

112TH CONGRESS  
2D SESSION

# S. 3456

To amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2012

Mr. BLUMENTHAL (for himself, Mr. WHITEHOUSE, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Protection Act  
5 of 2012”.

6 **SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD**  
7 **PORNOGRAPHY.**

8 (a) CERTAIN ACTIVITIES RELATING TO MATERIAL  
9 INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—  
10 Section 2252(b)(2) of title 18, United States Code, is

1 amended by inserting after “but if” the following: “any  
 2 visual depiction involved in the offense involved a pre-  
 3 pubescent minor or a minor who had not attained 12 years  
 4 of age, such person shall be fined under this title and im-  
 5 prisoned for not more than 20 years, or if”.

6 (b) CERTAIN ACTIVITIES RELATING TO MATERIAL  
 7 CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—  
 8 Section 2252A(b)(2) of title 18, United States Code, is  
 9 amended by inserting after “but, if” the following: “any  
 10 image of child pornography involved in the offense in-  
 11 volved a prepubescent minor or a minor who had not at-  
 12 tained 12 years of age, such person shall be fined under  
 13 this title and imprisoned for not more than 20 years, or  
 14 if”.

15 **SEC. 3. PROTECTION OF CHILD WITNESSES.**

16 (a) CIVIL ACTION TO RESTRAIN HARASSMENT OF A  
 17 VICTIM OR WITNESS.—Section 1514 of title 18, United  
 18 States Code, is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (1)—

21 (i) by inserting “or its own motion,”  
 22 after “attorney for the Government,”; and

23 (ii) by inserting “or investigation”  
 24 after “Federal criminal case” each place it  
 25 appears;

1 (B) by redesignating paragraphs (2), (3),  
2 and (4) as paragraphs (3), (4), and (5), respec-  
3 tively;

4 (C) by inserting after paragraph (1) the  
5 following:

6 “(2) In the case of a minor witness or victim,  
7 the court shall issue a protective order prohibiting  
8 harassment or intimidation of the minor victim or  
9 witness if the court finds evidence that the conduct  
10 at issue is reasonably likely to adversely affect the  
11 willingness of the minor witness or victim to testify  
12 or otherwise participate in the Federal criminal case  
13 or investigation. Any hearing regarding a protective  
14 order under this paragraph shall be conducted in ac-  
15 cordance with paragraphs (1) and (3), except that  
16 the court may issue an ex parte emergency protec-  
17 tive order in advance of a hearing if exigent cir-  
18 cumstances are present. If such an ex parte order is  
19 applied for or issued, the court shall hold a hearing  
20 not later than 14 days after the date such order was  
21 applied for or is issued.”;

22 (D) in paragraph (4), as so redesignated,  
23 by striking “(and not by reference to the com-  
24 plaint or other document)”; and

1           (E) in paragraph (5), as so redesignated,  
2           in the second sentence, by inserting before the  
3           period at the end the following: “, except that  
4           in the case of a minor victim or witness, the  
5           court may order that such protective order ex-  
6           pires on the later of 3 years after the date of  
7           issuance or the date of the eighteenth birthday  
8           of that minor victim or witness”; and

9           (2) by striking subsection (c) and inserting the  
10          following:

11          “(c) Whoever knowingly and intentionally violates or  
12          attempts to violate an order issued under this section shall  
13          be fined under this title, imprisoned not more than 5  
14          years, or both.

15          “(d)(1) As used in this section—

16                  “(A) the term ‘course of conduct’ means a se-  
17                  ries of acts over a period of time, however short, in-  
18                  dicating a continuity of purpose;

19                  “(B) the term ‘harassment’ means a serious act  
20                  or course of conduct directed at a specific person  
21                  that—

22                          “(i) causes substantial emotional distress  
23                          in such person; and

24                          “(ii) serves no legitimate purpose;

1           “(C) the term ‘immediate family member’ has  
2 the meaning given that term in section 115 and in-  
3 cludes grandchildren;

4           “(D) the term ‘intimidation’ means a serious  
5 act or course of conduct directed at a specific person  
6 that—

7                   “(i) causes fear or apprehension in such  
8 person; and

9                   “(ii) serves no legitimate purpose;

10           “(E) the term ‘restricted personal information’  
11 has the meaning given that term in section 119;

12           “(F) the term ‘serious act’ means a single act  
13 of threatening, retaliatory, harassing, or violent con-  
14 duct that is reasonably likely to influence the will-  
15 ingness of a victim or witness to testify or partici-  
16 pate in a Federal criminal case or investigation; and

17           “(G) the term ‘specific person’ means a victim  
18 or witness in a Federal criminal case or investiga-  
19 tion, and includes an immediate family member of  
20 such a victim or witness.

21           “(2) For purposes of subparagraphs (B)(ii) and  
22 (D)(ii) of paragraph (1), a court shall presume, subject  
23 to rebuttal by the person, that the distribution or publica-  
24 tion using the Internet of a photograph of, or restricted  
25 personal information regarding, a specific person serves

1 no legitimate purpose, unless that use is authorized by  
2 that specific person, is for news reporting purposes, is de-  
3 signed to locate that specific person (who has been re-  
4 ported to law enforcement as a missing person), or is part  
5 of a government-authorized effort to locate a fugitive or  
6 person of interest in a criminal, antiterrorism, or national  
7 security investigation.”.

8 (b) SENTENCING GUIDELINES.—Pursuant to its au-  
9 thority under section 994 of title 28, United States Code,  
10 and in accordance with this section, the United States  
11 Sentencing Commission shall review and, if appropriate,  
12 amend the Federal sentencing guidelines and policy state-  
13 ments to ensure—

14 (1) that the guidelines provide an additional  
15 penalty increase above the sentence otherwise appli-  
16 cable in Part J of Chapter 2 of the Guidelines Man-  
17 ual if the defendant was convicted of a violation of  
18 section 1591 of title 18, United States Code, or  
19 chapters 109A, 109B, 110, or 117 of title 18,  
20 United States Code; and

21 (2) if the offense described in paragraph (1) in-  
22 volved causing or threatening to cause physical in-  
23 jury to a person under 18 years of age, in order to  
24 obstruct the administration of justice, an additional  
25 penalty increase above the sentence otherwise appli-

1 cable in Part J of Chapter 2 of the Guidelines Man-  
 2 ual.

3 **SEC. 4. SUBPOENAS TO FACILITATE THE ARREST OF FUGI-**  
 4 **TIVE SEX OFFENDERS.**

5 (a) ADMINISTRATIVE SUBPOENAS.—

6 (1) IN GENERAL.—Section 3486(a)(1) of title  
 7 18, United States Code, is amended—

8 (A) in subparagraph (A)—

9 (i) in clause (i), by striking “or” at  
 10 the end;

11 (ii) by redesignating clause (ii) as  
 12 clause (iii); and

13 (iii) by inserting after clause (i) the  
 14 following:

15 “(ii) an unregistered sex offender conducted by  
 16 the United States Marshals Service, the Director of  
 17 the United States Marshals Service; or”; and

18 (B) in subparagraph (D)—

19 (i) by striking “paragraph, the term”  
 20 and inserting the following: “paragraph—

21 “(i) the term”;

22 (ii) by striking the period at the end  
 23 and inserting “; and”; and

24 (iii) by adding at the end the fol-  
 25 lowing:

1           “(ii) the term ‘sex offender’ means an indi-  
2           vidual required to register under the Sex Offender  
3           Registration and Notification Act (42 U.S.C. 16901  
4           et seq.).”.

5           (2) TECHNICAL AND CONFORMING AMEND-  
6           MENTS.—Section 3486(a) of title 18, United States  
7           Code, is amended—

8                   (A) in paragraph (6)(A), by striking  
9                   “United State” and inserting “United States”;

10                   (B) in paragraph (9), by striking  
11                   “(1)(A)(ii)” and inserting “(1)(A)(iii)”; and

12                   (C) in paragraph (10), by striking “para-  
13                   graph (1)(A)(ii)” and inserting “paragraph  
14                   (1)(A)(iii)”.

15           (b) JUDICIAL SUBPOENAS.—Section 566(e)(1) of  
16           title 28, United States Code, is amended—

17                   (1) in subparagraph (A), by striking “and” at  
18                   the end;

19                   (2) in subparagraph (B), by striking the period  
20                   at the end and inserting “; and”; and

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

22                   “(C) issue administrative subpoenas in accord-  
23                   ance with section 3486 of title 18, solely for the pur-  
24                   pose of investigating unregistered sex offenders (as  
25                   defined in such section 3486).”.



1 **SEC. 5. INCREASE IN FUNDING LIMITATION FOR TRAINING**  
 2 **COURSES FOR ICAC TASK FORCES.**

3 Section 102(b)(4)(B) of the PROTECT Our Children  
 4 Act of 2008 (42 U.S.C. 17612(b)(4)(B)) is amended by  
 5 striking “\$2,000,000” and inserting “\$4,000,000”.

6 **SEC. 6. NATIONAL COORDINATOR FOR CHILD EXPLOI-**  
 7 **TATION PREVENTION AND INTERDICTION.**

8 Section 101(d)(1) of the PROTECT Our Children  
 9 Act of 2008 (42 U.S.C. 17611(d)(1)) is amended—

10 (1) by striking “to be responsible” and insert-  
 11 ing the following: “with experience in investigating  
 12 or prosecuting child exploitation cases as the Na-  
 13 tional Coordinator for Child Exploitation Prevention  
 14 and Interdiction who shall be responsible”; and

15 (2) by adding at the end the following: “The  
 16 National Coordinator for Child Exploitation Preven-  
 17 tion and Interdiction shall be a position in the Sen-  
 18 ior Executive Service.”.

19 **SEC. 7. REAUTHORIZATION OF ICAC TASK FORCES.**

20 Section 107(a) of the PROTECT Our Children Act  
 21 of 2008 (42 U.S.C. 17617(a)) is amended—

22 (1) in paragraph (4), by striking “and”;

23 (2) in paragraph (5), by striking the period at  
 24 the end; and

25 (3) by inserting after paragraph (5) the fol-  
 26 lowing:

1           “(6) \$60,000,000 for fiscal year 2014;  
2           “(7) \$60,000,000 for fiscal year 2015;  
3           “(8) \$60,000,000 for fiscal year 2016;  
4           “(9) \$60,000,000 for fiscal year 2017; and  
5           “(10) \$60,000,000 for fiscal year 2018.”.

6 **SEC. 8. CLARIFICATION OF “HIGH-PRIORITY SUSPECT”.**

7           Section 105(e)(1)(B)(i) of the PROTECT Our Chil-  
8 dren Act of 2008 (42 U.S.C. 17615(e)(1)(B)(i)) is amend-  
9 ed by striking “the volume” and all that follows through  
10 “or other”.

11 **SEC. 9. REPORT TO CONGRESS.**

12           Not later than 90 days after the date of enactment  
13 of this Act, the Attorney General shall submit to the Com-  
14 mittee on the Judiciary of the House of Representatives  
15 and the Committee on the Judiciary of the Senate a report  
16 on the status of the Attorney General’s establishment of  
17 the National Internet Crimes Against Children Data Sys-  
18 tem required to be established under section 105 of the  
19 PROTECT Our Children Act of 2008 (42 U.S.C. 17615).

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