

# H.R. 4472

## THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006

### SECTION-BY-SECTION ANALYSIS

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#### *Sec. 1. Short Title; Table of Contents*

This section cites the short title of as the “Adam Walsh Child Protection and Safety Act of 2006,” and includes a Table of Contents.

#### *Sec. 2. In Recognition of John and Reve Walsh on the Occasion of the 25<sup>th</sup> Anniversary of Adam Walsh’s Abduction and Murder.*

This section is a tribute to the contribution of John and Reve Walsh for their work in protecting children, from prevent child predators from harming America’s children, and for bringing sex offenders and criminals to justice.

#### **Title I - Sex Offender Registration and Notification Act**

##### *Sec. 101. Short Title. Short Title; Table of Contents*

This section names the short title of Title I as the “Sex Offender Registration and Notification Act.”

##### *Sec. 102. Declaration of Purpose*

This section states the purpose of Title I is for Congress to create a comprehensive national system for the registration of sex offenders in order to protect children and the public generally, and is in response to brutal sexual attacks against children and adults by convicted sexual offenders: (1)

Jacob Wetterling; (2) Megan Nicole Kanka; (3) Pam Lyncher; (4) Jetseta Gaga; (5) Dru Sjodin; (6) Jessica Lunsford; (7) Sarah Lunde; (8) Amie Zyla; (9) Christy Fornoff; (10) Alexandra Nicole Zapp; (11) Polly Klass; (12) Jimmy Ryce; (13) Carlie Brucia; (14) Amanda Brown; (15) Elizabeth Smart; (16) Molly Bish and (17) Samantha Runnion.

### **Subtitle A - Jacob Wetterling Sex Offender Registration and Notification Program**

#### ***Sec. 111. Relevant Definitions, Including Amie Zyla Expansion of Sex Offender Definition and Expanded Inclusion of Child Predators.***

This section sets forth the definitions for Title I of the Act and expands several existing terms to include a broader category of sexual offenders, additional specified crimes against minors, and needed clarifications to the existing law. The category of crimes is expanded to include foreign, military, tribal and certain juvenile offenses in addition to existing law which includes State and Federal sex offenses. In particular, the category of crimes is expanded to include certain juvenile sex offenses (e.g. aggravated sexual abuse when committed by at least a 14 year old), possession of child pornography, sex trafficking and a new definition of sex offense. Also, this section defines three separate tiers for sex offenders based on the seriousness of the sex offense committed by the offender, the victim and the sex offender's criminal history.

#### ***Sec. 112. Registry Requirements for Jurisdictions.***

This section requires each jurisdiction to maintain a jurisdiction-wide sex offender registry conforming to the requirements of this title and authorizes the Attorney General to prescribe guidelines to carry out the purposes of the title.

#### ***Sec. 113. Registry Requirements for Sex Offenders***

This section requires a sex offender to register, and maintain current information in each jurisdiction where the sex offender was convicted, where the sex offender resides, where the sex offender is employed and where the sex offender attends school, and requires such registration be filed prior to release from prison or no later than 3 business days after a sentence not requiring imprisonment is imposed, not later than 3 business days after any change in residence, employment or student status. The Attorney

General is authorized to issue guidelines to include certain sex offenders who were not previously covered by the sex offender registration requirements. Each jurisdiction is required to maintain a felony criminal offense for failure to comply with the registration requirements.

#### ***Sec. 114. Information Required in Registration***

This section specifies, at a minimum, what information the registry must include. The sex offender must provide his or her: (1) name (and any alias); (2) Social Security number; (3) residence address; (4) name and location of employment; (5) name and location of school; (6) the license plate of any vehicle owned or used by the sex offender; (7) any other information required by the Attorney General.

The jurisdiction must provide: (1) a physical description of the sex offender; (2) the text of the provision of law defining the criminal offense for which the sex offender is registered; (3) the criminal history of the sex offender, including the date of all arrests and convictions; status of parole, probation or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender; (4) a current photograph of the sex offender; (5) a set of fingerprints and palm prints of the sex offender; (6) a DNA sample; (7) a photocopy of a valid driver's license or identification card issued to the sex offender by the jurisdiction; and (8) any other information required by the Attorney General.

#### ***Sec. 115. Duration of Registration Requirement***

This section specifies the duration of the registration requirement: (a) 15 years if the offender is a Tier I sex offender; (b) 25 years if the offender is a Tier II sex offender; and (3) life if the offender is a tier III sex offender. These time periods for registration are meant to be a floor, and any jurisdiction is free to impose a longer amount of time for registration but no less than the time set forth in this provision.

This section also requires States to reduce the duration of registration if the sex offender satisfies the "clean record" requirements. Specifically, a Tier I sex offender may reduce the required registration period from 15 to 10 years; and a juvenile adjudicated delinquent for a Tier III offense may reduce the period from life to 25 years after registration, if during the 10 year and 25 year periods, respectively, the sex offender has: (1) not been convicted for any felony offense; (2) not been convicted of any sex offense;

(3) successfully completed any period of supervised release, probation or parole; and (4) successfully completed an appropriate sex offender treatment program certified by the jurisdiction or by the Attorney General. The “clean record” reduction does not require the jurisdictions to adopt the same duration requirements for the defined sex offenders but apply to any duration specified by the jurisdiction no matter if the length of time is greater than the minimum (“floor”) time periods set by this section.

***Sec. 116. Periodic In Person Verification***

This section requires a sex offender to appear in person for verification of registration information not less frequently than (1) every each year for a tier I sex offender; (2) every six months for a tier II sex offender; and (3) every three months if the offender is a tier III sex offender.

***Sec. 117. Duty to Notify Sex Offenders of Registration Requirements and to Register***

This section requires a jurisdiction official to inform the sex offender of the registration requirements, make sure the sex offender understands the requirements by executing a form that confirms the sex offender’s understanding, and registers the sex offender.

***Sec. 118. Public Access to Sex Offender Information through the Internet***

This section requires each jurisdiction to make available to the public through an Internet site all information about a sex offender except for information that identifies the victim, the offender’s Social Security Number, any reference to arrests of the sex offender that did not result in conviction, and any other information exempted by the Attorney General. In addition, a jurisdiction may exclude from the Internet any information about a Tier I sex offender other than an offense involving a minor; the name of the sex offender’s employer or educational institution.

***Sec. 119. National Sex Offender Registry***

This section requires the Attorney General to maintain a National Sex Offender Registry. In addition, the Attorney General is required to forward electronically to any relevant jurisdiction any changes in the registry information for a sex offender

***Sec. 120. Dru Sjodin National Sex Offender Public Website***

This section creates the Dru Sjodin National Sex Offender Public Website which allows the public to obtain relevant information about sex offenders through a single query to the website.

***Sec. 121. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program***

This section requires an appropriate official to notify immediately but no later than 3 days of a change in a sex offender's information, the following: (1) the Attorney General, who shall include the update information in the National Sex Offender Registry; (2) an appropriate law enforcement agency in the area where the sex offender resides, is employed or is a student; (3) each jurisdiction to or from which a change in residence, work or student status occurs; (4) any agency responsible for conducting employment-related background checks; (5) social service entities responsible for protecting minors in the child welfare system; (6) volunteer organizations in which contact with minors or other vulnerable individuals might occur; and (7) any organization, company or individual who requests such notification pursuant to procedures established by the jurisdiction.

***Sec. 122. Actions to be Taken When Sex Offender Fails to Comply***

This section requires an appropriate official from the State or other jurisdiction to notify the Attorney General and appropriate State and local law enforcement agencies to inform them of any failure by a sex offender to comply with the registry requirements. The appropriate official, the Attorney General, and each such State and local law enforcement agency is required to take any appropriate action to ensure compliance.

***Sec. 123. Development and Availability of Registry Management and Website Software.***

This section requires the Attorney General to develop and support software to enable jurisdictions to establish and operate uniform sex offender registries and Internet sites. Such software should facilitate immediate exchange of information among jurisdictions public access over the Internet; and full compliance with the requirements of this title.

***Sec. 124. Period for Implementation by Jurisdictions***

This section requires jurisdictions to comply with the requirements of this title within 3 years of enactment. The Attorney General may authorize two one-year extensions to a jurisdiction to comply.

***Sec. 125. Failure of Jurisdiction to Comply***

This section imposes a ten percent reduction in Byrne Grant fund to any jurisdiction that fails, as determined by the Attorney General, substantially to comply with the requirements of this Act.

This section also creates a procedure for compliance by a jurisdiction when a court ruling on the constitution prevents the jurisdiction from meeting the substantial compliance requirement. If such a circumstance arises, the Attorney general and the jurisdiction shall make good faith efforts to accomplish substantial implementation of this title. The Attorney General is required to consult with the jurisdiction's chief executive and chief legal officer. The Attorney General may find that the jurisdiction is in compliance if the jurisdiction has made, or is the process of implementing reasonable alternative procedures or accommodations, which are consistent with the purposes of this Act. If the jurisdiction fails to implement these changes, then it would be subject to the funding reduction.

***Sec. 126. Sex Offender Management Assistance (SOMA) Program***

This section authorizes the Sex Offender Management Assistance (SOMA) Program to fund grants to jurisdictions to implement the sex offender registry requirements. Bonus payments to jurisdictions are authorized at 10 percent of prior fiscal year funding for those entities substantially complying with the requirements within 1 year of enactment; and 5 percent bonus payments for those entities substantially complying with the requirements within 2 years of enactment. Finally, this section authorizes funding of such sums necessary to carry out this title for fiscal years 2006 through 2008.

***Sec. 127. Election by Indian Tribes.***

This section authorizes federally recognized Indian tribes to comply with the sex offender registry and notification requirements either by (1) electing to comply as a jurisdiction; or (2) delegating its responsibility to another jurisdiction (e.g. State).

For the purposes of this Act, the term “federally recognized Indian tribe” does not include within its purview Alaska Native groups or entities. In 1884 when Congress created the first civil government for Alaska it decided that Alaska Natives should be subject at all locations in Alaska to the same civil and criminal jurisdiction as that to which all non-Native residents of Alaska are subject. Alaska Natives today are subject at all locations in Alaska, including in communities that are “Native villages” for the purposes of the Alaska Native Claims Settlement Act, to the criminal statutes of the Alaska State Legislature and are prosecuted in the Alaska State courts for violations of those statutes. For that reason, like all other sex offenders who are physically present within the State of Alaska, Alaska Native sex offenders, including offenders who reside in “Native villages”, are required by Alaska Statute 12.63.010 *et seq.* to register as sex offenders with the Alaska Departments of Corrections or Public Safety or with an Alaska municipal police department, as appropriate.

***Sec. 128. Registration of Sex Offenders Entering the United States***

This section authorizes the Justice Department, in consultation with the Secretary of State and the Department of Homeland Security, to establish procedures to notify relevant jurisdictions about persons entering the United States who are required to register.

***Sec. 129. Repeal of Predecessor Sex Offender Program***

This section repeals the predecessor sex offender registry program.

***Sec. 130. Limitation on Liability for the National Center for Missing and Exploited Children with Respect to Cybertipline.***

This section provides NCMEC with limited immunity related to its CyberTipline, and efforts to identify child victims, except for intentional, reckless or other deliberate misconduct.

***Sec. 131. Immunity for Good Faith Conduct***

This section provides that law enforcement agencies, employees of law enforcement agencies, contractors acting at the direction of law enforcement

agencies, and officials from State and other jurisdictions shall not be held criminally or civilly liable for carrying out a duty in good faith.

**Subtitle B - Improving Federal Criminal Law Enforcement to Ensure  
Sex Offender Compliance with Registration and Notification  
Requirements and Protection of Children from Violent Predators**

***Sec. 141. Amendments to Title 18, United States Code, Relating to Sex Offender Registration***

This section creates a new federal crime for a sex offender who receives notice of the requirements to register in a sex offender registry and : (1) is a Federal sex offender or (2) is a State or local sex offender who travels in interstate or foreign commerce, or enters or leaves Indian country, and (3) knowingly fails to register. Such an offense is punishable by a maximum of 10 years imprisonment.

The section also includes an affirmative defense which is co-extensive with current law as to available defenses such as impossibility of compliance. Consistent with current law, the defendant sex offender would have to establish the existence of this affirmative defense by at least a preponderance of the evidence. In addition, this section includes a crime of violence enhancement which would apply if a sex offender fails to register, or update the registration information, and commits a Federal crime of violence (including military offenses, or violations of the District of Columbia law, or of any law of a territory or possession), and the sex offender would then be subject to a mandatory minimum penalty of five years but not more than 30 years, which would be consecutive to any other sentence.

The section includes a directive to the Sentencing Commission on the new Federal Failure to Register crime (section 2250 of Title 18) to consider various factors when setting guideline ranges for this offense. Obviously, the intent of the provision is to impose serious penalties on sex offenders who fail to register or update the registry information. The directive is intended to assist the sentencing commission in providing graduated penalties based on several factors: (1) whether the sex offender committed another crime during a period when the sex offender failed to register; (2) whether the sex offender attempted to correct the failure to register; (3) the seriousness of the offense which gave rise to the requirement to register; and (4) the sex offender's criminal record.



This section also includes several modifications to other criminal statutes. The section modifies 1001 of title 18 to add a maximum of 8 years imprisonment for a false statement made in the investigation of various sex offenses; requires a defendant to comply with registration requirements as a mandatory condition of probation or supervised release, and if such a violation of that condition occurs, the defendant's probation or supervised release shall be revoked and the defendant detained pending resolution of such revocation proceeding. The court shall impose a 5 year mandatory minimum sentence of imprisonment when a sex offender is on supervised release and commits another sex offense.

Finally, this section makes conforming changes in the release notice and registration procedures for sex offenders who are released from federal custody.

***Sec. 142. Federal Assistance with respect to Violations of Registration Requirements***

This section authorizes the Attorney General, including the United States Marshals Service, to assist in the apprehension of sex offenders who have failed to comply with applicable registration requirements. In addition, this section authorizes funding of such sums as necessary for fiscal years 2007 to 2009.

***Sec. 143 Project Safe Childhood***

This section authorizes the creation of the Project Safe Childhood program to: (1) integrate Federal, State and local law enforcement to prosecute child exploitation criminal cases; (2) improve major case coordination among federal agencies; (3) increase federal involvement in child pornography and enticement cases; (4) train Federal, State and local law enforcement; and improve community awareness and educational programs.

***Sec. 144. Federal Assistance in Identification and Location of Sex Offenders Relocated as a Result of a Major Disaster.***

This section authorizes the Attorney general to provide technical assistance to jurisdictions in the identification and location of a sex offender relocated as a result of a major disaster.

***Sec. 145. Expansion of Training and Technology Efforts***

This section requires the Justice Department to expand training efforts with law enforcement, promote private and public coordination efforts, national conferences to promote new techniques to monitor sex offender activities on the Internet, and coordination among participating agencies to combat on-line. This section also authorizes the creation of 10 additional Internet Crimes Against Children task forces, expansion of the Federal Bureau of Investigation's Innocent Images task forces, and additional federal prosecutors.

***Sec. 146. Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking.***

This section creates a new Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART Office). The SMART Office shall be headed by a Director of the Office, who shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs.

The SMART Office will be responsible for administering the sex offender registration and notification program; administering grant programs; and providing technical assistance, coordination and support to other governmental and non-governmental entities.

**Subtitle C – Access to Information and Resources Needed to Ensure that Children Are Not Attacked or Abused**

**Sec. 151. Access to National Crime Information Databases**

This section authorizes the Attorney general to provide access to national criminal databases to the National Center for Missing and Exploited children and governmental social service agencies with child protection responsibilities.

***Sec. 152. Requirement to Complete Background Checks Before Approval of Any Foster or Adoptive Placement and to Check Child Abuse Registries; Elimination of Opt-Out***

This section amends section 471(a)(20) of the Social Security Act to require each State to complete background checks and abuse registries relating to any foster parent or adoptive parent application, before approval of such an application, and provides access to agencies responsible for foster parent or adoptive parent placements.

***Sec. 153. Schools Safe Act***

This section authorizes the Attorney General to provide fingerprint-based background checks to child welfare agencies, and private and public educational agencies in order to conduct background checks for prospective adoption or foster parents, private and public teachers or school employees. An individual who misuses such information would be subject to criminal penalties of up to 10 years incarceration.

***Sec. 154. Missing Child Reporting Requirements***

This section requires law enforcement agencies to maintain missing children records in National Crime information Center records and to notify federal law enforcement within 2 hours of receipt of a missing child complaint.

***Sec. 155. DNA Fingerprinting.***

This section amends the DNA Analysis Backlog Elimination Act to make a correction to ensure collection and use of DNA profiles from arrested, and convicted offenders, as well as those facing charges.

**Title II - Federal Criminal Law Enhancements Needed to Protect Children From Sexual Attacks and Other Violent Crimes**

***Sec. 201. Prohibition on Internet Sales of Date Rape Drugs.***

This section amends title 18 of the United States Code to prohibit the distribution on the Internet of date rape drugs where the distributor has reason to believe that the drug would be used in the commission of criminal sexual conduct; or the person is not an authorized purchaser. The penalty for the offense is a maximum of 20 years imprisonment.

***Sec. 202. Jetseta Gage Assured Punishment for Violent Crimes Against Children.***

This section modifies the existing statute, section 3559(d), of title 18, governing the sentencing of defendants for crimes committed against children, and adopts new penalties for a Federal felony crime of violence

(section 16 of title 18) committed against children. Criminal penalties range from a death sentence, life imprisonment, or a 30-year mandatory minimum when a child is killed; a mandatory minimum of 25 years imprisonment to life where the crime of violence is a kidnaping, or maiming; and a mandatory-minimum of 10 years where the crime results in serious bodily injury (section 2119(2)), or the offender used a dangerous weapon during and in relation to the offense.

***Sec. 203. Penalties for Coercion and Enticement by Sex Offenders***

This section amends section 2422(b) of title 18, United States Code, to increase the mandatory minimum penalty for coercion and enticement of a child from 5 years to 10 years.

***Sec. 204. Penalties for Conduct Relating to Child Prostitution***

This section increases the mandatory-minimum penalty for transporting a child with the intent to engage in criminal sexual activity from 5 years to 10 years.

***Sec. 205. Penalties for Sexual Abuse***

This section increases the maximum punishment for sexual abuse from a 20 year maximum to life imprisonment.

***Sec. 206. Increased Penalties for Sexual Offenses Against Children***

This section:

(1) Amends 2241(c) of title 18, United States Code, to impose a mandatory-minimum penalty of 30 years imprisonment for any offender who:(a) engages in a sexual act with a child under 12 years old; (b) commits aggravated sexual abuse or sexual abuse of a child between 12 and 17 years old.

(2) Raises the maximum penalty to life imprisonment for abusive sexual contact of a child when committed with the intent to commit aggravated sexual abuse or sexual abuse.

(3) Revises section 2245 of title 18 to expand the availability of the death

penalty in circumstances where an offender murders a child while committing certain sex offenses (e.g. sex trafficking, sexual exploitation, coercion and enticement).

(4) Amends the sexual exploitation of children provisions to add sex trafficking of children (section 1591) and to add numerous State criminal sex offenses as predicate crimes for repeat offender treatment under 2251(e), 2252(b) and 2252A(b).

(5) Adds a 30 year mandatory minimum for an offender who kills a child when engaging in sexual exploitation of a minor under 2251(e).

(6) Increases the maximum penalty for misleading domain names which are harmful to children from 4 years to 10 years maximum imprisonment.

(7) Revises the extraterritorial child pornography criminal offense to match punishment for domestic child pornography criminal offenses under 2251.

(8) Adds sex trafficking of children as a predicate offense for the mandatory life imprisonment for repeated sex offenses against children (section 3559(e) of title 18.

### ***Sec. 207. Sexual Abuse of Wards***

This section amends section 2243 of title 18 to increase the maximum penalty for sexual abuse of wards from 5 years to 15 years. It also clarifies the applicability of the criminal prohibition to federal contract prison facilities

### ***Sec. 208. Mandatory Penalties for Sex Trafficking of Children***

This section amends section 1591 of title 18, United States Code, to impose a mandatory-minimum penalty of 15 years when the offense involved trafficking of a child under the age of 14, and a mandatory minimum penalty of 10 years when the offense involved trafficking of a child between the ages of 14 and 17.

### ***Sec. 209. Child Abuse Reporting***

This section increases the misdemeanor penalty for failure to report child abuse from 6 months imprisonment to 12 months imprisonment.

***Sec. 210. Sex Offender Submission to Search as Condition of Release***

This section expands the list of mandatory conditions of probation and supervised release to include submission by the sex offender under supervision to searches of a sex offender's residence by law enforcement and probation officers with reasonable suspicion, and to searches by probation officers in the lawful discharge of their supervision functions. This provision is important to permit effective monitoring and oversight of released offenders, and to enforce the conditions of their release.

***Sec. 211. No Limitation for Prosecution of Felony Sex Offenses***

This section eliminates the statute of limitations for sexual offenses against a child. Thus, a prosecutor can charge a defendant at any time for a criminal offense for child abduction and sex offenses

***Sec. 212. Victims' Rights Associated with Habeas Corpus Proceedings***

This section establishes victim rights requirements for habeas corpus proceedings. While the Justice for All Act expanded victims rights during criminal proceedings, it did not include coverage for Federal habeas proceedings that arise out of a State conviction. This section ensures that victims receive notice and can attend any habeas proceedings.

***Sec. 213. Kidnaping Jurisdiction***

This section expands the federal jurisdiction nexus for kidnaping comparable to that of many other federal crimes to include travel by the offender in interstate or foreign commerce, or use of the mails or other means, facilities, or instrumentalities of interstate or foreign commerce in furtherance of the offense.

***Sec. 214. Marital Communication and Adverse Spousal Privilege***

This section directs the Committee on Rules, Practice, Procedure, and Evidence of the Judicial Conference of the United States to study the need to amend the federal Rules of Evidence to restrict the scope of the common law marital privileges by making them inapplicable in a criminal child abuse case in which the abuser or his or her spouse invokes a privilege to avoid

testifying.

***Sec. 215. Abuse and Neglect of Indian Children***

This section amends 18 U.S.C. Section 1153, the “Major Crimes Act” for Indian country cases to add felony child abuse or neglect to the predicate offenses. Such offenses would typically be subject to felony penalties under state law, and the only criminal recourse in Indian country is the possibility of a misdemeanor prosecution in tribal court.

***Sec. 216. Improvements to the Bail Reform Act to Address Sex Crimes and Other Matters***

This section amends the bail reform provisions to require in those cases where a defendant is charged with a sex-related offense against a minor that the defendant be subject to electronic monitoring and other mandatory restrictions (e.g. curfew, reporting requirements).

**Title III - Civil Commitment of Dangerous Sex Offenders**

***Sec. 301. Jimmy Ryce State Civil Commitment Programs for Sexually Dangerous Persons***

This section authorizes grants to States to operate effective civil commitment programs for sexually dangerous programs. It is named in remembrance of Jimmy Ryce who was murdered in Florida. The grant program is intended to assist States in establishing, enhancing or operating effective civil commitment programs for sexually dangerous persons.

***Sec. 302. Jimmy Ryce Civil Commitment Program***

This section amends and updates federal law to authorize civil commitment of certain sex offenders who are dangerous to others because of serious mental illness, abnormality or disorder. Such procedures would apply, for example, where a pedophile who was sentenced to imprisonment for child molestation offenses, and states his intention to resume such conduct upon his release from jail. Under the civil commitment provisions in existing law, the sex offender must be hospitalized while incarcerated and the director of the facility must certify that the offender is suffering from a “mental disease or defect” creating a substantial risk of harm to others. Such a standard is narrow and does not include mentally disordered sex offenders who are

clearly dangerous but who do not fall within the narrowly applied definition of mental illness.

The proposed new section on civil commitment addresses the problem in relation to sex offenders in federal custody by creating a new substantive section on this issue, and with conforming and related amendments to the general provisions for that chapter in Section 4247. The proposed provision combines commitment standards substantively similar to those approved by the Supreme Court in *Kansas v. Hendricks*, 521 U.S. 346 (1997), and *Kansas v. Crane*, 122 S.Ct 867 (2002).

#### **Title IV – Immigration Law Reforms to Prevent Sex Offenders from Abusing Children**

##### ***Sec. 401. Failure to Register a Deportable Offense***

This section amends the Immigration and Nationality Act to add the new federal Failure to Register offense to the list of criminal offenses for which a sex offender may be deported.

##### ***Sec. 402. Barring Convicted Sex Offenders from Having Family-Based Petitions Approved.***

This section amends the Immigration and Nationality Act to restrict the ability of sex offenders to petition for a visa for a family member only in those cases where the citizen poses no risk to the alien family member. In addition, the section specifies that the DHA Secretary's discretion shall be unreviewable.

#### **Title V - Preventing Child Pornography Prevention**

##### ***Sec. 501. Findings***

This section sets forth findings demonstrating the interstate effect of the market for child pornography from intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography.

##### ***Sec. 502. Recordkeeping***

This section improves the existing record-keeping regulatory scheme by adding to the types of visual depictions covered to include lascivious



exhibition of the genitals or pubic area of any person, and clarifying the definitions applicable to the inspection regime so that those entities that produce such materials comply with the record-keeping requirements.

***Sec. 503. Record-Keeping Requirements for Simulated Sexual Conduct.***

This section adopts new record-keeping obligations for persons who produce materials depicting simulated sexual conduct (and excludes lascivious exhibition). The obligation will now extend to persons who produce such depictions of human beings or make such depictions available if the circumstances appear to an ordinary person to depict child pornography. However, those businesses which certify that they keep such records in the ordinary course of business will not be required to comply with the full regime of requirements applicable to those required under Section 2257, but will be subject to the full range of penalties for failing to keep such records.

***Sec. 504. Prevention of Distribution of Child Pornography Used as Evidence in Prosecutions***

This section specifies that depictions of child pornography discovered by law enforcement must be maintained within the government's or a court's control at all times, in order to prevent courts from ordering the prosecution to distribute child pornography to the defense. Courts often require such distribution as part of the discovery process. Despite restrictions on accessibility, the child pornography is still often distributed to persons outside the government's or court's control. The changes in this section would prevent such repeated exploitation of the child victims while not depriving defendants of their right to examine the material.

***Sec. 505. Authorizing Civil and Criminal Asset Forfeiture in Child Exploitation and Obscenity Cases***

This section amends the obscenity forfeiture provisions to make the procedures for obscenity forfeitures the same as they are for most other crimes. The amendments also strike a provision requiring the court to ensure that the forfeiture is not grossly disproportional to the gravity of the underlying offense. These changes would benefit prosecution by removing courts' current discretion to choose not to forfeit property used or intended to be used in the offense if courts feel the forfeiture somehow would be disproportionate. Obscenity offenders are primarily motivated by the

prospect of financial gain. It would benefit law enforcement to increase the deterrent value of the forfeiture provision by making clearer that property used to commit the offense, not just the obscene material produced and the proceeds from its sale, is subject to forfeiture. This section also adds new offenses to the list of those for which criminal and civil forfeiture are available to include misleading domain names, record-keeping of the ages of performers, and sexual abuse offenses against children. Similarly, the section adds child pornography provisions as predicates for RICO and money laundering charges.

***Sec. 506. Prohibiting the Production of Obscenity as Well as Transportation, Distribution and Sale***

This section criminalizes the production of obscenity as well as its transportation, distribution, and sale, so long as the producer has the intent to transport, distribute, or sell the material in interstate or foreign commerce. This would add to prosecutorial tools to investigate and bring charges against obscenity producers because it attacks the source of the problem. Current law, based on transportation and distribution offenses (including engaging in the business of selling obscene matter and possessing such matter with intent to distribute it), merely controls the spread of obscene material; it does not prohibit its creation. Accordingly, current law does not allow the federal government to attack obscene material at every step in the chain leading to its dissemination into society, but rather allows the government to attack it once it has been (or is about to be) distributed. This section would fix this limitation.

***Sec. 507. Guardians Ad Litem.***

This section authorizes compensation of court-appointed guardians ad litem.

**Title VI - Grants, Studies and Programs for Children to Improve Monitoring of Dangerous Sex Offenders and to Protect Communities**

**Subtitle A - Mentoring Matches for Youth Act**

***Sec. 601. Short Title***

This section cites the short title as the “Mentoring Matches for Youth Act of

2006".

***Sec. 602. Findings***

This section sets out findings with respect to the activities of Big Brothers Big Sisters of America, which was founded in 1904 and chartered by Congress in 1958, and notes that it is the oldest and largest mentoring organization.

***Sec. 603. Grant Program for Expanding Big Brothers Big Sisters Mentoring Program***

This section authorizes Big Brother and Big Sisters Mentoring program for the fiscal years 2007 to 2012.

***Section 604. Biannual Report***

This section requires Big Brothers and Big Sisters to submit to the Justice Department a detailed report on its mentoring activities every 2 years.

***Sec. 605. Authorization of Appropriations***

This section authorizes appropriations for fiscal years 2007 to 2011: \$9 million for 2007; \$10 million for 2008; \$ 11.5 million for 2009; \$13 million for 2010; and \$15 million for 2011.

**Subtitle B - National Police Athletic League Youth Enrichment Act**

***Sec. 611. Short Title***

This section cites the short title as the "National Police Athletic League Youth Enrichment Reauthorization Act of 2006".

***Sec. 612. Findings***

This section amends the findings in the National Police Athletic League Youth Enrichment Act of 2000.

***Sec. 613. Purpose***

This section amends the purposes of the National Police Athletic League Youth Enrichment Act of 2000 by increasing the number of established chapters and referencing a 3-day annual gathering of chapters and designated youth leaders.

***Sec. 614. Grants Authorized***

This section reauthorizes grants to the National police Athletic Youth League through 2010.

***Sec. 615. Use of Funds.***

This section amends the authorized purposes to include character development and leadership training.

***Sec. 616. Authorization of Appropriations***

This section amends the authorization years to 2006 to 2010.

***Sec. 617. Name of League***

This section amends the National police Athletic Youth Enrichment Act of 2000 to change the name from the “Police Athletic League” to the “Police Athletic/Activities League”.

**Subtitle C- Grants, Studies and Other Provisions**

***Sec. 621. Pilot Program for Monitoring Sexual Offenders***

This section creates the Jessica Lunsford and Sarah Lunde grant program to fund State, local and tribal governments to assist in carrying out programs to outfit sex offenders with electronic monitoring units using global positioning systems and cellular technology in a single unit. The grant program is authorized for fiscal years 2007 to 2009.

***Sec. 622. Treatment and Management of Sex Offenders in the Bureau of Prisons.***

This section requires that the Bureau of Prisons make available appropriate treatment to sex offenders who are in need of and suitable for treatment. It further establishes residential treatment programs for those offenders who are deemed suitable for the program by the Bureau of Prisons.

***Sec. 623. Sex Offender Apprehension Grants; Juvenile Sex Offender Treatment Grants***

This section authorizes funding of such sums as necessary for fiscal years 2007 to 2009 for the Attorney General to provide grants to States and other jurisdictions to apprehend sex offenders who fail to comply with registration requirements.

This section also authorizes funding for grants to States, local units of government, tribes, correctional facilities, and other public and private entities for programs to assist in the treatment of juvenile sex offenders.

***Sec. 624. Assistance for Prosecution of Cases Cleared Through Use of DNA Backlog Clearance Funds.***

This section authorizes grants to train and employ personnel to help investigate and prosecute cases cleared through use of funds provided for DNA backlog elimination.

***Sec. 625. Grants to Combat Sexual Abuse of Children***

This section authorizes grants to law enforcement agencies to help combat sexual abuse of children, including additional personnel and related staff, computer hardware and software necessary to investigate such crimes, and apprehension of sex offenders who violate registry requirements.

***Sec. 626. Crime Prevention Campaign Grant***

This section authorizes a new grant program for the National Crime Prevention Council, a private, nonprofit organization that has expertise in promoting crime prevention programs through public outreach and media campaigns in coordination with representatives from community public interest, victims' organizations and law enforcement agencies.

***Sec. 627. Grants for Fingerprinting Programs for Children***

This section authorizes grants to States, units of local government and Indian tribal governments to establish voluntary fingerprinting programs for children. The section authorizes funding of \$20 million for the next five fiscal years.

***Sec. 628. Grants for Rape, Abuse & Incest National Network***

This section authorizes funding for the Rape, Abuse & Incest National Network and its affiliated rape crises centers across the United States. RAINN established and continues to operate the National Sexual Assault Hotline. This section authorizes an appropriation of \$3 million for each of the fiscal years 2007 to 2010.

***Sec. 629. Children's Safety Online Awareness Campaigns***

This section authorizes grants by the Justice Department, in consultation with the National Center for Missing and Exploited Children, to develop and carry out a public awareness campaign to demonstrate, explain and encourage children, parents and community leaders to better protect children when using the Internet.

***Sec. 630. Grants for Online Child Safety Programs***

This section authorizes the Attorney General to provide grants to States, units of local government and nonprofit organizations to establish and maintain programs to educate children and parents on the best ways to be safe when using the Internet.

***Sec. 631. Jessica Lunsford Address Verification Grant Program***

This section establishes the Jessica Lunsford Verification Grant Program which will provide grants to State, units of local government and Indian tribes to assist in carrying out programs to verify the residence of registered sex offenders.

***Sec. 632. Fugitive Safe Surrender***

This section authorizes funding for the United States Marshals Fugitive Safe Surrender program, which operates in partnership with public, private and faith-based organizations, and temporarily transforms a church into a

courthouse so that fugitives can turn themselves in and where nonviolent cases can be adjudicated quickly. The authorizations are \$3 million for fiscal year 2007; \$5 million for fiscal year 2008, and \$8 million for fiscal year 2009.

***Sec. 633. National Registry of Substantiated Cases of Child Abuse***

This section requires the Secretary of Health and Human Services, in consultation with the Justice Department, to create a national registry of substantiated cases of child abuse and neglect.

***Sec. 634. Comprehensive Examination of Sex Offender Issues***

This section requires the National Institute of Justice to conduct a comprehensive study, within 5 years, to examine the control, prosecution, treatment and monitoring of sex offenders. This section authorizes funding of \$3 million to conduct the study and prepare the report.

***Sec. 635. Annual Report on Enforcement of Registration Requirements***

This section requires the Attorney General to submit to Congress an annual report on the use of the United States Marshals to assist jurisdictions in locating and apprehending sex offenders who fail to comply with the registration requirements; the use of section 2250 of title 18, the federal Failure to Register crime; a detailed explanation of each jurisdiction's compliance with the Sex Offender Registration and Notification Act; a detailed description of Justice Department efforts to ensure compliance with the Act.

***Sec. 636. GAO Studies on Feasibility of Using Driver's License Registration Processes as Additional Registration Requirements for Sex Offenders.***

This section requires the GAO to conduct a study to determine the feasibility of using driver's license registration processes as additional registration requirements for sex offenders to improve the level of compliance with sex offender registration requirements for change of address upon relocation and other related updates of personal information. GAO shall report to Congress no later than 180 days after the enactment of this Act.

***Sec. 637. Sex Offender Risk Classification Study***

This section requires the Justice Department to study risk-based classification systems and report back to Congress within 18 months of enactment.

***Sec. 638. Study of the Effectiveness of Restricting the Activities of Sex Offenders to Reduce the Occurrence of Repeat Offenses***

This section requires the Justice Department to study the effectiveness of restrictions (e.g. parole, probation or community residence) on recidivism rates for sex offenders and to report back to Congress within 6 months of enactment on this issue.

***Sec. 639. The Justice for Crime Victims Family Act***

This section requires the Justice Department to conduct a study of measures needed to improve the performance of homicide investigators and improvements needed for solving homicides involving missing persons or unidentified human remains.

**Title VII - INTERNET Safety Act**

***Sec. 701. Child Exploitation Enterprises.***

This section creates a new criminal offense to target child exploitation enterprises. A child exploitation enterprise is broadly defined and a person engages in the enterprise if the person violates section 1591, section 1201 (if the victim is a minor), any crime in chapter 109A (involving a minor victim), chapter 110 (except for sections 2257 and 2257A), or chapter 117 (involving a minor victim, as part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and commits the offense in concern with three or more other persons. The penalty for engaging in such an enterprise is a mandatory-minimum term of imprisonment of 20 years and not more than life. This section is modeled after the continuing criminal enterprise statute in section 848 of title 21 of the United States Code, and excludes certain elements of that offense, in order to facilitate the prosecution of child exploitation enterprises.

***Sec. 702. Increased Penalties for Registered Sex Offenders.***

This section creates a new criminal offense for registered sex offenders who



commit a felony offense against a minor including kidnapping, obscene visual representations of sexual abuse of children, transfer of obscene material to minors, sex trafficking of children, sexual abuse crimes, transporting minors for illegal sex purposes, and other crimes, would be subject to an additional mandatory-minimum penalty of 10 years imprisonment, which would be consecutive to any other sentence.

***Sec. 703. Deception By Embedded Words or Images.***

This section creates anew criminal offense for embedding words or digitla images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity. The maximum punishment for committing this offense against a minor is 20 years.

***Sec. 704. Additional Prosecutors for Offenses Relating to the Sexual Exploitation of Children.***

This section authorizes additional prosecutors for 188 new attorneys within the United States Attorneys' Offices to prosecute child sex offenses including child exploitation, child sexual abuse and child obscenity and pornography offenses.

***Sec. 705. Additional Computer-Related Resources.***

This section authorizes an increase of not less than 30 new computer forensic examiners within the Regional Computer Forensic Laboratory within the Department of Justice and 15 additional examiners within the Department of Homeland Security, for investigating crimes involving the sexual exploitation of children and related offenses. An RCFL is a one stop, full service forensics laboratory and training center devoted entirely to the examination of digital evidence in support of criminal investigations. There are currently 10 regional laboratories operating throughout the United States with two or more scheduled to open in the near future.

***Sec. 706. Additional Internet Crimes Against Children***

This section authorizes 10 additional new Internet Crimes Against Children task forces as part of the Task Force program.

***Sec. 707. Masha's Law.***

This section amends section 2255 to expand civil remedies for sexual offenses against minors. Currently, civil remedies may only be recovered by minor victims who suffer physical injury. This amendment allows any aggrieved party, including the parents of a minor victim, to seek civil remedies and allows a victim to seek civil remedies as an adult. This amendment also extends the statute of limitations to ten years.