13 to an activity mandated by Federal law. For purposes of
14 this subsection, the prevention, or detection of crime, and
15 the safety, recovery, or protection of missing or exploited
16 children shall be deemed, per se, to be an activity man-
17 dated by Federal law.

18 **Subtitle B—National Center for**
19 **Missing and Exploited Children**

20 **SEC. 321. INCREASED SUPPORT.**

21 (a) IN GENERAL.—Section 408(a) of the Missing
22 Children’s Assistance Act (42 U.S.C. 5777(a)) is amended
23 by striking “fiscal years 2000 through 2003” and insert-
24 ing “fiscal years 2004 through 2005.”



1 (b) ANNUAL GRANT TO NATIONAL CENTER FOR
2 MISSING AND EXPLOITED CHILDREN.—Section 404(b)(2)
3 of the Missing Children’s Assistance Act (42 U.S.C.
4 5773(b)(2)) is amended by striking “\$10,000,000 for each
5 of fiscal years 2000, 2001, 2002, and 2003” and inserting
6 “\$20,000,000 for each of the fiscal years 2004 through
7 2005”.

8 **SEC. 322. FORENSIC AND INVESTIGATIVE SUPPORT OF**
9 **MISSING AND EXPLOITED CHILDREN.**

10 Section 3056 of title 18, United States Code, is
11 amended by adding at the end the following:

12 “(f) Under the direction of the Secretary of Home-
13 land Security, officers and agents of the Secret Service
14 are authorized, at the request of any State or local law
15 enforcement agency, or at the request of the National Cen-
16 ter for Missing and Exploited Children, to provide forensic
17 and investigative assistance in support of any investigation
18 involving missing or exploited children.”.

19 **SEC. 323. CREATION OF CYBER TIPLINE.**

20 Section 404(b)(1) of the Missing Children’s Assist-
21 ance Act (42 U.S.C. 5773(b)(1)) is amended—

22 (1) in subparagraph (F), by striking “and” at
23 the end;

24 (2) in subparagraph (G), by striking the period
25 at the end and inserting “; and”; and



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

2 “(H) coordinate the operation of a cyber
3 tipline to provide online users an effective
4 means of reporting Internet-related child sexual
5 exploitation in the areas of—

6 “(i) distribution of child pornography;

7 “(ii) online enticement of children for
8 sexual acts; and

9 “(iii) child prostitution.”.

10 **Subtitle C—Sex Offender**
11 **Apprehension Program**

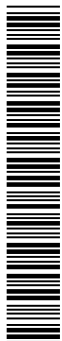
12 **SEC. 341. AUTHORIZATION.**

13 Section 1701(d) of part Q of title I of the Omnibus
14 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
15 3796dd(d)) is amended—

16 (1) by redesignating paragraphs (10) and (11)
17 as (11) and (12), respectively; and

18 (2) by inserting after paragraph (9) the fol-
19 lowing:

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



1 **Subtitle D—Missing Children**
 2 **Procedures in Public Buildings**

3 **SEC. 361. SHORT TITLE.**

4 This subtitle may be cited as the “Code Adam Act
 5 of 2003”.

6 **SEC. 362. DEFINITIONS.**

7 In this subtitle, the following definitions apply:

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

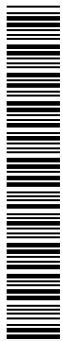
10 (2) CODE ADAM ALERT.—The term “Code
 11 Adam alert” means a set of procedures used in pub-
 12 lic buildings to alert employees and other users of
 13 the building that a child is missing.

14 (3) DESIGNATED AUTHORITY.—The term “des-
 15 ignated authority” means—

16 (A) with respect to a public building owned
 17 or leased for use by an Executive agency—

18 (i) except as otherwise provided in
 19 this paragraph, the Administrator of Gen-
 20 eral Services;

21 (ii) in the case of the John F. Ken-
 22 nedy Center for the Performing Arts, the
 23 Board of Trustees of the John F. Kennedy
 24 Center for the Performing Arts;

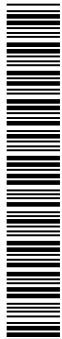


1 (iii) in the case of buildings under the
2 jurisdiction, custody, and control of the
3 Smithsonian Institution, the Board of Re-
4 gents of the Smithsonian Institution; or

5 (iv) in the case of another public
6 building for which an Executive agency
7 has, by specific or general statutory au-
8 thority, jurisdiction, custody, and control
9 over the building, the head of that agency;

10 (B) with respect to the Supreme Court
11 Building, the Marshal of the Supreme Court;
12 with respect to the Thurgood Marshall Federal
13 Judiciary Building, the Director of the Admin-
14 istrative Office of United States Courts; and
15 with respect to all other public buildings owned
16 or leased for use by an establishment in the ju-
17 dicial branch of government, the General Serv-
18 ices Administration in consultation with the
19 United States Marshals Service; and

20 (C) with respect to a public building owned
21 or leased for use by an establishment in the leg-
22 islative branch of government, the Capitol Po-
23 lice Board.



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

4 (5) FEDERAL AGENCY.—The term “Federal
5 agency” means any Executive agency or any estab-
6 lishment in the legislative or judicial branches of the
7 Government.

8 (6) PUBLIC BUILDING.—The term “public
9 building” means any building (or portion thereof)
10 owned or leased for use by a Federal agency.

11 **SEC. 363. PROCEDURES IN PUBLIC BUILDINGS REGARDING**

12 **A MISSING OR LOST CHILD.**

13 (a) IN GENERAL.—Not later than 180 days after the
14 date of enactment of this Act, the designated authority
15 for a public building shall establish procedures for locating
16 a child that is missing in the building.

17 (b) NOTIFICATION AND SEARCH PROCEDURES.—
18 Procedures established under this section shall provide, at
19 a minimum, for the following:

20 (1) Notifying security personnel that a child is
21 missing.

22 (2) Obtaining a detailed description of the
23 child, including name, age, eye and hair color,
24 height, weight, clothing, and shoes.



1 (3) Issuing a Code Adam alert and providing a
2 description of the child, using a fast and effective
3 means of communication.

4 (4) Establishing a central point of contact.

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

7 (6) Conducting a thorough search of the build-
8 ing.

9 (7) Contacting local law enforcement.

10 (8) Documenting the incident.

11 **Subtitle E—Child Advocacy Center**
12 **Grants**

13 **SEC. 381. INFORMATION AND DOCUMENTATION REQUIRED**
14 **BY ATTORNEY GENERAL UNDER VICTIMS OF**
15 **CHILD ABUSE ACT OF 1990.**

16 (a) REGIONAL CHILDREN’S ADVOCACY CENTERS.—
17 Section 213 of the Victims of Child Abuse Act of 1990
18 (42 U.S.C. 13001b) is amended—

19 (1) in subsection (c)(4)—

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

22 (B) in subparagraph (B)(iii), by striking
23 “Board” and inserting “board”; and

24 (C) by redesignating subparagraphs (C)
25 and (D) as clauses (iv) and (v), respectively, of



1 subparagraph (B), and by realigning such
2 clauses so as to have the same indentation as
3 the preceding clauses of subparagraph (B); and
4 (2) in subsection (e), by striking “Board” in
5 each of paragraphs (1)(B)(ii), (2)(A), and (3), and
6 inserting “board”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—The text
8 of section 214B of such Act (42 U.S.C. 13004) is amend-
9 ed to read as follows:

10 “(a) SECTIONS 213 AND 214.—There are authorized
11 to be appropriated to carry out sections 213 and 214,
12 \$15,000,000 for each of fiscal years 2004 and 2005.

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

16 **TITLE IV—SENTENCING REFORM**

17 **SEC. 401. SENTENCING REFORM.**

18 (a) ENFORCEMENT OF SENTENCING GUIDELINES
19 FOR CHILD ABDUCTION AND SEX OFFENSES.—Section
20 3553(b) of title 18, United States Code is amended—

21 (1) by striking “The court” and inserting the
22 following:

23 “(1) IN GENERAL.—Except as provided in para-
24 graph (2), the court”; and

25 (2) by adding at the end the following:



1 “(2) CHILD CRIMES AND SEXUAL OFFENSES.—

2 “(A) SENTENCING.—In sentencing a de-
3 fendant convicted of an offense under section
4 1201 involving a minor victim, an offense under
5 section 1591, or an offense under chapter 71,
6 109A, 110, or 117, the court shall impose a
7 sentence of the kind, and within the range, re-
8 ferred to in subsection (a)(4) unless—

9 “(i) the court finds that there exists
10 an aggravating circumstance of a kind, or
11 to a degree, not adequately taken into con-
12 sideration by the Sentencing Commission
13 in formulating the guidelines that should
14 result in a sentence greater than that de-
15 scribed;

16 “(ii) the court finds that there exists
17 a mitigating circumstance of a kind or to
18 a degree, that—

19 “(I) has been affirmatively and
20 specifically identified as a permissible
21 ground of downward departure in the
22 sentencing guidelines or policy state-
23 ments issued under section 994(a) of
24 title 28, taking account of any amend-



1 ments to such sentencing guidelines or
2 policy statements by Congress;

3 “(II) has not been taken into
4 consideration by the Sentencing Com-
5 mission in formulating the guidelines;
6 and

7 “(III) should result in a sentence
8 different from that described; or

9 “(iii) the court finds, on motion of the
10 Government, that the defendant has pro-
11 vided substantial assistance in the inves-
12 tigation or prosecution of another person
13 who has committed an offense and that
14 this assistance established a mitigating cir-
15 cumstance of a kind, or to a degree, not
16 adequately taken into consideration by the
17 Sentencing Commission in formulating the
18 guidelines that should result in a sentence
19 lower than that described.

20 In determining whether a circumstance was adequately
21 taken into consideration, the court shall consider only the
22 sentencing guidelines, policy statements, and official com-
23 mentary of the Sentencing Commission, together with any
24 amendments thereto by act of Congress. In the absence
25 of an applicable sentencing guideline, the court shall im-



1 pose an appropriate sentence, having due regard for the
2 purposes set forth in subsection (a)(2). In the absence of
3 an applicable sentencing guideline in the case of an offense
4 other than a petty offense, the court shall also have due
5 regard for the relationship of the sentence imposed to sen-
6 tences prescribed by guidelines applicable to similar of-
7 fenses and offenders, and to the applicable policy state-
8 ments of the Sentencing Commission, together with any
9 amendments to such guidelines or policy statements by act
10 of Congress.”.

11 (b) CONFORMING AMENDMENTS TO GUIDELINES
12 MANUAL.—The Federal Sentencing Guidelines are
13 amended—

14 (1) in section 5K2.0—

15 (A) by striking “Under” and inserting the
16 following:

17 “(a) DOWNWARD DEPARTURES IN CRIMINAL CASES
18 OTHER THAN CHILD CRIMES AND SEXUAL OFFENSES.—
19 Under”; and

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

21 “(b) DOWNWARD DEPARTURES IN CHILD CRIMES
22 AND SEXUAL OFFENSES.—

23 “Under 18 U.S.C. § 3553(b)(2), the sentencing court may
24 impose a sentence below the range established by the ap-



1 plicable guidelines only if the court finds that there exists
2 a mitigating circumstance of a kind, or to a degree, that—

3 “(1) has been affirmatively and specifically identified
4 as a permissible ground of downward departure in
5 the sentencing guidelines or policy statements issued
6 under section 994(a) of title 28, United States Code,
7 taking account of any amendments to such sen-
8 tencing guidelines or policy statements by act of
9 Congress;

10 “(2) has not adequately been taken into consider-
11 ation by the Sentencing Commission in formulating
12 the guidelines; and

13 “(3) should result in a sentence different from that
14 described.

15 The grounds enumerated in this Part K of chapter 5 are
16 the sole grounds that have been affirmatively and specifi-
17 cally identified as a permissible ground of downward de-
18 parture in these sentencing guidelines and policy state-
19 ments. Thus, notwithstanding any other reference to au-
20 thority to depart downward elsewhere in this Sentencing
21 Manual, a ground of downward departure has not been
22 affirmatively and specifically identified as a permissible
23 ground of downward departure within the meaning of sec-
24 tion 3553(b)(2) unless it is expressly enumerated in this



1 Part K as a ground upon which a downward departure
2 may be granted.”.

3 (2) At the end of part K of chapter 5, add the
4 following:

5 **“§ 5K2.22 Specific Offender Characteristics as**
6 **Grounds for Downward Departure in**
7 **child crimes and sexual offenses (Policy**
8 **Statement)**

9 “In sentencing a defendant convicted of an offense under
10 section 1201 involving a minor victim, an offense under
11 section 1591, or an offense under chapter 71, 109A, 110,
12 or 117 of title 18, United States Code, age may be a rea-
13 son to impose a sentence below the applicable guideline
14 range only if and to the extent permitted by § 5H1.1.

15 “An extraordinary physical impairment may be a reason
16 to impose a sentence below the applicable guideline range
17 only if and to the extent permitted by § 5H1.4. Drug, alco-
18 hol, or gambling dependence or abuse is not a reason for
19 imposing a sentence below the guidelines.

20 (3) Section 5K2.20 is amended by striking “A”
21 and inserting “Except where a defendant is con-
22 victed of an offense under section 1201 involving a
23 minor victim, an offense under section 1591, or an
24 offense under chapter 71, 109A, 110, or 117 of title
25 18, United States Code, a”.



1 (4) Section 5H1.6 is amended by inserting after
2 the first sentence the following: “In sentencing a de-
3 fendant convicted of an offense under section 1201
4 involving a minor victim, an offense under section
5 1591, or an offense under chapter 71, 109A, 110,
6 or 117 of title 18, United States Code, family ties
7 and responsibilities and community ties are not rel-
8 evant in determining whether a sentence should be
9 below the applicable guideline range.”.

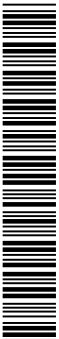
10 (5) Section 5K2.13 is amended by—

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

12 (B) replacing “public” with “public; or (4)
13 the defendant has been convicted of an offense
14 under chapter 71, 109A, 110, or 117 of title
15 18, United States Code.”.

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

19 (1) by striking “described.” and inserting “de-
20 scribed, which reasons must also be stated with
21 specificity in the written order of judgment and com-
22 mitment, except to the extent that the court relies
23 upon statements received in camera in accordance
24 with Federal Rule of Criminal Procedure 32. In the
25 event that the court relies upon statements received



1 in camera in accordance with Federal Rule of Crimi-
2 nal Procedure 32 the court shall state that such
3 statements were so received and that it relied upon
4 the content of such statements.”;

5 (2) by inserting “, together with the order of
6 judgment and commitment,” after “the court’s
7 statement of reasons”; and

8 (3) by inserting “and to the Sentencing Com-
9 mission,” after “to the Probation System”.

10 (d) REVIEW OF A SENTENCE.—

11 (1) REVIEW OF DEPARTURES.—Section
12 3742(e)(3) of title 18, United States Code, is
13 amended to read as follows:

14 “(3) is outside the applicable guideline range,
15 and

16 “(A) the district court failed to provide the
17 written statement of reasons required by section
18 3553(c);

19 “(B) the sentence departs from the appli-
20 cable guideline range based on a factor that—

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

23 “(ii) is not authorized under section
24 3553(b); or

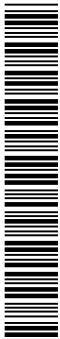


1 “(iii) is not justified by the facts of
2 the case; or

3 “(C) the sentence departs to an unreason-
4 able degree from the applicable guidelines
5 range, having regard for the factors to be con-
6 sidered in imposing a sentence, as set forth in
7 section 3553(a) of this title and the reasons for
8 the imposition of the particular sentence, as
9 stated by the district court pursuant to the pro-
10 visions of section 3553(c); or”.

11 (2) STANDARD OF REVIEW.—The last para-
12 graph of section 3742(e) of title 18, United States
13 Code, is amended by striking “shall give due defe-
14 rence to the district court’s application of the
15 guidelines to the facts” and inserting “, except with
16 respect to determinations under subsection (3)(A) or
17 (3)(B), shall give due deference to the district
18 court’s application of the guidelines to the facts.
19 With respect to determinations under subsection
20 (3)(A) or (3)(B), the court of appeals shall review
21 de novo the district court’s application of the guide-
22 lines to the facts”.

23 (3) DECISION AND DISPOSITION.—



1 (A) The first paragraph of section 3742(f)
2 of title 18, United States Code, is amended by
3 striking “the sentence”;

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

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

9 “(2) the sentence is outside the applicable
10 guideline range and the district court failed to pro-
11 vide the required statement of reasons in the order
12 of judgment and commitment, or the departure is
13 based on an impermissible factor, or is to an unrea-
14 sonable degree, or the sentence was imposed for an
15 offense for which there is no applicable sentencing
16 guideline and is plainly unreasonable, it shall state
17 specific reasons for its conclusions and—

18 “(A) if it determines that the sentence is
19 too high and the appeal has been filed under
20 subsection (a), it shall set aside the sentence
21 and remand the case for further sentencing pro-
22 ceedings with such instructions as the court
23 considers appropriate, subject to subsection (g);

24 “(B) if it determines that the sentence is
25 too low and the appeal has been filed under



1 subsection (b), it shall set aside the sentence
2 and remand the case for further sentencing pro-
3 ceedings with such instructions as the court
4 considers appropriate, subject to subsection
5 (g);” and

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

9 (e) IMPOSITION OF SENTENCE UPON REMAND.—
10 Section 3742 of title 18, United States Code, is amended
11 by redesignating subsections (g) and (h) as subsections (h)
12 and (i) and by inserting the following after subsection (f):

13 “(g) SENTENCING UPON REMAND.—A district court
14 to which a case is remanded pursuant to subsection (f)(1)
15 or (f)(2) shall resentence a defendant in accordance with
16 section 3553 and with such instructions as may have been
17 given by the court of appeals, except that—

18 “(1) In determining the range referred to in
19 subsection 3553(a)(4), the court shall apply the
20 guidelines issued by the Sentencing Commission pur-
21 suant to section 994(a)(1) of title 28, United States
22 Code, and that were in effect on the date of the pre-
23 vious sentencing of the defendant prior to the ap-
24 peal, together with any amendments thereto by any
25 act of Congress that was in effect on such date; and



1 “(2) The court shall not impose a sentence out-
2 side the applicable guidelines range except upon a
3 ground that—

4 “(A) was specifically and affirmatively in-
5 cluded in the written statement of reasons re-
6 quired by section 3553(c) in connection with
7 the previous sentencing of the defendant prior
8 to the appeal; and

9 “(B) was held by the court of appeals, in
10 remanding the case, to be a permissible ground
11 of departure.”.

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

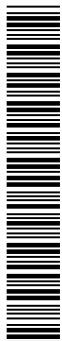
15 “(j) DEFINITIONS.—For purposes of this section—

16 “(1) a factor is a ‘permissible’ ground of depar-
17 ture if it—

18 “(A) advances the objectives set forth in
19 section 3553(a)(2); and

20 “(B) is authorized under section 3553(b);
21 and

22 “(C) is justified by the facts of the case;
23 and



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

4 (g) REFORM OF GUIDELINES GOVERNING ACCEPT-
5 ANCE OF RESPONSIBILITY.—Subject to subsection (j), the
6 Guidelines Manual promulgated by the Sentencing Com-
7 mission pursuant to section 994(a) of title 28, United
8 States Code, is amended—

9 (1) in section 3E1.1(b)—

10 (A) by inserting “upon motion of the gov-
11 ernment stating that” immediately before “the
12 defendant has assisted authorities”; and

13 (B) by striking “taking one or more” and
14 all that follows through and including “addi-
15 tional level” and insert “timely notifying au-
16 thorities of his intention to enter a plea of
17 guilty, thereby permitting the government to
18 avoid preparing for trial and permitting the
19 government and the court to allocate their re-
20 sources efficiently, decrease the offense level by
21 1 additional level”;

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

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



1 (B) by adding the following new sentence
2 at the end: “Because the Government is in the
3 best position to determine whether the defend-
4 ant has assisted authorities in a manner that
5 avoids preparing for trial, an adjustment under
6 subsection (b) may only be granted upon a for-
7 mal motion by the Government at the time of
8 sentencing.”; and

9 (3) in the Background to section 3E1.1, by
10 striking “one or more of”.

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

14 “(w)(1) The Chief Judge of each district court shall
15 ensure that, within 30 days following entry of judgment
16 in every criminal case, the sentencing court submits to the
17 Commission a written report of the sentence, the offense
18 for which it is imposed, the age, race, sex of the offender,
19 and information regarding factors made relevant by the
20 guidelines. The report shall also include—

21 “(A) the judgment and commitment order;

22 “(B) the statement of reasons for the sentence
23 imposed (which shall include the reason for any de-
24 parture from the otherwise applicable guideline
25 range);



1 “(C) any plea agreement;

2 “(D) the indictment or other charging docu-
3 ment;

4 “(E) the presentence report; and

5 “(F) any other information as the Commission
6 finds appropriate.

7 “(2) The Commission shall, upon request, make
8 available to the House and Senate Committees on
9 the Judiciary, the written reports and all underlying
10 records accompanying those reports described in this
11 section, as well as other records received from
12 courts.

13 “(3) The Commission shall submit to Congress
14 at least annually an analysis of these documents,
15 any recommendations for legislation that the Com-
16 mission concludes is warranted by that analysis, and
17 an accounting of those districts that the Commission
18 believes have not submitted the appropriate informa-
19 tion and documents required by this section.

20 “(4) The Commission shall make available to
21 the Attorney General, upon request, such data files
22 as the Commission may assemble or maintain in
23 electronic form that include any information sub-
24 mitted under paragraph (1). Such data files shall be
25 made available in electronic form and shall include



1 all data fields requested, including the identity of the
2 sentencing judge.”.

3 (i) SENTENCING GUIDELINES AMENDMENTS.—(1)

4 Subject to subsection (j), the Guidelines Manual promul-
5 gated by the Sentencing Commission pursuant to section
6 994(a) of title 28, United States Code, is amended as fol-
7 lows:

8 (A) Application Note 4(b)(i) to section 4B1.5 is
9 amended to read as follows:

10 “(i) IN GENERAL.—For purposes of
11 subsection (b), the defendant engaged in a
12 pattern of activity involving prohibited sex-
13 ual conduct if on at least two separate oc-
14 casions, the defendant engaged in prohib-
15 ited sexual conduct with a minor.”.

16 (B) Section 2G2.4(b) is amended by adding at
17 the end the following:

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

21 “(5) If the offense involved—

22 “(A) at least 10 images, but fewer than
23 150, increase by 2 levels;

24 “(B) at least 150 images, but fewer than
25 300, increase by 3 levels;



1 “(C) at least 300 images, but fewer than
2 600, increase by 4 levels; and

3 “(D) 600 or more images, increase by 5
4 levels.”.

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

7 “(6) If the offense involved—

8 “(A) at least 10 images, but fewer than
9 150, increase by 2 levels;

10 “(B) at least 150 images, but fewer than
11 300, increase by 3 levels;

12 “(C) at least 300 images, but fewer than
13 600, increase by 4 levels; and

14 “(D) 600 or more images, increase by 5
15 levels.”.

16 (2) The Sentencing Commission shall amend the Sen-
17 tencing Guidelines to ensure that the Guidelines ade-
18 quately reflect the seriousness of the offenses under sec-
19 tions 2243(b), 2244(a)(4), and 2244(b) of title 18, United
20 States Code.

21 (j) CONFORMING AMENDMENTS.—

22 (1) Upon enactment of this Act, the Sentencing
23 Commission shall forthwith distribute to all courts of
24 the United States and to the United States Probation
25 System the amendments made by subsections



1 (b), (g), and (i) of this section to the sentencing
2 guidelines, policy statements, and official com-
3 mentary of the Sentencing Commission. These
4 amendments shall take effect upon the date of en-
5 actment of this Act, in accordance with paragraph
6 (5).

7 (2) On or before May 1, 2005, the Sentencing
8 Commission shall not promulgate any amendment to
9 the sentencing guidelines, policy statements, or offi-
10 cial commentary of the Sentencing Commission that
11 is inconsistent with any amendment made by sub-
12 section (b) or that adds any new grounds of down-
13 ward departure to Part K of chapter 5.

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



1 (4) At no time may the Commission promulgate
2 any amendment that would alter or repeal the
3 amendments made by subsection (g) of this section.

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

6 (A) by amending paragraph (4)(A) to read
7 as follows:

8 “(A) the applicable category of offense
9 committed by the applicable category of defend-
10 ant as set forth in the guidelines—

11 “(i) issued by the Sentencing Commis-
12 sion pursuant to section 994(a)(1) of title
13 28, United States Code, subject to any
14 amendments made to such guidelines by
15 act of Congress (regardless of whether
16 such amendments have yet to be incor-
17 porated by the Sentencing Commission
18 into amendments issued under section
19 994(p) of title 28); and

20 “(ii) that, except as provided in sec-
21 tion 3742(g), are in effect on the date the
22 defendant is sentenced; or”;

23 (B) in paragraph (4)(B), by inserting “,
24 taking into account any amendments made to
25 such guidelines or policy statements by act of



1 Congress (regardless of whether such amend-
2 ments have yet to be incorporated by the Sen-
3 tencing Commission into amendments issued
4 under section 994(p) of title 28)” after “Code”;

5 (C) by amending paragraph (5) to read as
6 follows:

7 “(5) any pertinent policy statement—

8 “(A) issued by the Sentencing Commission
9 pursuant to section 994(a)(2) of title 28,
10 United States Code, subject to any amendments
11 made to such policy statement by act of Con-
12 gress (regardless of whether such amendments
13 have yet to be incorporated by the Sentencing
14 Commission into amendments issued under sec-
15 tion 994(p) of title 28); and

16 “(B) that, except as provided in section
17 3742(g), is in effect on the date the defendant
18 is sentenced.”.

19 (k) COMPLIANCE WITH STATUTE.—Section 994(a) of
20 title 28, United States Code, is amended by striking “con-
21 sistent with all pertinent provisions of this title and title
22 18, United States Code,” and inserting “consistent with
23 all pertinent provisions of any Federal statute”.

24 (l) REPORT BY ATTORNEY GENERAL.—



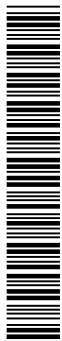
1 (1) DEFINED TERM.—For purposes of this sec-
2 tion, the term “report described in paragraph (3)”
3 means a report, submitted by the Attorney General,
4 which states in detail the policies and procedures
5 that the Department of Justice has adopted subse-
6 quent to the enactment of this Act—

7 (A) to ensure that Department of Justice
8 attorneys oppose sentencing adjustments, in-
9 cluding downward departures, that are not sup-
10 ported by the facts and the law;

11 (B) to ensure that Department of Justice
12 attorneys in such cases make a sufficient record
13 so as to permit the possibility of an appeal;

14 (C) to delineate objective criteria, specified
15 by the Attorney General, as to which such cases
16 may warrant consideration of an appeal, either
17 because of the nature or magnitude of the sen-
18 tencing error, its prevalence in the district, or
19 its prevalence with respect to a particular
20 judge;

21 (D) to ensure that Department of Justice
22 attorneys promptly notify the designated De-
23 partment of Justice component in Washington
24 concerning such adverse sentencing decisions;
25 and



1 (E) to ensure the vigorous pursuit of ap-
2 propriate and meritorious appeals of such ad-
3 verse decisions.

4 (2) REPORT REQUIRED.—

5 (A) IN GENERAL.—Not later than 15 days
6 after a district court's grant of a downward de-
7 parture in any case, other than a case involving
8 a downward departure for substantial assist-
9 ance to authorities pursuant to section 5K1.1 of
10 the United States Sentencing Guidelines, the
11 Attorney General shall submit a report to the
12 Committees on the Judiciary of the House of
13 Representatives and the Senate containing the
14 information described under subparagraph (B).

15 (B) CONTENTS.—The report submitted
16 pursuant to subparagraph (A) shall set forth—

17 (i) the case;

18 (ii) the facts involved;

19 (iii) the identity of the district court
20 judge;

21 (iv) the district court's stated reasons,
22 whether or not the court provided the
23 United States with advance notice of its in-
24 tention to depart; and



1 (v) the position of the parties with re-
2 spect to the downward departure, whether
3 or not the United States has filed, or in-
4 tends to file, a motion for reconsideration.

5 (C) APPEAL OF THE DEPARTURE.—Not
6 later than 5 days after a decision by the Solic-
7 itor General regarding the authorization of an
8 appeal of the departure, the Attorney General
9 shall submit a report to the Committees on the
10 Judiciary of the House of Representatives and
11 the Senate that describes the decision of the
12 Solicitor General and the basis for such deci-
13 sion.

14 (3) EFFECTIVE DATE.—Paragraph (2) shall
15 take effect on the day that is 91 days after the date
16 of enactment of this Act, except that such paragraph
17 shall not take effect if not more than 90 days after
18 the date of enactment of this Act the Attorney Gen-
19 eral has submitted to the Judiciary Committees of
20 the House of Representatives and the Senate the re-
21 port described in paragraph (3).

22 (m) REFORM OF EXISTING PERMISSIBLE GROUNDS
23 OF DOWNWARD DEPARTURES.—Not later than 180 days
24 after the enactment of this Act, the United States Sen-
25 tencing Commission shall—



1 (1) review the grounds of downward departure
2 that are authorized by the sentencing guidelines, pol-
3 icy statements, and official commentary of the Sen-
4 tencing Commission; and

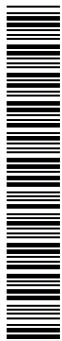
5 (2) promulgate, pursuant to section 994 of title
6 28, United States Code—

7 (A) appropriate amendments to the sen-
8 tencing guidelines, policy statements, and offi-
9 cial commentary to ensure that the incidence of
10 downward departures are substantially reduced;

11 (B) a policy statement authorizing a down-
12 ward departure of not more than 4 levels if the
13 Government files a motion for such departure
14 pursuant to an early disposition program au-
15 thorized by the Attorney General and the
16 United States Attorney; and

17 (C) any other conforming amendments to
18 the sentencing guidelines, policy statements,
19 and official commentary of the Sentencing
20 Commission necessitated by this Act, including
21 a revision of paragraph 4(b) of part A of chap-
22 ter 1 and a revision of section 5K2.0.

23 (n) COMPOSITION OF SENTENCING COMMISSION.—



1 (1) IN GENERAL.—Section 991(a) of title 28,
2 United States Code, is amended by striking “At
3 least three” and inserting “Not more than 3”.

4 (2) APPLICABILITY.—The amendment made
5 under paragraph (1) shall not apply to any person
6 who is serving, or who has been nominated to serve,
7 as a member of the Sentencing Commission on the
8 date of enactment of this Act.

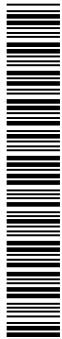
9 **TITLE V—OBSCENITY AND**
10 **PORNOGRAPHY**
11 **Subtitle A—Child Obscenity and**
12 **Pornography Prevention**

13 **SEC. 501. FINDINGS.**

14 Congress finds the following:

15 (1) Obscenity and child pornography are not
16 entitled to protection under the First Amendment
17 under *Miller v. California*, 413 U.S. 15 (1973) (ob-
18 scenity), or *New York v. Ferber*, 458 U.S. 747
19 (1982) (child pornography) and thus may be prohib-
20 ited.

21 (2) The Government has a compelling state in-
22 terest in protecting children from those who sexually
23 exploit them, including both child molesters and
24 child pornographers. “The prevention of sexual ex-
25 ploitation and abuse of children constitutes a gov-



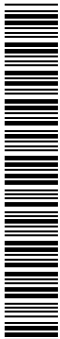
1 ernment objective of surpassing importance,” *New*
2 York v. *Ferber*, 458 U.S. 747, 757 (1982), and this
3 interest extends to stamping out the vice of child
4 pornography at all levels in the distribution chain.
5 *Osborne v. Ohio*, 495 U.S. 103, 110 (1990).

6 (3) The Government thus has a compelling in-
7 terest in ensuring that the criminal prohibitions
8 against child pornography remain enforceable and
9 effective. “The most expeditious if not the only prac-
10 tical method of law enforcement may be to dry up
11 the market for this material by imposing severe
12 criminal penalties on persons selling, advertising, or
13 otherwise promoting the product.” *Ferber*, 458 U.S.
14 at 760.

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

17 (A) computer generate depictions of chil-
18 dren that are indistinguishable from depictions
19 of real children;

20 (B) use parts of images of real children to
21 create a composite image that is unidentifiable
22 as a particular child and in a way that prevents
23 even an expert from concluding that parts of
24 images of real children were used; or



1 (C) disguise pictures of real children being
2 abused by making the image look computer-
3 generated.

4 (5) Evidence submitted to the Congress, includ-
5 ing from the National Center for Missing and Ex-
6 ploited Children, demonstrates that technology al-
7 ready exists to disguise depictions of real children to
8 make them unidentifiable and to make depictions of
9 real children appear computer-generated. The tech-
10 nology will soon exist, if it does not already, to com-
11 puter generate realistic images of children.

12 (6) The vast majority of child pornography
13 prosecutions today involve images contained on com-
14 puter hard drives, computer disks, and/or related
15 media.

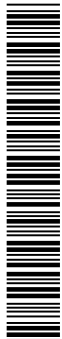
16 (7) There is no substantial evidence that any of
17 the child pornography images being trafficked today
18 were made other than by the abuse of real children.
19 Nevertheless, technological advances since Ferber
20 have led many criminal defendants to suggest that
21 the images of child pornography they possess are not
22 those of real children, insisting that the government
23 prove beyond a reasonable doubt that the images are
24 not computer-generated. Such challenges increased



1 significantly after the decision in *Ashcroft v. Free*
2 *Speech Coalition*, 535 U.S. 234 (2002).

3 (8) Child pornography circulating on the Inter-
4 net has, by definition, been digitally uploaded or
5 scanned into computers and has been transferred
6 over the Internet, often in different file formats,
7 from trafficker to trafficker. An image seized from
8 a collector of child pornography is rarely a first-gen-
9 eration product, and the retransmission of images
10 can alter the image so as to make it difficult for
11 even an expert conclusively to opine that a particular
12 image depicts a real child. If the original image has
13 been scanned from a paper version into a digital for-
14 mat, this task can be even harder since proper fo-
15 rensic assessment may depend on the quality of the
16 image scanned and the tools used to scan it.

17 (9) The impact of the *Free Speech Coalition* de-
18 cision on the Government's ability to prosecute child
19 pornography offenders is already evident. The Ninth
20 Circuit has seen a significant adverse effect on pros-
21 ecutions since the 1999 Ninth Circuit Court of Ap-
22 peals decision in *Free Speech Coalition*. After that
23 decision, prosecutions generally have been brought in
24 the Ninth Circuit only in the most clear-cut cases in
25 which the government can specifically identify the



1 child in the depiction or otherwise identify the origin
2 of the image. This is a fraction of meritorious child
3 pornography cases. The National Center for Missing
4 and Exploited Children testified that, in light of the
5 Supreme Court's affirmation of the Ninth Circuit
6 decision, prosecutors in various parts of the country
7 have expressed concern about the continued viability
8 of previously indicted cases as well as declined po-
9 tentially meritorious prosecutions.

10 (10) Since the Supreme Court's decision in
11 Free Speech Coalition, defendants in child pornog-
12 raphy cases have almost universally raised the con-
13 tention that the images in question could be virtual,
14 thereby requiring the government, in nearly every
15 child pornography prosecution, to find proof that the
16 child is real. Some of these defense efforts have al-
17 ready been successful. In addition, the number of
18 prosecutions being brought has been significantly
19 and adversely affected as the resources required to
20 be dedicated to each child pornography case now are
21 significantly higher than ever before.

22 (11) Leading experts agree that, to the extent
23 that the technology exists to computer generate real-
24 istic images of child pornography, the cost in terms
25 of time, money, and expertise is—and for the fore-



1 seeable future will remain—prohibitively expensive.
2 As a result, for the foreseeable future, it will be
3 more cost-effective to produce child pornography
4 using real children. It will not, however, be difficult
5 or expensive to use readily available technology to
6 disguise those depictions of real children to make
7 them unidentifiable or to make them appear com-
8 puter-generated.

9 (12) Child pornography results from the abuse
10 of real children by sex offenders; the production of
11 child pornography is a byproduct of, and not the pri-
12 mary reason for, the sexual abuse of children. There
13 is no evidence that the future development of easy
14 and inexpensive means of computer generating real-
15 istic images of children would stop or even reduce
16 the sexual abuse of real children or the practice of
17 visually recording that abuse.

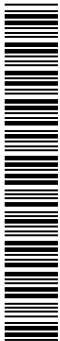
18 (13) In the absence of congressional action, the
19 difficulties in enforcing the child pornography laws
20 will continue to grow increasingly worse. The mere
21 prospect that the technology exists to create com-
22 posite or computer-generated depictions that are in-
23 distinguishable from depictions of real children will
24 allow defendants who possess images of real children
25 to escape prosecution; for it threatens to create a



1 reasonable doubt in every case of computer images
2 even when a real child was abused. This threatens
3 to render child pornography laws that protect real
4 children unenforceable. Moreover, imposing an addi-
5 tional requirement that the Government prove be-
6 yond a reasonable doubt that the defendant knew
7 that the image was in fact a real child—as some
8 courts have done—threatens to result in the de facto
9 legalization of the possession, receipt, and distribu-
10 tion of child pornography for all except the original
11 producers of the material.

12 (14) To avoid this grave threat to the Govern-
13 ment's unquestioned compelling interest in effective
14 enforcement of the child pornography laws that pro-
15 tect real children, a statute must be adopted that
16 prohibits a narrowly-defined subcategory of images.

17 (15) The Supreme Court's 1982 *Ferber v. New*
18 *York* decision holding that child pornography was
19 not protected drove child pornography off the shelves
20 of adult bookstores. Congressional action is nec-
21 essary now to ensure that open and notorious traf-
22 ficking in such materials does not reappear, and
23 even increase, on the Internet.



1 **SEC. 502. IMPROVEMENTS TO PROHIBITION ON VIRTUAL**
2 **CHILD PORNOGRAPHY.**

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

5 (1) so that subparagraph (B) reads as follows:

6 “(B) such visual depiction is a digital
7 image, computer image, or computer-generated
8 image that is, or is indistinguishable from, that
9 of a minor engaging in sexually explicit con-
10 duct; or”:

11 (2) by striking “; or” at the end of subpara-
12 graph (C) and inserting a period; and

13 (3) by striking subparagraph (D).

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

16 “(2)(A) Except as provided in subparagraph
17 (B), ‘sexually explicit conduct’ means actual or
18 simulated—

19 “(i) sexual intercourse, including genital-
20 genital, oral-genital, anal-genital, or oral-anal,
21 whether between persons of the same or oppo-
22 site sex;

23 “(ii) bestiality;

24 “(iii) masturbation;

25 “(iv) sadistic or masochistic abuse; or



1 “(v) lascivious exhibition of the genitals or
2 pubic area of any person;

3 “(B) For purposes of subsection 8(B) of this
4 section, ‘sexually explicit conduct’ means—

5 “(i) graphic sexual intercourse, including
6 genital-genital, oral-genital, anal-genital, or
7 oral-anal, whether between persons of the same
8 or opposite sex, or lascivious simulated sexual
9 intercourse where the genitals, breast, or pubic
10 area of any person is exhibited;

11 “(ii) graphic or lascivious simulated;

12 “(I) bestiality;

13 “(II) masturbation; or

14 “(III) sadistic or masochistic abuse;

15 or

16 “(iii) graphic or simulated lascivious exhi-
17 bition of the genitals or pubic area of any per-
18 son;”.

19 (c) Section 2256 is amended by inserting at the end
20 the following new paragraphs:

21 “(10) ‘graphic’, when used with respect to a de-
22 piction of sexually explicit conduct, means that a
23 viewer can observe any part of the genitals or pubic
24 area of any depicted person or animal during any



1 part of the time that the sexually explicit conduct is
2 being depicted; and

3 “(11) the term ‘indistinguishable’ used with re-
4 spect to a depiction, means virtually indistinguish-
5 able, in that the depiction is such that an ordinary
6 person viewing the depiction would conclude that the
7 depiction is of an actual minor engaged in sexually
8 explicit conduct. This definition does not apply to
9 depictions that are drawings, cartoons, sculptures, or
10 paintings depicting minors or adults.”

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

13 “(c) It shall be an affirmative defense to a charge
14 of violating paragraph (1), (2), (3)(A), (4), or (5) of sub-
15 section (a) that—

16 “(1)(A) the alleged child pornography was pro-
17 duced using an actual person or persons engaging in
18 sexually explicit conduct; and

19 “(B) each such person was an adult at the time
20 the material was produced; or

21 “(2) the alleged child pornography was not pro-
22 duced using any actual minor or minors.

23 No affirmative defense under subsection (c)(2) shall be
24 available in any prosecution that involves child pornog-
25 raphy as described in section 2256(8)(C). A defendant



1 may not assert an affirmative defense to a charge of vio-
2 lating paragraph (1), (2), (3)(A), (4), or (5) of subsection
3 (a) unless, within the time provided for filing pretrial mo-
4 tions or at such time prior to trial as the judge may direct,
5 but in no event later than 10 days before the commence-
6 ment of the trial, the defendant provides the court and
7 the United States with notice of the intent to assert such
8 defense and the substance of any expert or other special-
9 ized testimony or evidence upon which the defendant in-
10 tends to rely. If the defendant fails to comply with this
11 subsection, the court shall, absent a finding of extraor-
12 dinary circumstances that prevented timely compliance,
13 prohibit the defendant from asserting such defense to a
14 charge of violating paragraph (1), (2), (3)(A), (4), or (5)
15 of subsection (a) or presenting any evidence for which the
16 defendant has failed to provide proper and timely notice.”.

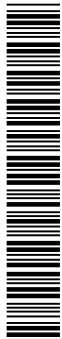
17 **SEC. 503. CERTAIN ACTIVITIES RELATING TO MATERIAL**
18 **CONSTITUTING OR CONTAINING CHILD POR-**
19 **NOGRAPHY.**

20 Section 2252A of title 18, United States Code, is
21 amended—

22 (1) in subsection (a)—

23 (A) by striking paragraph (3) and insert-
24 ing the following:

25 “(3) knowingly—



1 “(A) reproduces any child pornography for
2 distribution through the mails, or in interstate
3 or foreign commerce by any means, including
4 by computer; or

5 “(B) advertises, promotes, presents, dis-
6 tributes, or solicits through the mails, or in
7 interstate or foreign commerce by any means,
8 including by computer, any material or pur-
9 ported material in a manner that reflects the
10 belief, or that is intended to cause another to
11 believe, that the material or purported material
12 is, or contains—

13 “(i) an obscene visual depiction of a
14 minor engaging in sexually explicit con-
15 duct; or

16 “(ii) a visual depiction of an actual
17 minor engaging in sexually explicit con-
18 duct;”;

19 (B) in paragraph (4), by striking “or” at
20 the end;

21 (C) in paragraph (5), by striking the
22 comma at the end and inserting “; or”; and

23 (D) by adding after paragraph (5) the fol-
24 lowing:



1 “(6) knowingly distributes, offers, sends, or
2 provides to a minor any visual depiction, including
3 any photograph, film, video, picture, or computer
4 generated image or picture, whether made or pro-
5 duced by electronic, mechanical, or other means,
6 where such visual depiction is, or appears to be, of
7 a minor engaging in sexually explicit conduct—

8 “(A) that has been mailed, shipped, or
9 transported in interstate or foreign commerce
10 by any means, including by computer;

11 “(B) that was produced using materials
12 that have been mailed, shipped, or transported
13 in interstate or foreign commerce by any
14 means, including by computer; or

15 “(C) which distribution, offer, sending, or
16 provision is accomplished using the mails or by
17 transmitting or causing to be transmitted any
18 wire communication in interstate or foreign
19 commerce, including by computer,
20 for purposes of inducing or persuading a minor to
21 participate in any activity that is illegal.”; and

22 (2) in subsection (b)(1), by striking “para-
23 graphs (1), (2), (3), or (4)” and inserting “para-
24 graph (1), (2), (3), (4), or (6)”.



1 **SEC. 504. OBSCENE CHILD PORNOGRAPHY.**

2 (a) IN GENERAL.—Chapter 71 of title 18, United
3 States Code, is amended by inserting after section 1466
4 the following:

5 **“§ 1466A. Obscene visual representations of the sex-**
6 **ual abuse of children**

7 “(a) IN GENERAL.—Any person who, in a cir-
8 cumstance described in subsection (d), knowingly pro-
9 duces, distributes, receives, or possesses with intent to dis-
10 tribute, a visual depiction of any kind, including a draw-
11 ing, cartoon, sculpture, or painting, that—

12 “(1)(A) depicts a minor engaging in sexually
13 explicit conduct; and

14 “(B) is obscene; or

15 “(2)(A) depicts an image that is, or appears to
16 be, of a minor engaging in graphic bestiality, sadis-
17 tic or masochistic abuse, or sexual intercourse, in-
18 cluding genital-genital, oral-genital, anal-genital, or
19 oral-anal, whether between persons of the same or
20 opposite sex; and

21 “(B) lacks serious literary, artistic, political, or
22 scientific value;

23 or attempts or conspires to do so, shall be subject to the
24 penalties provided in section 2252A(b)(1), including the
25 penalties provided for cases involving a prior conviction.



1 “(b) ADDITIONAL OFFENSES.—Any person who, in
2 a circumstance described in subsection (d), knowingly pos-
3 sses a visual depiction of any kind, including a drawing,
4 cartoon, sculpture, or painting, that—

5 “(1)(A) depicts a minor engaging in sexually
6 explicit conduct; and

7 “(B) is obscene; or

8 “(2)(A) depicts an image that is, or appears to
9 be, of a minor engaging in graphic bestiality, sadis-
10 tic or masochistic abuse, or sexual intercourse, in-
11 cluding genital-genital, oral-genital, anal-genital, or
12 oral-anal, whether between persons of the same or
13 opposite sex; and

14 “(B) lacks serious literary, artistic, political, or
15 scientific value;

16 or attempts or conspires to do so, shall be subject to the
17 penalties provided in section 2252A(b)(2), including the
18 penalties provided for cases involving a prior conviction.

19 “(c) NONREQUIRED ELEMENT OF OFFENSE.—It is
20 not a required element of any offense under this section
21 that the minor depicted actually exist.

22 “(d) CIRCUMSTANCES.—The circumstance referred
23 to in subsections (a) and (b) is that—

24 “(1) any communication involved in or made in
25 furtherance of the offense is communicated or trans-



1 ported by the mail, or in interstate or foreign com-
2 merce by any means, including by computer, or any
3 means or instrumentality of interstate or foreign
4 commerce is otherwise used in committing or in fur-
5 therance of the commission of the offense;

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

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

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

22 “(5) the offense is committed in the special
23 maritime and territorial jurisdiction of the United
24 States or in any territory or possession of the
25 United States.



1 “(e) AFFIRMATIVE DEFENSE.—It shall be an affirm-
2 ative defense to a charge of violating subsection (b) that
3 the defendant—

4 “(1) possessed less than 3 such visual depic-
5 tions; and

6 “(2) promptly and in good faith, and without
7 retaining or allowing any person, other than a law
8 enforcement agency, to access any such visual
9 depiction—

10 “(A) took reasonable steps to destroy each
11 such visual depiction; or

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

15 “(f) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘visual depiction’ includes unde-
17 veloped film and videotape, and data stored on a
18 computer disk or by electronic means which is capa-
19 ble of conversion into a visual image, and also in-
20 cludes any photograph, film, video, picture, digital
21 image or picture, computer image or picture, or
22 computer generated image or picture, whether made
23 or produced by electronic, mechanical, or other
24 means;



1 “(2) the term ‘sexually explicit conduct’ has the
2 meaning given the term in section 2256(2)(A) or
3 2256(2)(B); and

4 “(3) the term ‘graphic’, when used with respect
5 to a depiction of sexually explicit conduct, means
6 that a viewer can observe any part of the genitals
7 or pubic area of any depicted person or animal dur-
8 ing any part of the time that the sexually explicit
9 conduct is being depicted.”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—

11 The table of sections at the beginning of such chapter is
12 amended by inserting after the item relating to section
13 1466 the following new item:

“1466A. Obscene visual representations of the sexual abuse of children.”.

14 (c) SENTENCING GUIDELINES.—

15 (1) CATEGORY.—Except as provided in para-
16 graph (2), the applicable category of offense to be
17 used in determining the sentencing range referred to
18 in section 3553(a)(4) of title 18, United States
19 Code, with respect to any person convicted under
20 section 1466A of such title, shall be the category of
21 offenses described in section 2G2.2 of the Sen-
22 tencing Guidelines.

23 (2) RANGES.—The Sentencing Commission may
24 promulgate guidelines specifically governing offenses
25 under section 1466A of title 18, United States Code,



1 if such guidelines do not result in sentencing ranges
2 that are lower than those that would have applied
3 under paragraph (1).

4 **SEC. 505. ADMISSIBILITY OF EVIDENCE.**

5 Section 2252A of title 18, United States Code, is
6 amended by adding at the end the following:

7 “(e) ADMISSIBILITY OF EVIDENCE.—On motion of
8 the government, in any prosecution under this chapter or
9 section 1466A, except for good cause shown, the name,
10 address, social security number, or other nonphysical iden-
11 tifying information, other than the age or approximate
12 age, of any minor who is depicted in any child pornog-
13 raphy shall not be admissible and may be redacted from
14 any otherwise admissible evidence, and the jury shall be
15 instructed, upon request of the United States, that it can
16 draw no inference from the absence of such evidence in
17 deciding whether the child pornography depicts an actual
18 minor.”.

19 **SEC. 506. EXTRATERRITORIAL PRODUCTION OF CHILD**
20 **PORNOGRAPHY FOR DISTRIBUTION IN THE**
21 **UNITED STATES.**

22 Section 2251 of title 18, United States Code, is
23 amended—

24 (1) by striking “subsection (d)” each place that
25 term appears and inserting “subsection (e)”;



1 (2) by redesignating subsections (c) and (d) as
2 subsections (d) and (e), respectively; and

3 (3) by inserting after subsection (b) the fol-
4 lowing:

5 “(c)(1) Any person who, in a circumstance described
6 in paragraph (2), employs, uses, persuades, induces, en-
7 tices, or coerces any minor to engage in, or who has a
8 minor assist any other person to engage in, any sexually
9 explicit conduct outside of the United States, its territories
10 or possessions, for the purpose of producing any visual de-
11 piction of such conduct, shall be punished as provided
12 under subsection (e).

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

15 “(A) the person intends such visual depiction to
16 be transported to the United States, its territories or
17 possessions, by any means, including by computer or
18 mail; or

19 “(B) the person transports such visual depic-
20 tion to the United States, its territories or posses-
21 sions, by any means, including by computer or
22 mail.”.



1 **SEC. 507. STRENGTHENING ENHANCED PENALTIES FOR RE-**
2 **PEAT OFFENDERS.**

3 Sections 2251(e) (as redesignated by section 506(2)),
4 2252(b), and 2252A(b) of title 18, United States Code,
5 are each amended—

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

8 (2) by inserting “or under section 920 of title
9 10 (article 120 of the Uniform Code of Military Jus-
10 tice),” immediately before each occurrence of “or
11 under the laws”.

12 **SEC. 508. SERVICE PROVIDER REPORTING OF CHILD POR-**
13 **NOGRAPHY AND RELATED INFORMATION.**

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

16 (1) in subsection (b)(1)—

17 (A) by inserting “2252B,” after “2252A,”;
18 and

19 (B) by inserting “or a violation of section
20 1466A of that title,” after “of that title,”;

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

23 (3) by amending subsection (f)(1)(D) to read as
24 follows:

25 “(D) where the report discloses a violation
26 of State criminal law, to an appropriate official



1 of a State or subdivision of a State for the pur-
2 pose of enforcing such State law.”;

3 (4) by redesignating paragraph (3) of sub-
4 section (b) as paragraph (4); and

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

7 “(3) In addition to forwarding such reports to
8 those agencies designated in subsection (b)(2), the
9 National Center for Missing and Exploited Children
10 is authorized to forward any such report to an ap-
11 propriate official of a state or subdivision of a state
12 for the purpose of enforcing state criminal law.”.

13 (b) Section 2702 of title 18, United States Code, is
14 amended—

15 (1) in subsection (b)—

16 (A) in paragraph (6), by striking subpara-
17 graph (B);

18 (B) by redesignating paragraphs (6) and
19 (7) as paragraphs (7) and (8) respectively;

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

22 (D) by inserting after paragraph (5) the
23 following new paragraph:

24 “(6) to the National Center for Missing and
25 Exploited Children, in connection with a report sub-



1 mitted thereto under section 227 of the Victims of
2 Child Abuse Act of 1990 (42 U.S.C. 13032);” and

3 (2) in subsection (c)—

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

6 (B) by redesignating paragraph (5) as
7 paragraph (6); and

8 (C) by adding after paragraph (4) the fol-
9 lowing new paragraph:

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

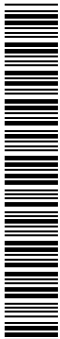
14 **SEC. 509. INVESTIGATIVE AUTHORITY RELATING TO CHILD**
15 **PORNOGRAPHY.**

16 Section 3486(a)(1)(C)(i) of title 18, United States
17 Code, is amended by striking “the name, address” and
18 all that follows through “subscriber or customer utilized”
19 and inserting “the information specified in section
20 2703(c)(2)”.

21 **SEC. 510. CIVIL REMEDIES.**

22 Section 2252A of title 18, United States Code, as
23 amended by this Act, is amended by adding at the end
24 the following:

25 “(f) CIVIL REMEDIES.—



1 “(1) IN GENERAL.—Any person aggrieved by
 2 reason of the conduct prohibited under subsection
 3 (a) or (b) or section 1466A may commence a civil
 4 action for the relief set forth in paragraph (2).

5 “(2) RELIEF.—In any action commenced in ac-
 6 cordance with paragraph (1), the court may award
 7 appropriate relief, including—

8 “(A) temporary, preliminary, or permanent
 9 injunctive relief;

10 “(B) compensatory and punitive damages;
 11 and

12 “(C) the costs of the civil action and rea-
 13 sonable fees for attorneys and expert wit-
 14 nesses.”.

15 **SEC. 511. RECORDKEEPING REQUIREMENTS.**

16 (a) IN GENERAL.—Section 2257 of title 18, United
 17 States Code, is amended—

18 (1) in subsection (d)(2), by striking “of this
 19 section” and inserting “of this chapter or chapter
 20 71,”;

21 (2) in subsection (h)(3), by inserting “, com-
 22 puter generated image, digital image, or picture,”
 23 after “video tape”; and

24 (3) in subsection (i)—



1 (A) by striking “not more than 2 years”
2 and inserting “not more than 5 years”; and
3 (B) by striking “5 years” and inserting
4 “10 years”.

5 (b) REPORT.—Not later than 1 year after enactment
6 of this Act, the Attorney General shall submit to Congress
7 a report detailing the number of times since January 1993
8 that the Department of Justice has inspected the records
9 of any producer of materials regulated pursuant to section
10 2257 of title 18, United States Code, and section 75 of
11 title 28 of the Code of Federal Regulations. The Attorney
12 General shall indicate the number of violations prosecuted
13 as a result of those inspections.

14 **SEC. 512. SENTENCING ENHANCEMENTS FOR INTERSTATE**
15 **TRAVEL TO ENGAGE IN SEXUAL ACT WITH A**
16 **JUVENILE.**

17 Pursuant to its authority under section 994(p) of title
18 28, United States Code, and in accordance with this sec-
19 tion, the United States Sentencing Commission shall re-
20 view and, as appropriate, amend the Federal Sentencing
21 Guidelines and policy statements to ensure that guideline
22 penalties are adequate in cases that involve interstate
23 travel with the intent to engage in a sexual act with a
24 juvenile in violation of section 2423 of title 18, United
25 States Code, to deter and punish such conduct.



1 **SEC. 513. MISCELLANEOUS PROVISIONS.**

2 (a) APPOINTMENT OF TRIAL ATTORNEYS.—

3 (1) IN GENERAL.—Not later than 6 months
4 after the date of enactment of this Act, the Attorney
5 General shall appoint 25 additional trial attorneys to
6 the Child Exploitation and Obscenity Section of the
7 Criminal Division of the Department of Justice or to
8 appropriate U.S. Attorney's Offices, and those trial
9 attorneys shall have as their primary focus, the in-
10 vestigation and prosecution of Federal child pornog-
11 raphy and obscenity laws.

12 (2) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated to the De-
14 partment of Justice such sums as may be necessary
15 to carry out this subsection.

16 (b) REPORT TO CONGRESSIONAL COMMITTEES.—

17 (1) IN GENERAL.—Not later than 9 months
18 after the date of enactment of this Act, and every
19 2 years thereafter, the Attorney General shall report
20 to the Chairpersons and Ranking Members of the
21 Committees on the Judiciary of the Senate and the
22 House of Representatives on the Federal enforce-
23 ment actions under chapter 110 or section 1466A of
24 title 18, United States Code.

25 (2) CONTENTS.—The report required under
26 paragraph (1) shall include—



1 (A) an evaluation of the prosecutions
2 brought under chapter 110 or section 1466A of
3 title 18, United States Code;

4 (B) an outcome-based measurement of per-
5 formance; and

6 (C) an analysis of the technology being
7 used by the child pornography industry.

8 (e) SENTENCING GUIDELINES.—Pursuant to its au-
9 thority under section 994(p) of title 28, United States
10 Code, and in accordance with this section, the United
11 States Sentencing Commission shall review and, as appro-
12 priate, amend the Federal Sentencing Guidelines and pol-
13 icy statements to ensure that the guidelines are adequate
14 to deter and punish conduct that involves a violation of
15 paragraph (3)(B) or (6) of section 2252A(a) of title 18,
16 United States Code, as created by this Act. With respect
17 to the guidelines for section 2252A(a)(3)(B), the Commis-
18 sion shall consider the relative culpability of promoting,
19 presenting, describing, or distributing material in violation
20 of that section as compared with solicitation of such mate-
21 rial.



1 **Subtitle B—Truth in Domain**
 2 **Names**

3 **SEC. 521. MISLEADING DOMAIN NAMES ON THE INTERNET.**

4 (a) IN GENERAL.—Chapter 110 of title 18, United
 5 States Code, is amended by inserting after section 2252A
 6 the following:

7 **“§ 2252B. Misleading domain names on the Internet**

8 “(a) Whoever knowingly uses a misleading domain
 9 name on the Internet with the intent to deceive a person
 10 into viewing material constituting obscenity shall be fined
 11 under this title or imprisoned not more than 2 years, or
 12 both.

13 “(b) Whoever knowingly uses a misleading domain
 14 name on the Internet with the intent to deceive a minor
 15 into viewing material that is harmful to minors on the
 16 Internet shall be fined under this title or imprisoned not
 17 more than 4 years, or both.

18 “(c) For the purposes of this section, a domain name
 19 that includes a word or words to indicate the sexual con-
 20 tent of the site, such as ‘sex’ or ‘porn’, is not misleading.

21 “(d) For the purposes of this section, the term ‘mate-
 22 rial that is harmful to minors’ means any communication,
 23 consisting of nudity, sex, or excretion, that, taken as a
 24 whole and with reference to its context—



1 “(1) predominantly appeals to a prurient inter-
2 est of minors;

3 “(2) is patently offensive to prevailing stand-
4 ards in the adult community as a whole with respect
5 to what is suitable material for minors; and

6 “(3) lacks serious literary, artistic, political, or
7 scientific value for minors.

8 “(e) For the purposes of subsection (d), the term
9 ‘sex’ means acts of masturbation, sexual intercourse, or
10 physcial contact with a person’s genitals, or the condition
11 of human male or female genitals when in a state of sexual
12 stimulation or arousal.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 110 of title 18, United States
15 Code, is amended by inserting after the item relating to
16 section 2252A the following new item:

“2252B. Misleading domain names on the Internet.”.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. PENALTIES FOR USE OF MINORS IN CRIMES OF VIOLENCE.

Chapter 1 of title 18, United States Code, is amend-
ed by adding at the end the following:

“§ 25. Use of minors in crimes of violence

“(a) DEFINITIONS.—In this section, the following
definitions shall apply:



“(1) CRIME OF VIOLENCE.—The term ‘crime of violence’ has the meaning set forth in section 16.

“(2) MINOR.—The term ‘minor’ means a person who has not reached 18 years of age.

“(3) USES.—The term ‘uses’ means employs, hires, persuades, induces, entices, or coerces.

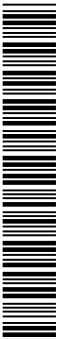
“(b) PENALTIES.—Any person who is 18 years of age or older, who intentionally uses a minor to commit a crime of violence for which such person may be prosecuted in a court of the United States, or to assist in avoiding detection or apprehension for such an offense, shall—

“(1) for the first conviction, be subject to twice the maximum term of imprisonment and twice the maximum fine that would otherwise be authorized for the offense; and

“(2) for each subsequent conviction, be subject to 3 times the maximum term of imprisonment and 3 times the maximum fine that would otherwise be authorized for the offense.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“25. Use of minors in crimes of violence.”.



1 **SEC. 602. SENSE OF CONGRESS.**

2 (a) FOCUS OF INVESTIGATION AND PROSECUTION.—

3 It is the sense of Congress that the Child Exploitation and
4 Obscenity Section of the Criminal Division of the Depart-
5 ment of Justice should focus its investigative and prosecu-
6 torial efforts on major producers, distributors, and sellers
7 of obscene material and child pornography that use mis-
8 leading methods to market their material to children.

9 (b) VOLUNTARY LIMITATION ON WEBSITE FRONT
10 PAGES.—It is the sense of Congress that the online com-
11 mercial adult entertainment industry should voluntarily
12 refrain from placing obscenity, child pornography, or ma-
13 terial that is harmful to minors on the front pages of their
14 websites to protect juveniles from material that may nega-
15 tively impact their social, moral, and psychological devel-
16 opment.

17 **SEC. 603. COMMUNICATIONS DECENCY ACT OF 1996.**

18 Section 223 of the Communications Act of 1934 (47
19 U.S.C. 223) is amended—

20 (1) in subsection (a)(1)—

21 (A) in subparagraph (A), by striking “,
22 lewd, lascivious, filthy, or indecent” and insert-
23 ing “or child pornography”; and

24 (B) in subparagraph (B), by striking “in-
25 decent” and inserting “child pornography”; and



1 (2) in subsection (d)(1), by striking “, in con-
2 text, depicts or describes, in terms patently offensive
3 as measured by contemporary community standards,
4 sexual or excretory activities or organs” and insert-
5 ing “is obscene or child pornography”.

6 **SEC. 604. INTERNET AVAILABILITY OF INFORMATION CON-**
7 **CERNING REGISTERED SEX OFFENDERS.**

8 (a) **IN GENERAL.**—Section 170101(e)(2) of the Vio-
9 lent Crime Control and Law Enforcement Act of 1994 (42
10 U.S.C. 14071(e)(2)) is amended by adding at the end the
11 following: “The release of information under this para-
12 graph shall include the maintenance of an Internet site
13 containing such information that is available to the public
14 and instructions on the process for correcting information
15 that a person alleges to be erroneous.”.

16 (b) **COMPLIANCE DATE.**—Each State shall imple-
17 ment the amendment made by this section within 3 years
18 after the date of enactment of this Act, except that the
19 Attorney General may grant an additional 2 years to a
20 State that is making a good faith effort to implement the
21 amendment made by this section.

22 (c) **NATIONAL INTERNET SITE.**—The Crimes Against
23 Children Section of the Criminal Division of the Depart-
24 ment of Justice shall create a national Internet site that



1 links all State Internet sites established pursuant to this
2 section.

3 **SEC. 605. REGISTRATION OF CHILD PORNOGRAPHERS IN**
4 **THE NATIONAL SEX OFFENDER REGISTRY.**

5 (a) JACOB WETTERLING CRIMES AGAINST CHIL-
6 DREN AND SEXUALLY VIOLENT OFFENDER REGISTRA-
7 TION PROGRAM.—Section 170101 of the Violent Crime
8 Control and Law Enforcement Act of 1994 (42 U.S.C.
9 14071) is amended—

10 (1) by striking the section heading and insert-
11 ing the following:

12 **“SEC. 170101. JACOB WETTERLING CRIMES AGAINST CHIL-**
13 **DREN AND SEXUALLY VIOLENT OFFENDER**
14 **REGISTRATION PROGRAM.”;**

15 and

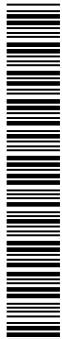
16 (2) in subsection (a)(3)—

17 (A) in clause (vii), by striking “or” at the
18 end;

19 (B) by redesignating clause (viii) as clause
20 (ix); and

21 (C) by inserting after clause (vii) the fol-
22 lowing:

23 “(viii) production or distribution of
24 child pornography, as described in section



1 2251, 2252, or 2252A of title 18, United
2 States Code; or”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Department of
5 Justice, for each of fiscal years 2004 through 2007, such
6 sums as may be necessary to carry out the amendments
7 made by this section.

8 **SEC. 606. GRANTS TO STATES FOR COSTS OF COMPLIANCE**
9 **WITH NEW SEX OFFENDER REGISTRY RE-**
10 **QUIREMENTS.**

11 Section 170101(i)(3) of the Violent Crime Control
12 and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)(3))
13 is amended to read as follows:

14 “(3) AUTHORIZATION OF APPROPRIATIONS.—
15 There is authorized to be appropriated for each of
16 the fiscal years 2004 through 2007 such sums as
17 may be necessary to carry out the provisions of sec-
18 tion 1701(d)(10) of the Omnibus Crime Control and
19 Safe Streets Act of 1968 (42 U.S.C.
20 3796dd(d)(10)), as added by the PROTECT Act.”.

21 **SEC. 607. SAFE ID ACT.**

22 (a) SHORT TITLE.—This section may be cited as the
23 “Secure Authentication Feature and Enhanced Identifica-
24 tion Defense Act of 2003” or “SAFE ID Act”.

25 (b) FRAUD AND FALSE STATEMENTS.—



1 (1) OFFENSES.—Section 1028(a) of title 18,
2 United States Code, is amended—

3 (A) in paragraph (1), by inserting “, au-
4 thentication feature,” after “an identification
5 document”;

6 (B) in paragraph (2)—

7 (i) by inserting “, authentication fea-
8 ture,” after “an identification document”;
9 and

10 (ii) by inserting “or feature” after
11 “such document”;

12 (C) in paragraph (3), by inserting “, au-
13 thentication features,” after “possessor”);

14 (D) in paragraph (4)—

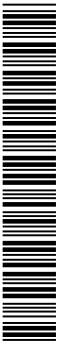
15 (i) by inserting “, authentication fea-
16 ture,” after “possessor”); and

17 (ii) by inserting “or feature” after
18 “such document”;

19 (E) in paragraph (5), by inserting “or au-
20 thentication feature” after “implement” each
21 place that term appears;

22 (F) in paragraph (6)—

23 (i) by inserting “or authentication fea-
24 ture” before “that is or appears”;



1 (ii) by inserting “or authentication
2 feature” before “of the United States”;

3 (iii) by inserting “or feature” after
4 “such document”; and

5 (iv) by striking “or” at the end;

6 (G) in paragraph (7), by inserting “or”
7 after the semicolon; and

8 (H) by inserting after paragraph (7) the
9 following:

10 “(8) knowingly traffics in false authentication
11 features for use in false identification documents,
12 document-making implements, or means of identi-
13 fication;”.

14 (2) PENALTIES.—Section 1028(b) of title 18,
15 United States Code, is amended—

16 (A) in paragraph (1)—

17 (i) in subparagraph (A)—

18 (I) by inserting “, authentication
19 feature,” before “or false”; and

20 (II) in clause (i), by inserting “or
21 authentication feature” after “docu-
22 ment”; and

23 (ii) in subparagraph (B), by inserting
24 “, authentication features,” before “or
25 false”; and



1 (B) in paragraph (2)(A), by inserting “,
2 authentication feature,” before “or a false”.

3 (3) CIRCUMSTANCES.—Section 1028(c)(1) of
4 title 18, United States Code, is amended by insert-
5 ing “, authentication feature,” before “or false”
6 each place that term appears.

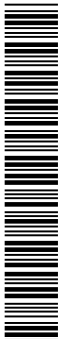
7 (4) DEFINITIONS.—Section 1028(d) of title 18,
8 United States Code, is amended—

9 (A) by redesignating paragraphs (1), (2),
10 (3), (4), (5), (6), (7), and (8) as paragraphs
11 (2), (3), (4), (7), (8), (9), (10), and (11), re-
12 spectively;

13 (B) by inserting before paragraph (2), as
14 redesignated, the following:

15 “(1) the term ‘authentication feature’ means
16 any hologram, watermark, certification, symbol,
17 code, image, sequence of numbers or letters, or other
18 feature that either individually or in combination
19 with another feature is used by the issuing authority
20 on an identification document, document-making im-
21 plement, or means of identification to determine if
22 the document is counterfeit, altered, or otherwise
23 falsified;”;

24 (C) in paragraph (4)(A), as redesignated,
25 by inserting “or was issued under the authority



1 of a governmental entity but was subsequently
2 altered for purposes of deceit” after “entity”;

3 (D) by inserting after paragraph (4), as
4 redesignated, the following:

5 “(5) the term ‘false authentication feature’
6 means an authentication feature that—

7 “(A) is genuine in origin, but, without the
8 authorization of the issuing authority, has been
9 tampered with or altered for purposes of deceit;

10 “(B) is genuine, but has been distributed,
11 or is intended for distribution, without the au-
12 thorization of the issuing authority and not in
13 connection with a lawfully made identification
14 document, document-making implement, or
15 means of identification to which such authen-
16 tication feature is intended to be affixed or em-
17 bedded by the respective issuing authority; or

18 “(C) appears to be genuine, but is not;

19 “(6) the term ‘issuing authority’—

20 “(A) means any governmental entity or
21 agency that is authorized to issue identification
22 documents, means of identification, or authen-
23 tication features; and

24 “(B) includes the United States Govern-
25 ment, a State, a political subdivision of a State,



1 a foreign government, a political subdivision of
2 a foreign government, or an international gov-
3 ernment or quasi-governmental organization;”;

4 (E) in paragraph (10), as redesignated, by
5 striking “and” at the end;

6 (F) in paragraph (11), as redesignated, by
7 striking the period at the end and inserting “;
8 and”; and

9 (G) by adding at the end the following:

10 “(12) the term ‘traffic’ means—

11 “(A) to transport, transfer, or otherwise
12 dispose of, to another, as consideration for any-
13 thing of value; or

14 “(B) to make or obtain control of with in-
15 tent to so transport, transfer, or otherwise dis-
16 pose of.”.

17 (5) ADDITIONAL PENALTIES.—Section 1028 of
18 title 18, United States Code, is amended—

19 (A) by redesignating subsection (h) as sub-
20 section (i); and

21 (B) by inserting after subsection (g) the
22 following:

23 “(h) FORFEITURE; DISPOSITION.—In the cir-
24 cumstance in which any person is convicted of a violation
25 of subsection (a), the court shall order, in addition to the



1 penalty prescribed, the forfeiture and destruction or other
2 disposition of all illicit authentication features, identifica-
3 tion documents, document-making implements, or means
4 of identification.”.

5 (6) TECHNICAL AND CONFORMING AMEND-
6 MENT.—Section 1028 of title 18, United States
7 Code, is amended in the heading by inserting “, **AU-**
8 **THENTICATION FEATURES,**” after “**DOCU-**
9 **MENTS**”.

10 **SEC. 608. ILLICIT DRUG ANTI-PROLIFERATION ACT.**

11 (a) SHORT TITLE.—This section may be cited as the
12 “Illicit Drug Anti-Proliferation Act of 2003”.

13 (b) OFFENSES.—

14 (1) IN GENERAL.—Section 416(a) of the Con-
15 trolled Substances Act (21 U.S.C. 856(a)) is
16 amended—

17 (A) in paragraph (1), by striking “open or
18 maintain any place” and inserting “open, lease,
19 rent, use, or maintain any place, whether per-
20 manently or temporarily,”; and

21 (B) by striking paragraph (2) and insert-
22 ing the following:

23 “(2) manage or control any place, whether per-
24 manently or temporarily, either as an owner, lessee,
25 agent, employee, occupant, or mortgagee, and know-



1 ingly and intentionally rent, lease, profit from, or
2 make available for use, with or without compensa-
3 tion, the place for the purpose of unlawfully manu-
4 facturing, storing, distributing, or using a controlled
5 substance.”.

6 (2) TECHNICAL AMENDMENT.—The heading to
7 section 416 of the Controlled Substances Act (21
8 U.S.C. 856) is amended to read as follows:

9 **“SEC. 416. MAINTAINING DRUG-INVOLVED PREMISES.”.**

10 (3) CONFORMING AMENDMENT.—The table of
11 contents to title II of the Comprehensive Drug
12 Abuse and Prevention Act of 1970 is amended by
13 striking the item relating to section 416 and insert-
14 ing the following:

“Sec. 416. Maintaining drug-involved premises.”.

15 (c) CIVIL PENALTY AND EQUITABLE RELIEF FOR
16 MAINTAINING DRUG-INVOLVED PREMISES.—Section 416
17 of the Controlled Substances Act (21 U.S.C. 856) is
18 amended by adding at the end the following:

19 “(d)(1) Any person who violates subsection (a) shall
20 be subject to a civil penalty of not more than the greater
21 of—

22 “(A) \$250,000; or

23 “(B) 2 times the gross receipts, either known or
24 estimated, that were derived from each violation that
25 is attributable to the person.



1 “(2) If a civil penalty is calculated under paragraph
2 (1)(B), and there is more than 1 defendant, the court may
3 apportion the penalty between multiple violators, but each
4 violator shall be jointly and severally liable for the civil
5 penalty under this subsection.

6 “(e) Any person who violates subsection (a) shall be
7 subject to declaratory and injunctive remedies as set forth
8 in section 403(f).”.

9 (d) DECLARATORY AND INJUNCTIVE REMEDIES.—
10 Section 403(f)(1) of the Controlled Substances Act (21
11 U.S.C. 843(f)(1)) is amended by striking “this section or
12 section 402” and inserting “this section, section 402, or
13 416”.

14 (e) SENTENCING COMMISSION GUIDELINES.—The
15 United States Sentencing Commission shall—

16 (1) review the Federal sentencing guidelines
17 with respect to offenses involving gamma hydroxy-
18 butyric acid (GHB);

19 (2) consider amending the Federal sentencing
20 guidelines to provide for increased penalties such
21 that those penalties reflect the seriousness of of-
22 fenses involving GHB and the need to deter them;
23 and

24 (3) take any other action the Commission con-
25 siders necessary to carry out this section.



1 (f) AUTHORIZATION OF APPROPRIATIONS FOR A DE-
2 MAND REDUCTION COORDINATOR.—There is authorized
3 to be appropriated \$5,900,000 to the Drug Enforcement
4 Administration of the Department of Justice for the hiring
5 of a special agent in each State to serve as a Demand
6 Reduction Coordinator.

7 (g) AUTHORIZATION OF APPROPRIATIONS FOR DRUG
8 EDUCATION.—There is authorized to be appropriated
9 such sums as necessary to the Drug Enforcement Admin-
10 istration of the Department of Justice to educate youth,
11 parents, and other interested adults about club drugs.

12 **SEC. 609. DEFINITION OF VEHICLE.**

13 Section 1993(c) of title 18, United States Code, is
14 amended—

15 (1) in paragraph (7), by striking “and” at the
16 end;

17 (2) in paragraph (8), by striking the period at
18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(9) the term ‘vehicle’ means any carriage or
21 other contrivance used, or capable of being used, as
22 a means of transportation on land, water, or
23 through the air.”.



1 **SEC. 610. AUTHORIZATION OF JOHN DOE DNA INDICT-**
2 **MENTS.**

3 (a) **LIMITATION.**—Section 3282 of title 18, United
4 States Code, is amended—

5 (1) by striking “Except” and inserting the fol-
6 lowing:

7 “(a) **IN GENERAL.**—Except”; and

8 (2) by adding at the end the following:

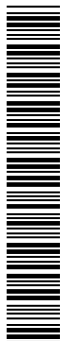
9 “(b) **DNA PROFILE INDICTMENT.**—

10 “(1) **IN GENERAL.**—In any indictment for an
11 offense under chapter 109A for which the identity of
12 the accused is unknown, it shall be sufficient to de-
13 scribe the accused as an individual whose name is
14 unknown, but who has a particular DNA profile.

15 “(2) **EXCEPTION.**—Any indictment described
16 under paragraph (1), which is found not later than
17 5 years after the offense under chapter 109A is com-
18 mitted, shall not be subject to—

19 “(A) the limitations period described under
20 subsection (a); and

21 “(B) the provisions of chapter 208 until
22 the individual is arrested or served with a sum-
23 mons in connection with the charges contained
24 in the indictment.

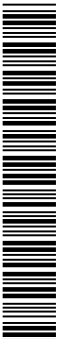


1 “(3) DEFINED TERM.—For purposes of this
2 subsection, the term ‘DNA profile’ means a set of
3 DNA identification characteristics.”.

4 (b) RULES OF CRIMINAL PROCEDURE.—Rule 7(e)(1)
5 of the Federal Rules of Criminal Procedure is amended
6 by adding at the end the following: “For purposes of an
7 indictment referred to in section 3282 of title 18, United
8 States Code, for which the identity of the defendant is un-
9 known, it shall be sufficient for the indictment to describe
10 the defendant as an individual whose name is unknown,
11 but who has a particular DNA profile, as that term is de-
12 fined in that section 3282.”.

13 **SEC. 611. TRANSITIONAL HOUSING ASSISTANCE GRANTS**
14 **FOR CHILD VICTIMS OF DOMESTIC VIO-**
15 **LENCE, STALKING, OR SEXUAL ASSAULT.**

16 Subtitle B of the Violence Against Women Act of
17 1994 (42 U.S.C. 13701 note; 108 Stat. 1925) is amended
18 by adding at the end the following:



1 **“CHAPTER 11—TRANSITIONAL HOUSING**
2 **ASSISTANCE GRANTS FOR CHILD VIC-**
3 **TIMS OF DOMESTIC VIOLENCE, STALK-**
4 **ING, OR SEXUAL ASSAULT**

5 **“SEC. 40299. TRANSITIONAL HOUSING ASSISTANCE GRANTS**
6 **FOR CHILD VICTIMS OF DOMESTIC VIO-**
7 **LENCE, STALKING, OR SEXUAL ASSAULT.**

8 “(a) IN GENERAL.—The Attorney General, acting in
9 consultation with the Director of the Violence Against
10 Women Office of the Department of Justice, shall award
11 grants under this section to States, units of local govern-
12 ment, Indian tribes, and other organizations (referred to
13 in this section as the ‘recipient’) to carry out programs
14 to provide assistance to minors, adults, and their
15 dependents—

16 “(1) who are homeless, or in need of transi-
17 tional housing or other housing assistance, as a re-
18 sult of fleeing a situation of domestic violence; and

19 “(2) for whom emergency shelter services or
20 other crisis intervention services are unavailable or
21 insufficient.

22 “(b) GRANTS.—Grants awarded under this section
23 may be used for programs that provide—

24 “(1) short-term housing assistance, including
25 rental or utilities payments assistance and assistance



1 with related expenses such as payment of security
2 deposits and other costs incidental to relocation to
3 transitional housing for persons described in sub-
4 section (a); and

5 “(2) support services designed to enable a
6 minor, an adult, or a dependent of such minor or
7 adult, who is fleeing a situation of domestic violence
8 to—

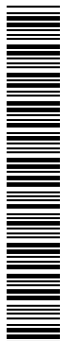
9 “(A) locate and secure permanent housing;
10 and

11 “(B) integrate into a community by pro-
12 viding that minor, adult, or dependent with
13 services, such as transportation, counseling,
14 child care services, case management, employ-
15 ment counseling, and other assistance.

16 “(c) DURATION.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), a minor, an adult, or a dependent, who
19 receives assistance under this section shall receive
20 that assistance for not more than 18 months.

21 “(2) WAIVER.—The recipient of a grant under
22 this section may waive the restriction under para-
23 graph (1) for not more than an additional 6 month
24 period with respect to any minor, adult, or depend-
25 ent, who—



1 “(A) has made a good-faith effort to ac-
2 quire permanent housing; and

3 “(B) has been unable to acquire perma-
4 nent housing.

5 “(d) APPLICATION—

6 “(1) IN GENERAL.—Each eligible entity desir-
7 ing a grant under this section shall submit an appli-
8 cation to the Attorney General at such time, in such
9 manner, and accompanied by such information as
10 the Attorney General may reasonably require.

11 “(2) CONTENTS.—Each application submitted
12 pursuant to paragraph (1) shall—

13 “(A) describe the activities for which as-
14 sistance under this section is sought; and

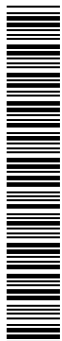
15 “(B) provide such additional assurances as
16 the Attorney General determines to be essential
17 to ensure compliance with the requirements of
18 this section.

19 “(3) APPLICATION.—Nothing in this subsection
20 shall be construed to require—

21 “(A) victims to participate in the criminal
22 justice system in order to receive services; or

23 “(B) domestic violence advocates to breach
24 client confidentiality.

25 “(e) REPORT TO THE ATTORNEY GENERAL—



1 “(1) IN GENERAL.—A recipient of a grant
2 under this section shall annually prepare and submit
3 to the Attorney General a report describing—

4 “(A) the number of minors, adults, and de-
5 pendants assisted under this section; and

6 “(B) the types of housing assistance and
7 support services provided under this section.

8 “(2) CONTENTS.—Each report prepared and
9 submitted pursuant to paragraph (1) shall include
10 information regarding—

11 “(A) the amount of housing assistance pro-
12 vided to each minor, adult, or dependent, as-
13 sisted under this section and the reason for that
14 assistance;

15 “(B) the number of months each minor,
16 adult, or dependent, received assistance under
17 this section;

18 “(C) the number of minors, adults, and de-
19 pendants who—

20 “(i) were eligible to receive assistance
21 under this section; and

22 “(ii) were not provided with assistance
23 under this section solely due to a lack of
24 available housing; and



1 “(D) the type of support services provided
 2 to each minor, adult, or dependent, assisted
 3 under this section.

4 “(f) REPORT TO CONGRESS.—

5 “(1) REPORTING REQUIREMENT.—The Attor-
 6 ney General, with the Director of the Violence
 7 Against Women Office, shall annually prepare and
 8 submit to the Committee on the Judiciary of the
 9 House of Representatives and the Committee on the
 10 Judiciary of the Senate a report that contains a
 11 compilation of the information contained in the re-
 12 port submitted under subsection (e).

13 “(2) AVAILABILITY OF REPORT.—In order to
 14 coordinate efforts to assist the victims of domestic
 15 violence, the Attorney General, in coordination with
 16 the Director of the Violence Against Women Office,
 17 shall transmit a copy of the report submitted under
 18 paragraph (1) to—

19 “(A) the Office of Community Planning
 20 and Development at the United States Depart-
 21 ment of Housing and Urban Development; and

22 “(B) the Office of Women’s Health at the
 23 United States Department of Health and
 24 Human Services.

25 “(g) AUTHORIZATION OF APPROPRIATIONS.—



1 “(1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section \$30,000,000
3 for each of the fiscal years 2004 through 2008.

4 “(2) LIMITATIONS.—Of the amount made avail-
5 able to carry out this section in any fiscal year, not
6 more than 3 percent may be used by the Attorney
7 General for salaries and administrative expenses.

8 “(3) MINIMUM AMOUNT.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), unless all eligible applica-
11 tions submitted by any States, units of local
12 government, Indian tribes, or organizations
13 within a State for a grant under this section
14 have been funded, that State, together with the
15 grantees within the State (other than Indian
16 tribes), shall be allocated in each fiscal year,
17 not less than 0.75 percent of the total amount
18 appropriated in the fiscal year for grants pursu-
19 ant to this section.

20 “(B) EXCEPTION.—The United States Vir-
21 gin Islands, American Samoa, Guam, and the
22 Northern Mariana Islands shall each be allo-
23 cated not less than 0.25 percent of the total
24 amount appropriated in the fiscal year for
25 grants pursuant to this section.”.

