

109TH CONGRESS
1ST SESSION

H. R. 3132

To make improvements to the national sex offender registration program,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. SENSENBRENNER (for himself, Mr. GREEN of Wisconsin, Mr. DELAY, Mr. FOLEY, Mr. CHABOT, Mr. POE, Ms. GINNY BROWN-WAITE of Florida, Mr. GILLMOR, Mr. POMEROY, Mr. CRAMER, and Mr. GRAVES) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make improvements to the national sex offender
registration program, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Children’s Safety Act of 2005”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION
ACT

- Sec. 101. Short title.
Sec. 102. Declaration of purpose.

Subtitle A—Jacob Wetterling Sex Offender Registration and Notification
Program

- Sec. 111. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators.
Sec. 112. Registry requirements for jurisdictions.
Sec. 113. Registry requirements for sex offenders.
Sec. 114. Information required in registration.
Sec. 115. Duration of registration requirement.
Sec. 116. In person verification.
Sec. 117. Duty to notify sex offenders of registration requirements and to register.
Sec. 118. Jessica Lunsford Address Verification Program.
Sec. 119. National Sex Offender Registry.
Sec. 120. Dru Sjodin National Sex Offender Public Website.
Sec. 121. Public access to sex offender information through the Internet.
Sec. 122. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.
Sec. 123. Actions to be taken when sex offender fails to comply.
Sec. 124. Immunity for good faith conduct.
Sec. 125. Development and availability of registry management software.
Sec. 126. Federal duty when State programs not minimally sufficient.
Sec. 127. Period for implementation by jurisdictions.
Sec. 128. Failure to comply.
Sec. 129. Sex Offender Management Assistance (SOMA) Program.
Sec. 130. Demonstration project for use of electronic monitoring devices.
Sec. 131. National Center for Missing and Exploited Children access to Interstate Identification Index.
Sec. 132. Limited immunity for National Center for Missing and Exploited Children with respect to CyberTipline.

Subtitle B—Criminal Law Enforcement of Registration Requirements

- Sec. 151. Amendments to title 18, United States Code, relating to sex offender registration.
Sec. 152. Investigation by United States Marshals of sex offender violations of registration requirements.
Sec. 153. Sex offender apprehension grants.
Sec. 154. Use of any controlled substance to facilitate sex offense.
Sec. 155. Repeal of predecessor sex offender program.

TITLE II—DNA FINGERPRINTING

- Sec. 201. Short title.
Sec. 202. Expanding use of DNA to identify and prosecute sex offenders.
Sec. 203. Stopping Violent Predators Against Children.
Sec. 204. Model code on investigating missing persons and deaths.

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

- Sec. 301. Short title.
 Sec. 302. Assured punishment for violent crimes against children.
 Sec. 303. Ensuring fair and expeditious Federal collateral review of convictions for killing a child.

TITLE IV—PROTECTION AGAINST SEXUAL EXPLOITATION OF
CHILDREN ACT OF 2005

- Sec. 401. Short title.
 Sec. 402. Increased penalties for sexual offenses against children.

TITLE V—FOSTER CHILD PROTECTION AND CHILD SEXUAL
PREDATOR DETERRENCE

- Sec. 501. Short title.
 Sec. 502. Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and state child abuse registries; suspension and subsequent elimination of opt-out.
 Sec. 503. Access to Federal crime information databases by child welfare agencies for certain purposes.
 Sec. 504. Penalties for coercion and enticement by sex offenders.
 Sec. 505. Penalties for conduct relating to child prostitution.
 Sec. 506. Penalties for sexual abuse.
 Sec. 507. Sex offender submission to search as condition of release.
 Sec. 508. Kidnapping penalties and jurisdiction.
 Sec. 509. Marital communication and adverse spousal privilege.
 Sec. 510. Abuse and neglect of Indian children.
 Sec. 511. Civil commitment.
 Sec. 512. Mandatory penalties for sex-trafficking of children.
 Sec. 513. Sexual abuse of wards.

1 **TITLE I—SEX OFFENDER REG-**
 2 **ISTRATION AND NOTIFICA-**
 3 **TION ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Sex Offender Reg-
 6 istration and Notification Act”.

7 **SEC. 102. DECLARATION OF PURPOSE.**

8 In response to the vicious attacks by violent sexual
 9 predators against the victims listed below, Congress in this
 10 Act establishes a comprehensive national system for the
 11 registration of sex offenders:

1 (1) Jacob Wetterling, who was 11 years old,
2 was abducted in 1989 in Minnesota, and remains
3 missing.

4 (2) Megan Nicole Kanka, who was 7 years old,
5 was abducted, sexually assaulted and murdered in
6 1994, in New Jersey.

7 (3) Pam Lychner, who was 31 years old, was
8 attacked by a career offender in Houston, Texas.

9 (4) Jetseta Gage, who was 10 years old, was
10 kidnapped, sexually assaulted, and murdered in
11 2005 in Cedar Rapids, Iowa.

12 (5) Dru Sjodin, who was 22 years old, was sex-
13 ually assaulted and murdered in 2003, in North Da-
14 kota.

15 (6) Jessica Lunsford, who was 9 years, was ab-
16 ducted, sexually assaulted, buried alive, and mur-
17 dered in 2005, in Homosassa, Florida.

18 (7) Sarah Lunde, who was 13 years old, was
19 strangled and murdered in 2005, in Ruskin, Florida.

20 (8) Amie Zyla, who was 8 years old, was sexu-
21 ally assaulted in 1996 by a juvenile offender in
22 Waukesha, Wisconsin, and has become an advocate
23 for child victims and protection of children from ju-
24 venile sex offenders.

1 (9) Christy Ann Fornoff, who was 13 years old,
2 was abducted, sexually assaulted and murdered in
3 1984, in Tempe, Arizona.

4 (10) Alexandra Nicole Zapp, who was 30 years
5 old, was brutally attacked and murdered in a public
6 restroom by a repeat sex offender in 2002, in
7 Bridgewater, Massachusetts.

8 **Subtitle A—Jacob Wetterling Sex**
9 **Offender Registration and Noti-**
10 **fication Program**

11 **SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA**
12 **EXPANSION OF SEX OFFENDER DEFINITION**
13 **AND EXPANDED INCLUSION OF CHILD PRED-**
14 **ATORS.**

15 In this title the following definitions apply:

16 (1) **SEX OFFENDER REGISTRY.**—The term “sex
17 offender registry” means a registry of sex offenders,
18 and a notification program, maintained by a juris-
19 diction.

20 (2) **JURISDICTION.**—The term jurisdiction
21 means any of the following:

22 (A) A State.

23 (B) The District of Columbia.

24 (C) The Commonwealth of Puerto Rico.

25 (D) Guam.

1 (E) American Samoa.

2 (F) Northern Mariana Islands.

3 (G) The United States Virgin Islands.

4 (H) A federally recognized Indian tribe.

5 (3) AMIE ZYLA EXPANSION OF SEX OFFENDER
6 DEFINITION.—The term “sex offender” means an
7 individual who, either before or after the enactment
8 of this Act, was convicted of, or adjudicated a juve-
9 nile delinquent for, an offense (other than an offense
10 involving sexual conduct where the victim was at
11 least 13 years old and the offender was not more
12 than 4 years older than the victim and the sexual
13 conduct was consensual, or an offense consisting of
14 consensual sexual conduct with an adult) whether
15 Federal, State, local, tribal, foreign (other than an
16 offense based on conduct that would not be a crime
17 if the conduct took place in the United States), mili-
18 tary, juvenile or other, that is—

19 (A) a specified offense against a minor;

20 (B) a serious sex offense; or

21 (C) a misdemeanor sex offense against a
22 minor.

23 (4) EXPANSION OF DEFINITION OF OFFENSE
24 TO INCLUDE ALL CHILD PREDATORS.—The term
25 “specified offense against a minor” means an of-

1 fense against a minor that involves any of the fol-
2 lowing:

3 (A) Kidnapping (unless committed by a
4 parent).

5 (B) False imprisonment (unless committed
6 by a parent).

7 (C) Solicitation to engage in sexual con-
8 duct.

9 (D) Use in a sexual performance.

10 (E) Solicitation to practice prostitution.

11 (F) Possession, production, or distribution
12 of child pornography.

13 (G) Criminal sexual conduct towards a
14 minor.

15 (H) Any conduct that by its nature is a
16 sexual offense against a minor.

17 (I) Any other offense designated by the At-
18 torney General for inclusion in this definition.

19 (J) Any attempt or conspiracy to commit
20 an offense described in this paragraph.

21 (5) SEX OFFENSE.—The term “sex offense”
22 means a criminal offense that has an element involv-
23 ing sexual act or sexual contact with another, or an
24 attempt or conspiracy to commit such an offense.

1 (6) SERIOUS SEX OFFENSE.—The term “seri-
2 ous sex offense” means—

3 (A) a sex offense punishable under the law
4 of a jurisdiction by imprisonment for more than
5 one year;

6 (B) any Federal offense under chapter
7 109A, 110, 117, or section 1591 of title 18,
8 United States Code;

9 (C) an offense in a category specified by
10 the Secretary of Defense under section
11 115(a)(8)(C) of title I of Public Law 105–119
12 (10 U.S.C. 951 note);

13 (D) any other offense designated by the
14 Attorney General for inclusion in this definition.

15 (7) MISDEMEANOR SEX OFFENSE AGAINST A
16 MINOR.— The term “misdemeanor sex offense
17 against a minor” means a sex offense against a
18 minor punishable by imprisonment for not more
19 than one year.

20 (8) STUDENT.—The term “student” means an
21 individual who enrolls or attends an educational in-
22 stitution, including (whether public or private) a sec-
23 ondary school, trade or professional school, and in-
24 stitution of higher education.

1 (9) EMPLOYEE.—The term “employee” includes
2 an individual who is self-employed or works for any
3 other entity, whether compensated or not.

4 (10) RESIDES.—The term “resides” means,
5 with respect to an individual, the location of the in-
6 dividual’s home or other place where the individual
7 lives.

8 (11) MINOR.—The term “minor” means an in-
9 dividual who has not attained the age of 18 years.

10 **SEC. 112. REGISTRY REQUIREMENTS FOR JURISDICTIONS.**

11 Each jurisdiction shall maintain a jurisdiction-wide
12 sex offender registry conforming to the requirements of
13 this title. The Attorney General shall issue and interpret
14 guidelines to implement the requirements and purposes of
15 this title.

16 **SEC. 113. REGISTRY REQUIREMENTS FOR SEX OFFENDERS.**

17 (a) IN GENERAL.—A sex offender must register, and
18 keep the registration current, in each jurisdiction where
19 the offender resides, where the offender is an employee,
20 and where the offender is a student.

21 (b) INITIAL REGISTRATION.—The sex offender shall
22 initially register—

23 (1) before completing a sentence of imprison-
24 ment with respect to the offense giving rise to the
25 registration requirement; or

1 (2) not later than 5 days after being sentenced
2 for that offense, if the sex offender is not sentenced
3 to a term of imprisonment.

4 (c) **KEEPING THE REGISTRATION CURRENT.**—A sex
5 offender must inform each jurisdiction involved, not later
6 than 5 days after each change of residence, employment,
7 or student status.

8 (d) **RETROACTIVE DUTY TO REGISTER.**—The Attor-
9 ney General shall prescribe a method for the registration
10 of sex offenders convicted before the enactment of this
11 Act.

12 (e) **STATE PENALTY FOR FAILURE TO COMPLY.**—
13 Each jurisdiction shall provide a criminal penalty, that in-
14 cludes a maximum term of imprisonment that is greater
15 than one year, for the failure of a sex offender to comply
16 with the requirements of this title.

17 **SEC. 114. INFORMATION REQUIRED IN REGISTRATION.**

18 (a) **PROVIDED BY THE OFFENDER.**—The sex of-
19 fender must provide the following information to the ap-
20 propriate official for inclusion in the sex offender registry:

21 (1) The name of the sex offender (including any
22 alias used by the individual).

23 (2) The Social Security number of the sex of-
24 fender.

1 (3) The address and location of the residence at
2 which the sex offender resides or will reside.

3 (4) The place where the sex offender is em-
4 ployed or will be employed.

5 (5) The place where the sex offender is a stu-
6 dent or will be a student.

7 (6) The license plate number of any vehicle
8 owned or operated by the sex offender.

9 (7) A photograph of the sex offender.

10 (8) A set of fingerprints and palm prints of the
11 sex offender, if the appropriate official determines
12 that the jurisdiction does not already have available
13 an accurate set.

14 (9) A DNA sample of the sex offender, if the
15 appropriate official determines that the jurisdiction
16 does not already have available an appropriate DNA
17 sample.

18 (10) Any other information required by the At-
19 torney General.

20 (b) PROVIDED BY THE JURISDICTION.—The jurisdic-
21 tion in which the sex offender registers shall include the
22 following information in the registry for that sex offender:

23 (1) A statement of the facts of the offense giv-
24 ing rise to the requirement to register under this
25 title.

1 (2) The criminal history of the sex offender.

2 (3) Any other information required by the At-
3 torney General.

4 **SEC. 115. DURATION OF REGISTRATION REQUIREMENT.**

5 A sex offender shall keep the registration current—

6 (1) for the life of the sex offender, if the offense
7 is a specified offense against a minor, a serious sex
8 offense, or a second misdemeanor sex offense
9 against a minor; and

10 (2) for a period of 20 years, in any other case.

11 **SEC. 116. IN PERSON VERIFICATION.**

12 A sex offender shall appear in person and verify the
13 information in each registry in which that offender is re-
14 quired to be registered not less frequently than once every
15 six months.

16 **SEC. 117. DUTY TO NOTIFY SEX OFFENDERS OF REGISTRA-
17 TION REQUIREMENTS AND TO REGISTER.**

18 An appropriate official shall, shortly before release
19 from custody of the sex offender, or, if the sex offender
20 is not in custody, immediately after the sentencing of the
21 sex offender, for the offense giving rise to the duty to reg-
22 ister—

23 (1) inform the sex offender of the duty to reg-
24 ister and explain that duty;

1 (2) require the sex offender to read and sign a
2 form stating that the duty to register has been ex-
3 plained and that the sex offender understands the
4 registration requirement; and

5 (3) ensure that the sex offender is registered.

6 **SEC. 118. JESSICA LUNSFORD ADDRESS VERIFICATION**
7 **PROGRAM.**

8 (a) ESTABLISHMENT.—There is established the Jes-
9 sica Lunsford Address Verification Program (hereinafter
10 in this section referred to as the “Program”).

11 (b) VERIFICATION.—In the Program, an appropriate
12 official shall verify the residence of each registered sex of-
13 fender not less than monthly or, in the case of a sex of-
14 fender required to register because of a misdemeanor sex
15 offense against a minor, not less than quarterly.

16 (c) USE OF MAILED FORM AUTHORIZED.—Such
17 verification may be achieved by mailing a nonforwardable
18 verification form to the last known address of the sex of-
19 fender. The date of the mailing may be selected at ran-
20 dom. The sex offender must return the form, including
21 a notarized signature, within a set period of time. A failure
22 to return the form as required may be a failure to register
23 for the purposes of this title.

1 **SEC. 119. NATIONAL SEX OFFENDER REGISTRY.**

2 The Attorney General shall maintain a national data-
3 base at the Federal Bureau of Investigation for each sex
4 offender and other person required to register in a juris-
5 diction's sex offender registry. The database shall be
6 known as the National Sex Offender Registry.

7 **SEC. 120. DRU SJODIN NATIONAL SEX OFFENDER PUBLIC**
8 **WEBSITE.**

9 (a) ESTABLISHMENT.—There is established the Dru
10 Sjodin National Sex Offender Public Website (hereinafter
11 referred to as the “Website”).

12 (b) INFORMATION TO BE PROVIDED.—The Attorney
13 General shall maintain the Website as a site on the Inter-
14 net which allows the public to obtain relevant information
15 for each sex offender by a single query in a form estab-
16 lished by the Attorney General.

17 (c) ELECTRONIC FORWARDING.—The Attorney Gen-
18 eral shall ensure (through the National Sex Offender Reg-
19 istry or otherwise) that updated information about a sex
20 offender is immediately transmitted by electronic for-
21 warding to all relevant jurisdictions, unless the Attorney
22 General determines that each jurisdiction has so modified
23 its sex offender registry and notification program that
24 there is no longer a need for the Attorney General to do.

1 **SEC. 121. PUBLIC ACCESS TO SEX OFFENDER INFORMA-**
2 **TION THROUGH THE INTERNET.**

3 Each jurisdiction shall make available on the Internet
4 all information about each sex offender in the registry, ex-
5 cept for the offender's Social Security number, the identity
6 of any victim, and any other information exempted from
7 disclosure by the Attorney General. The jurisdiction shall
8 provide this information in a manner that is readily acces-
9 sible to the public.

10 **SEC. 122. MEGAN NICOLE KANKA AND ALEXANDRA NICOLE**
11 **ZAPP COMMUNITY NOTIFICATION PROGRAM.**

12 (a) ESTABLISHMENT OF PROGRAM.—There is estab-
13 lished the Megan Nicole Kanka and Alexandra Nicole
14 Zapp Community Program (hereinafter in this section re-
15 ferred to as the “Program”).

16 (b) NOTIFICATION.—In the Program, as soon as pos-
17 sible, and in any case not later than 5 days after a sex
18 offender registers or updates a registration, an appro-
19 priate official in the jurisdiction shall provide the informa-
20 tion in the registry (other than information exempted from
21 disclosure by the Attorney General) about that offender
22 to the following:

23 (1) The Attorney General, who shall include
24 that information in the National Sex Offender Reg-
25 istry.

1 (2) Appropriate law enforcement agencies (in-
2 cluding probation agencies, if appropriate), and each
3 school and public housing agency, in each area in
4 which the individual resides, is employed, or is a stu-
5 dent.

6 (3) Each jurisdiction from or to which a change
7 of residence, work, or student status occurs.

8 (4) Any agency responsible for conducting em-
9 ployment-related background checks under section 3
10 of the National Child Protection Act of 1993 (42
11 U.S.C. 5119a).

12 (5) Social service entities responsible for pro-
13 tecting minors in the child welfare system.

14 (6) Volunteer organizations in which contact
15 with minors or other vulnerable individuals might
16 occur.

17 **SEC. 123. ACTIONS TO BE TAKEN WHEN SEX OFFENDER**
18 **FAILS TO COMPLY.**

19 An appropriate official shall notify the Attorney Gen-
20 eral and appropriate State and local law enforcement
21 agencies of any failure by a sex offender to comply with
22 the requirements of a registry. The appropriate official,
23 the Attorney General, and each such State and local law
24 enforcement agency shall take any appropriate action to en-
25 sure compliance.

1 **SEC. 124. IMMUNITY FOR GOOD FAITH CONDUCT.**

2 Law enforcement agencies, employees of law enforce-
3 ment agencies and independent contractors acting at the
4 direction of such agencies, and officials of jurisdictions
5 and other political subdivisions shall not be civilly or crimi-
6 nally liable for good faith conduct under this title.

7 **SEC. 125. DEVELOPMENT AND AVAILABILITY OF REGISTRY**
8 **MANAGEMENT SOFTWARE.**

9 The Attorney General shall develop and support soft-
10 ware for use to establish, maintain, publish, and share sex
11 offender registries.

12 **SEC. 126. FEDERAL DUTY WHEN STATE PROGRAMS NOT**
13 **MINIMALLY SUFFICIENT.**

14 If the Attorney General determines that a jurisdiction
15 does not have a minimally sufficient sex offender registra-
16 tion program, the Department of Justice shall, to the ex-
17 tent practicable, carry out the duties imposed on that ju-
18 risdiction by this title.

19 **SEC. 127. PERIOD FOR IMPLEMENTATION BY JURISDIC-**
20 **TIONS.**

21 Each jurisdiction shall implement this title not later
22 than 2 years after the date of the enactment of this Act.
23 However, the Attorney General may authorize a one-year
24 extension of the deadline.

1 **SEC. 128. FAILURE TO COMPLY.**

2 (a) IN GENERAL.—For any fiscal year after the end
3 of the period for implementation, a jurisdiction that fails
4 to implement this title shall not receive 10 percent of the
5 funds that would otherwise be allocated for that fiscal year
6 to the jurisdiction under each of the following programs:

7 (1) BYRNE.—Subpart 1 of part E of title I of
8 the Omnibus Crime Control and Safe Streets Act of
9 1968 (42 U.S.C. 3750 et seq.), whether character-
10 ized as the Edward Byrne Memorial State and Local
11 Law Enforcement Assistance Programs, the Edward
12 Byrne Memorial Justice Assistance Grant Program,
13 or otherwise.

14 (2) LLEBG.—The Local Government Law En-
15 forcement Block Grants program.

16 (b) REALLOCATION.—Amounts not allocated under a
17 program referred to in paragraph (1) to a jurisdiction for
18 failure to fully implement this title shall be reallocated
19 under that program to jurisdictions that have not failed
20 to implement this title.

21 **SEC. 129. SEX OFFENDER MANAGEMENT ASSISTANCE**
22 **(SOMA) PROGRAM.**

23 (a) IN GENERAL.—The Attorney General shall estab-
24 lish and implement a Sex Offender Management Assist-
25 ance program (in this title referred to as the “SOMA pro-
26 gram”) under which the Attorney General may award a

1 grant to a jurisdiction to offset the costs of implementing
2 this title.

3 (b) APPLICATION.—The chief executive of a jurisdic-
4 tion shall, on an annual basis, submit to the Attorney Gen-
5 eral an application in such form and containing such infor-
6 mation as the Attorney General may require.

7 (c) BONUS PAYMENTS FOR PROMPT COMPLIANCE.—
8 A jurisdiction that, as determined by the Attorney Gen-
9 eral, has implemented this title not later than two years
10 after the date of the enactment of this Act is eligible for
11 a bonus payment. Such payment shall be made under the
12 SOMA program for the first fiscal year beginning after
13 that determination. The amount of the payment shall be—

14 (1) 10 percent of the total received by the juris-
15 diction under the SOMA program for the preceding
16 fiscal year, if implementation is not later than one
17 year after the date of enactment of this Act; and

18 (2) 5 percent of such total, if not later than two
19 years after that date.

20 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
21 tion to any amounts otherwise authorized to be appro-
22 priated, there are authorized to be appropriated such sums
23 as may be necessary to the Attorney General, to be avail-
24 able only for the SOMA program, for fiscal years 2006
25 through 2008.

1 **SEC. 130. DEMONSTRATION PROJECT FOR USE OF ELEC-**
2 **TRONIC MONITORING DEVICES.**

3 (a) **PROJECT REQUIRED.**—The Attorney General
4 shall carry out a demonstration project under which the
5 Attorney General makes grants to jurisdictions to dem-
6 onstrate the extent to which electronic monitoring devices
7 can be used effectively in a sex offender management pro-
8 gram.

9 (b) **USE OF FUNDS.**—The jurisdiction may use grant
10 amounts under this section directly, or through arrange-
11 ments with public or private entities, to carry out pro-
12 grams under which the whereabouts of sex offenders are
13 monitored by electronic monitoring devices.

14 (c) **PARTICIPANTS.**—Not more than 10 jurisdictions
15 may participate in the demonstration project at any one
16 time.

17 (d) **FACTORS.**—In selecting jurisdictions to partici-
18 pate in the demonstration project, the Attorney General
19 shall consider the following factors:

20 (1) The total number of sex offenders in the ju-
21 risdiction.

22 (2) The percentage of those sex offenders who
23 fail to comply with registration requirements.

24 (3) The threat to public safety posed by those
25 sex offenders who fail to comply with registration re-
26 quirements.

1 (4) Any other factor the Attorney General con-
2 siders appropriate.

3 (e) DURATION.—The Attorney General shall carry
4 out the demonstration project for fiscal years 2007, 2008,
5 and 2009.

6 (f) REPORTS.—The Attorney General shall submit to
7 Congress an annual report on the demonstration project.
8 Each such report shall describe the activities carried out
9 by each participant, assess the effectiveness of those ac-
10 tivities, and contain any other information or rec-
11 ommendations that the Attorney General considers appro-
12 priate.

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out this section
15 such sums as may be necessary.

16 **SEC. 131. NATIONAL CENTER FOR MISSING AND EXPLOITED**
17 **CHILDREN ACCESS TO INTERSTATE IDENTI-**
18 **FICATION INDEX.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, the Attorney General shall ensure that the
21 National Center for Missing and Exploited Children has
22 access to the Interstate Identification Index, to be used
23 by the Center only within the scope of its duties and re-
24 sponsibilities under Federal law. The access provided
25 under this section shall be authorized only to personnel

1 of the Center that have met all the requirements for ac-
2 cess, including training, certification, and background
3 screening.

4 (b) IMMUNITY.—Personnel of the Center shall not be
5 civilly or criminally liable for any use or misuse of infor-
6 mation in the Interstate Identification Index if in good
7 faith.

8 **SEC. 132. LIMITED IMMUNITY FOR NATIONAL CENTER FOR**
9 **MISSING AND EXPLOITED CHILDREN WITH**
10 **RESPECT TO CYBERTIPLINE.**

11 Section 227 of the Victims of Child Abuse Act of
12 1990 (42 U.S.C. 13032) is amended by adding at the end
13 the following new subsection:

14 “(g) LIMITATION ON LIABILITY.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graphs (2) and (3), the National Center for Missing
17 and Exploited Children, including any of its direc-
18 tors, officers, employees, or agents, is not liable in
19 any civil or criminal action for damages directly re-
20 lated to the performance of its CyberTipline respon-
21 sibilities and functions as defined by this section.

22 “(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
23 CONDUCT.—Paragraph (1) does not apply in an ac-
24 tion in which a party proves that the National Cen-
25 ter for Missing and Exploited Children, or its offi-

1 cer, employee, or agent as the case may be, engaged
 2 in intentional misconduct or acted, or failed to act,
 3 with actual malice, with reckless disregard to a sub-
 4 stantial risk of causing injury without legal justifica-
 5 tion, or for a purpose unrelated to the performance
 6 of responsibilities or functions under this section.

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

13 **Subtitle B—Criminal Law Enforce-**
 14 **ment of Registration Require-**
 15 **ments**

16 **SEC. 151. AMENDMENTS TO TITLE 18, UNITED STATES**
 17 **CODE, RELATING TO SEX OFFENDER REG-**
 18 **ISTRATION.**

19 (a) CRIMINAL PENALTIES FOR NONREGISTRATION.—
 20 Part I of title 18, United States Code, is amended by in-
 21 serting after chapter 109A the following:

22 **“CHAPTER 109B—SEX OFFENDER AND**
 23 **CRIMES AGAINST CHILDREN REGISTRY**

“2250. Failure to register.

1 **“§ 2250. Failure to register**

2 “Whoever receives a notice from an official that such
3 person is required to register under the Sex Offender Reg-
4 istration and Notification Act and—

5 “(1) is a sex offender as defined for the pur-
6 poses of that Act by reason of a conviction under
7 Federal law; or

8 “(2) thereafter travels in interstate or foreign
9 commerce, or enters or leaves Indian country;
10 and knowingly fails to register as required shall be fined
11 under this title and imprisoned not less than 5 years nor
12 more than 20 years.”.

13 (b) CLERICAL AMENDMENT.—The table of chapters
14 for part I of title 18, United States Code, is amended by
15 inserting after the item relating to chapter 109A the fol-
16 lowing new item:

**“109B. Sexual offender and crimes against children reg-
istry 2250”.**

17 (c) FALSE STATEMENT OFFENSE.—Section 1001(a)
18 of title 18, United States Code, is amended by adding at
19 the end the following: “If the matter relates to an offense
20 under chapter 109A, 109B, 110, or 117, then the term
21 of imprisonment imposed under this section shall be not
22 less than 5 years nor more than 20 years.”

1 (d) PROBATION.—Paragraph (8) of section 3563(a)
2 of title 18, United States Code, is amended to read as
3 follows:

4 “(8) for a person required to register under the
5 Sex Offender Registration and Notification Act, that
6 the person comply with the requirements of that
7 Act; and”.

8 (e) SUPERVISED RELEASE.—Section 3583 of title 18,
9 United States Code, is amended—

10 (1) in subsection (d), in the sentence beginning
11 with “The court shall order, as an explicit condition
12 of supervised release for a person described in sec-
13 tion 4042(c)(4)”, by striking “described in section
14 4042(c)(4)” and all that follows through the end of
15 the sentence and inserting “required to register
16 under the Sex Offender Registration and Notifica-
17 tion Act that the person comply with the require-
18 ments of that Act.”

19 (2) in subsection (k)—

20 (A) by striking “2244(a)(1), 2242(a)(2)”
21 and inserting “2243, 2244, 2245, 2250”;

22 (B) by inserting “not less than 5,” after
23 “any term of years”; and

24 (C) by adding at the end the following: “If
25 a defendant required to register under the Sex

1 Offender Registration and Notification Act vio-
2 lates the requirements of that Act or commits
3 any criminal offense for which imprisonment for
4 a term longer than one year can be imposed,
5 the court shall revoke the term of supervised re-
6 lease and require the defendant to serve a term
7 of imprisonment under subsection (e)(3) with-
8 out regard to the exception contained therein.
9 Such term shall be not less than 5 years, and
10 if the offense was an offense under chapter
11 109A, 109B, 110, or 117, not less than 10
12 years.” .

13 (f) DUTIES OF BUREAU OF PRISONS.—Paragraph
14 (3) of section 4042(c) of title 18, United States Code, is
15 amended to read as follows:

16 “(3) The Director of the Bureau of Prisons
17 shall inform a person who is released from prison
18 and required to register under the Sex Offender
19 Registration and Notification Act of the require-
20 ments of that Act as they apply to that person and
21 the same information shall be provided to a person
22 sentenced to probation by the probation officer re-
23 sponsible for supervision of that person.”.

24 (g) CONFORMING AMENDMENT OF CROSS REF-
25 ERENCE.—Paragraph (1) of section 4042(c) of title 18,

1 United States Code, is amended by striking “(4)” and in-
2 serting “(3)”.

3 (h) CONFORMING REPEAL OF DEADWOOD.—Para-
4 graph (4) of section 4042(c) of title 18, United States
5 Code, is repealed.

6 **SEC. 152. INVESTIGATION BY UNITED STATES MARSHALS**
7 **OF SEX OFFENDER VIOLATIONS OF REG-**
8 **ISTRATION REQUIREMENTS.**

9 (a) IN GENERAL.—The Attorney General shall use
10 the authority provided in section 566(e)(1)(B) of title 28,
11 United States Code, to assist States and other jurisdic-
12 tions in locating and apprehending sex offenders who vio-
13 late sex offender registration requirements.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary for fiscal years 2006 through 2008 to implement
17 this section.

18 **SEC. 153. SEX OFFENDER APPREHENSION GRANTS.**

19 Title I of the Omnibus Crime Control and Safe
20 Streets Act of 1968 is amended by adding at the end the
21 following new part:

1 **“PART JJ—SEX OFFENDER APPREHENSION**

2 **GRANTS**

3 **“SEC. 3011. AUTHORITY TO MAKE SEX OFFENDER APPRE-**
4 **HENSION GRANTS.**

5 “(a) IN GENERAL.—From amounts made available to
6 carry out this part, the Attorney General may make grants
7 to States, units of local government, Indian tribal govern-
8 ments, other public and private entities, and multi-juris-
9 dictional or regional consortia thereof for activities speci-
10 fied in subsection (b).

11 “(b) COVERED ACTIVITIES.—An activity referred to
12 in subsection (a) is any program, project, or other activity
13 to assist a State in enforcing sex offender registration re-
14 quirements.

15 **“SEC. 3012. AUTHORIZATION OF APPROPRIATIONS.**

16 “‘There are authorized to be appropriated such sums
17 as may be necessary for fiscal years 2006 through 2008
18 to carry out this part.’”.

19 **SEC. 154. USE OF ANY CONTROLLED SUBSTANCE TO FA-**
20 **CILITATE SEX OFFENSE.**

21 (a) INCREASED PUNISHMENT.—Chapter 109A of
22 title 18, United States Code, is amended by adding at the
23 end the following:

1 **“§ 2249. Use of any controlled substance to facilitate**
2 **sex offense**

3 “(a) Whoever, knowingly uses a controlled substance
4 to substantially impair the ability of a person to appraise
5 or control conduct, in order to commit a sex offense, other
6 than an offense where such use is an element of the of-
7 fense, shall, in addition to the punishment provided for
8 the sex offense, be imprisoned for any term of years not
9 less than 10, or for life.

10 “(b) As used in this section, the term ‘sex offense’
11 means an offense under this chapter other than an offense
12 under this section.”.

13 (b) AMENDMENT TO TABLE.—The table of sections
14 at the beginning of chapter 109A of title 18, United States
15 Code, is amended by adding at the end the following new
16 item:

“2249. Use of any controlled substance to facilitate sex offense.”.

17 **SEC. 155. REPEAL OF PREDECESSOR SEX OFFENDER PRO-**
18 **GRAM.**

19 Sections 170101 (42 U.S.C. 14071) and 170102 (42
20 U.S.C. 14072) of the Violent Crime Control and Law En-
21 forcement Act of 1994, and section 8 of the Pam Lychner
22 Sexual Offender Tracking and Identification Act of 1996
23 (42 U.S.C. 14073), are repealed.

1 **TITLE II—DNA FINGERPRINTING**

2 **SEC. 201. SHORT TITLE.**

3 This title may be cited as the “DNA Fingerprinting
4 Act of 2005”.

5 **SEC. 202. EXPANDING USE OF DNA TO IDENTIFY AND PROS- 6 ECUTE SEX OFFENDERS.**

7 (a) **EXPANSION OF NATIONAL DNA INDEX SYS-
8 TEM.**—Section 210304 of the DNA Identification Act of
9 1994 (42 U.S.C. 14132) is amended—

10 (1) in subsection (a)(1)(C), by striking “, pro-
11 vided” and all that follows through “System”; and

12 (2) by striking subsections (d) and (e).

13 (b) **DNA SAMPLE COLLECTION FROM PERSONS AR-
14 RESTED OR DETAINED UNDER FEDERAL AUTHORITY.**—

15 (1) **IN GENERAL.**—Section 3 of the DNA Anal-
16 ysis Backlog Elimination Act of 2000 (42 U.S.C.
17 14135a) is amended

18 (A) in subsection (a)—

19 (i) in paragraph (1), by striking “The
20 Director” and inserting the following:

21 “(A) The Attorney General may, as pro-
22 vided by the Attorney General by regulation,
23 collect DNA samples from individuals who are
24 arrested or detained under the authority of the
25 United States. The Attorney General may dele-

1 gate this function within the Department of
2 Justice as provided in section 510 of title 28,
3 United States Code, and may also authorize
4 and direct any other agency of the United
5 States that arrests or detains individuals or su-
6 pervises individuals facing charges to carry out
7 any function and exercise any power of the At-
8 torney General under this section.

9 “(B) The Director”; and

10 (ii) in paragraphs (3) and (4), by
11 striking “Director of the Bureau of Pris-
12 ons” each place it appears and inserting
13 “Attorney General, the Director of the Bu-
14 reau of Prisons,”; and

15 (B) in subsection (b), by striking “Director
16 of the Bureau of Prisons” and inserting “Attor-
17 ney General, the Director of the Bureau of
18 Prisons,”.

19 (2) CONFORMING AMENDMENT.—Subsections
20 (b) and (c)(1)(A) of section 3142 of title 18, United
21 States Code, are each amended by inserting “and
22 subject to the condition that the person cooperate in
23 the collection of a DNA sample from the person if
24 the collection of such a sample is authorized pursu-
25 ant to section 3 of the DNA Analysis Backlog Elimini-

1 nation Act of 2000 (42 U.S.C. 14135a)” after “pe-
2 riod of release”.

3 (c) TOLLING OF STATUTE OF LIMITATIONS IN SEX-
4 UAL ABUSE CASES.—Section 3297 of title 18, United
5 States Code, is amended by striking “except for a felony
6 offense under chapter 109A,”.

7 **SEC. 203. STOPPING VIOLENT PREDATORS AGAINST CHIL-**
8 **DREN.**

9 In carrying out Acts of Congress relating to DNA
10 databases, the Attorney General shall give appropriate
11 consideration to the need for the collection and testing of
12 DNA to stop violent predators against children.

13 **SEC. 204. MODEL CODE ON INVESTIGATING MISSING PER-**
14 **SONS AND DEATHS.**

15 (a) MODEL CODE REQUIRED.—Not later than 60
16 days after the date of the enactment of this Act, the Attor-
17 ney General shall publish a model code setting forth proce-
18 dures to be followed by law enforcement officers when in-
19 vestigating a missing person or a death. The procedures
20 shall include the use of DNA analysis to help locate miss-
21 ing persons and to help identify human remains.

22 (b) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that each State should, not later than 1 year after
24 the date on which the Attorney General publishes the
25 model code, enact laws implementing the model code.

1 (c) GAO STUDY.—Not later than 2 years after the
2 date on which the Attorney General publishes the model
3 code, the Comptroller General shall submit to Congress
4 a report on the extent to which States have implemented
5 the model code. The report shall, for each State—

6 (1) describe the extent to which the State has
7 implemented the model code; and

8 (2) to the extent the State has not implemented
9 the model code, describe the reasons why the State
10 has not done so.

11 **TITLE III—PREVENTION AND DE-**
12 **TERRENCE OF CRIMES**
13 **AGAINST CHILDREN ACT OF**
14 **2005**

15 **SEC. 301. SHORT TITLE.**

16 This title may be cited as the “Prevention and Deter-
17 rence of Crimes Against Children Act of 2005”.

18 **SEC. 302. ASSURED PUNISHMENT FOR VIOLENT CRIMES**
19 **AGAINST CHILDREN.**

20 (a) SPECIAL SENTENCING RULE.—Subsection (d) of
21 section 3559 of title 18, United States Code, is amended
22 to read as follows:

23 “(d) MANDATORY MINIMUM TERMS OF IMPRISON-
24 MENT FOR VIOLENT CRIMES AGAINST CHILDREN.—A
25 person who is convicted of a felony crime of violence

1 against the person of an individual who has not attained
2 the age of 18 years shall, unless a greater mandatory min-
3 imum sentence of imprisonment is otherwise provided by
4 law and regardless of any maximum term of imprisonment
5 otherwise provided for the offense—

6 “(1) if the crime of violence results in the death
7 of a person who has not attained the age of 18
8 years, be sentenced to death or life in prison;

9 “(2) if the crime of violence is kidnapping, ag-
10 gravated sexual abuse, sexual abuse, or maiming, or
11 results in serious bodily injury (as defined in section
12 2119(2)) be imprisoned for life or any term of years
13 not less than 30;

14 “(3) if the crime of violence results in bodily in-
15 jury (as defined in section 1365) or is an offense
16 under paragraphs (1), (2), or (5) of section 2244(a),
17 be imprisoned for life or for any term of years not
18 less than 20;

19 “(4) if a dangerous weapon was used during
20 and in relation to the crime of violence, be impris-
21 oned for life or for any term of years not less than
22 15; and

23 “(5) in any other case, be imprisoned for life or
24 for any term of years not less than 10.”.

1 **SEC. 303. ENSURING FAIR AND EXPEDITIOUS FEDERAL**
2 **COLLATERAL REVIEW OF CONVICTIONS FOR**
3 **KILLING A CHILD.**

4 (a) LIMITS ON CASES.—Section 2254 of title 28,
5 United States Code, is amended by adding at the end the
6 following:

7 “(j)(1) A court, justice, or judge shall not have juris-
8 diction to consider any claim relating to the judgment or
9 sentence in an application described under paragraph (2),
10 unless the applicant shows that the claim qualifies for con-
11 sideration on the grounds described in subsection (e)(2).
12 Any such application that is presented to a court, justice,
13 or judge other than a district court shall be transferred
14 to the appropriate district court for consideration or dis-
15 missal in conformity with this subsection, except that a
16 court of appeals panel must authorize any second or suc-
17 cessive application in conformity with section 2244 before
18 any consideration by the district court.

19 “(2) This subsection applies to an application for a
20 writ of habeas corpus on behalf of a person in custody
21 pursuant to the judgment of a State court for a crime
22 that involved the killing of a individual who has not at-
23 tained the age of 18 years.

24 “(3) For an application described in paragraph (2),
25 the following requirements shall apply in the district court:

1 “(A) Any motion by either party for an evi-
2 dentiary hearing shall be filed and served not later
3 than 90 days after the State files its answer or, if
4 no timely answer is filed, the date on which such an-
5 swer is due.

6 “(B) Any motion for an evidentiary hearing
7 shall be granted or denied not later than 30 days
8 after the date on which the party opposing such mo-
9 tion files a pleading in opposition to such motion or,
10 if no timely pleading in opposition is filed, the date
11 on which such pleading in opposition is due.

12 “(C) Any evidentiary hearing shall be—

13 “(i) convened not less than 60 days after
14 the order granting such hearing; and

15 “(ii) completed not more than 150 days
16 after the order granting such hearing.

17 “(D) A district court shall enter a final order,
18 granting or denying the application for a writ of ha-
19 beas corpus, not later than 15 months after the date
20 on which the State files its answer or, if no timely
21 answer is filed, the date on which such answer is
22 due, or not later than 60 days after the case is sub-
23 mitted for decision, whichever is earlier.

24 “(E) If the district court fails to comply with
25 the requirements of this paragraph, the State may

1 petition the court of appeals for a writ of mandamus
2 to enforce the requirements. The court of appeals
3 shall grant or deny the petition for a writ of man-
4 damus not later than 30 days after such petition is
5 filed with the court.

6 “(4) For an application described in paragraph (2),
7 the following requirements shall apply in the court of ap-
8 peals:

9 “(A) A timely filed notice of appeal from an
10 order issuing a writ of habeas corpus shall operate
11 as a stay of that order pending final disposition of
12 the appeal.

13 “(B) The court of appeals shall decide the ap-
14 peal from an order granting or denying a writ of ha-
15 beas corpus—

16 “(i) not later than 120 days after the date
17 on which the brief of the appellee is filed or, if
18 no timely brief is filed, the date on which such
19 brief is due; or

20 “(ii) if a cross-appeal is filed, not later
21 than 120 days after the date on which the ap-
22 pellant files a brief in response to the issues
23 presented by the cross-appeal or, if no timely
24 brief is filed, the date on which such brief is
25 due.

1 “(C)(i) Following a decision by a panel of the
2 court of appeals under subparagraph (B), a petition
3 for panel rehearing is not allowed, but rehearing by
4 the court of appeals en banc may be requested. The
5 court of appeals shall decide whether to grant a peti-
6 tion for rehearing en banc not later than 30 days
7 after the date on which the petition is filed, unless
8 a response is required, in which case the court shall
9 decide whether to grant the petition not later than
10 30 days after the date on which the response is filed
11 or, if no timely response is filed, the date on which
12 the response is due.

13 “(ii) If rehearing en banc is granted, the court
14 of appeals shall make a final determination of the
15 appeal not later than 120 days after the date on
16 which the order granting rehearing en banc is en-
17 tered.

18 “(D) If the court of appeals fails to comply
19 with the requirements of this paragraph, the State
20 may petition the Supreme Court or a justice thereof
21 for a writ of mandamus to enforce the requirements.

22 “(5)(A) The time limitations under paragraphs (3)
23 and (4) shall apply to an initial application described in
24 paragraph (2), any second or successive application de-
25 scribed in paragraph (2), and any redetermination of an

1 application described in paragraph (2) or related appeal
2 following a remand by the court of appeals or the Supreme
3 Court for further proceedings.

4 “(B) In proceedings following remand in the district
5 court, time limits running from the time the State files
6 its answer under paragraph (3) shall run from the date
7 the remand is ordered if further briefing is not required
8 in the district court. If there is further briefing following
9 remand in the district court, such time limits shall run
10 from the date on which a responsive brief is filed or, if
11 no timely responsive brief is filed, the date on which such
12 brief is due.

13 “(C) In proceedings following remand in the court of
14 appeals, the time limit specified in paragraph (4)(B) shall
15 run from the date the remand is ordered if further briefing
16 is not required in the court of appeals. If there is further
17 briefing in the court of appeals, the time limit specified
18 in paragraph (4)(B) shall run from the date on which a
19 responsive brief is filed or, if no timely responsive brief
20 is filed, from the date on which such brief is due.

21 “(6) The failure of a court to meet or comply with
22 a time limitation under this subsection shall not be a
23 ground for granting relief from a judgment of conviction
24 or sentence, nor shall the time limitations under this sub-
25 section be construed to entitle a capital applicant to a stay

1 of execution, to which the applicant would otherwise not
2 be entitled, for the purpose of litigating any application
3 or appeal.”.

4 (b) VICTIMS’ RIGHTS IN HABEAS CASES.—Section
5 3771(b) of title 18, United States Code, is amended by
6 adding at the end the following: “The rights established
7 for crime victims by this section shall also be extended
8 in a Federal habeas corpus proceeding arising out of a
9 State conviction to victims of the State offense at issue.”.

10 (c) APPLICATION TO PENDING CASES.—

11 (1) IN GENERAL.—The amendment made by
12 this section apply to cases pending on the date of
13 the enactment of this Act as well as to cases com-
14 menced on and after that date.

15 (2) SPECIAL RULE FOR TIME LIMITS.—In a
16 case pending on the date of the enactment of this
17 Act, if the amendment made by subsection (a) pro-
18 vides that a time limit runs from an event or time
19 that has occurred before that date, the time limit
20 shall instead run from that date.

1 **TITLE** **IV—PROTECTION**
2 **AGAINST SEXUAL EXPLOI-**
3 **TATION OF CHILDREN ACT OF**
4 **2005**

5 **SEC. 401. SHORT TITLE.**

6 This title may be cited as the “Protection Against
7 Sexual Exploitation of Children Act of 2005”.

8 **SEC. 402. INCREASED PENALTIES FOR SEXUAL OFFENSES**
9 **AGAINST CHILDREN.**

10 (a) **SEXUAL ABUSE AND CONTACT.—**

11 (1) **AGGRAVATED SEXUAL ABUSE OF CHIL-**
12 **DREN.—**Section 2241(c) of title 18, United States
13 Code, is amended by striking “, imprisoned for any
14 term of years or life, or both.” and inserting “and
15 imprisoned for not less than 30 years or for life.”.

16 (2) **ABUSIVE SEXUAL CONTACT WITH CHIL-**
17 **DREN.—**Section 2244 of chapter 109A of title 18,
18 United States Code, is amended—

19 (A) in subsection (a)—

20 (i) in paragraph (1), by inserting
21 “subsection (a) or (b) of” before “section
22 2241”;

23 (ii) by striking “or” at the end of
24 paragraph (3);

1 (iii) by striking the period at the end
2 of paragraph (4) and inserting “; or”; and
3 (iv) by inserting after paragraph (4)
4 the following:

5 “(5) subsection (c) of section 2241 of this title
6 had the sexual contact been a sexual act, shall be
7 fined under this title and imprisoned for not less
8 than 10 years and not more than 25 years;” and

9 (B) in subsection (c), by inserting “(other
10 than subsection (a)(5))” after “violates this sec-
11 tion”.

12 (3) SEXUAL ABUSE OF CHILDREN RESULTING
13 IN DEATH.—Section 2245 of title 18, United States
14 Code, is amended—

15 (A) by inserting “, chapter 110, chapter
16 117, or section 1591” after “this chapter”;

17 (B) by striking “A person” and inserting
18 “(a) IN GENERAL.—A person”; and

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

20 “(b) OFFENSES INVOLVING YOUNG CHILDREN.—A
21 person who, in the course of an offense under this chapter,
22 chapter 110, chapter 117, or section 1591 engages in con-
23 duct that results in the death of a person who has not
24 attained the age of 12 years, shall be punished by death
25 or imprisoned for not less than 30 years or for life.”.

1 (4) DEATH PENALTY AGGRAVATING FACTOR.—
2 Section 3592(c)(1) of title 18, United States Code,
3 is amended by inserting “section 2245 (sexual abuse
4 resulting in death),” after “(wrecking trains),”.

5 (b) SEXUAL EXPLOITATION AND OTHER ABUSE OF
6 CHILDREN.—

7 (1) SEXUAL EXPLOITATION OF CHILDREN.—
8 Section 2251(e) of title 18, United States Code, is
9 amended—

10 (A) by striking “15 years nor more than
11 30 years” and inserting “25 years or for life”;

12 (B) by inserting “section 1591,” after
13 “this chapter,” the first place it appears;

14 (C) by striking “the sexual exploitation of
15 children” the first place it appears and insert-
16 ing “aggravated sexual abuse, sexual abuse,
17 abusive sexual contact involving a minor or
18 ward, or sex trafficking of children, or the pro-
19 duction, possession, receipt, mailing, sale, dis-
20 tribution, shipment, or transportation of child
21 pornography”;

22 (D) by striking “not less than 25 years nor
23 more than 50 years, but if such person has 2
24 or more prior convictions under this chapter,
25 chapter 71, chapter 109A, or chapter 117, or

1 under section 920 of title 10 (article 120 of the
2 Uniform Code of Military Justice), or under the
3 laws of any State relating to the sexual exploi-
4 tation of children, such person shall be fined
5 under this title and imprisoned not less than 35
6 years nor more than life.” and inserting “life.”;
7 and

8 (E) by striking “any term of years or for
9 life” and inserting “not less than 30 years or
10 for life.”.

11 (2) ACTIVITIES RELATING TO MATERIAL IN-
12 VOLVING THE SEXUAL EXPLOITATION OF CHIL-
13 DREN.—Section 2252(b) of title 18, United States
14 Code, is amended—

15 (A) in paragraph (1)—

16 (i) by striking “paragraphs (1)” and
17 inserting “paragraph (1)”;

18 (ii) by inserting “section 1591,” after
19 “this chapter,”;

20 (iii) by inserting “, or sex trafficking
21 of children” after “pornography”;

22 (iv) by striking “5 years and not more
23 than 20 years” and inserting “25 years or
24 for life”; and

1 (v) by striking “not less than 15 years
2 nor more than 40 years.” and inserting
3 “life.”; and

4 (B) in paragraph (2)—

5 (i) by striking “or imprisoned for not
6 more than 10 years” and inserting “and
7 imprisoned for not less than 10 nor more
8 than 30 years”;

9 (ii) by striking “, or both”; and

10 (iii) by striking “10 years nor more
11 than 20 years.” and inserting “30 years or
12 for life.”.

13 (3) ACTIVITIES RELATING TO MATERIAL CON-
14 STITUTING OR CONTAINING CHILD PORNOGRAPHY.—
15 Section 2252A(b) of title 18, United States Code, is
16 amended—

17 (A) in paragraph (1)—

18 (i) by inserting “section 1591,” after
19 “this chapter,” the first place it appears;

20 (ii) by inserting “, or sex trafficking
21 of children” after “pornography”;

22 (iii) by striking “5 years and not more
23 than 20 years” and inserting “25 years or
24 for life”; and

1 (iv) by striking “not less than 15
2 years nor more than 40 years” and insert-
3 ing “life”; and

4 (B) in paragraph (2)—

5 (i) by striking “or imprisoned not
6 more than 10 years, or both” and inserting
7 “and imprisoned for not less than 10 nor
8 more than 30 years”; and

9 (ii) by striking “10 years nor more
10 than 20 years” and inserting “30 years or
11 for life”.

12 (4) USING MISLEADING DOMAIN NAMES TO DI-
13 RECT CHILDREN TO HARMFUL MATERIAL ON THE
14 INTERNET.—Section 2252B(b) of title 18, United
15 States Code, is amended by striking “or imprisoned
16 not more than 4 years, or both” and inserting “and
17 imprisoned not less than 10 nor more than 30
18 years”.

19 (5) PRODUCTION OF SEXUALLY EXPLICIT DE-
20 PICTIONS OF CHILDREN.—Section 2260(c) of title
21 18, United States Code, is amended by striking
22 paragraphs (1) and (2) and inserting the following:

23 “(1) shall be fined under this title and impris-
24 oned for any term or years not less than 25 or for
25 life; and

1 “(2) if the person has a prior conviction under
2 this chapter, section 1591, chapter 71, chapter
3 109A, or chapter 117, or under section 920 of title
4 10 (article 120 of the Uniform Code of Military Jus-
5 tice), shall be fined under this title and imprisoned
6 for life.”.

7 (c) MANDATORY LIFE IMPRISONMENT FOR CERTAIN
8 REPEATED SEX OFFENSES AGAINST CHILDREN.—Sec-
9 tion 3559(e)(2)(A) of title 18, United States Code, is
10 amended—

11 (1) by striking “or 2423(a)” and inserting
12 “2423(a)”; and

13 (2) by inserting “, 2423(b) (relating to travel
14 with intent to engage in illicit sexual conduct),
15 2423(c) (relating to illicit sexual conduct in foreign
16 places), or 2425 (relating to use of interstate facili-
17 ties to transmit information about a minor)” after
18 “minors”).

19 **TITLE V—FOSTER CHILD PRO-**
20 **TECTION AND CHILD SEXUAL**
21 **PREDATOR DETERRENCE**

22 **SEC. 501. SHORT TITLE.**

23 This title may be cited as the “Foster Child Protec-
24 tion and Child Sexual Predator Sentencing Act of 2005”.

1 **SEC. 502. REQUIREMENT TO COMPLETE BACKGROUND**
2 **CHECKS BEFORE APPROVAL OF ANY FOSTER**
3 **OR ADOPTIVE PLACEMENT AND TO CHECK**
4 **NATIONAL CRIME INFORMATION DATABASES**
5 **AND STATE CHILD ABUSE REGISTRIES; SUS-**
6 **PENSION AND SUBSEQUENT ELIMINATION OF**
7 **OPT-OUT.**

8 (a) REQUIREMENT TO COMPLETE BACKGROUND
9 CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE
10 PLACEMENT AND TO CHECK NATIONAL CRIME IN-
11 FORMATION DATABASES AND STATE CHILD ABUSE REG-
12 ISTRIES; SUSPENSION OF OPT-OUT.—

13 (1) REQUIREMENT TO CHECK NATIONAL CRIME
14 INFORMATION DATABASES AND STATE CHILD ABUSE
15 REGISTRIES.—Section 471(a)(20) of the Social Se-
16 curity Act (42 U.S.C. 671(a)(20)) is amended—

17 (A) in subparagraph (A)—

18 (i) in the matter preceding clause

19 (i)—

20 (I) by inserting “, including
21 checks of national crime information
22 databases (as defined in section
23 534(e)(3)(A) of title 28, United
24 States Code),” after “criminal records
25 checks”; and

1 (II) by striking “on whose behalf
2 foster care maintenance payments or
3 adoption assistance payments are to
4 be made” and inserting “regardless of
5 whether foster care maintenance pay-
6 ments or adoption assistance pay-
7 ments are to be made on behalf of the
8 child”; and

9 (ii) in each of clauses (i) and (ii), by
10 inserting “involving a child on whose be-
11 half such payments are to be so made”
12 after “in any case”; and

13 (B) by adding “and” at the end of sub-
14 paragraph (B); and

15 (C) by adding at the end the following:

16 “(C) provides that the State shall—

17 “(i) check any child abuse and neglect
18 registry maintained by the State for infor-
19 mation on any prospective foster or adop-
20 tive parent and on any other adult living in
21 the home of such a prospective parent, and
22 request any other State in which any such
23 prospective parent or other adult has re-
24 sided in the preceding 5 years, to enable
25 the State to check any child abuse and ne-

1 neglect registry maintained by such other
2 State for such information, before the pro-
3 spective foster or adoptive parent may be
4 finally approved for placement of a child,
5 regardless of whether foster care mainte-
6 nance payments or adoption assistance
7 payments are to be made on behalf of the
8 child under the State plan under this part;

9 “(ii) comply with any request de-
10 scribed in clause (i) that is received from
11 another State; and

12 “(iii) have in place safeguards to pre-
13 vent the unauthorized disclosure of infor-
14 mation in any child abuse and neglect reg-
15 istry maintained by the State, and to pre-
16 vent any such information obtained pursu-
17 ant to this subparagraph from being used
18 for a purpose other than the conducting of
19 background checks in foster or adoptive
20 placement cases;”.

21 (2) SUSPENSION OF OPT-OUT.—Section
22 471(a)(20)(B) of such Act (42 U.S.C.
23 671(a)(20)(B)) is amended—

24 (A) by inserting “, on or before September
25 30, 2005,” after “plan if”; and

1 (B) by inserting “, on or before such
2 date,” after “or if”.

3 (b) ELIMINATION OF OPT-OUT.—Section 471(a)(20)
4 of such Act (42 U.S.C. 671(a)(20)), as amended by sub-
5 section (a) of this section, is amended—

6 (1) in subparagraph (A)—

7 (A) in the matter preceding clause (i), by
8 striking “unless an election provided for in sub-
9 paragraph (B) is made with respect to the
10 State,”; and

11 (B) by adding “and” at the end of clause
12 (ii); and

13 (2) by striking subparagraph (B) and redesignig-
14 nating subparagraph (C) as subparagraph (B).

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendments made by
17 subsection (a) shall take effect on October 1, 2005,
18 and shall apply with respect to payments under part
19 E of title IV of the Social Security Act for calendar
20 quarters beginning on or after such date, without re-
21 gard to whether regulations to implement the
22 amendments are promulgated by such date.

23 (2) ELIMINATION OF OPT-OUT.—The amend-
24 ments made by subsection (b) shall take effect on
25 October 1, 2007, and shall apply with respect to

1 payments under part E of title IV of the Social Se-
2 curity Act for calendar quarters beginning on or
3 after such date, without regard to whether regula-
4 tions to implement the amendments are promulgated
5 by such date.

6 (3) DELAY PERMITTED IF STATE LEGISLATION
7 REQUIRED.—If the Secretary of Health and Human
8 Services determines that State legislation (other
9 than legislation appropriating funds) is required in
10 order for a State plan under section 471 of the So-
11 cial Security Act to meet the additional requirements
12 imposed by the amendments made by a subsection
13 of this section, the plan shall not be regarded as fail-
14 ing to meet any of the additional requirements be-
15 fore the first day of the first calendar quarter begin-
16 ning after the first regular session of the State legis-
17 lature that begins after the otherwise applicable ef-
18 fective date of the amendments. If the State has a
19 2-year legislative session, each year of the session is
20 deemed to be a separate regular session of the State
21 legislature.

1 **SEC. 503. ACCESS TO FEDERAL CRIME INFORMATION DATA-**
2 **BASES BY CHILD WELFARE AGENCIES FOR**
3 **CERTAIN PURPOSES.**

4 (a) **IN GENERAL.**—The Attorney General shall, upon
5 request of the chief executive of a State, ensure that ap-
6 propriate officers of child welfare agencies have the au-
7 thority for “read only” online access to the databases of
8 the national crime information databases (as defined in
9 section 534 of title 28, United States Code) to carry out
10 criminal history records checks, subject to subsection (b).

11 (b) **LIMITATION.**—An officer may use the authority
12 under subsection (a) only in furtherance of the purposes
13 of the agency and only on an individual relevant to case-
14 work of the agency.

15 (c) **PROTECTION OF INFORMATION.**—An individual
16 having information derived as a result of a check under
17 subsection (a) may release that information only to appro-
18 priate officers of child welfare agencies or another person
19 authorized by law to receive that information.

20 (d) **CRIMINAL PENALTIES.**—An individual who know-
21 ingly exceeds the authority in subsection (a), or knowingly
22 releases information in violation of subsection (c), shall be
23 imprisoned not more than 10 years or fined under title
24 18, United States Code, or both.

25 (e) **CHILD WELFARE AGENCY DEFINED.**—In this
26 section, the term “child welfare agency” means—

1 (1) the State or local agency responsible for ad-
2 ministering the plan under part B or part E of title
3 IV of the Social Security Act; and

4 (2) any other public agency, or any other pri-
5 vate agency under contract with the State or local
6 agency responsible for administering the plan under
7 part B or part E of title IV of the Social Security
8 Act, that is responsible for the placement of foster
9 or adoptive children.

10 **SEC. 504. PENALTIES FOR COERCION AND ENTICEMENT BY**
11 **SEX OFFENDERS.**

12 Section 2422(a) of title 18, United States Code, is
13 amended by striking “or imprisoned not more than 20
14 years, or both” and inserting “and imprisoned not less
15 than 10 years nor more than 30 years”.

16 **SEC. 505. PENALTIES FOR CONDUCT RELATING TO CHILD**
17 **PROSTITUTION.**

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

20 (1) in subsection (a), by striking “5 years and
21 not more than 30 years” and inserting “30 years or
22 for life”;

23 (2) in subsection (b), by striking “or impris-
24 oned not more than 30 years, or both” and inserting

1 “and imprisoned for not less than 10 years and not
2 more than 30 years”;

3 (3) in subsection (c), by striking “or imprisoned
4 not more than 30 years, or both” and inserting “and
5 imprisoned for not less than 10 years and not more
6 than 30 years”; and

7 (4) in subsection (d), by striking “imprisoned
8 not more than 30 years, or both” and inserting “and
9 imprisoned for not less than 10 nor more than 30
10 years”.

11 **SEC. 506. PENALTIES FOR SEXUAL ABUSE.**

12 (a) **AGGRAVATED SEXUAL ABUSE.**—Section 2241 of
13 title 18, United States Code, is amended—

14 (1) in subsection (a), by striking “, imprisoned
15 for any term of years or life, or both” and inserting
16 “and imprisoned for any term of years not less than
17 30 or for life”; and

18 (2) in subsection (b), by striking “, imprisoned
19 for any term of years or life, or both” and inserting
20 “and imprisoned for any term of years not less than
21 25 or for life”.

22 (b) **SEXUAL ABUSE.**—Section 2242 of title 18,
23 United States Code, is amended by striking “, imprisoned
24 not more than 20 years, or both” and inserting “and im-
25 prisoned not less than 15 years nor more than 40 years”.

1 (c) ABUSIVE SEXUAL CONTACT.—Section 2244(a) of
2 title 18, United States Code, is amended—

3 (1) in paragraph (2), by striking “, imprisoned
4 not more than three years, or both” and inserting
5 “and imprisoned not less than 5 years nor more
6 than 30 years”;

7 (2) in paragraph (3), by striking “, imprisoned
8 not more than two years, or both” and inserting
9 “and imprisoned not less than 4 years nor more
10 than 20 years”; and

11 (3) in paragraph (4), by striking “, imprisoned
12 not more than six months, or both” and inserting
13 “and imprisoned not less than 2 years nor more
14 than 10 years”.

15 **SEC. 507. SEX OFFENDER SUBMISSION TO SEARCH AS CON-**
16 **DITION OF RELEASE.**

17 (a) CONDITIONS OF PROBATION.—Section 3563(a) of
18 title 18, United States Code, is amended—

19 (1) in paragraph (8), by striking “and” at the
20 end;

21 (2) in paragraph (9), by striking the period and
22 inserting “; and”; and

23 (3) by inserting after paragraph (9) the fol-
24 lowing:

1 “(10) for a person who is a felon or required
2 to register under the Sex Offender Registration and
3 Notification Act, that the person submit his person,
4 and any property, house, residence, vehicle, papers,
5 computer, other electronic communication or data
6 storage devices or media, and effects to search at
7 any time, with or without a warrant, by any law en-
8 forcement or probation officer with reasonable sus-
9 picion concerning a violation of a condition of proba-
10 tion or unlawful conduct by the person, and by any
11 probation officer in the lawful discharge of the offi-
12 cer’s supervision functions.”.

13 (b) SUPERVISED RELEASE.—Section 3583(d) of title
14 18, United States Code, is amended by inserting after
15 “1994).” the following: “The court shall order, as an ex-
16 plicit condition of supervised release for a person who is
17 a felon or required to register under the Sex Offender Reg-
18 istration and Notification Act, that the person submit his
19 person, and any property, house, residence, vehicle, pa-
20 pers, computer, other electronic communications or data
21 storage devices or media, and effects to search at any
22 time, with or without a warrant, by any law enforcement
23 or probation officer with reasonable suspicion concerning
24 a violation of a condition of supervised release or unlawful

1 conduct by the person, and by any probation officer in
2 the lawful discharge of the officer’s supervision functions.”

3 **SEC. 508. KIDNAPPING PENALTIES AND JURISDICTION.**

4 Section 1201 of title 18, United States Code, is
5 amended—

6 (1) in subsection (a)(1), by striking “if the per-
7 son was alive when the transportation began” and
8 inserting “, or the offender travels in interstate or
9 foreign commerce or uses the mail or any means, fa-
10 cility, or instrumentality of interstate or foreign
11 commerce in committing or in furtherance of the
12 commission of the offense”; and

13 (2) in subsection (b), by striking “to interstate”
14 and inserting “in interstate”.

15 **SEC. 509. MARITAL COMMUNICATION AND ADVERSE SPOUS-**
16 **AL PRIVILEGE.**

17 (a) IN GENERAL.—Chapter 119 of title 28, United
18 States Code, is amended by inserting after section 1826
19 the following:

20 **“§ 1826A. Marital communications and adverse spous-**
21 **al privilege**

22 “The confidential marital communication privilege
23 and the adverse spousal privilege shall be inapplicable in
24 any Federal proceeding in which a spouse is charged with
25 a crime against—

1 “(1) a child of either spouse; or

2 “(2) a child under the custody or control of ei-
3 ther spouse.”.

4 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

5 The table of sections for chapter 119 of title 28, United
6 States Code, is amended by inserting after the item relat-
7 ing to section 1826 the following:

 “1826A. Marital communications and adverse spousal privilege.”.

8 **SEC. 510. ABUSE AND NEGLECT OF INDIAN CHILDREN.**

9 Section 1153(a) of title 18, United States Code, is
10 amended by inserting “felony child abuse or neglect,”
11 after “years,”.

12 **SEC. 511. CIVIL COMMITMENT.**

13 Chapter 313 of title 18, United States Code, is
14 amended—

15 (1) in the chapter analysis—

16 (A) in the item relating to section 4241, by
17 inserting “or to undergo postrelease pro-
18 ceedings” after “trial”; and

19 (B) by inserting at the end the following:

 “4248. Civil commitment of a sexually dangerous person.”;

20 (2) in section 4241—

21 (A) in the heading, by inserting “**OR TO**
22 **UNDERGO POSTRELEASE PROCEEDINGS**”
23 after “**TRIAL**”;

1 (B) in the first sentence of subsection (a),
2 by inserting “or at any time after the com-
3 mencement of probation or supervised release
4 and prior to the completion of the sentence,”
5 after “defendant,”;

6 (C) in subsection (d)—

7 (i) by striking “trial to proceed” each
8 place it appears and inserting “proceedings
9 to go forward”; and

10 (ii) by striking “section 4246” and in-
11 sserting “sections 4246 and 4248”; and

12 (D) in subsection (e)—

13 (i) by inserting “or other proceedings”
14 after “trial”; and

15 (ii) by striking “chapter 207” and in-
16 sserting “chapters 207 and 227”;

17 (3) in section 4247—

18 (A) by striking “, or 4246” each place it
19 appears and inserting “, 4246, or 4248”;

20 (B) in subsections (g) and (i), by striking
21 “4243 or 4246” each place it appears and in-
22 sserting “4243, 4246, or 4248”;

23 (C) in subsection (a)—

24 (i) by amending subparagraph (1)(C)
25 to read as follows:

1 “(C) drug, alcohol, and sex offender treatment pro-
2 grams, and other treatment programs that will assist the
3 individual in overcoming a psychological or physical de-
4 pendence or any condition that makes the individual dan-
5 gerous to others; and”;

6 (ii) in paragraph (2), by striking
7 “and” at the end;

8 (iii) in paragraph (3), by striking the
9 period at the end and inserting “; and”;
10 and

11 (iv) by inserting at the end the fol-
12 lowing:

13 “(4) ‘bodily injury’ includes sexual abuse;

14 “(5) ‘sexually dangerous person’ means a per-
15 son who has engaged or attempted to engage in sex-
16 ually violent conduct or child molestation and who is
17 sexually dangerous to others; and

18 “(6) ‘sexually dangerous to others’ means that
19 a person suffers from a serious mental illness, ab-
20 normality, or disorder as a result of which he would
21 have serious difficulty in refraining from sexually
22 violent conduct or child molestation if released.”;

23 (D) in subsection (b), by striking “4245 or
24 4246” and inserting “4245, 4246, or 4248”;
25 and

1 (E) in subsection (c)(4)—

2 (i) by redesignating subparagraphs
3 (D) and (E) as subparagraphs (E) and (F)
4 respectively; and

5 (ii) by inserting after subparagraph
6 (C) the following:

7 “(D) if the examination is ordered under
8 section 4248, whether the person is a sexually
9 dangerous person;”; and
10 (4) by inserting at the end the following:

11 **“§ 4248. Civil commitment of a sexually dangerous**
12 **person**

13 “(a) INSTITUTION OF PROCEEDINGS.—In relation to
14 a person who is in the custody of the Bureau of Prisons,
15 or who has been committed to the custody of the Attorney
16 General pursuant to section 4241(d), or against whom all
17 criminal charges have been dismissed solely for reasons
18 relating to the mental condition of the person, the Attor-
19 ney General or any individual authorized by the Attorney
20 General or the Director of the Bureau of Prisons may cer-
21 tify that the person is a sexually dangerous person, and
22 transmit the certificate to the clerk of the court for the
23 district in which the person is confined. The clerk shall
24 send a copy of the certificate to the person, and to the
25 attorney for the Government, and, if the person was com-

1 mitted pursuant to section 4241(d), to the clerk of the
2 court that ordered the commitment. The court shall order
3 a hearing to determine whether the person is a sexually
4 dangerous person. A certificate filed under this subsection
5 shall stay the release of the person pending completion of
6 procedures contained in this section.

7 “(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINA-
8 TION AND REPORT.—Prior to the date of the hearing, the
9 court may order that a psychiatric or psychological exam-
10 ination of the defendant be conducted, and that a psy-
11 chiatric or psychological report be filed with the court,
12 pursuant to the provisions of section 4247(b) and (c).

13 “(c) HEARING.—The hearing shall be conducted pur-
14 suant to the provisions of section 4247(d).

15 “(d) DETERMINATION AND DISPOSITION.—If, after
16 the hearing, the court finds by clear and convincing evi-
17 dence that the person is a sexually dangerous person, the
18 court shall commit the person to the custody of the Attor-
19 ney General. The Attorney General shall release the per-
20 son to the appropriate official of the State in which the
21 person is domiciled or was tried if such State will assume
22 responsibility for his custody, care, and treatment. The
23 Attorney General shall make all reasonable efforts to
24 cause such a State to assume such responsibility. If, not-
25 withstanding such efforts, neither such State will assume

1 such responsibility, the Attorney General shall place the
2 person for treatment in a suitable facility, until—

3 “(1) such a State will assume such responsi-
4 bility; or

5 “(2) the person’s condition is such that he is no
6 longer sexually dangerous to others, or will not be
7 sexually dangerous to others if released under a pre-
8 scribed regimen of medical, psychiatric, or psycho-
9 logical care or treatment;

10 whichever is earlier. The Attorney General shall make all
11 reasonable efforts to have a State to assume such respon-
12 sibility for the person’s custody, care, and treatment.

13 “(e) DISCHARGE.—When the Director of the facility
14 in which a person is placed pursuant to subsection (d) de-
15 termines that the person’s condition is such that he is no
16 longer sexually dangerous to others, or will not be sexually
17 dangerous to others if released under a prescribed regimen
18 of medical, psychiatric, or psychological care or treatment,
19 he shall promptly file a certificate to that effect with the
20 clerk of the court that ordered the commitment. The clerk
21 shall send a copy of the certificate to the person’s counsel
22 and to the attorney for the Government. The court shall
23 order the discharge of the person or, on motion of the at-
24 torney for the Government or on its own motion, shall hold
25 a hearing, conducted pursuant to the provisions of section

1 4247(d), to determine whether he should be released. If,
2 after the hearing, the court finds by a preponderance of
3 the evidence that the person's condition is such that—

4 “(1) he will not be sexually dangerous to others
5 if released unconditionally, the court shall order that
6 he be immediately discharged; or

7 “(2) he will not be sexually dangerous to others
8 if released under a prescribed regimen of medical,
9 psychiatric, or psychological care or treatment, the
10 court shall—

11 “(A) order that he be conditionally dis-
12 charged under a prescribed regimen of medical,
13 psychiatric, or psychological care or treatment
14 that has been prepared for him, that has been
15 certified to the court as appropriate by the Di-
16 rector of the facility in which he is committed,
17 and that has been found by the court to be ap-
18 propriate; and

19 “(B) order, as an explicit condition of re-
20 lease, that he comply with the prescribed regi-
21 men of medical, psychiatric, or psychological
22 care or treatment.

23 The court at any time may, after a hearing employ-
24 ing the same criteria, modify or eliminate the regi-

1 men of medical, psychiatric, or psychological care or
2 treatment.

3 “(f) REVOCATION OF CONDITIONAL DISCHARGE.—

4 The director of a facility responsible for administering a
5 regimen imposed on a person conditionally discharged
6 under subsection (e) shall notify the Attorney General and
7 the court having jurisdiction over the person of any failure
8 of the person to comply with the regimen. Upon such no-
9 tice, or upon other probable cause to believe that the per-
10 son has failed to comply with the prescribed regimen of
11 medical, psychiatric, or psychological care or treatment,
12 the person may be arrested, and, upon arrest, shall be
13 taken without unnecessary delay before the court having
14 jurisdiction over him. The court shall, after a hearing, de-
15 termine whether the person should be remanded to a suit-
16 able facility on the ground that he is sexually dangerous
17 to others in light of his failure to comply with the pre-
18 scribed regimen of medical, psychiatric, or psychological
19 care or treatment.

20 “(g) RELEASE TO STATE OF CERTAIN OTHER PER-

21 SONS.—If the director of the facility in which a person
22 is hospitalized or placed pursuant to this chapter certifies
23 to the Attorney General that a person, against him all
24 charges have been dismissed for reasons not related to the
25 mental condition of the person, is a sexually dangerous

1 person, the Attorney General shall release the person to
2 the appropriate official of the State in which the person
3 is domiciled or was tried for the purpose of institution of
4 State proceedings for civil commitment. If neither such
5 State will assume such responsibility, the Attorney Gen-
6 eral shall release the person upon receipt of notice from
7 the State that it will not assume such responsibility, but
8 not later than 10 days after certification by the director
9 of the facility.”.

10 **SEC. 512. MANDATORY PENALTIES FOR SEX-TRAFFICKING**
11 **OF CHILDREN.**

12 Section 1591(b) of title 18, United States Code, is
13 amended—

14 (1) in paragraph (1)—

15 (A) by striking “or imprisonment” and in-
16 serting “and imprisonment”;

17 (B) by inserting “not less than 20” after
18 “any term of years”; and

19 (C) by striking “, or both”; and

20 (2) in paragraph (2)—

21 (A) by striking “or imprisonment for not”
22 and inserting “and imprisonment for not less
23 than 10 years nor”; and

24 (B) by striking “, or both”.

1 **SEC. 513. SEXUAL ABUSE OF WARDS.**

2 Chapter 109A of title 18, United States Code, is
3 amended—

4 (1) in section 2243(b), by striking “one year”
5 and inserting “five years”;

6 (2) in section 2244(a)(4), by striking “six
7 months” and inserting “two years”;

8 (3) in section 2244(b), by striking “six months”
9 and inserting “two years”; and

10 (4) by inserting after “Federal prison,” each
11 place it appears , other than the second sentence of
12 section 2241(c), the following: “, or being in the cus-
13 tody of the Attorney General or the Bureau of Pris-
14 ons or confined in any institution or facility by di-
15 rection of the Attorney General or the Bureau of
16 Prisons,”.

○