

CHILD ABDUCTION PREVENTION ACT

OCTOBER 7, 2002.—Ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5422]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5422) to prevent child abduction, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Abduction Prevention Act”.

TITLE I—SANCTIONS AND OFFENSES

SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

“(k) SUPERVISED RELEASE TERMS FOR SEX OFFENDERS.—Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a victim who has not attained the age of 18 years, and for any offense under chapter 109A, 110, 117, or section 1591 is any term of years or life.”.

SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND CHILD TORTURE MURDERS.

Section 1111 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “child abuse,” after “sexual abuse,”; and

(B) by inserting “or perpetrated as part of a pattern or practice of assault or torture against a child or children,” after “robbery,”; and

(2) by inserting at the end the following:

“(c) For purposes of this section—

“(1) the term ‘assault’ has the same meaning as given that term in section 113;

“(2) the term ‘child’ means a person who has not attained the age of 18 years and is—

“(A) under the perpetrator’s care or control; or

“(B) at least six years younger than the perpetrator;

“(3) the term ‘child abuse’ means intentionally, knowingly, or recklessly causing death or serious bodily injury to a child;

“(4) the term ‘pattern or practice of assault or torture’ means assault or torture engaged in on at least two occasions;

“(5) the term ‘recklessly’ with respect to causing death or serious bodily injury—

“(A) means causing death or serious bodily injury under circumstances in which the perpetrator is aware of and disregards a grave risk of death or serious bodily injury; and

“(B) such recklessness can be inferred from the character, manner, and circumstances of the perpetrator’s conduct;

“(6) the term ‘serious bodily injury’ has the meaning set forth in section 1365; and

“(7) the term ‘torture’ means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1).”.

SEC. 103. SEXUAL ABUSE PENALTIES.

(a) MAXIMUM PENALTY INCREASES.—(1) Chapter 110 of title 18, United States Code, is amended—

(A) in section 2251(d)—

(i) by striking “20” and inserting “30”; and

(ii) by striking “30” the first place it appears and inserting “50”;

(B) in section 2252(b)(1)—

(i) by striking “15” and inserting “20”; and

(ii) by striking “30” and inserting “40”;

(C) in section 2252(b)(2)—

(i) by striking “5” and inserting “10”; and

(ii) by striking “10” and inserting “20”;

(D) in section 2252A(b)(1)—

(i) by striking “15” and inserting “20”; and

(ii) by striking “30” and inserting “40”; and

(E) in section 2252A(b)(2)—

(i) by striking “5” and inserting “10”; and

(ii) by striking “10” and inserting “20”.

(2) Chapter 117 of title 18, United States Code, is amended—

(A) in section 2422(a), by striking “10” and inserting “20”;

(B) in section 2422(b), by striking “15” and inserting “30”; and

(C) in section 2423(a), by striking “15” and inserting “30”.

(3) Section 1591(b)(2) of title 18, United States Code, is amended by striking “20” and inserting “40”.

(b) MINIMUM PENALTY INCREASES.—(1) Chapter 110 of title 18, United States Code, is amended—

(A) in section 2251(d)—

(i) by striking “or imprisoned not less than 10” and inserting “and imprisoned not less than 15”;

- (ii) by striking “and both,”;
- (iii) by striking “15” and inserting “25”; and
- (iv) by striking “30” the second place it appears and inserting “35”;
- (B) in section 2251A(a) and (b), by striking “20” and inserting “30”;
- (C) in section 2252(b)(1)—
 - (i) by striking “or imprisoned” and inserting “and imprisoned not less than 10 years and”;
 - (ii) by striking “or both,”; and
 - (iii) by striking “5” and inserting “15”;
- (D) in section 2252(b)(2)—
 - (i) by striking “or imprisoned” and inserting “and imprisoned not less than 5 years and”;
 - (ii) by striking “or both,”; and
 - (iii) by striking “2” and inserting “10”;
- (E) in section 2252A(b)(1)—
 - (i) by striking “or imprisoned” and inserting “and imprisoned not less than 10 years and”;
 - (ii) by striking “or both,”; and
 - (iii) by striking “5” and inserting “15”; and
- (F) in section 2252A(b)(2)—
 - (i) by striking “or imprisoned” and inserting “and imprisoned not less than 5 years and”;
 - (ii) by striking “or both,”; and
 - (iii) by striking “2” and inserting “10”.
- (2) Chapter 117 of title 18, United States Code, is amended—
 - (A) in section 2422(a)—
 - (i) by striking “or imprisoned” and inserting “and imprisoned not less than 2 years and”; and
 - (ii) by striking “, or both”;
 - (B) in section 2422(b)—
 - (i) by striking “, imprisoned” and inserting “and imprisoned not less than 5 years and”; and
 - (ii) by striking “, or both”; and
 - (C) in section 2423(a)—
 - (i) by striking “, imprisoned” and inserting “and imprisoned not less than 5 years and”; and
 - (ii) by striking “, or both”.

SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.

(a) **SENTENCING GUIDELINES.**—Notwithstanding any other provision of law regarding the amendment of Sentencing Guidelines, the United States Sentencing Commission is directed to amend the Sentencing Guidelines, to take effect on the date that is 30 days after the date of the enactment of this Act—

- (1) so that the base level for kidnapping in section 2A4.1(a) is increased from level 24 to level 32 (121–151 months);
- (2) so as to delete section 2A4.1(b)(4)(C); and
- (3) so that the increase provided by section 2A4.1(b)(5) is 6 levels instead of 3.

(b) **MINIMUM MANDATORY SENTENCE.**—Section 1201(g) of title 18, United States Code, is amended by striking “shall be subject to paragraph (2)” in paragraph (1) and all that follows through paragraph (2) and inserting “shall include imprisonment for not less than 20 years.”.

SEC. 105. PENALTIES AGAINST SEX TOURISM.

(a) **IN GENERAL.**—Section 2423 of title 18, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) **TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.**—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

“(c) **ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.**—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

“(d) **ANCILLARY OFFENSES.**—Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

“(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

“(f) DEFINITION.—As used in this section, the term ‘illicit sexual conduct’ means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who has not attained the age of 18 years.

“(g) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.”.

(b) CONFORMING AMENDMENT.—Section 2423(a) of title 18, United States Code, is amended by striking “or attempts to do so,”.

SEC. 106. TWO STRIKES YOU’RE OUT.

(a) IN GENERAL.—Section 3559 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(e) MANDATORY LIFE IMPRISONMENT FOR REPEATED SEX OFFENSES AGAINST CHILDREN.—

“(1) IN GENERAL.—A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

“(2) DEFINITIONS.—For the purposes of this subsection—

“(A) the term ‘Federal sex offense’ means—

“(i) an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2243(a) (relating to sexual abuse of a minor), 2244(a)(1) or (2) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), or 2251A (relating to selling or buying of children); or

“(ii) an offense under section 2423(a) (relating to transportation of minors) involving prostitution or sexual activity constituting a State sex offense;

“(B) the term ‘State sex offense’ means an offense under State law that consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title—

“(i) the offense involved interstate or foreign commerce, or the use of the mails; or

“(ii) the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151);

“(C) the term ‘prior sex conviction’ means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent Federal sex offense, and which was for a Federal sex offense or a State sex offense;

“(D) the term ‘minor’ means an individual who has not attained the age of 17 years; and

“(E) the term ‘State’ has the meaning given that term in subsection (c)(2).”.

(b) CONFORMING AMENDMENT.—Sections 2247(a) and 2426(a) of title 18, United States Code, are each amended by inserting “, unless section 3559(e) applies” before the final period.

TITLE II—INVESTIGATIONS AND PROSECUTIONS

Subtitle A—Law Enforcement Tools To Protect Children

SEC. 201. LAW ENFORCEMENT TOOLS TO PROTECT CHILDREN.

(a) IN GENERAL.—Section 2516(1) of title 18, United States Code, is amended—

- (1) in subparagraph (a), by inserting after “chapter 37 (relating to espionage),” the following: “chapter 55 (relating to kidnapping),”; and
- (2) in subparagraph (c)—
 - (A) by striking “2251 and 2252” and inserting “2251, 2251A, 2252, and 2252A”; and
 - (B) by inserting “section 2423(b) (relating to travel with intent to engage in a sexual act with a juvenile),” after “motor vehicle parts,”.
- (b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY.—Section 2516(1) of title 18, United States Code, is amended—
 - (1) by striking “or” at the end of paragraph (q);
 - (2) by inserting after paragraph (q) the following:
 - “(r) a violation of section 2422 (relating to coercion and enticement) and section 2423(a) (relating to transportation of minors) of this title, if, in connection with that violation, the intended sexual activity would constitute a felony violation of chapter 109A or 110, including a felony violation of chapter 109A or 110 if the sexual activity occurred, or was intended to occur, within the special maritime and territorial jurisdiction of the United States, regardless of where it actually occurred or was intended to occur; or”; and
 - (3) by redesignating paragraph (r) as paragraph (s).

SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUCTION AND SEX CRIMES.

(a) IN GENERAL.—(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 3296. Child abduction and sex offenses

“Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110, or 117, or section 1591.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3296. Child abduction and sex offenses.”.

(b) MILITARY CASES.—Section 843 of title 10, United States Code (Article 43 of the Uniform Code of Military Justice) is amended—

(1) in subsection (a), by inserting “with any offense involving kidnapping or abduction of a person below the age of 18, with any offense involving sexual abuse that is punishable by confinement for more than one year,” before “or with”; and

(2) in subsection (c)—

(A) by inserting “(1)” before “Periods”; and

(B) by adding at the end the following:

“(2) No period of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a person under the age of 18 years shall preclude such prosecution before the person reaches the age of 25 years.”.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section.

Subtitle B—No Pretrial Release for Those Who Rape or Kidnap Children

SEC. 221. NO PRETRIAL RELEASE FOR THOSE WHO RAPE OR KIDNAP CHILDREN.

Section 3142(e) of title 18, United States Code, is amended—

(1) by inserting “1201 (if the victim has not attained the age of 18 years), 1591 (if the victim has not attained the age of 18 years),” before “or 2332b”; and

(2) by striking “of title 18 of the United States Code” and inserting “or a felony offense under chapter 109A, 110, or 117 where a victim has not attained the age of 18 years”.

Subtitle C—No Waiting Period To Report Missing Children “Suzanne’s Law”

SEC. 241. AMENDMENT.

Section 3701(a) of the Crime Control Act of 1990 (42 U.S.C. 5779(a)) is amended by striking “age of 18” and inserting “age of 21”.

Subtitle D—Recordkeeping to Demonstrate Minors Were Not Used in Production of Pornography

SEC. 261. RECORDKEEPING TO DEMONSTRATE MINORS WERE NOT USED IN PRODUCTION OF PORNOGRAPHY.

Not later than 1 year after enactment of this Act, the Attorney General shall submit to Congress a report detailing the number of times since January 1993 that the Department of Justice has inspected the records of any producer of materials regulated pursuant to section 2257 of title 18, United States Code, and section 75 of title 28 of the Code of Federal Regulations. The Attorney General shall indicate the number of violations prosecuted as a result of those inspections.

TITLE III—PUBLIC OUTREACH

SEC. 301. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) **COORDINATION WITHIN DEPARTMENT OF JUSTICE.**—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) **DUTIES.**—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

- (1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;
- (2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;
- (3) work with States to ensure appropriate regional coordination of various elements of the network; and
- (4) act as the nationwide point of contact for—
 - (A) the development of the network; and
 - (B) regional coordination of alerts on abducted children through the network.

(c) **CONSULTATION WITH FEDERAL BUREAU OF INVESTIGATION.**—In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

(d) **COOPERATION.**—The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

(a) **ESTABLISHMENT OF MINIMUM STANDARDS.**—Subject to subsection (b), the AMBER Alert Coordinator of the Department of Justice shall establish minimum standards for—

- (1) the issuance of alerts through the AMBER Alert communications network; and
- (2) the extent of the dissemination of alerts issued through the network.

(b) **LIMITATIONS.**—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

(2) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

(3) In carrying out activities under subsection (a), the Coordinator may not interfere with the current system of voluntary coordination between local broadcasters and State and local law enforcement agencies for purposes of the AMBER Alert communications network.

(c) **COOPERATION.**—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(2) The Coordinator shall also cooperate with local broadcasters and State and local law enforcement agencies in establishing minimum standards under this section.

SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) **PROGRAM REQUIRED.**—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

(b) **ACTIVITIES.**—Activities funded by grants under the program under subsection (a) may include—

(1) the development or enhancement of electronic message boards along highways and the placement of additional signage along highways; and

(2) the development or enhancement of other means of disseminating along highways alerts and other information for the recovery of abducted children.

(c) **FEDERAL SHARE.**—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) **DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.**—The Secretary shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) **ADMINISTRATION.**—The Secretary shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There is authorized to be appropriated for the Department of Transportation \$20,000,000 for fiscal year 2003 to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER ALERT COMMUNICATIONS PLANS.

(a) **PROGRAM REQUIRED.**—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) **ACTIVITIES.**—Activities funded by grants under the program under subsection (a) may include—

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

(2) the development and implementation of law enforcement programs, and associated equipment, relating to AMBER Alert communications plans; and

(3) such other activities as the Secretary considers appropriate for supporting the AMBER Alert communications program.

(c) **FEDERAL SHARE.**—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) **DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.**—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) **ADMINISTRATION.**—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There is authorized to be appropriated for the Department of Justice \$5,000,000 for fiscal year 2003 to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 305. INCREASED SUPPORT.

Section 404(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5773(b)(2)) is amended by striking “2002, and 2003” and inserting “and 2002 and \$20,000,000 for each of fiscal years 2003 and 2004”.

SEC. 306. SEX OFFENDER APPREHENSION PROGRAM.

Section 1701(d) of part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) by redesignating paragraphs (10) and (11) as (11) and (12), respectively; and

(2) by inserting after paragraph (9) the following:

“(10) assist a State in enforcing a law throughout the State which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply;”.

TITLE IV—MISCELLANEOUS

SEC. 401. FORENSIC AND INVESTIGATIVE SUPPORT OF MISSING AND EXPLOITED CHILDREN.

Section 3056 of title 18, United States Code, is amended by adding at the end the following:

“(f) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized, at the request of any State or local law enforcement agency, or at the request of the National Center for Missing and Exploited Children, to provide forensic and investigative assistance in support of any investigation involving missing or exploited children.”.

PURPOSE AND SUMMARY

On average, 2,200 children are reported missing each day of the year. There are approximately 114,600 attempted stranger abductions every year and 3,000–5,000 attempts are successful. These facts and recent high profile abductions have significantly increased the fear of parents across the Country that their children are in danger. H.R. 5422, the “Child Abduction Prevention Act” sends a clear message to any potential child abductor that, should they commit these crimes, they will not escape justice. This legislation provides stronger penalties against kidnapping, ensures lifetime supervision of sexual offenders and kidnappers of children, gives law enforcement the tools it needs to effectively prosecute these crimes, and provides assistance to the community when a child is abducted.

BACKGROUND AND NEED FOR THE LEGISLATION

According to the United States Department of Justice’s (DOJ) Office of Juvenile Justice Delinquency Prevention (OJJDP), the number of missing persons reported to law enforcement has increased from 154,341 in 1982 to 876,213 in 2000, an increase of 468 percent. Out of those cases, there are about 3,000 to 5,000 non-family abductions reported to police each year, most of which are short term sexually-motivated cases. About 200 to 300 of these cases, or about 6 percent, make up the most serious cases where the child was murdered, ransomed or taken with the intent to keep. According to Federal Government statistics, three out of four children who are kidnapped and murdered are killed within 3 hours of their initial abduction. Research has shown that the average victim of abduction and murder is an approximately 11 year old girl from a stable family who has initial contact with the abductor within a quarter mile of her home.

The recent wave of high profile child abductions that has swept our Nation has illustrated the tremendous need for legislation in this area. Although some researchers indicate that the worst cases of child abduction might actually be on the decline, the National Center for Missing and Exploited Children (NCMEC) has stated that, based on feedback from law enforcement around the country and cases submitted to NCMEC, the sexual victimization of children is on the rise. Another concern is that research also indicates that subjects who abduct children typically are not first-time offenders, but are serial offenders who often travel during the commission of multiple sexual offenses against children.

An abducted child is a parent’s worst nightmare. We must assure that law enforcement has every possible tool necessary to return

that child safely to his or her parents. Authorities believe that promptly alerting the general public when a child is abducted by a stranger is crucial to saving their life. To accomplish this, H.R. 5422 authorizes funding for a national AMBER Alert program to help expand the child abduction communications warning network throughout the United States.

For those individuals that would harm a child, we must ensure that punishment is severe and that sexual predators are not allowed to slip through the cracks of the system to harm other children. To this end, this legislation provides a 20 year mandatory minimum sentence of imprisonment for stranger abductions of a child under the age of 18, lifetime supervision for sex offenders and mandatory life imprisonment for second time offenders. Furthermore, H.R. 5422 removes any statute of limitations and opportunity for pretrial release for crimes of child abduction and sex offenses.

The National Center for Missing and Exploited Children is the Nation's resource center for child protection. The Center provides assistance to parents, children, law enforcement, schools, and the community in recovering missing children and raising public awareness about ways to help prevent child abduction, molestation and sexual exploitation. To date, NCMEC has worked on more than 73,000 cases of missing and exploited children and helped recover more than 48,000 children. This legislation recognizes the important role NCMEC plays in our Nation's efforts to prevent child abductions by doubling its authorization to \$20 million through 2004.

HEARINGS

On October 1, 2002, the Subcommittee on Crime, Terrorism, and Homeland Security held a legislative hearing on H.R. 5422. Testimony was received from two witnesses. The witnesses were: Daniel P. Collins, Associate Deputy Attorney General, U.S. Department of Justice; and Ernest E. Allen, President and Chief Executive Officer, National Center for Missing and Exploited Children.

COMMITTEE CONSIDERATION

On October 1, 2002, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered favorably reported the bill H.R. 5422, by a voice vote, a quorum being present. On October 2, 2002, the Committee met in open session and ordered favorably reported the bill H.R. 5422 by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes on H.R. 5422.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Rep-

representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 5422 is intended to prevent future crime by extending the length of supervised-release terms for offenders and by establishing a rebuttable presumption in favor of pretrial detention; enhance law enforcement tools for identifying and apprehending offenders, by including child exploitation offenses as wiretap predicates and by eliminating the statute of limitations for certain offenses; increase penalties to more accurately reflect the extreme seriousness of child kidnapping and sex offenses, especially repeat offenses; punish offenders who travel abroad to prey on children; support a coordinated approach to the recovery of abducted children; and provide the States with additional tools and assistance to pursue these common goals.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5422, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 7, 2002.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5422, the Child Abduction Prevention Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Federal costs), who can be reached at 226-2860, and Angela Seitz (for the State and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 5422—Child Abduction Prevention Act.

SUMMARY

H.R. 5422 would establish new Federal crimes relating to sexual abuse, increase fines and prison sentences for such crimes, and

make it easier to investigate sex offenders. The bill also would direct the Attorney General to act as the national coordinator for the AMBER (America's Missing: Broadcast Emergency Response) Alert communications network, which is used by State and local law enforcement agencies to search for abducted children. In addition, H.R. 5422 would authorize the appropriation of:

- \$20 million in fiscal year 2003 for the Department of Transportation (DOT) to make grants to States for disseminating information about missing children along highways;
- \$5 million in fiscal year 2003 for the Department of Justice (DOJ) to make grants to States to develop or improve AMBER Alert communications plans; and
- \$20 million in each of fiscal years 2003 and 2004 for DOJ to make a grant to the National Center for Missing and Exploited Children.

Assuming appropriation of the necessary amounts, CBO estimates that implementing

H.R. 5422 would cost \$64 million over the 2003–2007 period. This legislation could affect direct spending and revenues, but we estimate that any such effects would not be significant.

H.R. 5422 would expand an existing mandate as defined in the Unfunded Mandates Reform Act (UMRA), by widening requirements for State and local law enforcement agencies to report cases of missing children up to the age of 21. CBO estimates the costs of this mandate would not be significant and, thus, would not meet the threshold established in that act (\$58 million in 2002, adjusted annually for inflation).

H.R. 5422 contains no new private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 5422 is shown in the following table. The costs of this legislation fall within budget functions 400 (transportation) and 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
DOT Grants to States					
Authorization Level	20	0	0	0	0
Estimated Outlays	3	14	3	0	0
DOJ Grants for AMBER Alert Plans					
Authorization Level	5	0	0	0	0
Estimated Outlays	1	2	2	0	0
Grant for National Center for Missing and Exploited Children					
Authorization Level ^a	10	20	0	0	0
Estimated Outlays	3	9	12	6	0
Increased Costs to Federal Prison System					
Estimated Authorization Level	*	1	1	3	4
Estimated Outlays	*	1	1	3	4
Total Changes					
Estimated Authorization Level	35	21	1	3	4
Estimated Outlays	7	26	18	9	4

NOTE: * = Less than \$500,000.

a. Current law authorizes the appropriation of \$10 million for 2003 for the National Center for Missing and Exploited Children, so H.R. 5422 would increase that authorization by an additional \$10 million for that year.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the amounts authorized for grant programs will be appropriated near the beginning of each fiscal year and that outlays will follow the historical spending rates for these or similar activities.

H.R. 5422 would increase prison sentences for kidnapping and for a number of sex offenses. According to the U.S. Sentencing Commission, the longer sentences required by H.R. 5422 would apply to about 500 offenders annually by 2007. Based on information from the Bureau of Prisons, CBO estimates that the cost to incarcerate a prisoner for an additional year is about \$7,000 (at 2003 prices). Thus, we estimate that the cost to support the additional prisoners would reach \$4 million by fiscal year 2007 and would total \$9 million over the 2003–2007 period, subject to the availability of appropriated funds.

Based on information from DOJ, CBO estimates that it would cost less than \$500,000 annually for the department to coordinate the AMBER Alert program, subject to the availability of appropriated funds.

Enacting H.R. 5422 could increase revenues through greater collections of criminal fines. However, CBO does not expect any such increase to exceed \$500,000 a year. Criminal fines are recorded as revenues and deposited in the Crime Victims Fund, and later spent without further appropriation action.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 5422 would expand an existing mandate as defined in UMRA by widening requirements for State and local law enforcement agencies to report cases of missing children up to the age of 21. CBO estimates the additional costs of the expansion would not be significant and, thus, would not meet the threshold established in that act (\$58 million in 2002, adjusted annually for inflation).

The bill would benefit State governments by establishing grant programs to assist with efforts to notify the public about child abductions using the AMBER Alert communications network. In addition, H.R. 5422 would expand the approved uses for grants under the Community Oriented Policing Services (COPS) program to include assisting States in enforcing registry of sex offenders. Any costs incurred to receive or administer such grants would be voluntary. The bill also would benefit State and local government law enforcement agencies by authorizing the U.S. Secret Service to provide them with additional assistance in forensic and investigative training with investigations of missing or exploited children.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 5422 contains no new private-sector mandates as defined in UMRA.

PREVIOUS CBO ESTIMATES

H.R. 5422 contains the provisions of four bills for which CBO has previously prepared cost estimates. These bills are:

- (1) H.R. 4679, the Lifetime Consequences for Sex Offenders Act of 2002, as ordered reported by the House Committee on the Judiciary on June 19, 2002;
- (2) H.R. 4477, the Sex Tourism Prohibition Improvement Act of 2002, as ordered reported by the House Committee on the Judiciary on June 19, 2002;
- (3) H.R. 2146, the Two Strikes and You're Out Child Protection Act, as ordered reported by the House Committee on the Judiciary on March 6, 2002; and
- (4) H.R. 1877, the Child Sex Crimes Wiretapping Act of 2001, as ordered reported by the House Committee on the Judiciary on April 24, 2002.

The costs estimated for these provisions in H.R. 5422 are the same as those estimated previously for the separate bills.

ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz (226–2860)

Impact on State, Local, and Tribal Governments: Angela Seitz (225–3220)

Impact on the Private Sector: Paige Piper/Bach (226–2940)

ESTIMATE APPROVED BY:

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title

The short title of this Act may be cited as the “Child Abduction Prevention Act.”

TITLE I—SANCTIONS AND OFFENSES

Sec. 101. Supervised release term for sex offenders.

This section amends section 3583 of title 18, United States Code, to provide a judge with the discretion to extend the term of post-release supervision of sex offenders up to a maximum of life. Currently, most such offenses have a maximum of three to 5 years of supervision. This section is identical to H.R. 4679, the “Lifetime Consequences for Sex Offenders Act of 2002,” which passed the House 409–3 on June 25, 2002.

Sec. 102. First degree murder for child abuse and child torture murders.

This section amends 18 U.S.C. § 1111 to insert “child abuse” and “the pattern or practice of assault or torture against a child or children” that results in murder as a predicate for first degree murder. Section 1111 is the Federal murder statute. Under the current law, first degree murder includes murder committed in the perpetration of, or attempt to perpetrate, certain crimes including arson, escape, kidnapping, sexual abuse, and several other crimes. “Child abuse” and torture would be added to the list for first degree murder. First degree murder is punishable by death or life imprisonment. These changes will help to ensure that child abusers who kill their victims will receive penalties that reflect the heinousness of their crimes.

Sec. 103. Sexual abuse penalties.

This section increases the maximum and minimum penalties of section 1591 and chapters 110 and 117 of title 18, United States Code, relating to the sexual exploitation of children and the sex trafficking of children.

Statutory maximum penalties provide only an upper limit on punishment, and accordingly should be coordinated to the type of penalty which would be appropriate for the most aggravated forms of the offenses in question, as committed by offenders with the most serious criminal histories. Where the statutory maximum penalty is too low, it may be impossible to impose a proportionate penalty in cases involving highly aggravated offense conduct. Likewise, in cases involving incorrigible offenders, low statutory maximum penalties may force the court to impose a sentence that is less than what is warranted in light of the offender’s criminal history.

The increased mandatory minimum sentences are responsive to real problems of excessive leniency in sentencing under existing

law. For example, the offenses under chapter 117 of the criminal code apply in sexual abuse cases involving interstate movement of persons or use of interstate instrumentalities, such as luring of child victims through the Internet. Courts all too frequently impose sentences more lenient than those prescribed by the sentencing guidelines in cases under chapter 117, particularly in situations where an undercover agent rather than a child was the object of the enticement. Yet the offender's conduct in such a case reflects a real attempt to engage in sexual abuse of a child, and the fact that the target of the effort turned out to be an undercover officer has no bearing on the culpability of the offender, or on the danger he presents to children if not adequately restrained and deterred by criminal punishment. Likewise, courts have been disposed to grant downward departures from the guidelines for child pornography possession offenses under chapter 110, based on the misconception that these crimes are not serious.

Sec. 104. Stronger penalties against kidnapping.

This section directs the Sentencing Commission to increase the base offense level for kidnapping from level 24 (51–63 months) to a base offense level of 32 (121–151 months). (*Amends §2A4.1(a) of the Sentencing Guidelines*). It further deletes the provision of the Guidelines that rewards kidnappers for releasing the victim within 24 hours by reducing the base offense level by one point. (*Deletes §2A4.1(4)(C) of the Sentencing Guidelines*). Under the current Guidelines, if a defendant sexually exploits the kidnapping victim, then the defendant's base offense level is increased by 3 levels. This is amended to a 6 level increase. (*Amends §2A4.1(5) of the Sentencing Guidelines*.)

This section also amends 18 U.S.C. §1201 to provide for a mandatory minimum sentence of 20 years if the victim of the non-family kidnapping is under the age of 18.

Sec. 105. Penalties against sex tourism.

This section addresses a number of problems related to persons who travel to foreign countries and engage in illicit sexual relations with minors. Current law requires the government to prove that the defendant traveled *with the intent* to engage in the illegal activity. Under this section the government would only have to prove that the defendant engaged in illicit sexual conduct with a minor while in a foreign country. This section also criminalizes the actions of sex tour operators by prohibiting persons from arranging, inducing, procuring, or facilitating the travel of a person knowing that such a person is traveling in interstate or foreign commerce for the purpose of engaging in illicit sexual conduct. This section is similar to H.R. 4477, the "Sex Tourism Prohibition Improvement Act of 2002," which passed the House 418–8 on June 26, 2002.

Sec. 106. Two strikes you're out.

This section would establish a mandatory sentence of life imprisonment for twice-convicted child sex offenders. This section amends 18 U.S.C. §3559 of the Federal criminal code to provide for a mandatory minimum sentence of life imprisonment for any person convicted of a "Federal sex offense" if they had previously been convicted of a similar offense under either Federal or State law. The

legislation defines Federal sex offense to include offenses committed against a person under the age of 17 and involving the crimes of sexual abuse, aggravated sexual abuse, sexual abuse of a minor, abusive sexual contact, and the interstate transportation of minors for sexual purposes. This section is similar to H.R. 2146, the “Two Strikes and You’re Out Child Protection Act,” which passed the House 382–34 on March 14, 2002.

TITLE II—EFFECTIVE INVESTIGATION AND PROSECUTION.

Subtitle A—Law enforcement tools to protect children.

Sec. 201. Law enforcement tools to protect children.

This section would add four new wiretap predicates under section 2516 of title 18, United States Code that relate to sexual exploitation crimes against children. This legislation in no way changes the strict limitations on how and when wiretaps may be used. This section also adds chapter 55 of title 18, United States Code, kidnapping, to the list of wiretap predicates. This section is similar to H.R. 1877, the “Child Sex Crimes Wiretapping Act of 2002,” which passed the House 396–11 on May 21 2002.

Sec. 202. No statute of limitations for child abduction and sex crimes.

This section provides that child abductions and felony sex offenses can be prosecuted without limitation of time. Under current law, the limitation period applicable to most Federal crimes is 5 years. See 18 U.S.C. §3282. There are some exceptions to this limitation—see, e.g., 18 U.S.C. §3281 (no limitation period for capital crimes); 18 U.S.C. §3293 (ten-year limitation period for certain financial institution offenses); 18 U.S.C. §3294 (twenty-year limitation period for certain thefts of artwork). Existing law also modifies the current limitation rules for certain cases involving child victims by providing that the limitation period does not bar prosecution “for an offense involving the sexual or physical abuse of a child under the age of eighteen years . . . before the child reaches the age of 25 years.” 18 U.S.C. §3283. While this is better than a flat 5-year rule, it remains inadequate in many cases. For example, a person who abducted and raped a child could not be prosecuted beyond this extended limit—even if DNA matching conclusively identified him as the perpetrator 1 day after the victim turned 25. Nor is this provision applicable in any case that does not involve child victims, such as that of a serial rapist of adult victims who is identified a number of years after the commission of the crimes through DNA matching.

Subtitle B—No pretrial release for those who rape or kidnap children

Sec. 221. No pretrial release for those who rape or kidnap children.

This section provides a rebuttable presumption that child rapists and kidnappers should not get pre-trial release. Under current law, a defendant may be detained before trial if the government establishes by clear and convincing evidence that no release conditions will reasonably assure the appearance of the person and the safety of others. Current law also provides rebuttable presumptions that

the standard for pretrial detention is satisfied in certain circumstances. For example, such a presumption exists if the court finds probable cause to believe that the defendant committed a drug offense punishable by imprisonment for 10 years or more, or that the person committed a crime of violence or drug trafficking crime while armed with a firearm, in violation of 18 U.S.C. §924(c). See 18 U.S.C. §3142(e). Thus, existing law creates a presumption that, for example, an armed robber charged under 18 U.S.C. §924(c) cannot safely be released before trial. This section will provide the same presumption for crimes such as child abduction and child rape.

*Subtitle C—No waiting period to report missing children
“Suzanne’s Law.”*

Sec. 241. Amendment.

This section amends section 3701(a) of the Crime Control Act of 1990 (42 U.S.C. 5779(a)) to require law enforcement agencies to report missing children less than 21 years of age to the National Crime Information Center. Current law only requires reporting for children under the age of 18.

*Subtitle D—Recordkeeping to demonstrate minors were not used in
production of pornography*

*Sec. 261. Recordkeeping to demonstrate minors were not used in
production of pornography.*

This section requires that 1 year after enactment of this Act, the Attorney General shall submit to Congress a report detailing the number of times since January 1993 that the Department of Justice has inspected the records of any producer of materials regulated pursuant to 18 U.S.C. §2257 (records to prove pornographic actors are above the age of 18) and 28 C.F.R. §75. The Attorney General shall indicate the number of violations prosecuted as a result of those inspections.

TITLE II—PUBLIC OUTREACH

*Sec. 301. National coordination of AMBER Alert communications
network.*

This section establishes an AMBER Alert Coordinator within the Department of Justice to assist States with their AMBER Alert plans. This coordinator will eliminate gaps in the network, including gaps in interstate travel, work with States to encourage development of additional AMBER plans, work with States to ensure regional coordination among plans, and serve as a nationwide point of contact.

The AMBER program is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent alert bulletin in serious child-abduction cases. The goal of the AMBER Alert is to instantly galvanize the entire community to assist in the search for and safe return of the child.

Sec. 302. Minimum standards for issuance and dissemination of alerts through AMBER Alert communications network.

This section requires the Department of Justice Coordinator to establish nationwide minimum standards for the issuance of an AMBER alert and the extent of dissemination of the alert. The legislation allows for voluntary adoption of these standards. The Committee intends that the establishment of minimum standards will limit the use of the system to those rare instances of serious child abductions. Limiting the use of AMBER Alerts is critical to the long-term success of the program because overuse or misuse of AMBER Alerts could lead to public fatigue or numbness to the alerts.

Sec. 303. Grant program for notification and communications systems along highways for recovery of abducted children.

This section authorizes \$20,000,000 for fiscal year 2003 for the Secretary of Transportation to make grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

Sec. 304. Grant program for support of AMBER Alert communications plans.

This section authorizes \$5,000,000 for fiscal year 2003 for the Attorney General to administer a grant program for the development and enhancement of programs and activities for the support of AMBER Alert communication plans.

Sec. 305. Increased support.

This section reauthorizes and doubles the annual grant to the National Center for Missing and Exploited Children from \$10,000,000 to \$20,000,000 through fiscal year 2004. (*Amends 42 U.S.C. 5773(b)(2)*).

Sec. 306. Sex offender apprehension program.

This would authorize COPS funding for Sex Offender Apprehension Programs in States that have a sex offender registry and have laws that make it a crime for failure to notify authorities of any change in address information, etc. The money could be used by local law enforcement agencies to fund officers who would check up on sex offenders and arrest them for noncompliance. Keeping up to date records will help law enforcement in future investigations of missing children.

TITLE IV—MISCELLANEOUS

Sec. 401. Forensic and investigative support of missing and exploited children.

This section amends section 3056 of title 18, United States Code, to allow the U.S. Secret Service to provide forensic and investigative support to the National Center for Missing and Exploited Children to assist in efforts to find missing children.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 51—HOMICIDE

* * * * *

§ 1111. Murder

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, *child abuse*, burglary, or robbery; *or perpetrated as part of a pattern or practice of assault or torture against a child or children*; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

* * * * *

(c) *For purposes of this section—*

(1) *the term “assault” has the same meaning as given that term in section 113;*

(2) *the term “child” means a person who has not attained the age of 18 years and is—*

(A) *under the perpetrator’s care or control; or*

(B) *at least six years younger than the perpetrator;*

(3) *the term “child abuse” means intentionally, knowingly, or recklessly causing death or serious bodily injury to a child;*

(4) *the term “pattern or practice of assault or torture” means assault or torture engaged in on at least two occasions;*

(5) *the term “recklessly” with respect to causing death or serious bodily injury—*

(A) *means causing death or serious bodily injury under circumstances in which the perpetrator is aware of and disregards a grave risk of death or serious bodily injury; and*

(B) *such recklessness can be inferred from the character, manner, and circumstances of the perpetrator’s conduct;*

(6) the term “serious bodily injury” has the meaning set forth in section 1365; and

(7) the term “torture” means conduct, whether or not committed under the color of law, that otherwise satisfies the definition set forth in section 2340(1).

* * * * *

CHAPTER 55—KIDNAPPING

* * * * *

§ 1201. Kidnapping

(a) * * *

* * * * *

(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

(1) TO WHOM APPLICABLE.—If—

(A) * * *

* * * * *

the sentence under this section for such offense [shall be subject to paragraph (2) of this subsection.

[(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of “kidnapping, abduction, or unlawful restraint,” by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.] *shall include imprisonment for not less than 20 years.*

* * * * *

CHAPTER 77—PEONAGE AND SLAVERY

* * * * *

§ 1591. Sex trafficking of children or by force, fraud or coercion

(a) * * *

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under

this title or imprisonment for not more than **[20]** 40 years, or both.

* * * * *

CHAPTER 109A—SEXUAL ABUSE

* * * * *

§ 2247. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter, *unless section 3559(e) applies*.

* * * * *

CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN

* * * * *

§ 2251. Sexual exploitation of children

(a) * * *

* * * * *

(d) Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title **[or imprisoned not less than 10]** *and imprisoned not less than 15* years nor more than **[20]** 30 years, **[and both,]** but if such person has one prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned for not less than **[15]** 25 years nor more than **[30]** 50 years, but if such person has 2 or more prior convictions under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than **[30]** 35 years nor more than life. Any organization that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

§ 2251A. Selling or buying of children

(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

(1) * * *

* * * * *

shall be punished by imprisonment for not less than **[20]** 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

(1) * * *

* * * * *

shall be punished by imprisonment for not less than **[20]** 30 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

* * * * *

§ 2252. Certain activities relating to material involving the sexual exploitation of minors

(a) * * *

(b)(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), or (3) of subsection (a) shall be fined under this title **[or imprisoned]** *and imprisoned not less than 10 years and* not more than **[15]** 20 years, **[or both,]** but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than **[5]** 15 years nor more than **[30]** 40 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title **[or imprisoned]** *and imprisoned not less than 5 years and* not more than **[5]** 10 years, **[or both,]** but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than **[2]** 10 years nor more than **[10]** 20 years.

* * * * *

§ 2252A. Certain activities relating to material constituting or containing child pornography

(a) * * *

(b)(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), (3), or (4) of subsection (a) shall be fined under this title **[or imprisoned]** *and imprisoned not less than 10 years and* not more than **[15]** 20 years, **[or both,]** but, if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than **[5]** 15 years nor more than **[30]** 40 years.

(2) Whoever violates, or attempts or conspires to violate, subsection (a)(5) shall be fined under this title **[or imprisoned]** *and imprisoned not less than 5 years and* not more than **[5]** 10 years, **[or both,]** but, if such person has a prior conviction under this chapter, chapter 109A, or chapter 117, or under the laws of any

State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than **[2]** 10 years nor more than **[10]** 20 years.

* * * * *

CHAPTER 117—TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES

* * * * *

§ 2422. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title **[or imprisoned]** *and imprisoned not less than 2 years and not more than [10 years, or both] 20 years.*

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title **[, imprisoned]** *and imprisoned not less than 5 years and not more than [15 years, or both] 30 years.*

§ 2423. Transportation of minors

(a) **TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.**—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, **[or attempts to do so,]** shall be fined under this title **[, imprisoned]** *and imprisoned not less than 5 years and not more than [15 years, or both] 30 years.*

[(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.]—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 15 years. **.]**

(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.—A person who travels in interstate commerce or travels into the United States, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign

commerce, for the purpose of engaging in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(c) *ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.*—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person shall be fined under this title or imprisoned not more than 15 years, or both.

(d) *ANCILLARY OFFENSES.*—Whoever arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be fined under this title, imprisoned not more than 15 years, or both.

(e) *ATTEMPT AND CONSPIRACY.*—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) *DEFINITION.*—As used in this section, the term “illicit sexual conduct” means (1) a sexual act (as defined in section 2246) with a person that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States; or (2) any commercial sex act (as defined in section 1591) with a person who has not attained the age of 18 years.

(g) *DEFENSE.*—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

* * * * *

§ 2426. Repeat offenders

(a) *MAXIMUM TERM OF IMPRISONMENT.*—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter, *unless section 3559(e) applies.*

* * * * *

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

* * * * *

§ 2516. Authorization for interception of wire, oral, or electronic communications

(1) The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation

of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(a) any offense punishable by death or by imprisonment for more than one year under sections 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel), or under the following chapters of this title: chapter 37 (relating to espionage), *chapter 55 (relating to kidnapping)*, chapter 90 (relating to protection of trade secrets), chapter 105 (relating to sabotage), chapter 115 (relating to treason), chapter 102 (relating to riots), chapter 65 (relating to malicious mischief), chapter 111 (relating to destruction of vessels), or chapter 81 (relating to piracy);

* * * * *

(c) any offense which is punishable under the following sections of this title: section 201 (bribery of public officials and witnesses), section 215 (relating to bribery of bank officials), section 224 (bribery in sporting contests), subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives), section 1032 (relating to concealment of assets), section 1084 (transmission of wagering information), section 751 (relating to escape), section 1014 (relating to loans and credit applications generally; renewals and discounts), sections 1503, 1512, and 1513 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1511 (obstruction of State or local law enforcement), section 1751 (Presidential and Presidential staff assassination, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1958 (relating to use of interstate commerce facilities in the commission of murder for hire), section 1959 (relating to violent crimes in aid of racketeering activity), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 1955 (prohibition of business enterprises of gambling), section 1956 (laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 659 (theft from interstate shipment), section 664 (embezzlement from pension and welfare funds), section 1343 (fraud by wire, radio, or television), section 1344 (relating to bank fraud), sections ~~2251 and 2252~~ *2251, 2251A, 2252, and 2252A* (sexual exploitation of children), sections 2312, 2313, 2314, and 2315 (interstate transportation of stolen property), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), *section 2423(b) (relating to travel with intent to engage in a sexual act with a juvenile)*, section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities), section 38 (relating to aircraft parts fraud), section 1963 (violations with respect to racketeer influenced and corrupt organizations), sec-

tion 115 (relating to threatening or retaliating against a Federal official), section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse), section 351 (violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnapping, and assault), section 831 (relating to prohibited transactions involving nuclear materials), section 33 (relating to destruction of motor vehicles or motor vehicle facilities), section 175 (relating to biological weapons), section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents);

* * * * *

(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2332f, 2339A, 2339B, or 2339C of this title (relating to terrorism); **[or]**

(r) a violation of section 2422 (relating to coercion and enticement) and section 2423(a) (relating to transportation of minors) of this title, if, in connection with that violation, the intended sexual activity would constitute a felony violation of chapter 109A or 110, including a felony violation of chapter 109A or 110 if the sexual activity occurred, or was intended to occur, within the special maritime and territorial jurisdiction of the United States, regardless of where it actually occurred or was intended to occur; or

[(r)] (s) any conspiracy to commit any offense described in any subparagraph of this paragraph.

* * * * *

PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 203—ARREST AND COMMITMENT

* * * * *

§ 3056. Powers, authorities, and duties of United States Secret Service

(a) * * *

* * * * *

(f) Under the direction of the Secretary of the Treasury, officers and agents of the Secret Service are authorized, at the request of any State or local law enforcement agency, or at the request of the National Center for Missing and Exploited Children, to provide fo-

rensic and investigative assistance in support of any investigation involving missing or exploited children.

* * * * *

CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

* * * * *

§ 3142. Release or detention of a defendant pending trial

(a) * * *

* * * * *

(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f) of this section, the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial. In a case described in subsection (f)(1) of this section, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if such judicial officer finds that—

(1) * * *

* * * * *

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), or an offense under section 924(c), 956(a), 1201 (*if the victim has not attained the age of 18 years*), 1591 (*if the victim has not attained the age of 18 years*), or 2332b [of title 18 of the United States Code] or a felony offense under chapter 109A, 110, or 117 where a victim has not attained the age of 18 years.

* * * * *

CHAPTER 213—LIMITATIONS

Sec.
3281. Capital offenses.

* * * * *

3296. Child abduction and sex offenses.

* * * * *

§ 3296. Child abduction and sex offenses

Notwithstanding any other provision of law, an indictment may be found or an information instituted at any time without limitation

for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110, or 117, or section 1591.

* * * * *

CHAPTER 227—SENTENCES

* * * * *

SUBCHAPTER A—GENERAL PROVISIONS

* * * * *

§ 3559. Sentencing classification of offenses

(a) * * *

* * * * *

(e) **MANDATORY LIFE IMPRISONMENT FOR REPEATED SEX OFFENSES AGAINST CHILDREN.**—

(1) **IN GENERAL.**—A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

(2) **DEFINITIONS.**—For the purposes of this subsection—

(A) the term “Federal sex offense” means—

(i) an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2243(a) (relating to sexual abuse of a minor), 2244(a)(1) or (2) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), or 2251A (relating to selling or buying of children); or

(ii) an offense under section 2423(a) (relating to transportation of minors) involving prostitution or sexual activity constituting a State sex offense;

(B) the term “State sex offense” means an offense under State law that consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title—

(i) the offense involved interstate or foreign commerce, or the use of the mails; or

(ii) the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151);

(C) the term “prior sex conviction” means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent Federal sex offense, and which was for a Federal sex offense or a State sex offense;

(D) the term “minor” means an individual who has not attained the age of 17 years; and

(E) the term “State” has the meaning given that term in subsection (c)(2).

* * * * *

SUBCHAPTER D—IMPRISONMENT

* * * * *

§ 3583. Inclusion of a term of supervised release after imprisonment

(a) * * *

* * * * *

(k) *SUPERVISED RELEASE TERMS FOR SEX OFFENDERS.*—Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a victim who has not attained the age of 18 years, and for any offense under chapter 109A, 110, 117, or section 1591 is any term of years or life.

* * * * *

SECTION 843 OF TITLE 10, UNITED STATES CODE

§ 843. Art. 43. Statute of limitations

(a) A person charged with absence without leave or missing movement in time of war, *with any offense involving kidnapping or abduction of a person below the age of 18, with any offense involving sexual abuse that is punishable by confinement for more than one year, or with any offense punishable by death*, may be tried and punished at any time without limitation.

* * * * *

(c)(1) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).

(2) *No period of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a person under the age of 18 years shall preclude such prosecution before the person reaches the age of 25 years.*

* * * * *

SECTION 3701 OF THE CRIME CONTROL ACT OF 1990

SEC. 3701. REPORTING REQUIREMENT.

(a) *IN GENERAL.*—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of [18] 21 reported to such agency to the National Crime Information Center of the Department of Justice.

* * * * *

SECTION 404 OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

SEC. 404. (a) * * *

(b) ANNUAL GRANT TO NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—

(1) * * *

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection, \$10,000,000 for each of fiscal years 2000, 2001, [2002, and 2003] and 2002 and \$20,000,000 for each of fiscal years 2003 and 2004.

* * * * *

SECTION 1701 OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

(a) * * *

* * * * *

(d) ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—

(1) * * *

* * * * *

(10) *assist a State in enforcing a law throughout the State which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply;*

[(10)] (11) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other Federal programs that serve the community and community members to better address the comprehensive needs of the community and its members; and

[(11)] (12) support the purchase by a law enforcement agency of no more than 1 service weapon per officer, upon hiring for deployment in community-oriented policing or, if necessary, upon existing officers' initial redeployment to community-oriented policing.

* * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, OCTOBER 2, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:57 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

* * * * *

Finally, the last item on the agenda is H.R. 5422, the "Child Abduction Prevention Act."

[The bill, H.R. 5422, follows:]

107TH CONGRESS
2D SESSION

H. R. 5422

To prevent child abduction, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 2002

Mr. SENSENBRENNER (for himself, Mr. SMITH of Texas, and Mr. GEKAS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent child abduction, 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 “Child Abduction Pre-
5 vention Act”.

1 **TITLE I—SANCTIONS AND**
 2 **OFFENSES**

3 **SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFEND-**
 4 **ERS.**

5 Section 3583 of title 18, United States Code, is
 6 amended by adding at the end the following:

7 “(k) SUPERVISED RELEASE TERMS FOR SEX OF-
 8 FENDERS.—Notwithstanding subsection (b), the author-
 9 ized term of supervised release for any offense under sec-
 10 tion 1201 involving a victim who has not attained the age
 11 of 18 years, and for any offense under chapter 109A, 110,
 12 117, or section 1591 is any term of years or life.”.

13 **SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND**
 14 **CHILD TORTURE MURDERS.**

15 Section 1111 of title 18, United States Code, is
 16 amended—

17 (1) in subsection (a)—

18 (A) by inserting “child abuse,” after “sex-
 19 ual abuse,”; and

20 (B) by inserting “or perpetrated as part of
 21 a pattern or practice of assault or torture
 22 against a child or children,” after “robbery,”;
 23 and

24 (2) by inserting at the end the following:

25 “(c) For purposes of this section—

1 “(1) the term ‘assault’ has the same meaning
2 as given that term in section 113;

3 “(2) the term ‘child’ means a person who has
4 not attained the age of 18 years and is—

5 “(A) under the perpetrator’s care or con-
6 trol; or

7 “(B) at least six years younger than the
8 perpetrator;

9 “(3) the term ‘child abuse’ means intentionally,
10 knowingly, or recklessly causing death or serious
11 bodily injury to a child;

12 “(4) the term ‘pattern or practice of assault or
13 torture’ means assault or torture engaged in on at
14 least two occasions;

15 “(5) the term ‘recklessly’ with respect to caus-
16 ing death or serious bodily injury—

17 “(A) means causing death or serious bodily
18 injury under circumstances in which the perpe-
19 trator is aware of and disregards a grave risk
20 of death or serious bodily injury; and

21 “(B) such recklessness can be inferred
22 from the character, manner, and circumstances
23 of the perpetrator’s conduct;

24 “(6) the term ‘serious bodily injury’ has the
25 meaning set forth in section 1365; and

1 “(7) the term ‘torture’ means conduct, whether
 2 or not committed under the color of law, that other-
 3 wise satisfies the definition set forth in section
 4 2340(1).”.

5 **SEC. 103. SEXUAL ABUSE PENALTIES.**

6 (a) MAXIMUM PENALTY INCREASES.—(1) Chapter
 7 110 of title 18, United States Code, is amended—

8 (A) in section 2251(d)—

9 (i) by striking “20” and inserting “30”;
 10 and

11 (ii) by striking “30” and inserting “50”;

12 (B) in section 2252(b)(1)—

13 (i) by striking “15” and inserting “20”;
 14 and

15 (ii) by striking “30” and inserting “40”;

16 (C) in section 2252(b)(2)—

17 (i) by striking “5” and inserting “10”; and

18 (ii) by striking “10” and inserting “20”;

19 (D) in section 2252A(b)(1)—

20 (i) by striking “15” and inserting “20”;
 21 and

22 (ii) by striking “30” and inserting “40”;

23 and

24 (E) in section 2252A(b)(2)—

25 (i) by striking “5” and inserting “10”; and

1 (ii) by striking “10” and inserting “20”.

2 (2) Chapter 117 of title 18, United States Code, is
3 amended—

4 (A) in section 2422(a), by striking “10” and in-
5 serting “20”;

6 (B) in section 2422(b), by striking “15” and
7 inserting “30”;

8 (C) in section 2423(a), by striking “15” and in-
9 serting “30”; and

10 (D) in section 2423(b), by striking “15 years”
11 and inserting “30 years”.

12 (3) Section 1591(b)(2) of title 18, United States
13 Code, is amended by striking “20” and inserting “40”.

14 (b) MINIMUM PENALTY INCREASES.—(1) Chapter
15 110 of title 18, United States Code, is amended—

16 (A) in section 2251(d)—

17 (i) by striking “or imprisoned not less than
18 10” and inserting “and imprisoned not less
19 than 15”;

20 (ii) by striking “and both,”;

21 (iii) by striking “15” and inserting “25”;

22 and

23 (iv) by striking “30” and inserting “35”;

24 (B) in section 2251A(a) and (b), by striking
25 “20” and inserting “30”;

- 1 (C) in section 2252(b)(1)—
- 2 (i) by striking “or imprisoned” and insert-
- 3 ing “and imprisoned not less than 10 years
- 4 and”;
- 5 (ii) by striking “or both,”; and
- 6 (iii) by striking “5” and inserting “15”;
- 7 (D) in section 2252(b)(2)—
- 8 (i) by striking “or imprisoned” and insert-
- 9 ing “and imprisoned not less than 5 years
- 10 and”;
- 11 (ii) by striking “or both,”; and
- 12 (iii) by striking “2” and inserting “10”;
- 13 (E) in section 2252A(b)(1)—
- 14 (i) by striking “or imprisoned” and insert-
- 15 ing “and imprisoned not less than 10 years
- 16 and”;
- 17 (ii) by striking “or both,”; and
- 18 (iii) by striking “5” and inserting “15”;
- 19 and
- 20 (F) in section 2252A(b)(2)—
- 21 (i) by striking “or imprisoned” and insert-
- 22 ing “and imprisoned not less than 5 years
- 23 and”;
- 24 (ii) by striking “or both,”; and
- 25 (iii) by striking “2” and inserting “10”.

1 (2) Chapter 117 of title 18, United States Code, is
2 amended—

3 (A) in section 2422(a)—

4 (i) by striking “or imprisoned” and insert-
5 ing “and imprisoned not less than 2 years
6 and”; and

7 (ii) by striking “or both,”;

8 (B) in section 2422(b)—

9 (i) by striking “, imprisoned” and inserting
10 “and imprisoned not less than 5 years and”;
11 and

12 (ii) by striking “or both,”;

13 (C) in section 2423(a)—

14 (i) by striking “, imprisoned” and inserting
15 “and imprisoned not less than 5 years and”;
16 and

17 (ii) by striking “or both,”; and

18 (D) in section 2423(b)—

19 (i) by striking “, imprisoned” and inserting
20 “and imprisoned not less than 5 years and”;
21 and

22 (ii) by striking “or both,”.

23 **SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.**

24 (a) SENTENCING GUIDELINES.—Notwithstanding
25 any other provision of law regarding the amendment of

1 Sentencing Guidelines, the United States Sentencing
2 Commission is directed to amend the Sentencing Guide-
3 lines, to take effect on the date that is 30 days after the
4 date of the enactment of this Act—

5 (1) so that the base level for kidnapping in sec-
6 tion 2A4.1(a) is increased from level 24 to level 32
7 (121–151 months);

8 (2) so as to delete section 2A4.1(b)(4)(C); and

9 (3) so that the increase provided by section
10 2A4.1(b)(5) is 6 levels instead of 3.

11 (b) MINIMUM MANDATORY SENTENCE.—Section
12 1201(g) of title 18 is amended by striking “shall be sub-
13 ject to paragraph (2)” in paragraph (1) and all that fol-
14 lows through paragraph (2) and inserting “shall include
15 imprisonment for not less than 20 years.”.

16 **SEC. 105. PENALTIES AGAINST SEX TOURISM.**

17 (a) IN GENERAL.—Section 2423 of title 18, United
18 States Code, is amended by striking subsection (b) and
19 inserting the following:

20 “(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT
21 SEXUAL CONDUCT.—A person who travels in interstate
22 commerce or travels into the United States, or a United
23 States citizen or an alien admitted for permanent resi-
24 dence in the United States who travels in foreign com-
25 merce, for the purpose of engaging in any illicit sexual

1 conduct with another person shall be fined under this title
2 or imprisoned not more than 15 years, or both.

3 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
4 FOREIGN PLACES.—Any United States citizen or alien ad-
5 mitted for permanent residence who travels in foreign
6 commerce, and engages in any illicit sexual conduct with
7 another person shall be fined under this title or imprisoned
8 not more than 15 years, or both.

9 “(d) ANCILLARY OFFENSES.—Whoever arranges, in-
10 duces, procures, or facilitates the travel of a person know-
11 ing that such a person is traveling in interstate commerce
12 or foreign commerce for the purpose of engaging in illicit
13 sexual conduct shall be fined under this title, imprisoned
14 not more than 15 years, or both.

15 “(e) ATTEMPT AND CONSPIRACY.—Whoever at-
16 tempts or conspires to violate subsection (a), (b), (c), or
17 (d) shall be punishable in the same manner as a completed
18 violation of that subsection.

19 “(f) DEFINITION.—As used in this section, the term
20 ‘illicit sexual conduct’ means (1) a sexual act (as defined
21 in section 2246) with a person that would be in violation
22 of chapter 109A if the sexual act occurred in the special
23 maritime and territorial jurisdiction of the United States;
24 or (2) any commercial sex act (as defined in section 1591)
25 with a person who has not attained the age of 18 years.

1 “(g) DEFENSE.—In a prosecution under this section
 2 bsaed on illicit sexual conduct as defined in subsection
 3 (f)(2), it is a defense, which the defendant must establish
 4 by a preponderance of the evidence, that the defendant
 5 reasonably believed that the person with whom the defend-
 6 ant engaged in the commercial sex act had attained the
 7 age of 18 years.”.

8 (b) CONFORMING AMENDMENT.—Section 2423(a) of
 9 title 18, United States Code, is amended by striking “or
 10 attempts to do so,”.

11 **SEC. 106. TWO STRIKES YOU'RE OUT.**

12 (a) IN GENERAL.—Section 3559 of title 18, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing new subsection:

15 “(c) MANDATORY LIFE IMPRISONMENT FOR RE-
 16 PEATED SEX OFFENSES AGAINST CHILDREN.—

17 “(1) IN GENERAL.—A person who is convicted
 18 of a Federal sex offense in which a minor is the vic-
 19 tim shall be sentenced to life imprisonment if the
 20 person has a prior sex conviction in which a minor
 21 was the victim, unless the sentence of death is im-
 22 posed.

23 “(2) DEFINITIONS.—For the purposes of this
 24 subsection—

1 “(A) the term ‘Federal sex offense’
2 means—

3 “(i) an offense under section 2241
4 (relating to aggravated sexual abuse),
5 2242 (relating to sexual abuse), 2243(a)
6 (relating to sexual abuse of a minor),
7 2244(a)(1) or (2) (relating to abusive sexual
8 contact), 2245 (relating to sexual
9 abuse resulting in death), or 2251A (relat-
10 ing to selling or buying of children); or

11 “(ii) an offense under section 2423(a)
12 (relating to transportation of minors) in-
13 volving prostitution or sexual activity con-
14 stituting a State sex offense;

15 “(B) the term ‘State sex offense’ means an
16 offense under State law that consists of conduct
17 that would be a Federal sex offense if, to the
18 extent or in the manner specified in the applica-
19 ble provision of this title—

20 “(i) the offense involved interstate or
21 foreign commerce, or the use of the mails;
22 or

23 “(ii) the conduct occurred in any com-
24 monwealth, territory, or possession of the
25 United States, within the special maritime

1 and territorial jurisdiction of the United
2 States, in a Federal prison, on any land or
3 building owned by, leased to, or otherwise
4 used by or under the control of the Gov-
5 ernment of the United States, or in the In-
6 dian country (as defined in section 1151);
7 “(C) the term ‘prior sex conviction’ means
8 a conviction for which the sentence was imposed
9 before the conduct occurred constituting the
10 subsequent Federal sex offense, and which was
11 for a Federal sex offense or a State sex offense;
12 “(D) the term ‘minor’ means an individual
13 who has not attained the age of 17 years; and
14 “(E) the term ‘State’ has the meaning
15 given that term in subsection (c)(2).”.

16 (b) CONFORMING AMENDMENT.—Sections 2247 and
17 2426 of title 18, United States Code, are each amended
18 by inserting “, unless section 3559(e) applies” before the
19 final period.

1 **TITLE II—INVESTIGATIONS AND**
2 **PROSECUTIONS**
3 **Subtitle A—Law Enforcement Tools**
4 **To Protect Children**

5 **SEC. 201. LAW ENFORCEMENT TOOLS TO PROTECT CHIL-**
6 **DREN.**

7 (a) IN GENERAL.—Section 2516(1) of title 18,
8 United States Code, is amended—

9 (1) in subparagraph (a), by inserting after
10 “chapter 37 (relating to espionage),” the following:
11 “chapter 55 (relating to kidnapping),”; and

12 (2) in subparagraph (c)—

13 (A) by striking “2251 and 2252” and in-
14 serting “2251, 2251A, 2252, and 2252A”; and

15 (B) by inserting “section 2423(b) (relating
16 to travel with intent to engage in a sexual act
17 with a juvenile),” after “motor vehicle parts),”.

18 (b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIV-
19 ITY.—Section 2516(1) of title 18, United States Code, is
20 amended—

21 (1) by striking “or” at the end of paragraph
22 (q);

23 (2) by inserting after paragraph (q) the fol-
24 lowing:

1 “(r) a violation of section 2422 (relating to co-
 2 ercion and enticement) and section 2423(a) (relating
 3 to transportation of minors) of this title, if, in con-
 4 nection with that violation, the intended sexual activ-
 5 ity would constitute a felony violation of chapter
 6 109A or 110, including a felony violation of chapter
 7 109A or 110 if the sexual activity occurred, or was
 8 intended to occur, within the special maritime and
 9 territorial jurisdiction of the United States, regard-
 10 less of where it actually occurred or was intended to
 11 occur; or”; and

12 (3) by redesignating paragraph (r) as para-
 13 graph (s).

14 **SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUC-**
 15 **TION AND SEX CRIMES.**

16 (a) IN GENERAL.—(1) Chapter 213 of title 18,
 17 United States Code, is amended by adding at the end the
 18 following new section:

19 **“§ 3296. Child abduction and sex offenses**

20 “Notwithstanding any other provision of law, an in-
 21 dictment may be found or an information instituted at any
 22 time without limitation for any offense under section 1201
 23 involving a minor victim, and for any felony under chapter
 24 109A, 110, or 117, or section 1591.”.

1 (2) The table of sections at the beginning of such
 2 chapter is amended by adding at the end the following
 3 new item:

“3296. Child abduction and sex offenses.”.

4 (b) MILITARY CASES.—Section 843 of title 10,
 5 United States Code (Article 43 of the Uniform Code of
 6 Military Justice) is amended—

7 (1) in subsection (a), by inserting “with any of-
 8 fense involving kidnapping or abduction of a person
 9 below the age of 18, with any offense involving sex-
 10 ual abuse that is punishable by confinement for
 11 more than one year,” before “or with”; and

12 (2) in subsection (e)—

13 (A) by inserting “(1)” before “Periods”;
 14 and

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

16 “(2) No period of limitation that would otherwise pre-
 17 clude prosecution for an offense involving the sexual or
 18 physical abuse of a person under the age of 18 years shall
 19 preclude such prosecution before the person reaches the
 20 age of 25 years.”.

21 (c) APPLICATION.—The amendments made by this
 22 section shall apply to the prosecution of any offense com-
 23 mitted before, on, or after the date of the enactment of
 24 this section.

1 **Subtitle B—No Pretrial Release for**
 2 **Those Who Rape or Kidnap**
 3 **Children**

4 **SEC. 221. NO PRETRIAL RELEASE FOR THOSE WHO RAPE**
 5 **OR KIDNAP CHILDREN.**

6 Section 3142(e) of title 18, United States Code, is
 7 amended by striking “2247(c),” before “or 2332b”.

8 **Subtitle C—No Waiting Period To**
 9 **Report Missing Children**
 10 **“Suzanne’s Law”**

11 **SEC. 241. AMENDMENT.**

12 Section 3701(a) of the Crime Control Act of 1990
 13 (42 U.S.C. 5779(a)) is amended by striking “age of 18”
 14 and inserting “age of 21”.

15 **Subtitle D—Recordkeeping to Dem-**
 16 **onstrate Minors Were Not Used**
 17 **in Production of Pornography**

18 **SEC. 261. RECORDKEEPING TO DEMONSTRATE MINORS**
 19 **WERE NOT USED IN PRODUCTION OF POR-**
 20 **NOGRAPHY.**

21 Not later than 1 year after enactment of this Act,
 22 the Attorney General shall submit to Congress a report
 23 detailing the number of times since January 1993 that
 24 the Department of Justice has inspected the records of
 25 any producer of materials regulated pursuant to section

1 2257 of title 18, United States Code, and section 75 of
 2 title 28 of the Code of Federal Regulations. The Attorney
 3 General shall indicate the number of violations prosecuted
 4 as a result of those inspections.

5 **TITLE III—PUBLIC OUTREACH**

6 **SEC. 301. NATIONAL COORDINATION OF AMBER ALERT** 7 **COMMUNICATIONS NETWORK.**

8 (a) COORDINATION WITHIN DEPARTMENT OF JUS-
 9 TICE.—The Attorney General shall assign an officer of the
 10 Department of Justice to act as the national coordinator
 11 of the AMBER Alert communications network regarding
 12 abducted children. The officer so designated shall be
 13 known as the AMBER Alert Coordinator of the Depart-
 14 ment of Justice.

15 (b) DUTIES.—In acting as the national coordinator
 16 of the AMBER Alert communications network, the Coor-
 17 dinator shall—

- 18 (1) seek to eliminate gaps in the network, in-
 19 cluding gaps in areas of interstate travel;
- 20 (2) work with States to encourage the develop-
 21 ment of additional elements (known as local
 22 AMBER plans) in the network;
- 23 (3) work with States to ensure appropriate re-
 24 gional coordination of various elements of the net-
 25 work; and

- 1 (4) act as the nationwide point of contact for—
2 (A) the development of the network; and
3 (B) regional coordination of alerts on ab-
4 ducted children through the network.

5 (c) CONSULTATION WITH FEDERAL BUREAU OF IN-
6 VESTIGATION.—In carrying out duties under subsection
7 (b), the Coordinator shall notify and consult with the Di-
8 rector of the Federal Bureau of Investigation concerning
9 each child abduction for which an alert is issued through
10 the AMBER Alert communications network.

11 (d) COOPERATION.—The Coordinator shall cooperate
12 with the Secretary of Transportation and the Federal
13 Communications Commission in carrying out activities
14 under this section.

15 **SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DIS-**
16 **SEMINATION OF ALERTS THROUGH AMBER**
17 **ALERT COMMUNICATIONS NETWORK.**

18 (a) ESTABLISHMENT OF MINIMUM STANDARDS.—
19 Subject to subsection (b), the AMBER Alert Coordinator
20 of the Department of Justice shall establish minimum
21 standards for—

- 22 (1) the issuance of alerts through the AMBER
23 Alert communications network; and
24 (2) the extent of the dissemination of alerts
25 issued through the network.

1 (b) LIMITATIONS.—(1) The minimum standards es-
2 tablished under subsection (a) shall be adoptable on a vol-
3 untary basis only.

4 (2) The minimum standards shall, to the maximum
5 extent practicable (as determined by the Coordinator in
6 consultation with State and local law enforcement agen-
7 cies), provide that the dissemination of an alert through
8 the AMBER Alert communications network be limited to
9 the geographic areas most likely to facilitate the recovery
10 of the abducted child concerned.

11 (3) In carrying out activities under subsection (a),
12 the Coordinator may not interfere with the current system
13 of voluntary coordination between local broadcasters and
14 State and local law enforcement agencies for purposes of
15 the AMBER Alert communications network.

16 (c) COOPERATION.—(1) The Coordinator shall co-
17 operate with the Secretary of Transportation and the Fed-
18 eral Communications Commission in carrying out activi-
19 ties under this section.

20 (2) The Coordinator shall also cooperate with local
21 broadcasters and State and local law enforcement agencies
22 in establishing minimum standards under this section.

1 **SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COM-**
2 **MUNICATIONS SYSTEMS ALONG HIGHWAYS**
3 **FOR RECOVERY OF ABDUCTED CHILDREN.**

4 (a) **PROGRAM REQUIRED.**—The Secretary of Trans-
5 portation shall carry out a program to provide grants to
6 States for the development or enhancement of notification
7 or communications systems along highways for alerts and
8 other information for the recovery of abducted children.

9 (b) **ACTIVITIES.**—Activities funded by grants under
10 the program under subsection (a) may include—

11 (1) the development or enhancement of elec-
12 tronic message boards along highways and the place-
13 ment of additional signage along highways; and

14 (2) the development or enhancement of other
15 means of disseminating along highways alerts and
16 other information for the recovery of abducted chil-
17 dren.

18 (c) **FEDERAL SHARE.**—The Federal share of the cost
19 of any activities funded by a grant under the program
20 under subsection (a) may not exceed 50 percent.

21 (d) **DISTRIBUTION OF GRANT AMOUNTS ON GEO-**
22 **GRAPHIC BASIS.**—The Secretary shall, to the maximum
23 extent practicable, ensure the distribution of grants under
24 the program under subsection (a) on an equitable basis
25 throughout the various regions of the United States.

1 (e) ADMINISTRATION.—The Secretary shall prescribe
 2 requirements, including application requirements, for
 3 grants under the program under subsection (a).

4 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
 5 There is authorized to be appropriated for the Department
 6 of Transportation \$20,000,000 for fiscal year 2003 to
 7 carry out this section.

8 (2) Amounts appropriated pursuant to the authoriza-
 9 tion of appropriations in paragraph (1) shall remain avail-
 10 able until expended.

11 **SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER**
 12 **ALERT COMMUNICATIONS PLANS.**

13 (a) PROGRAM REQUIRED.—The Attorney General
 14 shall carry out a program to provide grants to States for
 15 the development or enhancement of programs and activi-
 16 ties for the support of AMBER Alert communications
 17 plans.

18 (b) ACTIVITIES.—Activities funded by grants under
 19 the program under subsection (a) may include—

20 (1) the development and implementation of edu-
 21 cation and training programs, and associated mate-
 22 rials, relating to AMBER Alert communications
 23 plans;

24 (2) the development and implementation of law
 25 enforcement programs, and associated equipment,

1 relating to AMBER Alert communications plans;
2 and

3 (3) such other activities as the Secretary con-
4 sider appropriate for supporting the AMBER Alert
5 communications program.

6 (c) FEDERAL SHARE.—The Federal share of the cost
7 of any activities funded by a grant under the program
8 under subsection (a) may not exceed 50 percent.

9 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
10 GRAPHIC BASIS.—The Attorney General shall, to the max-
11 imum extent practicable, ensure the distribution of grants
12 under the program under subsection (a) on an equitable
13 basis throughout the various regions of the United States.

14 (e) ADMINISTRATION.—The Attorney General shall
15 prescribe requirements, including application require-
16 ments, for grants under the program under subsection (a).

17 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
18 There is authorized to be appropriated for the Department
19 of Justice \$5,000,000 for fiscal year 2003 to carry out
20 this section.

21 (2) Amounts appropriated pursuant to the authoriza-
22 tion of appropriations in paragraph (1) shall remain avail-
23 able until expended.

1 **SEC. 305. INCREASED SUPPORT.**

2 Section 404(b)(2) of the Juvenile Justice and Delin-
 3 quency Prevention Act of 1974 (42 U.S.C. 5773(b)(2)) is
 4 amended by striking “2002 and 2003” and inserting “and
 5 2002 and \$20,000,000 for each of fiscal years 2003 and
 6 2004”.

7 **SEC. 306. SEX OFFENDER APPREHENSION PROGRAM.**

8 Section 1701(d) of part Q of title I of the Omnibus
 9 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
 10 3796dd(d)) is amended—

11 (1) by redesignating paragraphs (10) and (11)
 12 as (1) and (12), respectively; and

13 (2) by inserting after paragraph (9) the fol-
 14 lowing:

15 “(10) assist a State in enforcing a law through-
 16 out the State which requires that a convicted sex of-
 17 fender register his or her address with a State or
 18 local law enforcement agency and be subject to
 19 criminal prosecution for failure to comply;”.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Texas, Mr. Smith, Chairman of the Subcommittee, for a motion.

Mr. SMITH. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security favorably reports the bill H.R. 5422 with the single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point, and the Subcommittee amendment in the nature of a substitute, which the Members have before them, will be considered as read, considered as the original text for purposes of amendment, and open for amendment at any point.

[The amendment in the nature of a substitute follows:]

**SUBCOMMITTEE AMENDMENT IN THE NATURE OF
A SUBSTITUTE TO H.R. 5422
(AS ORDERED REPORTED BY THE SUBCOMMITTEE
ON CRIME, TERRORISM, AND HOMELAND SE-
CURITY ON OCTOBER 1, 2002)**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Child Abduction Pre-
3 vention Act”.

4 **TITLE I—SANCTIONS AND**
5 **OFFENSES**

6 **SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFEND-**
7 **ERS.**

8 Section 3583 of title 18, United States Code, is
9 amended by adding at the end the following:

10 “(k) SUPERVISED RELEASE TERMS FOR SEX OF-
11 FENDERS.—Notwithstanding subsection (b), the author-
12 ized term of supervised release for any offense under sec-
13 tion 1201 involving a victim who has not attained the age
14 of 18 years, and for any offense under chapter 109A, 110,
15 117, or section 1591 is any term of years or life.”.

1 **SEC. 102. FIRST DEGREE MURDER FOR CHILD ABUSE AND**
2 **CHILD TORTURE MURDERS.**

3 Section 1111 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) by inserting “child abuse,” after “sex-
7 ual abuse,”; and

8 (B) by inserting “or perpetrated as part of
9 a pattern or practice of assault or torture
10 against a child or children,” after “robbery,”;
11 and

12 (2) by inserting at the end the following:

13 “(c) For purposes of this section—

14 “(1) the term ‘assault’ has the same meaning
15 as given that term in section 113;

16 “(2) the term ‘child’ means a person who has
17 not attained the age of 18 years and is—

18 “(A) under the perpetrator’s care or con-
19 trol; or

20 “(B) at least six years younger than the
21 perpetrator;

22 “(3) the term ‘child abuse’ means intentionally,
23 knowingly, or recklessly causing death or serious
24 bodily injury to a child;

1 “(4) the term ‘pattern or practice of assault or
2 torture’ means assault or torture engaged in on at
3 least two occasions;

4 “(5) the term ‘recklessly’ with respect to caus-
5 ing death or serious bodily injury—

6 “(A) means causing death or serious bodily
7 injury under circumstances in which the pepe-
8 trator is aware of and disregards a grave risk
9 of death or serious bodily injury; and

10 “(B) such recklessness can be inferred
11 from the character, manner, and circumstances
12 of the perpetrator’s conduct;

13 “(6) the term ‘serious bodily injury’ has the
14 meaning set forth in section 1365; and

15 “(7) the term ‘torture’ means conduct, whether
16 or not committed under the color of law, that other-
17 wise satisfies the definition set forth in section
18 2340(1).”.

19 **SEC. 103. SEXUAL ABUSE PENALTIES.**

20 (a) MAXIMUM PENALTY INCREASES.—(1) Chapter
21 110 of title 18, United States Code, is amended—

22 (A) in section 2251(d)—

23 (i) by striking “20” and inserting “30”;
24 and

25 (ii) by striking “30” and inserting “50”;

- 1 (B) in section 2252(b)(1)—
2 (i) by striking “15” and inserting “20”;
3 and
4 (ii) by striking “30” and inserting “40”;
5 (C) in section 2252(b)(2)—
6 (i) by striking “5” and inserting “10”; and
7 (ii) by striking “10” and inserting “20”;
8 (D) in section 2252A(b)(1)—
9 (i) by striking “15” and inserting “20”;
10 and
11 (ii) by striking “30” and inserting “40”;
12 and
13 (E) in section 2252A(b)(2)—
14 (i) by striking “5” and inserting “10”; and
15 (ii) by striking “10” and inserting “20”.
16 (2) Chapter 117 of title 18, United States Code, is
17 amended—
18 (A) in section 2422(a), by striking “10” and in-
19 serting “20”;
20 (B) in section 2422(b), by striking “15” and
21 inserting “30”;
22 (C) in section 2423(a), by striking “15” and in-
23 serting “30”; and
24 (D) in section 2423(b), by striking “15 years”
25 and inserting “30 years”.

1 (3) Section 1591(b)(2) of title 18, United States
2 Code, is amended by striking “20” and inserting “40”.

3 (b) MINIMUM PENALTY INCREASES.—(1) Chapter
4 110 of title 18, United States Code, is amended—

5 (A) in section 2251(d)—

6 (i) by striking “or imprisoned not less than
7 10” and inserting “and imprisoned not less
8 than 15”;

9 (ii) by striking “and both,”;

10 (iii) by striking “15” and inserting “25”;

11 and

12 (iv) by striking “30” and inserting “35”;

13 (B) in section 2251A(a) and (b), by striking
14 “20” and inserting “30”;

15 (C) in section 2252(b)(1)—

16 (i) by striking “or imprisoned” and insert-
17 ing “and imprisoned not less than 10 years
18 and”;

19 (ii) by striking “or both,”; and

20 (iii) by striking “5” and inserting “15”;

21 (D) in section 2252(b)(2)—

22 (i) by striking “or imprisoned” and insert-
23 ing “and imprisoned not less than 5 years
24 and”;

25 (ii) by striking “or both,”; and

1 (iii) by striking “2” and inserting “10”;

2 (E) in section 2252A(b)(1)—

3 (i) by striking “or imprisoned” and insert-
4 ing “and imprisoned not less than 10 years
5 and”;

6 (ii) by striking “or both,”; and

7 (iii) by striking “5” and inserting “15”;

8 and

9 (F) in section 2252A(b)(2)—

10 (i) by striking “or imprisoned” and insert-
11 ing “and imprisoned not less than 5 years
12 and”;

13 (ii) by striking “or both,”; and

14 (iii) by striking “2” and inserting “10”.

15 (2) Chapter 117 of title 18, United States Code, is
16 amended—

17 (A) in section 2422(a)—

18 (i) by striking “or imprisoned” and insert-
19 ing “and imprisoned not less than 2 years
20 and”; and

21 (ii) by striking “or both,”;

22 (B) in section 2422(b)—

23 (i) by striking “, imprisoned” and inserting
24 “and imprisoned not less than 5 years and”;
25 and

- 1 (ii) by striking “or both,”;
2 (C) in section 2423(a)—
3 (i) by striking “, imprisoned” and inserting
4 “and imprisoned not less than 5 years and”;
5 and
6 (ii) by striking “or both,”; and
7 (D) in section 2423(b)—
8 (i) by striking “, imprisoned” and inserting
9 “and imprisoned not less than 5 years and”;
10 and
11 (ii) by striking “or both,”.

12 **SEC. 104. STRONGER PENALTIES AGAINST KIDNAPPING.**

13 (a) SENTENCING GUIDELINES.—Notwithstanding
14 any other provision of law regarding the amendment of
15 Sentencing Guidelines, the United States Sentencing
16 Commission is directed to amend the Sentencing Guide-
17 lines, to take effect on the date that is 30 days after the
18 date of the enactment of this Act—

- 19 (1) so that the base level for kidnapping in sec-
20 tion 2A4.1(a) is increased from level 24 to level 32
21 (121–151 months);
22 (2) so as to delete section 2A4.1(b)(4)(C); and
23 (3) so that the increase provided by section
24 2A4.1(b)(5) is 6 levels instead of 3.

1 (b) MINIMUM MANDATORY SENTENCE.—Section
2 1201(g) of title 18 is amended by striking “shall be sub-
3 ject to paragraph (2)” in paragraph (1) and all that fol-
4 lows through paragraph (2) and inserting “shall include
5 imprisonment for not less than 20 years.”.

6 **SEC. 105. PENALTIES AGAINST SEX TOURISM.**

7 (a) IN GENERAL.—Section 2423 of title 18, United
8 States Code, is amended by striking subsection (b) and
9 inserting the following:

10 “(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT
11 SEXUAL CONDUCT.—A person who travels in interstate
12 commerce or travels into the United States, or a United
13 States citizen or an alien admitted for permanent resi-
14 dence in the United States who travels in foreign com-
15 merce, for the purpose of engaging in any illicit sexual
16 conduct with another person shall be fined under this title
17 or imprisoned not more than 15 years, or both.

18 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
19 FOREIGN PLACES.—Any United States citizen or alien ad-
20 mitted for permanent residence who travels in foreign
21 commerce, and engages in any illicit sexual conduct with
22 another person shall be fined under this title or imprisoned
23 not more than 15 years, or both.

24 “(d) ANCILLARY OFFENSES.—Whoever arranges, in-
25 duces, procures, or facilitates the travel of a person know-

1 ing that such a person is traveling in interstate commerce
2 or foreign commerce for the purpose of engaging in illicit
3 sexual conduct shall be fined under this title, imprisoned
4 not more than 15 years, or both.

5 “(e) ATTEMPT AND CONSPIRACY.—Whoever at-
6 tempts or conspires to violate subsection (a), (b), (c), or
7 (d) shall be punishable in the same manner as a completed
8 violation of that subsection.

9 “(f) DEFINITION.—As used in this section, the term
10 ‘illicit sexual conduct’ means (1) a sexual act (as defined
11 in section 2246) with a person that would be in violation
12 of chapter 109A if the sexual act occurred in the special
13 maritime and territorial jurisdiction of the United States;
14 or (2) any commercial sex act (as defined in section 1591)
15 with a person who has not attained the age of 18 years.

16 “(g) DEFENSE.—In a prosecution under this section
17 based on illicit sexual conduct as defined in subsection
18 (f)(2), it is a defense, which the defendant must establish
19 by a preponderance of the evidence, that the defendant
20 reasonably believed that the person with whom the defend-
21 ant engaged in the commercial sex act had attained the
22 age of 18 years.”.

23 (b) CONFORMING AMENDMENT.—Section 2423(a) of
24 title 18, United States Code, is amended by striking “or
25 attempts to do so,”.

1 **SEC. 106. TWO STRIKES YOU'RE OUT.**

2 (a) IN GENERAL.—Section 3559 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing new subsection:

5 “(e) MANDATORY LIFE IMPRISONMENT FOR RE-
6 PEATED SEX OFFENSES AGAINST CHILDREN.—

7 “(1) IN GENERAL.—A person who is convicted
8 of a Federal sex offense in which a minor is the vic-
9 tim shall be sentenced to life imprisonment if the
10 person has a prior sex conviction in which a minor
11 was the victim, unless the sentence of death is im-
12 posed.

13 “(2) DEFINITIONS.—For the purposes of this
14 subsection—

15 “(A) the term ‘Federal sex offense’
16 means—

17 “(i) an offense under section 2241
18 (relating to aggravated sexual abuse),
19 2242 (relating to sexual abuse), 2243(a)
20 (relating to sexual abuse of a minor),
21 2244(a)(1) or (2) (relating to abusive sex-
22 ual contact), 2245 (relating to sexual
23 abuse resulting in death), or 2251A (relat-
24 ing to selling or buying of children); or

25 “(ii) an offense under section 2423(a)
26 (relating to transportation of minors) in-

1 volving prostitution or sexual activity con-
2 stituting a State sex offense;

3 “(B) the term ‘State sex offense’ means an
4 offense under State law that consists of conduct
5 that would be a Federal sex offense if, to the
6 extent or in the manner specified in the applica-
7 ble provision of this title—

8 “(i) the offense involved interstate or
9 foreign commerce, or the use of the mails;
10 or

11 “(ii) the conduct occurred in any com-
12 monwealth, territory, or possession of the
13 United States, within the special maritime
14 and territorial jurisdiction of the United
15 States, in a Federal prison, on any land or
16 building owned by, leased to, or otherwise
17 used by or under the control of the Gov-
18 ernment of the United States, or in the In-
19 dian country (as defined in section 1151);

20 “(C) the term ‘prior sex conviction’ means
21 a conviction for which the sentence was imposed
22 before the conduct occurred constituting the
23 subsequent Federal sex offense, and which was
24 for a Federal sex offense or a State sex offense;

1 “(D) the term ‘minor’ means an individual
2 who has not attained the age of 17 years; and

3 “(E) the term ‘State’ has the meaning
4 given that term in subsection (c)(2).”.

5 (b) CONFORMING AMENDMENT.—Sections 2247 and
6 2426 of title 18, United States Code, are each amended
7 by inserting “, unless section 3559(e) applies” before the
8 final period.

9 **TITLE II—INVESTIGATIONS AND**
10 **PROSECUTIONS**

11 **Subtitle A—Law Enforcement Tools**
12 **To Protect Children**

13 **SEC. 201. LAW ENFORCEMENT TOOLS TO PROTECT CHIL-**
14 **DREN.**

15 (a) IN GENERAL.—Section 2516(1) of title 18,
16 United States Code, is amended—

17 (1) in subparagraph (a), by inserting after
18 “chapter 37 (relating to espionage),” the following:
19 “chapter 55 (relating to kidnapping),”; and

20 (2) in subparagraph (c)—

21 (A) by striking “2251 and 2252” and in-
22 serting “2251, 2251A, 2252, and 2252A”; and

23 (B) by inserting “section 2423(b) (relating
24 to travel with intent to engage in a sexual act
25 with a juvenile),” after “motor vehicle parts),”.

1 (b) TRANSPORTATION FOR ILLEGAL SEXUAL ACTIV-
2 ITY.—Section 2516(1) of title 18, United States Code, is
3 amended—

4 (1) by striking “or” at the end of paragraph
5 (q);

6 (2) by inserting after paragraph (q) the fol-
7 lowing:

8 “(r) a violation of section 2422 (relating to co-
9 ercion and enticement) and section 2423(a) (relating
10 to transportation of minors) of this title, if, in con-
11 nection with that violation, the intended sexual activ-
12 ity would constitute a felony violation of chapter
13 109A or 110, including a felony violation of chapter
14 109A or 110 if the sexual activity occurred, or was
15 intended to occur, within the special maritime and
16 territorial jurisdiction of the United States, regard-
17 less of where it actually occurred or was intended to
18 occur; or”; and

19 (3) by redesignating paragraph (r) as para-
20 graph (s).

21 **SEC. 202. NO STATUTE OF LIMITATIONS FOR CHILD ABDUC-**
22 **TION AND SEX CRIMES.**

23 (a) IN GENERAL.—(1) Chapter 213 of title 18,
24 United States Code, is amended by adding at the end the
25 following new section:

1 **“§ 3296. Child abduction and sex offenses**

2 “Notwithstanding any other provision of law, an in-
3 dictment may be found or an information instituted at any
4 time without limitation for any offense under section 1201
5 involving a minor victim, and for any felony under chapter
6 109A, 110, or 117, or section 1591.”.

7 (2) The table of sections at the beginning of such
8 chapter is amended by adding at the end the following
9 new item:

“3296. Child abduction and sex offenses.”.

10 (b) MILITARY CASES.—Section 843 of title 10,
11 United States Code (Article 43 of the Uniform Code of
12 Military Justice) is amended—

13 (1) in subsection (a), by inserting “with any of-
14 fense involving kidnapping or abduction of a person
15 below the age of 18, with any offense involving sex-
16 ual abuse that is punishable by confinement for
17 more than one year,” before “or with”; and

18 (2) in subsection (c)—

19 (A) by inserting “(1)” before “Periods”;
20 and

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

22 “(2) No period of limitation that would otherwise pre-
23 clude prosecution for an offense involving the sexual or
24 physical abuse of a person under the age of 18 years shall

1 preclude such prosecution before the person reaches the
2 age of 25 years.”.

3 (c) APPLICATION.—The amendments made by this
4 section shall apply to the prosecution of any offense com-
5 mitted before, on, or after the date of the enactment of
6 this section.

7 **Subtitle B—No Pretrial Release for**
8 **Those Who Rape or Kidnap**
9 **Children**

10 **SEC. 221. NO PRETRIAL RELEASE FOR THOSE WHO RAPE**
11 **OR KIDNAP CHILDREN.**

12 Section 3142(e) of title 18, United States Code, is
13 amended—

14 (1) by inserting “1201 (if the victim has not at-
15 tained the age of 18 years), 1591 (if the victim has
16 not attained the age of 18 years),” before “or
17 2332b”; and

18 (2) by striking “of title 18 of the United States
19 Code” and inserting “or a felony offense under
20 chapter 109A, 110, or 117 where a victim has not
21 attained the age of 18 years”.

1 **Subtitle C—No Waiting Period To**
2 **Report Missing Children**
3 **“Suzanne’s Law”**

4 **SEC. 241. AMENDMENT.**

5 Section 3701(a) of the Crime Control Act of 1990
6 (42 U.S.C. 5779(a)) is amended by striking “age of 18”
7 and inserting “age of 21”.

8 **Subtitle D—Recordkeeping to Dem-**
9 **onstrate Minors Were Not Used**
10 **in Production of Pornography**

11 **SEC. 261. RECORDKEEPING TO DEMONSTRATE MINORS**
12 **WERE NOT USED IN PRODUCTION OF POR-**
13 **NOGRAPHY.**

14 Not later than 1 year after enactment of this Act,
15 the Attorney General shall submit to Congress a report
16 detailing the number of times since January 1993 that
17 the Department of Justice has inspected the records of
18 any producer of materials regulated pursuant to section
19 2257 of title 18, United States Code, and section 75 of
20 title 28 of the Code of Federal Regulations. The Attorney
21 General shall indicate the number of violations prosecuted
22 as a result of those inspections.

1 **TITLE III—PUBLIC OUTREACH**

2 **SEC. 301. NATIONAL COORDINATION OF AMBER ALERT**
3 **COMMUNICATIONS NETWORK.**

4 (a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the
5 Department of Justice to act as the national coordinator
6 of the AMBER Alert communications network regarding
7 abducted children. The officer so designated shall be
8 known as the AMBER Alert Coordinator of the Depart-
9 ment of Justice.
10

11 (b) DUTIES.—In acting as the national coordinator
12 of the AMBER Alert communications network, the Coor-
13 dinator shall—

14 (1) seek to eliminate gaps in the network, in-
15 cluding gaps in areas of interstate travel;

16 (2) work with States to encourage the develop-
17 ment of additional elements (known as local
18 AMBER plans) in the network;

19 (3) work with States to ensure appropriate re-
20 gional coordination of various elements of the net-
21 work; and

22 (4) act as the nationwide point of contact for—

23 (A) the development of the network; and

24 (B) regional coordination of alerts on ab-
25 ducted children through the network.

1 (c) CONSULTATION WITH FEDERAL BUREAU OF IN-
2 VESTIGATION.—In carrying out duties under subsection
3 (b), the Coordinator shall notify and consult with the Di-
4 rector of the Federal Bureau of Investigation concerning
5 each child abduction for which an alert is issued through
6 the AMBER Alert communications network.

7 (d) COOPERATION.—The Coordinator shall cooperate
8 with the Secretary of Transportation and the Federal
9 Communications Commission in carrying out activities
10 under this section.

11 **SEC. 302. MINIMUM STANDARDS FOR ISSUANCE AND DIS-**
12 **SEMINATION OF ALERTS THROUGH AMBER**
13 **ALERT COMMUNICATIONS NETWORK.**

14 (a) ESTABLISHMENT OF MINIMUM STANDARDS.—
15 Subject to subsection (b), the AMBER Alert Coordinator
16 of the Department of Justice shall establish minimum
17 standards for—

18 (1) the issuance of alerts through the AMBER
19 Alert communications network; and

20 (2) the extent of the dissemination of alerts
21 issued through the network.

22 (b) LIMITATIONS.—(1) The minimum standards es-
23 tablished under subsection (a) shall be adoptable on a vol-
24 untary basis only.

1 (2) The minimum standards shall, to the maximum
2 extent practicable (as determined by the Coordinator in
3 consultation with State and local law enforcement agen-
4 cies), provide that the dissemination of an alert through
5 the AMBER Alert communications network be limited to
6 the geographic areas most likely to facilitate the recovery
7 of the abducted child concerned.

8 (3) In carrying out activities under subsection (a),
9 the Coordinator may not interfere with the current system
10 of voluntary coordination between local broadcasters and
11 State and local law enforcement agencies for purposes of
12 the AMBER Alert communications network.

13 (c) COOPERATION.—(1) The Coordinator shall co-
14 operate with the Secretary of Transportation and the Fed-
15 eral Communications Commission in carrying out activi-
16 ties under this section.

17 (2) The Coordinator shall also cooperate with local
18 broadcasters and State and local law enforcement agencies
19 in establishing minimum standards under this section.

20 **SEC. 303. GRANT PROGRAM FOR NOTIFICATION AND COM-**
21 **MUNICATIONS SYSTEMS ALONG HIGHWAYS**
22 **FOR RECOVERY OF ABDUCTED CHILDREN.**

23 (a) PROGRAM REQUIRED.—The Secretary of Trans-
24 portation shall carry out a program to provide grants to
25 States for the development or enhancement of notification

1 or communications systems along highways for alerts and
2 other information for the recovery of abducted children.

3 (b) ACTIVITIES.—Activities funded by grants under
4 the program under subsection (a) may include—

5 (1) the development or enhancement of elec-
6 tronic message boards along highways and the place-
7 ment of additional signage along highways; and

8 (2) the development or enhancement of other
9 means of disseminating along highways alerts and
10 other information for the recovery of abducted chil-
11 dren.

12 (c) FEDERAL SHARE.—The Federal share of the cost
13 of any activities funded by a grant under the program
14 under subsection (a) may not exceed 50 percent.

15 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
16 GRAPHIC BASIS.—The Secretary shall, to the maximum
17 extent practicable, ensure the distribution of grants under
18 the program under subsection (a) on an equitable basis
19 throughout the various regions of the United States.

20 (e) ADMINISTRATION.—The Secretary shall prescribe
21 requirements, including application requirements, for
22 grants under the program under subsection (a).

23 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
24 There is authorized to be appropriated for the Department

1 of Transportation \$20,000,000 for fiscal year 2003 to
2 carry out this section.

3 (2) Amounts appropriated pursuant to the authoriza-
4 tion of appropriations in paragraph (1) shall remain avail-
5 able until expended.

6 **SEC. 304. GRANT PROGRAM FOR SUPPORT OF AMBER**
7 **ALERT COMMUNICATIONS PLANS.**

8 (a) PROGRAM REQUIRED.—The Attorney General
9 shall carry out a program to provide grants to States for
10 the development or enhancement of programs and activi-
11 ties for the support of AMBER Alert communications
12 plans.

13 (b) ACTIVITIES.—Activities funded by grants under
14 the program under subsection (a) may include—

15 (1) the development and implementation of edu-
16 cation and training programs, and associated mate-
17 rials, relating to AMBER Alert communications
18 plans;

19 (2) the development and implementation of law
20 enforcement programs, and associated equipment,
21 relating to AMBER Alert communications plans;
22 and

23 (3) such other activities as the Secretary con-
24 siders appropriate for supporting the AMBER Alert
25 communications program.

1 (c) FEDERAL SHARE.—The Federal share of the cost
2 of any activities funded by a grant under the program
3 under subsection (a) may not exceed 50 percent.

4 (d) DISTRIBUTION OF GRANT AMOUNTS ON GEO-
5 GRAPHIC BASIS.—The Attorney General shall, to the max-
6 imum extent practicable, ensure the distribution of grants
7 under the program under subsection (a) on an equitable
8 basis throughout the various regions of the United States.

9 (e) ADMINISTRATION.—The Attorney General shall
10 prescribe requirements, including application require-
11 ments, for grants under the program under subsection (a).

12 (f) AUTHORIZATION OF APPROPRIATIONS.—(1)
13 There is authorized to be appropriated for the Department
14 of Justice \$5,000,000 for fiscal year 2003 to carry out
15 this section.

16 (2) Amounts appropriated pursuant to the authoriza-
17 tion of appropriations in paragraph (1) shall remain avail-
18 able until expended.

19 **SEC. 305. INCREASED SUPPORT.**

20 Section 404(b)(2) of the Juvenile Justice and Delin-
21 quency Prevention Act of 1974 (42 U.S.C. 5773(b)(2)) is
22 amended by striking “2002 and 2003” and inserting “and
23 2002 and \$20,000,000 for each of fiscal years 2003 and
24 2004”.

1 **SEC. 306. SEX OFFENDER APPREHENSION PROGRAM.**

2 Section 1701(d) of part Q of title I of the Omnibus
3 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
4 3796dd(d)) is amended—

5 (1) by redesignating paragraphs (10) and (11)
6 as (1) and (12), respectively; and

7 (2) by inserting after paragraph (9) the fol-
8 lowing:

9 “(10) assist a State in enforcing a law through-
10 out the State which requires that a convicted sex of-
11 fender register his or her address with a State or
12 local law enforcement agency and be subject to
13 criminal prosecution for failure to comply;”.

Chairman SENSENBRENNER. The Chair recognizes the gentleman from Texas, Mr. Smith, to strike the last word.

Mr. SMITH. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. SMITH. Mr. Chairman, this legislation is good policy. It has the potential to protect and save lives, the lives of the most innocent among us.

H.R. 5422 is divided into three titles: Sanctions and Offenses, Investigation and Prosecution, and Public Outreach. This legislation sends a clear message that child abductors will not escape justice.

Title I, Sanctions and Offenses, strengthens the penalties against kidnapping by providing for a 20-year mandatory minimum sentence of imprisonment for non-family abductions of a child under the age of 18. This section also includes Mr. Gekas' bill, H.R. 4679, that requires lifetime supervision for sex offenders. Also included is Mr. Green's bill, H.R. 2146, that requires mandatory life imprisonment for second-time offenders. Chairman Sensenbrenner's bill, H.R. 4477, strengthens the laws related to travel to foreign countries for sex with minors.

In addition, this title directs the U.S. Sentencing Commission to increase offense levels for crimes of kidnapping, expands the crime of sexual abuse, murder, and adds child abuse that results in murder as a predicate for a first degree murder.

Title II, Effective Investigation and Prosecution, gives law enforcement agencies the tools they need to enforce the laws against child abduction. This section includes Representative Nancy Johnson's bill, H.R. 1877, which adds four new wiretap predicates that relate to sexual exploitation crimes against children. The title also provides that child abductions and felony sex offenses can be prosecuted without limitation of time and provides a rebuttable presumption that child rapists and kidnappers should not get pretrial release.

Title III, Public Outreach, establishes a national AMBER Alert Program based on Representative Jennifer Dunn's and Representative Martin Frost's bill to expand the Child Abduction Communications Warning Network throughout the United States. The AMBER program is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent alert bulletin in serious child abduction cases.

This title also increases support for the National Center for Missing and Exploited Children, the Nation's resource center for child protection, by doubling its authorization to \$20 million. Further, the title authorizes COPS funding for local law enforcement agencies to establish sex offender apprehension programs within their States.

Mr. Chairman, the recent wave of high-profile child abductions illustrates the tremendous need for legislation in this area. These criminals breach the security of our homes to steal, molest, rape, and kill our children. Immediate action is necessary, and I urge my colleagues to support this legislation.

Mr. Chairman, I will yield back the balance of my time.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott, is recognized for 5 minutes for an opening statement.

Mr. SCOTT. Thank you, Mr. Chairman. I appreciate your holding a markup on the AMBER Alert part of the bill. Unfortunately, the bill contains more than AMBER Alert. If only AMBER Alert were before us, we'd be ready to move the pending question and pass the bill. But instead of the non-controversial House bill introduced by bipartisan leadership, Mr. Frost and Ms. Dunn, or the companion Senate AMBER Alert bill which passed that body unanimously a couple of weeks ago, we have before us a bill that is a convoluted smorgasbord of get-tough, sound-bite-based provisions. Two strikes and you're out, lifetime supervision, sex crimes, wiretapping, mandatory minimum sentences, new death penalties, all sound like we're doing something about crime when—until you realize what they call for.

I'm curious to know, Mr. Chairman, why these bills are back before us in Committee at all. The two-strikes bill, the lifetime supervision bill, the sex tourism bill, the sex crimes wiretap bill have all not only passed the Committee, but have passed the House and are awaiting Senate action. The AMBER Alert portion of the bill has already passed the Senate unanimously and could be passed by the House and be on the President's desk tomorrow to be signed during the first-ever White House Conference on Missing, Exploited, and Runaway Children. Instead, we're here today bogged down in controversial political sound bites that have already passed the Committee and are unlikely to even be considered by the Senate at all.

When you take a close look at these bills, you can see why they will not warrant consideration in the Senate. Take the two-strikes bill, which is a second offense—which says a second offense sex crime involving a minor would require imprisonment for life without parole. It applies to cases involving consensual sexual activity between high school teenagers which may even—who may even be engaged to be married. The best part of these bills is that they have very limited application because they would enact Federal laws that would apply only in Federal jurisdiction. The worst part is they bring about an unfair, draconian result mostly upon Native Americans on reservations.

Sentencing Commission data indicates that about 75 percent of the offenders prosecuted under the Federal provisions are likely to be Native Americans. Offenders who commit the same crime in the same State can get vastly differing sentences, probation or life without parole, based on the fact that one was on one side of the reservation line and the other is just across the line.

Mr. Chairman, I ask unanimous consent that testimony from Frank Zimring, a noted criminologist at the University of California Law School at Berkeley, be introduced. His testimony was critical of an earlier version of the two-strikes bill, and I'd ask that his testimony be inserted in the record.

Chairman SENSENBRENNER. Without objection.

[The testimony of Mr. Zimring follows:]

PREPARED STATEMENT OF FRANKLIN ZIMRING, PROFESSOR OF LAW, UNIVERSITY OF CALIFORNIA, BERKELEY, CA

The bills before this Committee are prime examples of the legislative frustration generated by limited federal criminal jurisdiction. Federal criminal justice accounts for about 7% of all prisoners and a much smaller percentage of violent and sex crime prosecution. House members wish to denounce crime and also take steps to reduce it, but symbolic gestures are easier to find than measures with strong pre-

ventive potential. None of the group of proposals before the Committee today is a promising method of legislating public safety.

The four proposals before the Committee create four different strategies to use federal law as an adjunct to crime control. But each strategy is a journey into the unknown, and there is also a potential for harmful impacts in many of the proposals. Legislative action on any of these bills would be premature.

House Bill 894 tries to encourage states to punish murder, rape and sex offenses against children with a minimum of life without possibility of parole. The bill would achieve this by deducting from federal law enforcement assistance grants to states that release offenders if a recidivist is reconvicted of murder, rape or sexual assault on a child in another state. We have no idea how many such reconviction cases occur in the United States, or how many of these involve multiple states. (There are no payments to victims where a subsequent crime occurs in the state that released the offender). The monetary costs per case are modest and thus the impact of the bill on state sanctions would probably be minimal, which is just as well.

There are several problems with the aim of HB 894, including the fact that offenses such as second degree murder and non-aggravated rape would not merit a Life Without Parole sentence on grounds of penal proportionality. To punish lesser grades of murder with the same penalty now exclusively reserved for aggravated first degree murder seems questionable on grounds of morally deserved punishment. To punish non-fatal crimes such as rape and child molestation with a penalty reserved for the highest grade of murder seems indiscriminating.

It might also be dangerous. If the bill actually provoked Life Without Parole penalties in the states, and if offenders are highly sensitive to deterrent threats at the margin, a rapist or child sex offender would have little further to lose by eliminating the victim who is often an important witness against the offender. If my child or daughter-in-law were under the physical control of a sexual predator, I would worry about the law's lack of room for incentives to keep the victim alive. Such incentives are probably more important in situations of prolonged physical control of victims, but such kidnappings are not uncommon.

The other major problem with HB 894 is the perverse incentive it provides by encouraging convictions for reduced charges. All a state need do to avoid any eventual liability under the bill is convict of a reduced charge—voluntary manslaughter is one example. If this bill were enacted, the high mandatory penalties it demands would create incentives for plea bargains to lesser charges for many if not most defendants. The net effect would be to increase the disparity of punishment between the few convicted of the top charge and the many who would be plea bargained to lesser charges. The result would be the opposite of truth in sentencing and objectionable for the dishonesty as well as the disparity it encourages.

House Bill 4045 hopes to enhance the penalties for those convicted of violence against children under thirteen in federal criminal law. Its means are direct: a five-step enhancement in sentencing guidelines if one of the crime victims is a child under thirteen. The problem with direct use of federal criminal law in this way is the tiny and unrepresentative sample of violence against children that is within the jurisdictional boundaries of federal criminal justice. How many cases of such crimes were there last year in the United States in federal courts? What percentage of these were crimes within the family? What percentage of the total were Native American? Military? What would have been the impact of five-step jumps on the case sentences last year or the year before in the federal courts?

The first step in the career of any legislation that seeks to restructure the sentencing guidelines should be a study by the Sentencing Commission of the type and volume of cases that will be covered, and the type of impact any such new enhancements would produce on actual sentences. We do know that only a tiny percentage of violence against children comes to federal courts. We have reason to worry about ignorant interference with sentencing guidelines. But if the Committee thinks the approach of HB 4045 has promise, it would be legislative malpractice to do anything other than gather basic data on the federal share of child violence cases, the current disposition of such cases, and the likely impact of enhancements of the magnitude provided in this bill.

The target of House Bill 4047 is repeat offenders who commit sex crimes against children and are convicted of such a crime in federal court. Upon proof of a previous conviction for a sex offense against a person under eighteen involving conduct that would constitute a federal sex crime had there been federal jurisdiction, the sentence for the federal sex crime would be life. Unlike HB 4045, HB 4047 is targeted at sex offenses. It also has a much older cut-off date for the end of special victim status: the eighteenth birthday instead of the thirteenth birthday. While the number of HB 4045 offenses is both tiny and unrepresentative of child violence offenders, the number of HB 4047 offenders will be tinier still. In the first four years of federal three strikes, there were thirty-five special convictions. Here there might be

none or a very few. I do not know what kind of cases or offenders will meet this standard in the federal system, but I suspect the Indian country jurisdictional rubric will account for the majority.

Here are two things that we do not know about the subjects of HB 4047. How many offenders come before the federal courts who meet its criteria? What sentences do those offenders receive, and for what specific offenses? The sponsor of this legislation should seek the answers to these questions. But here is one thing we do know: this bill will have no impact on the lives of 99% of all American children who are at risk of sexual predation.

The fourth bill before this Committee, House Bill 4147, concerns the age at which child status should end for the purpose of a special criminal law prohibiting the transporting of obscene materials to minors. The bill is in this collection, presumably, because its author believes there is some linkage between the transportation of prohibited sexual materials to sixteen- and seventeen-year-old subjects and their victimization in sexual crime. The extension of child status to ages sixteen and seventeen involves assumptions of inability to consent that are more problematic for older teens than for twelve- and thirteen-year-olds. Further, many of the persons who supply obscene materials to sixteen- and seventeen-year-olds are close in age to the transferees. This statute, unlike the definition of Dangerous Sexual Offense in HB 894, does not require any age difference between victim and offender on which to base an assumption of predation.

But the major problem with HB 4147 is the questionable link between the subject of the law and the danger of predatory sexual crime against the young. There is no reason to believe that HB 4147 will have any impact on the sexual abuse of American kids. The gravest danger of the proposal would be imagining that passing such a law is a real response to a serious problem. That type of legislative fantasy is not good for our children's well-being.

Mr. SCOTT. Mr. Chairman, the AMBER Alert has proven itself to be something that will actually assist in recovering abducted children. It is, therefore, too important to the lives and safety of such children to be used as a vehicle to get a bunch of controversial provisions into a conference which may never even meet this late in a session.

The resistance in the Senate is just not true of the current Senate. Most of the provisions have been languishing in the Senate for the last three Congresses after passing the House without any Senate consideration.

Mr. Chairman, if we insist on passing all of these provisions, we risk losing the chance of passing the AMBER Alert bill, which enjoys broad bipartisan support. I will hope that you will adopt my amendment which conforms the bill to the Senate AMBER Alert bill so that we can pass the bill and send it on to the President.

Chairman SENSENBRENNER. Without objection, all Members may put opening statements in the record at this point.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, I lend my support to H.R. 5422, Proposed Omnibus "Child Abduction Prevention Act." As founder and co-chair of the Congressional Children's Caucus, I applaud the goals of this bill. However, there are some concerns about some of the measures incorporated in the bill. Although I have supported all the measures in the bill that have been considered on the floor, I would like acknowledge the tireless efforts of Congressman Bobby Scott to ensure that this measure does not violate the strong tradition of protecting civil liberties that is fundamental to our national legal system.

Every day in this country, 2,100 children are reported missing to the FBI's National Crime Information Center. There are at least 5,000 children missing per year in Houston. The National Child Identification Program was created in 1997 with the goal of fingerprinting 20 million children. This program provides a free fingerprint kit to parents, who then take and store their child's fingerprints in their own homes. If this information were ever needed, fingerprints would be given to the police to

help them in locating a missing child. This bill will compliment the National Crime Information Center.

I have taken steps to protect the very youngest of such victims. I introduced H.R. 72, the Infant Protection and Baby Switching Prevention Act. This legislation would require certain hospitals reimbursed under Medicare to have in effect security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing.

I have also filed legislation to instruct the Attorney General to establish a national DNA database only for sex offenders and violent offenders against children. It was noted at the scene where Samantha Runnion lost her life that a lot of DNA evidence was there. I can imagine that this happens in crime scene after crime scene.

Only 22 States sex offender registries collect and maintain DNA samples as part of the registration. Only 22 States have a DNA registry that can be utilized for sex offenders. Research on sex offenders found that over a 4- to 5-year period, a 13.4 percent rate of recidivism in regard to commission of another sexual offense, and a 12.2 percent rate of recidivism with a nonsexual offense, violent offense, and a 36.6 percent rate of recidivism with any other offense. One offense is one too many for me. A long-term follow-up on a study of child molesters in Canada found that 42 percent were re-convicted of a sexual or violent crime during the 15- to 30-year follow-up period. There are provisions of this measure that would authorize COPS funding for SEX Offender Apprehension Programs (SOAPs) in States that have a sex offender registry and have laws that make it a crime for failure to notify authorities of any change in address by child sex offenders. My legislation would help expand the sex offender registries—specifically as it relates to violent predators against children, making more states available for this funding.

Mr. Speaker, as I have previously stated, I cannot take the murderous acts that are being perpetrated on our children, one after another. There are times that I feel that we, in this country, have become jaded. One child after another, Samantha Runnion being the last, most vicious and violent exhibition of the lowest grade of individual. Ms., Runnion, a 5-year-old playing with her friend in front of her house was snatched away screaming and kicking and pleading for her life. Her nude body was found a day later with clear indication that she had been sexually assaulted and strangled.

Elizabeth Smart,—and Laura Ayala, of my own community—both were victims of Abduction. Laura Ayala was a 13-year-old just trying to get a newspaper for her homework, maybe less than 50 feet away from a store. She was snatched so fast that all the police found scattered newspaper and sandals left in place. The names go on and we all know them, Danielle Van Dam—Rilya Wilson, 5 years old, missing for a year before the children's protective services in Florida even managed to say anything.

Mr. Chairman, we truly have a crisis, I believe. In a 1999 report authored about children as victims, it states, "Although the U.S. violent crime rate has been decreasing since 1994, homicide remains a leading cause of death for young people. Juveniles are twice as likely as adults to be victims of serious violent crimes and 3 times as likely to be victims of assault. Many of these victims are quite young. Law enforcement data indicates that 1 in 18 victims of violent crime is under the age of 12. In one-third of the sexual assaults reported to law enforcement, the victim is under the age of 12. In most cases involving serious violent crime, juvenile victims know the perpetrator, who is not the stereotypical stranger, but a family member or acquaintance."

The AMBER (America's Missing: Broadcast Emergency Response) alert system is a successful nationwide effort, which permits law enforcement agencies and broadcasters to rapidly exchange information in the most serious child abduction cases and quickly alert the public during the critical first few hours of a child's abduction. This program is named after Amber Hagerman, who was abducted and murdered in Arlington, Texas several years ago. This program has been responsible for the amazing recovery of at least ten children. One of these programs is based in my district of Houston, Texas. In response to the May 1 abduction of 11-year-old Leah Henry of Houston, the Amber plan has been made more flexible, permitting alerts to air more frequently and through radio and television stations, rather than resorting to the emergency broadcast system. It is my hope that cities around the nation will adopt this valuable program.

We must all take a stand against child abduction and victimization. I am grateful to all other concerned organizations and citizens for doing so.

Are there any amendments? The gentleman from Virginia, do you have an amendment?

Mr. SCOTT. I have an amendment. Do——

Ms. JACKSON LEE. I have a quick one.

Mr. SCOTT. I'd defer to the gentlelady from——

Chairman SENSENBRENNER. The gentlewoman from Texas, for what purpose do you seek recognition?

Ms. JACKSON LEE. An amendment under the name of Jackson Lee. This amendment has the support of Mr. Schiff and——

Chairman SENSENBRENNER. The clerk will report the amendment.

Ms. JACKSON LEE. This is the Schiff amendment. This is the Schiff amendment.

Chairman SENSENBRENNER. Okay. What is being passed out is one that's from Mr. Scott that strikes everything except section 301 through——

Ms. JACKSON LEE. No, this is the section 401, Forensic and Investigative Support.

Chairman SENSENBRENNER. Okay. The clerk will report that amendment.

Mr. SCOTT. Don't go too far away with that other one.

Ms. JACKSON LEE. This is the Schiff-Jackson Lee.

The CLERK. Amendment to H.R. 5422, offered by Mr. Schiff and Ms. Jackson Lee. At the end of the bill, add the following: Title IV-Miscellaneous. Section 401, Forensic and Investigative Support of Missing and Exploited Children.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 5422

OFFERED BY MR. SCHIFF

At the end of the bill, add the following:

1 TITLE IV—MISCELLANEOUS

2 SEC. 401. FORENSIC AND INVESTIGATIVE SUPPORT OF

3 MISSING AND EXPLOITED CHILDREN.

4 Section 3056 of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(f) Under the direction of the Secretary of the
7 Treasury, officers and agents of the Secret Service are au-
8 thorized, at the request of any State or local law enforce-
9 ment agency, or at the request of the National Center for
10 Missing and Exploited Children, to provide forensic and
11 investigative assistance in support of any investigation in-
12 volving missing or exploited children.”.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes, and will the gentlewoman yield?

Ms. JACKSON LEE. Yes, I'd be happy to yield.

Chairman SENSENBRENNER. I'm happy to accept this amendment. This is a constructive addition to the bill.

Ms. JACKSON LEE. Mr. Chairman, if I might, first of all, to acknowledge that this legislation was first offered by one of my colleagues who I work with in the Missing and Exploited Children's Caucus, as well as the Congressional Children's Caucus, Nick Lampson. And what it does is it consummates the relationship between the National Center for Missing Children and as well the Secret Service using their varied talents.

Might I ask my colleagues to consider this, and I conclude by simply saying this: that this bill has great legs and great movement. I sense a degree of unreadiness, and I believe there would be genuine support of Democrats to allow this process to continue a little longer than it has. I will say that I'm very dedicated to this issue, and I thank the Missing and Exploited Children for working with me on several points, including DNA legislation that I am going to continue to pursue to ensure that we have a stronger initiative in making sure our children are not abducted but, more importantly, violent predators against children are found.

This particular amendment that I offer today is one that I think will strengthen this legislation, and I'd ask my colleagues to support this amendment that consummates the relationship between the Secret Service and the Center for Missing and Exploited Children.

Chairman SENSENBRENNER. The question is on the adoption of the Jackson Lee amendment. Those in favor will say aye? Opposed, no?

The ayes appear to have it. The ayes have it and the amendment is agreed to.

Are there further amendments? The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. I have an amendment at the desk, Mr. Chairman.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 5422, offered by Mr. Scott. Starting on page 2, line 1, strike all of the bill except sections 301 through 305, and renumber sections accordingly.

[The amendment follows:]

Amendment to H.R. 5422

Offered by Mr. Scott

Starting on page 2, line 1, strike all of the bill except sections 301 through 305, and renumber sections accordingly.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, to save time, I'd incorporate by reference my opening statement.

Chairman SENSENBRENNER. Without objection.

Mr. SCOTT. This conforms the bill to the AMBER Alert bill that everyone has agreed to, that the Senate will pass. I hope you'll

adopt the amendment so that the AMBER Alert portion of the bill will not get lost in a legislative quagmire.

I yield back.

Chairman SENSENBRENNER. The gentleman from Texas, Mr. Smith.

Mr. SMITH. Mr. Chairman, I oppose this amendment.

Chairman SENSENBRENNER. Recognized for 5 minutes.

Mr. SMITH. Mr. Chairman, I oppose this amendment which would strike all the provisions of the bill except those related to the implementation of a national AMBER Alert system, as the gentleman from Virginia just described it. Although I am in favor of the AMBER Alert provisions of this bill, I do not believe that passing only these provisions is the best way to deal with the problem of child abductions in this country.

H.R. 5422 in its current form is a balanced approach that provides stronger penalties against kidnapping, ensures lifetime supervision of sexual offenders and kidnappers of children, gives law enforcement the tools it needs to prosecute these crimes, and provides community assistance when a child is abducted.

Many of these provisions that would be stricken by the amendment have already passed the House by a wide bipartisan margin. Of course, if the Senate had acted, we wouldn't be highlighting them in the package today.

Those provisions, along with the others, ensure that for those individuals who harm a child, the punishment will be severe and they will not be allowed to slip through the cracks of the system to harm other children.

Mr. Chairman, there's another reason to oppose this amendment, and that is, while the AMBER provisions are good and constructive, they deal only with the situation after the child has already been abducted. The rest of the provisions in this bill which we need to maintain actually go to the heart of the matter, which is trying to prevent abductions from actually occurring and, should they occur, punish the perpetrators more severely. So we need all the provisions in this bill, not just the AMBER provision.

And, Mr. Chairman, I will yield back the balance of my time.

Chairman SENSENBRENNER. For what purpose does the gentlewoman from California, Ms. Waters, seek recognition?

Ms. WATERS. To strike the last word.

Chairman SENSENBRENNER. The gentlewoman's recognized for 5 minutes.

Ms. WATERS. I would like to support Mr. Scott's amendment, really. It seems to me that it is a sensible amendment that would show our support for AMBER Alert without reviving legislation that's already been passed by this Committee and this House. As a matter of fact, I thought there were some rules of the House that would not allow us to simply take up legislation that had already been passed, particularly by the Committee and the House again, and just recycle it into legislation that has with it just additional information that makes it appear as if it's new legislation somehow.

Some of that legislation that passed out I certainly had some questions about, and I think that we debated that here in the Committee, and the decision of the Committee to pass it was certainly

a decision by the majority of this Committee. Why, then, are we doing that again?

As a matter of fact, I would like to yield to the Chair to ask, Mr. Chairman, whether or not we're in violation of any House rules by recycling legislation that's already been passed out of the Committee.

Chairman SENSENBRENNER. The answer to that question is no.

Ms. WATERS. You don't have anything else you want to say?

Chairman SENSENBRENNER. The gentlewoman from California knows that I'm a person of many fewer words than she.

Ms. WATERS. Okay. On my time, I think that the Chair's answer is abbreviated because the Chair does not wish to get into a discussion about duplication of legislation and knows that this legislation has just been blown up to make it look as if it is something that it is not.

As a matter of fact, that portion which is new I support on AMBER Alert. The other part of the legislation, which I think is being struck by this amendment, I would support the amendment by the gentleman from Virginia because it makes good sense.

I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the Scott amendment. Those in favor will say aye? Opposed, no?

The noes appear to have it. The noes have it and the amendment is not agreed to.

Are there further amendments?

Mr. SCOTT. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Virginia.

Mr. SCOTT. I seek recognition for a motion.

Chairman SENSENBRENNER. What is the motion?

Mr. SCOTT. To bring up for consideration Senate bill S. 2896, the National AMBER Alert—

Chairman SENSENBRENNER. And that has not been properly noticed in the Committee notice, and consequently that motion is not in order.

Mr. SCOTT. Mr. Chairman, parliamentary inquiry.

Chairman SENSENBRENNER. State your inquiry.

Mr. SCOTT. Would it be in order without notice by unanimous consent?

Chairman SENSENBRENNER. The pending question is H.R. 5422, and that is not in order while there is another matter that is pending.

Are there further amendments to H.R. 5422? If not, the question is on the Subcommittee amendment in the nature of a substitute as amended. Those in favor will say aye? Opposed, no?

The ayes appear to have it. The ayes have it and the substitute amendment as amended is agreed to.

The Chair notes the presence of a reporting quorum. Those in favor of the motion to report the bill H.R. 5422 favorably as amended will say aye. Opposed, no?

The ayes appear to have it. The ayes have it and the motion to report favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments adopted here today. Without objection, the Chairman is authorized to move to go to conference

pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the rules in which to submit additional, dissenting, supplemental, or minority views.

That completes the noticed——

Mr. SCOTT. Mr. Chairman? Mr. Chairman?

Chairman SENSENBRENNER.—agenda, and the Chair declares the Committee adjourned.

[Whereupon, at 11:45 a.m., the Committee was adjourned.]

DISSENTING VIEWS

We are very disappointed with the approach being taken by the Majority to deal with the very serious problem of child abduction.

If ever there was an issue the parties could come together on in a bipartisan way, this would seem to be it. The recent rash of child abductions clearly indicates the need to protect our children from sexual predators. Bipartisan legislation was introduced in the House (H.R. 5326)¹ and Senate (S. 2896)² that would create a national Amber alert system to assist local and state authorities in tracking kidnappers that attempt to cross state lines.

That bipartisan bill quickly passed the Senate and it should have quickly passed the House and been sent on to the president. Instead, what we have is a bill that includes the non-controversial Amber alert provisions and far more controversial provisions concerning death penalties, mandatory minimum sentences, wiretap extensions, pre-trial release, and a whole host of other unrelated provisions.

For example, this bill mandates life without parole for even attempted consensual touching of sexual parts by consenting teenagers if one is a minor and it is a second such offense. This is a greater penalty than is required for a second offense of 2nd degree murder. Approximately 80% of those subject to these draconian penalties are Native Americans on reservations.

The bill also extends FBI wiretap authority to sexual acts between consenting adults. It, furthermore, extends wiretap authority to investigate sexually explicit computer generated images, even when the images do not involve real children, despite the fact that the U.S. Supreme Court recently ruled that creation and possession of such images does not constitute a crime. While some of us support these provisions and others do not, we all agree that it is unnecessary and counterproductive to weigh down the Amber alert provisions with these measures.

The majority knows that many on this side of the aisle cannot as a matter of principal support the death penalty and mandatory minimum sentences, particularly with all of the problems we have seen in these areas in this country. As many people now know, our current death penalty system is riddled with several flaws. Namely, the unacceptably high rate of wrongful convictions, inadequate legal representation and a system that is applied in a racially discriminatory manner. Indeed, after realizing the significant problems with the death penalty, Governor Ryan of Illinois, historically an advocate of the death penalty, declared a moratorium in his

¹H.R. 5326, the National AMBER Alert Network Act of 2002 was introduced on September 4, 2002, by Representatives Frost and Dunn. The bill currently has 108 cosponsors.

²S. 2896, the National AMBER Alert Network Act of 2002 was introduced on September 3, 2002, by Senators Feinstein and Hutchinson. The bill passed the Senate the following week on September 10, 2002.

state after 13 people were released from death row because of innocence. Ryan wanted assurances that the system worked before resuming executions. Some death penalty proponents have argued that the problems in Illinois are exceptional. In fact, however, the error rate in Illinois is 66%, slightly lower than the national average of 68%.

Problems with the bill's mandatory minimum provisions are equally troubling. Mandatory minimum sentences have been studied extensively and have been shown to be ineffective in preventing crime, to distort the sentencing process and to be a considerable waste of taxpayers' money. Weighing in on the issue, Chief Justice Rehnquist, who is not generally known to be lenient on crime, has stated that, "mandatory minimums . . . are frequently the result of floor amendments to demonstrate emphatically that legislators want to 'get tough on crime.' Just as frequently, they do not involve any careful consideration of the effect they might have on the sentencing guidelines as a whole . . ." When the majority of scholars, justices and policy analysts all oppose such controversial provisions, the majority's inclusion of such policies suggests that they have gone out of its way to load the bill up and make it more difficult for some Members to support the legislation.

This "my way or the highway" approach might at least be understandable if it was employed early in the legislative session. But we only have 1 week left in the Congress, and we need to pass a clean "AMBER alert" bill now and send it on to the president. The White House has asked us to do exactly that.³ We are puzzled that the Majority has decided to play politics, rather than advance this important bill.

JOHN CONYERS, JR.
HOWARD L. BERMAN.
ROBERT C. SCOTT.
MELVIN L. WATT.



³*Bush Promotes "Amber Alert" System*, The Washington Post, Thursday, October 3, 2002.