

118TH CONGRESS
1ST SESSION

S. 1170

To reauthorize and update the Project Safe Childhood program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 17, 2023

Mr. CORNYN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. BLUMENTHAL, Mrs. BLACKBURN, Mr. MURPHY, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reauthorize and update the Project Safe Childhood 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.**

4 This Act may be cited as the “Project Safe Childhood
5 Act”.

6 **SEC. 2. PROJECT SAFE CHILDHOOD MODERNIZATION.**

7 Section 143 of the Adam Walsh Child Protection and
8 Safety Act of 2006 (34 U.S.C. 20942) is amended to read
9 as follows:

1 **“SEC. 143. PROJECT SAFE CHILDHOOD.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) CHILD SEXUAL ABUSE MATERIAL.—The
4 term ‘child sexual abuse material’ has the meaning
5 given the term ‘child pornography’ in section 2256
6 of title 18, United States Code.

7 “(2) CHILD SEXUAL EXPLOITATION OF-
8 FENSE.—The term ‘child sexual exploitation offense’
9 means—

10 “(A)(i) an offense involving a minor under
11 section 1591 or chapter 117 of title 18, United
12 States Code;

13 “(ii) an offense under subsection (a), (b),
14 or (c) of section 2251 of title 18, United States
15 Code;

16 “(iii) an offense under section 2251A or
17 2252A(g) of title 18, United States Code; or

18 “(iv) any attempt or conspiracy to commit
19 an offense described in clause (i) or (ii); or

20 “(B) an offense involving a minor under a
21 State or Tribal statute that is similar to a pro-
22 vision described in subparagraph (A).

23 “(3) CIRCLE OF TRUST OFFENDER.—The term
24 ‘circle of trust offender’ means an offender who is
25 related to, or in a position of trust, authority, or su-
26 pervisory control with respect to, a child.

1 “(4) COMPUTER.—The term ‘computer’ has the
2 meaning given the term in section 1030 of title 18,
3 United States Code.

4 “(5) CONTACT SEXUAL OFFENSE.—The term
5 ‘contact sexual offense’ means—

6 “(A) an offense involving a minor under
7 chapter 109A of title 18, United States Code,
8 or any attempt or conspiracy to commit such an
9 offense; or

10 “(B) an offense involving a minor under a
11 State or Tribal statute that is similar to a pro-
12 vision described in subparagraph (A).

13 “(6) DUAL OFFENDER.—The term ‘dual of-
14 fender’ means—

15 “(A) a person who commits—

16 “(i) a technology-facilitated child sex-
17 ual exploitation offense or an offense in-
18 volving child sexual abuse material; and

19 “(ii) a contact sexual offense; and

20 “(B) without regard to whether the of-
21 fenses described in clauses (i) and (ii) of sub-
22 paragraph (A)—

23 “(i) are committed as part of the
24 same course of conduct; or

25 “(ii) involve the same victim.

1 “(7) FACILITATOR.—The term ‘facilitator’
2 means an individual who facilitates the commission
3 by another individual of—

4 “(A) a technology-facilitated child sexual
5 exploitation offense or an offense involving child
6 sexual abuse material; or

7 “(B) a contact sexual offense.

8 “(8) ICAC AFFILIATE PARTNER.—The term
9 ‘ICAC affiliate partner’ means a law enforcement
10 agency that has entered into a formal operating
11 agreement with the ICAC Task Force Program.

12 “(9) ICAC TASK FORCE.—The term ‘ICAC task
13 force’ means a task force that is part of the ICAC
14 Task Force Program.

15 “(10) ICAC TASK FORCE PROGRAM.—The term
16 ‘ICAC Task Force Program’ means the National
17 Internet Crimes Against Children Task Force Pro-
18 gram established under section 102 of the PRO-
19 TECT Our Children Act of 2008 (34 U.S.C.
20 21112).

21 “(11) OFFENSE INVOLVING CHILD SEXUAL
22 ABUSE MATERIAL.—The term ‘offense involving
23 child sexual abuse material’ means—

24 “(A) an offense under section 2251(d),
25 section 2252, or paragraphs (1) through (6) of

1 section 2252A(a) of title 18, United States
2 Code, or any attempt or conspiracy to commit
3 such an offense; or

4 “(B) an offense under a State or Tribal
5 statute that is similar to a provision described
6 in subparagraph (A).

7 “(12) SERIOUS OFFENDER.—The term ‘serious
8 offender’ means—

9 “(A) an offender who has committed a
10 contact sexual offense or child sexual exploi-
11 tation offense;

12 “(B) a dual offender, circle of trust of-
13 fender, or facilitator; or

14 “(C) an offender with a prior conviction
15 for a contact sexual offense, a child sexual ex-
16 ploitation offense, or an offense involving child
17 sexual abuse material.

18 “(13) STATE.—The term ‘State’ means a State
19 of the United States, the District of Columbia, and
20 any commonwealth, territory, or possession of the
21 United States.

22 “(14) TECHNOLOGY-FACILITATED.—The term
23 ‘technology-facilitated’, with respect to an offense,
24 means an offense that is committed through the use

1 of a computer, even if the use of a computer is not
2 an element of the offense.

3 “(b) ESTABLISHMENT OF PROGRAM.—The Attorney
4 General shall create and maintain a nationwide initiative
5 to align Federal, State, and local entities to combat the
6 growing epidemic of online child sexual exploitation and
7 abuse, to be known as the ‘Project Safe Childhood pro-
8 gram’, in accordance with this section.

9 “(c) BEST PRACTICES.—The Attorney General, in
10 coordination with the Child Exploitation and Obscenity
11 Section of the Criminal Division of the Department of
12 Justice and the Office of Juvenile Justice and Delinquency
13 Prevention of the Department of Justice, and in consulta-
14 tion with training and technical assistance providers under
15 the ICAC Task Force Program who are funded by the At-
16 torney General and with appropriate nongovernmental or-
17 ganizations, shall—

18 “(1) develop best practices to adopt a balanced
19 approach to the investigation of suspect leads involv-
20 ing contact sexual offenses, child sexual exploitation
21 offenses, and offenses involving child sexual abuse
22 material, and the prosecution of those offenses,
23 prioritizing when feasible the identification of a child
24 victim or a serious offender, which approach shall
25 incorporate the use of—

1 “(A) proactively generated leads, including
2 leads generated by current and emerging tech-
3 nology;

4 “(B) in-district investigative referrals; and

5 “(C) CyberTipline reports from the Na-
6 tional Center for Missing and Exploited Chil-
7 dren;

8 “(2) develop best practices to be used by each
9 United States Attorney and ICAC task force to as-
10 sess the likelihood that an individual could be a seri-
11 ous offender or that a child victim may be identified;

12 “(3) develop and implement a tracking and
13 communication system for Federal, State, and local
14 law enforcement agencies and prosecutor’s offices to
15 report successful cases of victim identification and
16 child rescue to the Department of Justice and the
17 public; and

18 “(4) encourage the submission of all lawfully
19 seized visual depictions to the Child Victim Identi-
20 fication Program of the National Center for Missing
21 and Exploited Children.

22 “(d) IMPLEMENTATION.—Except as authorized
23 under subsection (e), funds authorized under this section
24 may only be used for the following 4 purposes:

1 “(1) Integrated Federal, State, and local efforts
2 to investigate and prosecute contact sexual offenses,
3 child sexual exploitation offenses, and offenses in-
4 volving child sexual abuse material, including—

5 “(A) the partnership by each United
6 States Attorney with each Internet Crimes
7 Against Children Task Force within the district
8 of such attorney;

9 “(B) training of Federal, State, and local
10 law enforcement officers and prosecutors
11 through—

12 “(i) programs facilitated by the ICAC
13 Task Force Program;

14 “(ii) ICAC training programs sup-
15 ported by the Office of Juvenile Justice
16 and Delinquency Prevention of the Depart-
17 ment of Justice;

18 “(iii) programs facilitated by appro-
19 priate nongovernmental organizations with
20 subject matter expertise, technical skill, or
21 technological tools to assist in the identi-
22 fication of and response to serious offend-
23 ers, contact sexual offenses, child sexual
24 exploitation offenses, or offenses involving
25 child sexual abuse material; and

1 “(iv) any other program that provides
2 training—

3 “(I) on the investigation and
4 identification of serious offenders or
5 victims of contact sexual offenses,
6 child sexual exploitation offenses, or
7 offenses involving child sexual abuse
8 material; or

9 “(II) that specifically addresses
10 the use of existing and emerging tech-
11 nologies to commit or facilitate con-
12 tact sexual offenses, child sexual ex-
13 ploitation offenses, or offenses involv-
14 ing child sexual abuse material;

15 “(C) the development by each United
16 States Attorney of a district-specific strategic
17 plan to coordinate with State and local law en-
18 forcement agencies and prosecutor’s offices, in-
19 cluding ICAC task forces and their ICAC affil-
20 iate partners, on the investigation of suspect
21 leads involving serious offenders, contact sexual
22 offenses, child sexual exploitation offenses, and
23 offenses involving child sexual abuse material,
24 and the prosecution of those offenders and of-
25 fenses, which plan—

1 “(i) shall include—

2 “(I) the use of the best practices
3 developed under paragraphs (1) and
4 (2) of subsection (c);

5 “(II) the development of plans
6 and protocols to target and rapidly in-
7 vestigate cases involving potential se-
8 rious offenders or the identification
9 and rescue of a victim of a contact
10 sexual offense, a child sexual exploi-
11 tation offense, or an offense involving
12 child sexual abuse material;

13 “(III) the use of training and
14 technical assistance programs to in-
15 corporate victim-centered, trauma-in-
16 formed practices in cases involving
17 victims of contact sexual offenses,
18 child sexual exploitation offenses, and
19 offenses involving child sexual abuse
20 material, which may include the use of
21 child protective services, children’s ad-
22 vocacy centers, victim support special-
23 ists, or other supportive services;

24 “(IV) the development of plans to
25 track, report, and clearly commu-

1 nicate successful cases of victim iden-
2 tification and child rescue to the De-
3 partment of Justice and the public;

4 “(V) an analysis of the investiga-
5 tive and forensic capacity of law en-
6 forcement agencies and prosecutor’s
7 offices within the district, and goals
8 for improving capacity and effective-
9 ness;

10 “(VI) a written policy describing
11 the criteria for referrals for prosecu-
12 tion from Federal, State, or local law
13 enforcement agencies, particularly
14 when the investigation may involve a
15 potential serious offender or the iden-
16 tification or rescue of a child victim;

17 “(VII) plans and budgets for
18 training of relevant personnel on con-
19 tact sexual offenses, child sexual ex-
20 ploitation offenses, and offenses in-
21 volving child sexual abuse material;

22 “(VIII) plans for coordination
23 and cooperation with State, local, and
24 Tribal law enforcement agencies and
25 prosecutorial offices; and

1 “(IX) evidence-based programs
2 that educate the public about and in-
3 crease awareness of such offenses; and

4 “(ii) shall be developed in consulta-
5 tion, as appropriate, with—

6 “(I) the local ICAC task force;

7 “(II) the United States Marshals
8 Service Sex Offender Targeting Cen-
9 ter;

10 “(III) training and technical as-
11 sistance providers under the ICAC
12 Task Force Program who are funded
13 by the Attorney General;

14 “(IV) nongovernmental organiza-
15 tions with subject matter expertise,
16 technical skill, or technological tools
17 to assist in the identification of and
18 response to contact sexual offenses,
19 child sexual exploitation offenses, or
20 offenses involving child sexual abuse
21 material;

22 “(V) any relevant component of
23 Homeland Security Investigations;

24 “(VI) any relevant component of
25 the Federal Bureau of Investigation;

1 “(VII) the Office of Juvenile Jus-
2 tice and Delinquency Prevention of
3 the Department of Justice;

4 “(VIII) the Child Exploitation
5 and Obscenity Section of the Criminal
6 Division of the Department of Justice;

7 “(IX) the United States Postal
8 Inspection Service;

9 “(X) the United States Secret
10 Service; and

11 “(XI) each military criminal in-
12 vestigation organization of the De-
13 partment of Defense; and

14 “(D) a quadrennial assessment by each
15 United States Attorney of the investigations
16 within the district of such attorney of contact
17 sexual offenses, child sexual exploitation of-
18 fenses, and offenses involving child sexual abuse
19 material—

20 “(i) with consideration of—

21 “(I) the variety of sources for
22 leads;

23 “(II) the proportion of work in-
24 volving proactive or undercover law
25 enforcement investigations;

1 “(III) the number of serious of-
2 fenders identified and prosecuted; and

3 “(IV) the number of children
4 identified or rescued; and

5 “(ii) information from which may be
6 used by the United States Attorney, as ap-
7 propriate, to revise the plan described in
8 subparagraph (C).

9 “(2) Major case coordination by the Depart-
10 ment of Justice (or other Federal agencies as appro-
11 priate), including specific cooperation, as appro-
12 priate, with—

13 “(A) the Child Exploitation and Obscenity
14 Section of the Criminal Division of the Depart-
15 ment of Justice;

16 “(B) any relevant component of Homeland
17 Security Investigations;

18 “(C) any relevant component of the Fed-
19 eral Bureau of Investigation;

20 “(D) the ICAC task forces and ICAC affil-
21 iate partners;

22 “(E) the United States Marshals Service,
23 including the Sex Offender Targeting Center;

24 “(F) the United States Postal Inspection
25 Service;

1 “(G) the United States Secret Service;

2 “(H) each Military Criminal Investigation
3 Organization of the Department of Defense;
4 and

5 “(I) any task forces established in connec-
6 tion with the Project Safe Childhood program
7 set forth under subsection (b).

8 “(3) Increased Federal involvement in, and
9 commitment to, the prevention and prosecution of
10 technology-facilitated child sexual exploitation of-
11 fenses or offenses involving child sexual abuse mate-
12 rial by—

13 “(A) using technology to identify victims
14 and serious offenders;

15 “(B) developing processes and tools to
16 identify victims and offenders; and

17 “(C) taking measures to improve informa-
18 tion sharing among Federal law enforcement
19 agencies, including for the purposes of imple-
20 menting the plans and protocols described in
21 paragraph (1)(C)(i)(II) to identify and rescue—

22 “(i) victims of contact sexual offenses,
23 child sexual exploitation offenses, and of-
24 fenses involving child sexual abuse mate-
25 rial; or

1 “(ii) victims of serious offenders.

2 “(4) The establishment, development, and im-
3 plementation of a nationally coordinated ‘Safer
4 Internet Day’ every year developed in collaboration
5 with the Department of Education, national and
6 local internet safety organizations, parent organiza-
7 tions, social media companies, and schools to pro-
8 vide—

9 “(A) national public awareness and evi-
10 dence-based educational programs about the
11 threats posed by circle of trust offenders and
12 the threat of contact sexual offenses, child sex-
13 ual exploitation offenses, or offenses involving
14 child sexual abuse material, and the use of
15 technology to facilitate those offenses;

16 “(B) information to parents and children
17 about how to avoid or prevent technology-facili-
18 tated child sexual exploitation offenses; and

19 “(C) information about how to report pos-
20 sible technology-facilitated child sexual exploi-
21 tation offenses or offenses involving child sexual
22 abuse material through—

23 “(i) the National Center for Missing
24 and Exploited Children;

1 “(ii) the ICAC Task Force Program;

2 and

3 “(iii) any other program that—

4 “(I) raises national awareness
5 about the threat of technology-facili-
6 tated child sexual exploitation offenses
7 or offenses involving child sexual
8 abuse material; and

9 “(II) provides information to par-
10 ents and children seeking to report
11 possible violations of technology-facili-
12 tated child sexual exploitation offenses
13 or offenses involving child sexual
14 abuse material.

15 “(e) EXPANSION OF PROJECT SAFE CHILDHOOD.—
16 Notwithstanding subsection (d), funds authorized under
17 this section may be also be used for the following pur-
18 poses:

19 “(1) The addition of not less than 20 Assistant
20 United States Attorneys at the Department of Jus-
21 tice, relative to the number of such positions as of
22 the day before the date of enactment of the Project
23 Safe Childhood Act, who shall be—

1 “(A) dedicated to the prosecution of cases
2 in connection with the Project Safe Childhood
3 program set forth under subsection (b); and

4 “(B) responsible for assisting and coordi-
5 nating the plans and protocols of each district
6 under subsection (d)(1)(C)(i)(II).

7 “(2) Such other additional and related purposes
8 as the Attorney General determines appropriate.

9 “(f) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) IN GENERAL.—For the purpose of car-
11 rying out this section, there are authorized to be ap-
12 propriated—

13 “(A) for the activities described under
14 paragraphs (1), (2), and (3) of subsection (d),
15 \$28,550,000 for each of fiscal years 2023
16 through 2028;

17 “(B) for the activities described under sub-
18 section (d)(4), \$4,000,000 for each of fiscal
19 years 2023 through 2028; and

20 “(C) for the activities described under sub-
21 section (e), \$29,100,000 for each of fiscal years
22 2023 through 2028.

23 “(2) SUPPLEMENT, NOT SUPPLANT.—Amounts
24 made available to State and local agencies, pro-
25 grams, and services under this section shall supple-

1 ment, and not supplant, other Federal, State, or
 2 local funds made available for those agencies, pro-
 3 grams, and services.”.

4 **SEC. 3. TECHNICAL CLARIFICATIONS.**

5 (a) IN GENERAL.—Title 18, United States Code, is
 6 amended—

7 (1) in section 1201—

8 (A) in subsection (a), in the matter pre-
 9 ceding paragraph (1), by inserting “obtains by
 10 defrauding or deceiving any person,” after “ab-
 11 ducts,”; and

12 (B) in subsection (g), by adding at the end
 13 the following:

14 “(2) DEFENSE.—For an offense described in
 15 this subsection involving a victim who has not at-
 16 tained the age of 16 years, it is not a defense that
 17 the victim consented to the offender’s conduct unless
 18 the offender can establish by a preponderance of the
 19 evidence that the offender reasonably believed that
 20 the victim had attained the age of 16 years.”;

21 (2) in chapter 109A—

22 (A) in section 2241—

23 (i) in subsection (b)—

24 (I) in paragraph (1)—

1 (aa) by inserting “or
2 causes” after “engages in”; and

3 (bb) by inserting “or by”
4 after “a sexual act with”; and

5 (II) in paragraph (2)(B)—

6 (aa) by inserting “or
7 causes” after “engages in”; and

8 (bb) by inserting “or by”
9 after “a sexual act with”;

10 (ii) in subsection (c)—

11 (I) by striking “crosses a State
12 line” and inserting “travels in inter-
13 state or foreign commerce”;

14 (II) by inserting “or cause” after
15 “engage in”;

16 (III) by inserting “or by” after
17 “a sexual act with” each place it ap-
18 pears;

19 (IV) by inserting “or by” after
20 “subsections (a) and (b) with”;

21 (V) by inserting “or causes”
22 after “engages in” each place it ap-
23 pears; and

24 (VI) by inserting “or causing”
25 after “so engaging”; and

1 (iii) in subsection (d), by inserting “or
2 being caused to engage in” after “engaging
3 in”;

4 (B) in section 2242—

5 (i) in paragraph (2), in the matter
6 preceding subparagraph (A)—

7 (I) by inserting “or causes” after
8 “engages in”; and

9 (II) by inserting “or by” after “a
10 sexual act with”; and

11 (ii) in paragraph (3)—

12 (I) by inserting “or causes” after
13 “engages in”; and

14 (II) by inserting “or by” after “a
15 sexual act with”;

16 (C) in section 2243—

17 (i) in subsection (a)—

18 (I) in the matter preceding para-
19 graph (1)—

20 (aa) by inserting “or
21 causes” after “engages in”; and

22 (bb) by inserting “or by”
23 after “a sexual act with”; and

24 (II) in paragraph (2), by insert-
25 ing “or causing” after “so engaging”;

- 1 (ii) in subsection (b)—
- 2 (I) in the matter preceding para-
- 3 graph (1)—
- 4 (aa) by inserting “or
- 5 causes” after “engages in”; and
- 6 (bb) by inserting “or by”
- 7 after “a sexual act with”; and
- 8 (II) in paragraph (2), by insert-
- 9 ing “or causing” after “so engaging”;
- 10 (iii) in subsection (c)—
- 11 (I) by inserting “or causes” after
- 12 “engages in”; and
- 13 (II) by inserting “or by” after “a
- 14 sexual act with”; and
- 15 (iv) in subsection (e)—
- 16 (I) in paragraph (1), by inserting
- 17 “or being caused to engage in” after
- 18 “engaging in”; and
- 19 (II) in paragraph (2), by striking
- 20 “between the persons so engaging”
- 21 and inserting the following: “be-
- 22 tween—
- 23 “(A) the defendant; and
- 24 “(B) the person—

1 “(i) with whom the defendant engaged
2 in a sexual act; or

3 “(ii) whom the defendant caused to
4 engage in a sexual act”; and

5 (D) in section 2244(b)—

6 (i) by inserting “or causes” after “en-
7 gages in”; and

8 (ii) by inserting “or by” after “sexual
9 contact with”; and

10 (3) in section 2423(f)(1)—

11 (A) by striking “a sexual act (as defined in
12 section 2246) with” and inserting “any conduct
13 involving”; and

14 (B) by striking “sexual act occurred” and
15 inserting “conduct occurred”.

16 (b) EFFECTIVE DATE.—The amendment to section
17 2241(c) of title 18, United States Code, made by sub-
18 section (a)(2)(A)(ii)(I) of this section shall apply to con-
19 duct that occurred before, on, or after the date of enact-
20 ment of this Act.

21 **SEC. 4. SEXUAL EXPLOITATION AND OTHER ABUSE OF**
22 **CHILDREN.**

23 Title 18 of the United States Code is amended—

24 (1) in section 1466A—

1 (A) in subsection (a)(1)(A), by inserting “,
 2 or includes a minor in such visual depiction of
 3 any adult engaging in sexually explicit conduct”
 4 after “sexually explicit conduct”; and

5 (B) in subsection (b)(1)(A), by inserting “,
 6 or includes a minor in such visual depiction of
 7 any adult engaging in sexually explicit conduct”
 8 after “sexually explicit conduct”;

9 (2) in chapter 109A—

10 (A) in section 2244—

11 (i) in subsection (a)—

12 (I) by redesignating paragraphs
 13 (1) through (5) as subparagraphs (A)
 14 through (E), respectively, and adjust-
 15 ing the margins accordingly;

16 (II) by striking “Whoever” and
 17 inserting the following:

18 “(1) IN GENERAL.—Whoever”;

19 (III) in paragraph (1), as so des-
 20 ignated—

21 (aa) in the matter preceding
 22 subparagraph (A), as so redesign-
 23 ated, by striking “if so to do”
 24 and inserting “if to do so”;

1 (bb) in subparagraph (A), as
2 so redesignated, by striking
3 “ten” and inserting “10”;

4 (cc) in subparagraph (B), as
5 so redesignated, by striking
6 “three” and inserting “10”;

7 (dd) in subparagraph (C), as
8 so redesignated, by striking
9 “two” and inserting “5”; and

10 (ee) in subparagraph (D), as
11 so redesignated, by striking
12 “two” and inserting “5”; and

13 (IV) by adding at the end the fol-
14 lowing:

15 “(2) ATTEMPT.—Whoever attempts to commit
16 an offense under paragraph (1) shall be subject to
17 the same penalty as for a completed offense.”;

18 (ii) in subsection (b)—

19 (I) by inserting “or causes” after
20 “engages in”;

21 (II) by inserting “or by” after
22 “sexual contact with”;

23 (III) by inserting “, or attempts
24 to do so,” after “other person’s per-
25 mission”; and

1 (IV) by striking “two” and in-
2 serring “2”; and

3 (iii) in subsection (c), by striking “If
4 the sexual contact that violates this section
5 (other than subsection (a)(5)) is with an
6 individual” and inserting “If the sexual
7 contact or attempted sexual contact that a
8 person engages in or causes in violation of
9 this section (other than subsection
10 (a)(1)(E)) is with or by an individual”;
11 and

12 (B) in section 2246(2), by inserting after
13 “16 years” the following: “, or of any person by
14 a person who has not attained the age of 16
15 years,”; and

16 (3) in chapter 110—

17 (A) in section 2251—

18 (i) by striking subsections (a) and (b)
19 and inserting the following:

20 “(a) Any person who, in a circumstance described in
21 subsection (f), engages in any of the following conduct
22 shall be punished as provided under subsection (e):

23 “(1) Employs, uses, persuades, induces, entices,
24 or coerces a minor to engage in any sexually explicit
25 conduct for the purpose of producing any visual de-

1 piction of such conduct or transmitting a live visual
2 depiction of such conduct.

3 “(2) Employs, uses, persuades, induces, entices,
4 or coerces a minor to engage in any sexually explicit
5 conduct and in the course thereof, knowingly pro-
6 duces or causes to be produced any visual depiction
7 of such conduct, or transmits or causes to be trans-
8 mitted a live visual depiction of such conduct.

9 “(3) Engages in sexually explicit conduct in the
10 presence of a minor for the purpose of producing
11 any visual depiction of such conduct or transmitting
12 a live visual depiction of such conduct, intending
13 that the minor be included in such visual depiction.

14 “(4) Engages in sexually explicit conduct in the
15 presence of a minor and in the course thereof, know-
16 ingly produces or causes to be produced any visual
17 depiction of such conduct, or transmits or causes to
18 be transmitted a live visual depiction of such con-
19 duct, intentionally including the minor in such visual
20 depiction.

21 “(5) Has a minor assist any other person to en-
22 gage in any sexually explicit conduct during the
23 commission of an offense set forth in paragraphs (1)
24 through (4) of this subsection.

1 “(6) Transports any minor in or affecting inter-
2 state or foreign commerce with the intent that such
3 minor be used in the production or live transmission
4 of any visual depiction of a minor engaged in any
5 sexually explicit conduct.

6 “(b) Any parent, legal guardian, or person who has
7 custody or control of a minor and, in a circumstance de-
8 scribed in subsection (f), engages in any of the following
9 conduct shall be punished as provided under subsection
10 (e):

11 “(1) Knowingly permits such minor to engage
12 in, or to assist any other person to engage in, sexu-
13 ally explicit conduct—

14 “(A) for the purpose of producing any vis-
15 ual depiction of such conduct or transmitting a
16 live visual depiction of such conduct; or

17 “(B) knowing that any visual depiction of
18 such conduct will be produced or transmitted.

19 “(2) Knowingly permits an adult to engage in
20 sexually explicit conduct in the presence of the
21 minor—

22 “(A) for the purpose of producing any vis-
23 ual depiction of such conduct or transmitting a
24 live visual depiction of such conduct, intending

1 that the minor be included in such visual depic-
2 tion; or

3 “(B) knowing that any visual depiction of
4 such conduct will be produced or transmitted,
5 intentionally including the minor in such visual
6 depiction.”;

7 (ii) in subsection (c)—

8 (I) in paragraph (1)—

9 (aa) by striking “employs,
10 uses, persuades, induces, entices,
11 or coerces any minor to engage
12 in, or who has a minor assist any
13 other person to engage in, any
14 sexually explicit conduct” and in-
15 serting “engages in any of the
16 conduct described in paragraphs
17 (1) through (5) of subsection
18 (a)”;

19 (bb) by striking “for the
20 purpose of producing any visual
21 depiction of such conduct,”; and

22 (II) in paragraph (2)—

23 (aa) in subparagraph (A),
24 by inserting “or transmitted”
25 after “transported”; and

1 (bb) in subparagraph (B) by
2 inserting “or transmits” after
3 “transports”;

4 (iii) in subsection (d)(1), by striking
5 subparagraph (A) and inserting the fol-
6 lowing:

7 “(A) to receive, exchange, buy, produce,
8 display, distribute, or reproduce, any visual de-
9 picture, if—

10 “(i) the production of such visual de-
11 picture involves the use of a minor engag-
12 ing in sexually explicit conduct and such
13 visual depiction is of such conduct; or

14 “(ii) the production of such visual de-
15 picture involves an adult engaging in sexu-
16 ally explicit conduct in the presence of a
17 minor, such visual depiction is of such con-
18 duct, and the minor is intentionally in-
19 cluded in the visual depiction; or”;

20 (iv) by adding at the end the fol-
21 lowing:

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

24 “(1) the person knows or has reason to know
25 that the visual depiction will be—

1 “(A) transported or transmitted using any
2 means or facility of interstate or foreign com-
3 merce;

4 “(B) transported or transmitted in or af-
5 fecting interstate or foreign commerce; or

6 “(C) mailed;

7 “(2) the visual depiction was produced or trans-
8 mitted using materials that have been—

9 “(A) mailed; or

10 “(B) shipped or transported in or affecting
11 interstate or foreign commerce by any means,
12 including by computer;

13 “(3) the visual depiction has actually been—

14 “(A) transported or transmitted using any
15 means or facility of interstate or foreign com-
16 merce;

17 “(B) transported or transmitted in or af-
18 fecting interstate or foreign commerce; or

19 “(C) mailed; or

20 “(4) any part of the offense occurred in a terri-
21 tory or possession of the United States or within the
22 special maritime and territorial jurisdiction of the
23 United States.”;

24 (B) in section 2251A—

25 (i) in subsection (a)—

1 (I) in the matter preceding para-
2 graph (1), by inserting “ or control”
3 after “transfer custody”;

4 (II) by striking paragraph (1)
5 and inserting the following:

6 “(1) with knowledge that, as a consequence of
7 the sale or transfer, the minor will be—

8 “(A) portrayed in any visual depiction en-
9 gaging in, or assisting another person to engage
10 in, sexually explicit conduct; or

11 “(B) intentionally included in any visual
12 depiction of an adult engaging in sexually ex-
13 plicit conduct in the presence of the minor; or”;
14 and

15 (III) in paragraph (2)—

16 (aa) in the matter preceding
17 subparagraph (A), by striking
18 “either”;

19 (bb) in subparagraph (A),
20 by striking “or” at the end;

21 (cc) in subparagraph (B), by
22 adding “or” at the end; and

23 (dd) by inserting after sub-
24 paragraph (B) the following:

1 “(C) the intentional inclusion of the minor
2 in any visual depiction of an adult engaging in
3 sexually explicit conduct in the presence of the
4 minor;” and

5 (ii) in subsection (b)—

6 (I) by striking paragraph (1) and
7 inserting the following:

8 “(1) with knowledge that, as a consequence of
9 the purchase or obtaining of custody or control, the
10 minor will be—

11 “(A) portrayed in any visual depiction en-
12 gaging in, or assisting another person to engage
13 in, sexually explicit conduct; or

14 “(B) intentionally included in any visual
15 depiction of an adult engaging in sexually ex-
16 plicit conduct in the presence of the minor; or”;
17 and

18 (II) in paragraph (2)—

19 (aa) in the matter preceding
20 subparagraph (A), by striking
21 “either”;

22 (bb) in subparagraph (A),
23 by striking “or” at the end;

24 (cc) in subparagraph (B), by
25 adding “or” at the end; and

1 (dd) by inserting after sub-
2 paragraph (B) the following:

3 “(C) the intentional inclusion of the minor
4 in any visual depiction of an adult engaging in
5 sexually explicit conduct in the presence of the
6 minor;”;

7 (C) in section 2252(a)—

8 (i) in paragraph (1), by striking sub-
9 paragraphs (A) and (B) and inserting the
10 following:

11 “(A) the producing of such visual depiction
12 involves the use of a minor engaging in sexually
13 explicit conduct and such visual depiction is of
14 such conduct; or

15 “(B) the producing of such visual depiction
16 involves an adult engaging in sexually explicit
17 conduct in the presence of a minor, such visual
18 depiction is of such conduct, and the minor is
19 intentionally included in the visual depiction;”;

20 (ii) in paragraph (2), by striking sub-
21 paragraphs (A) and (B) and inserting the
22 following:

23 “(A) the producing of such visual depiction
24 involves the use of a minor engaging in sexually

1 explicit conduct and such visual depiction is of
2 such conduct; or

3 “(B) the producing of such visual depiction
4 involves an adult engaging in sexually explicit
5 conduct in the presence of a minor, such visual
6 depiction is of such conduct, and the minor is
7 intentionally included in the visual depiction;”;

8 (iii) in paragraph (3)(B), by striking
9 clauses (i) and (ii) and inserting the fol-
10 lowing:

11 “(i) the producing of such visual de-
12 piction involves the use of a minor engag-
13 ing in sexually explicit conduct and such
14 visual depiction is of such conduct; or

15 “(ii) the producing of such visual de-
16 piction involves an adult engaging in sexu-
17 ally explicit conduct in the presence of a
18 minor, such visual depiction is of such con-
19 duct, and the minor is intentionally in-
20 cluded in the visual depiction;”;

21 (iv) in paragraph (4)(B), by striking
22 clauses (i) and (ii) and inserting the fol-
23 lowing:

24 “(i) the producing of such visual de-
25 piction involves the use of a minor engag-

1 ing in sexually explicit conduct and such
2 visual depiction is of such conduct; or

3 “(ii) the producing of such visual de-
4 piction involves an adult engaging in sexu-
5 ally explicit conduct in the presence of a
6 minor, such visual depiction is of such con-
7 duct, and the minor is intentionally in-
8 cluded in the visual depiction;”;

9 (D) in section 2256—

10 (i) in paragraph (8)—

11 (I) by striking subparagraph (A)

12 and inserting the following:

13 “(A) the production of such visual depic-
14 tion involves—

15 “(i) the use of a minor engaging in
16 sexually explicit conduct; or

17 “(ii) an adult engaging in sexually ex-
18 plicit conduct in the presence of a minor
19 and the intentional inclusion of the minor
20 in the visual depiction;” and

21 (II) in subparagraph (B), by in-
22 serting after “sexually explicit con-
23 duct” the following: “or that of a
24 minor intentionally included in such

1 visual depiction of an adult engaging
2 in sexually explicit conduct”; and

3 (III) in subparagraph (C), by in-
4 serting after “sexually explicit con-
5 duct.” the following: “or is inten-
6 tionally included in such visual depic-
7 tion of an adult engaging in sexually
8 explicit conduct”;

9 (ii) in paragraph (9), by striking the
10 period at the end and inserting a semi-
11 colon;

12 (iii) in paragraph (10), by striking
13 “and” at the end;

14 (iv) in paragraph (11), by striking the
15 period at the end and inserting “; and”;
16 and

17 (v) adding at the end the following:

18 “(12) the terms ‘uses any minor to engage in’,
19 ‘the use of a minor engaging in’, and ‘in the pres-
20 ence of a minor’ do not require—

21 “(A) the minor to be aware of, or to be ca-
22 pable of appraising the nature of, the sexually
23 explicit conduct; or

1 “(B) any direct engagement or active par-
2 ticipation by the minor in the sexually explicit
3 conduct.”; and

4 (E) in section 2260—

5 (i) by striking subsection (a) and in-
6 serting the following:

7 “(a) USE OF MINOR.—A person who, outside the
8 United States, engages in any of the following conduct,
9 intending that the visual depiction will be imported or
10 transmitted into the United States or into waters within
11 12 miles of the coast of the United States, shall be pun-
12 ished as provided in subsection (c):

13 “(1) Employs, uses, persuades, induces, entices,
14 or coerces a minor to engage in any sexually explicit
15 conduct for the purpose of producing any visual de-
16 piction of such conduct or transmitting a live visual
17 depiction of such conduct.

18 “(2) Employs, uses, persuades, induces, entices,
19 or coerces a minor to engage in any sexually explicit
20 conduct and in the course thereof, knowingly pro-
21 duces or causes to be produced any visual depiction
22 of such conduct, or transmits or causes to be trans-
23 mitted a live visual depiction of such conduct.

24 “(3) Engages in sexually explicit conduct in the
25 presence of a minor for the purpose of producing

1 any visual depiction of such conduct or transmitting
2 a live visual depiction of such conduct, intending
3 that the minor be included in such visual depiction.

4 “(4) Engages in sexually explicit conduct in the
5 presence of a minor and in the course thereof, know-
6 ingly produces or causes to be produced any visual
7 depiction of such conduct, or transmits or causes to
8 be transmitted a live visual depiction of such con-
9 duct, intentionally including the minor in such visual
10 depiction.

11 “(5) Has a minor assist any other person to en-
12 gage in any sexually explicit conduct during the
13 commission of an offense set forth in paragraphs (1)
14 through (4) of this subsection.

15 “(6) Transports any minor in or affecting for-
16 eign commerce with the intent that such minor be
17 used in the production or live transmission of any
18 visual depiction of a minor engaged in any sexually
19 explicit conduct.”; and

20 (ii) in subsection (b), by striking “vis-
21 ual depiction of a minor engaging in sexu-
22 ally explicit conduct (if the production of
23 the visual depiction involved the use of a
24 minor engaging in sexually explicit con-
25 duct), intending that the visual depiction”

1 and inserting “child pornography (as de-
2 fined in section 2256(8)(A)), intending
3 that the child pornography”.

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