

118TH CONGRESS  
1ST SESSION

# H. R. 2661

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

---

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2023

Ms. WASSERMAN SCHULTZ (for herself and Mr. HUNT) introduced the following bill; which was 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)”; and

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;”;

21 (II) in subparagraph (B), by in-

22 sserting 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”.

○