Today, I had scheduled three Katrina-related bills for markup in the Judiciary Committee. They were not ready by our 24-hour deadline, and the gentleman from Michigan objected to that, so I called off that markup, and we are going to have to do that next week. Otherwise we would have it on the floor much more promptly.

The fact of the matter remains that these people need to have the immunity for liability in order that they can volunteer and effectively deliver their volunteer services. The gentleman from Michigan (Mr. CONYERS) and the other opponents of this bill have come up with a litany of horrors that this bill would allow criminal conduct to be immunized, and that is not the case.

This bill specifically does not apply in any way to protect those whose willful, wanton, reckless or criminal conduct causes injury; nor does it apply to those who violate the Federal or State civil rights laws when injury occurs.

Now, today we have a chance to cast a vote in favor of our volunteers, our volunteer individuals and those nonprofit organizations who have stepped up to the plate to provide essential relief services to the people who have been affected by Hurricane Katrina; or we can send it back to committee and have more hearings.

Well, by the time those hearings are over with, I am sure the first series of frivolous lawsuits will be filed; and believe me, the next time there is a disaster, hopefully not of the magnitude of Hurricane Katrina, there will be a lot of organizations and a lot of individuals who will be afraid to volunteer to do what they want to do and do what they can do best, because they do not want to spend the rest of their lives in court.

Pass this bill.

Mr. PORTER. Mr. Speaker, I rise today in strong support of H.R. 3736, Katrina Volunteer Protection Act. This legislation will provide much needed legal protection for those charitable Americans volunteering in the Hurricane Katrina rescue and recovery effort.

It is imperative that when thousands of selfless volunteers respond to those who have incurred the wrath of a natural disaster that legal liability need not be hanging over their heads.

Currently, there is vast uncertainty from state to state about what defines legal protections for volunteers, especially when volunteers from one state travel to another to help out their fellow citizens.

Under current law volunteers who are not working with an official nonprofit organization are not covered by the Volunteer Protection Act. Therefore, there are absolutely no legal protections for the average American who wishes to volunteer.

This legislation will correct that gap in the law while at the same time continue upholding the penalties against those who act in a willful, reckless or criminal manner or who violate a State or Federal civil rights law.

Further if a volunteer's home State has a law on its books that provide greater liability protection, then this legislation would defer to those stronger protections.

This legislation will clear the way for all those Good Samaritans, who live in our great Nation, not to have to worry about lawsuits when they volunteer.

Mr. Speaker, I am proud to support this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3736.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3132.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CHILDREN'S SAFETY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 436 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3132.

□ 1206

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3132) to make improvements to the national sex offender registration program, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to bring to the House floor today H.R. 3132, the Children's Safety Act of 2005.

I introduced this legislation on June 30 in a bipartisan effort to address the growing epidemic of violence against children and the need for greater protection from convicted sex offenders through State registration and notification programs.

This year our country has been shocked by a series of brutal attacks against children at the hands of convicted sex offenders. In June, our Nation was horrified by the kidnapping and murders of members of the Groene family by a convicted sex offender.

Two well-publicized tragedies earlier this year in Florida, in which 9-year-old Jessica Lunsford and 13-year-old Sarah Lunde were murdered by convicted sex offenders further underscore the need for quick congressional action to address the danger posed by individuals who prey on children.

In addition to the widely reported tragedies that have rightly brought this issue to the forefront, the statistics regarding the frequency with which such heinous crimes occur are staggering. Statistics show that one in five girls and one in 10 boys are sexually exploited before they reach adulthood. Yet less than 35 percent of the incidents are reported to authorities.

According to the Department of Justice, one in five children between the ages of 10 and 17 receive unwanted sexual solicitations online. Additionally, statistics show that 67 percent of all victims of sexual assault were juveniles under the age of 18, and 34 percent were under the age of 12.

In June of this year, the Subcommittee on Crime, Terrorism and Homeland Security held a series of three hearings on child crimes issues, focusing on violent crimes against children, sexual exploitation of children, and the Sex Offender Registration and Notification program and related legislative proposals.

On July 30, the Judiciary Committee considered this bill and ordered it favorably reported by an overwhelming vote of 22 to 4.

Mr. Chairman, there are over 550,000 sex offenders in the country; and it is conservatively estimated that at least 100,000 of them are lost in the system, meaning that nonregistered sex offenders are living in our communities and working at locations where they can, and likely will, come into contact with our children.

This is simply unacceptable, and the legislation specifically targets this problem to enhance the safety of America's families and communities. The Children's Safety Act will make much needed reforms to the Sex Offender and Registration program by expanding the scope and duration of sex offender registration and notification requirements to a larger number of sex offenders.

The legislation also requires States to provide Internet availability of sex offender information, requires timely registration by sex offenders, and then enhances penalties for their failure to register and increases the disclosure requirements regarding their whereabouts.

The bill authorizes United States marshals to apprehend sex offenders who fail to register and increases grants to States to apprehend sex offenders who are in violation of registration requirements contained in the legislation.

Additionally, H.R. 3132 would authorize demonstration programs for new electronic monitoring programs such as anklets and global position system monitoring, which will require examination of multijurisdictional monitoring procedures.

H.R. 3132 also revises the use of DNA evidence; increases penalties for violent crimes committed against children, and sexual exploitation of children; streamlines habeas review; State death penalties are imposed against child killers; and protects foster children by requiring States to perform more complete background checks before approving a foster or adoptive parent program and placement.

This legislation is strongly supported by America's Most Wanted, John Walsh; Ernie Allen from the National Center for Missing and Exploited Children; Robbie Calloway from the Boys and Girls Clubs of America; and many victims and representatives of victims organizations.

The courage of some, such as the father of Jessica Lunsford, to speak out on this important issue in the face of unmistakable grief is truly admirable. They have provided critical input throughout the process and have urged Congress to enact this legislation as quickly as possible.

Mr. Chairman, the time to protect our Nation's children from sexual predators in our communities and online on the Internet is now.

The scope of this problem requires a swift congressional response, and I urge Members of this body to move swiftly to help protect America's children from violent sexual offenders.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, we all abhor the horrific cases of child murders or sex offenses committed by those who are referenced in the bill. But the question before us is whether what we are doing in the bill will actually reduce the incidence of child molestation or actually increase it.

We should certainly seek to avoid enacting legislation that expends scarce resources in a manner that is not cost effective or that exacerbates the problem. It is clear that having police supervision and police awareness of the location and identification information about sex offenders is appropriate and helpful.

But it is not clear that putting that information indiscriminately on the Internet, regardless of the dangerousness of the individual, with no guidance or restriction of what people should do with the information, it is unclear whether that is helpful or harmful.

There have been incidents of vigilantes and other activities where offenders have actually been driven underground, so you actually do not know where they are. That is certainly not good for children. And try to sell your home when a sex offender moves a few blocks away. Are children actually helped by that? That would be a necessary problem; but there is no evidence that putting that information on the Internet actually reduces the incidence of child molestation, so the real estate prices all over the neighborhood go down.

Now, research shows that 90 percent of sex offenses against children involve either family members or someone well known to the victim. So when you put names and addresses on the Internet, 90 percent of the offenses are not even covered. We also have the situation where those on the Internet are ostracized and subjected to public notoriety, embarrassment, ridicule, and harassment.

In one actual case, a teacher was reading the names of offenders to grade school students in an apparent effort to protect them, when one student blurted out the question to another student: ''Is that not your father?''

This victimizes the victim twice and may well discourage offense reporting that is already considered very low in these situations. Many offenders identified on the Internet will not only become unemployed and unemployable because of that notoriety, but they may also have to leave their home to avoid embarrassment or other consequences to themselves and their families, and having done that, may just go underground and not bother to register again.

Where an offender clearly represents a threat to the public, perhaps the consequences to the victims and their family members cannot be avoided; but where the individual clearly does not present a threat to the public, informing the general public may do more harm than good.

Law enforcement and child-serving authorities should have access to the information. Until they have reliable information to show that the impact of the Internet will actually reduce the incidence of child molestation, we should be circumspect on how we use this information.

Now, we have taken a step in the right direction in the bill by encouraging those States and localities that are not already doing so to consider whether there are offenders who should be required to register, but may not have to be put on the Internet.

□ 1215

I am pleased, Mr. Chairman, that the gentleman from Wisconsin (Mr. SENSENBRENNER) has indicated his willingness as the bill moves towards conference to continue to look for ways we might support the States and localities who are already making such assessments while encouraging those who are not making those assessments to do so.

There are effective things we can do, and hopefully we will have amendments that will deal with this. Because research has shown that intensive, therapeutic sexual offender treatment cuts sexual offense recidivism in half. Fortunately, the evidence is that, even without the treatment, recidivism is low amongst sexual offenders of children. This is not what the legend is, but the facts are that a recent study by the Department of Justice showed that the rearrest rate among child molesters is 3.3 percent, much less than the recidivism rate of other criminals.

Any recidivism rate is too high, so I am pleased that we are working together to fashion a provision that will assure that all sex offenders in the Federal system will receive appropriate, effective treatment prior to their release; and I hope that we can continue to work together to provide a similar system for State offenders where we could significantly reduce child victimization by assuring access to effective treatment for all.

Now there are provisions in this legislation that are not based on research or sound reasoning like the death penalty, mandatory minimums, both of which have been studied and shown not to have any effect on crime. We also have the anomaly in this because it is Federal legislation that because Indian reservations, their sole access to courts is the Federal system, they will all be under the Federal system but most others will not. So it will have a disproportionate effect against Native Americans.

Now, day by day we are seeing more and more evidence that the death penalty administration is fraught with mistake, racial discrimination and it is applied in an arbitrary way. We have also seen the mandatory minimums have been shown to waste the taxpayers' money, been racially discriminatory, and the Judicial Conference reminds us every time we have a mandatory minimum for consideration that mandatory minimums violate common sense compared to traditional sentencing approaches.

This bill includes a 5-year mandatory minimum for any technical violation involved in registration. For example, if you are already registered and you attend the local community college but forgot to recognize that the community college is in a different jurisdiction and you should have registered there, too, well, that offense is subject to a 5-year mandatory minimum. Notwithstanding the fact that the original offense was 15 years ago, was a misdemeanor for which no time was imposed, it is a 5-year mandatory minimum for the technical violation of not registering correctly.

Another provision that is in the bill that will not have much effect on reducing child molestation is eliminating the access to habeas corpus. That will not reduce sex crimes. All of these are good, politically appealing sound bites that will help politicians get elected but which have no evidence that they will actually reduce the incidence of child molestation.

This bill will cost over $500 million over the next few years. We need to

make sure that when we spend that kind of money that we actually do something constructive. Here we have a bill with mandatory minimums, death penalties that have been shown that have nothing to do with reducing crime, it is primarily focused on Native Americans, and I would hope that we would support amendments to eliminate such extraneous matters on the bill so we can concentrate the $500 million on effective crime-reducing approaches.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time. More importantly, I thank the gentleman for his great leadership on the subject of child safety.

Mr. Chairman, when I came to this House I hoped that I would have the chance to make a difference in the area of crimes against kids, and thanks to the leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER) I have had this opportunity. In fact, we have all had this opportunity.

We have made great strides in recent years: the Amber Alert System; two strikes and you are out for child molesters; the Debbie Smith Act which we passed last session which will make sure that our DNA databases are up to date and more usable and we will have better training and education for those health care professionals and law enforcement professionals who work in this field.

But, sadly, we have been reminded in recent months that despite all the work that we have done we have a long way to go. Dru Sjodin, Jessica Lunsford, Sara Hunde and, sadly, other names have reminded us painfully, tragically that there is a lot of work to do.

The Children's Safety Act is, in my view, a great stride towards doing what we can and what we must to protect our kids from those who would prey upon them.

First off, it has tough penalties. It does have tough penalties. It does have mandatory minimums, because I believe and so many people believe that we have to send a clear, unmistakable signal that those who prey upon our kids will not be tolerated.

Secondly, we increased the size of the DNA database, which means that we give to law enforcement professionals the tools they need to track down these monitors and to put them away, to put them behind bars.

And, third, and I believe most importantly, we expand the use of the sex offender registry and increased notification requirements. We take that registry system nationwide, we make it accessible online, and we close up some of the loopholes that, sadly, have led to some of the crimes that we have all heard about.

I would like to speak briefly about one of those loopholes that people in my home State of Wisconsin have learned about tragically. The situation, the case, the story of Amie Zyla which has led to the Amie Zyla provisions in this bill.

The case of Miss Zyla, she was a young girl in the county of Waukesha, Wisconsin, when she was assaulted brutally by a young offender. He was found guilty. He was sentenced to a juvenile facility. But when he turned 18 he was released; and when he was released, because he had committed that act as a juvenile, the record was sealed. Law enforcement was not allowed to notify the community that they were having released back into the midst of this community a sex offender, a dangerous sex offender. The assailant went on to hold himself out as a youth minister; and, as you can guess, he preyed upon a number of children, destroyed lives, damaging families and causing so much terror.

In fact, Amie Zyla was not notified of the release of this man until she saw him on TV, actually saw him on the news, and there was his face and she realized for the first time that the man who had done so much damage to her was back out on the street right where she was.

Under this bill, we say that if the crime committed by the juvenile offender was so serious that it would have qualified for reporting under the sex offender registry if he were an adult, then that means that law enforcement has the ability, not the obligation but the ability, to notify the community when that sex offender is released back into the community.

That is about giving tools to our parents, to our families, to our community leaders, to those organizations that are so important to us, giving them the tools to prevent these acts from occurring again; and nothing is more important.

Now, Mr. Chairman, a lot of numbers have already been tossed around and will be tossed around in the coming debate. You have heard one out of five girls has been sexually exploited before reaching adulthood. We have heard that 67 percent of all victims of sexual assault are juveniles. But I want to suggest to you that this is not about the numbers and that people will toss around the numbers, but we cannot tell if those numbers are accurate because we know that these crimes are the most underreported crimes in society.

My guess is and most experts will tell you that the damage that is done, the number of crimes is far in excess of any of the studies that are out there. More importantly, numbers do not tell the true story. Each child who is attacked and assaulted by one of these offenders represents a life damaged, an innocence stolen, and, all too often, sadly, tragically, a family destroyed.

Mr. Chairman, we need to pass this legislation. We need to give tools to community leaders and to parents to make sure those acts never occur again. There is so much we have accomplished in the last few years. There is so much left to do. We do that with the Child Safety Act.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I come reluctantly before you to re-express my desire to protect all our children from predators, and I am confident that I speak for all Members when we say that each new abduction brings a concern, an outrage that we all feel.

Child molesters prey on those that are most vulnerable in our society, and we must stop them. But how can we stop them if we are primarily creating 36 new mandatory minimum criminal penalties that are completely arbitrary, that have been shown to be ineffective at reducing crime, and a consummate waste of taxpayer money? But that is not the only reason.

Thanks to mandatory minimum sentences, almost 10 percent of all inmates in the Federal and State prisons are serving life sentences, an 83 percent increase since 1992. In two States, New York and California, 20 percent of the people in prison are serving life sentences. And what do we have to show for these statistics? Well, a system that currently houses more than 2 million Americans, almost four times the number of individuals incarcerated in 1985, at a cost of $40 billion to run and operate.

We create additional new death penalty eligibility offenses. This spring, 120 death row inmates were exonerated due to proof of their innocence. So, in the end, if we are truly serious about protecting our children from acts of sexual exploitation and violence, we have got to turn to prevention. We have got to use preventative solutions that really try to get to the root of the problem instead of after-the-fact criminal penalties that do not address the issue.

Do these sick people check the statutes to find out what the newest penalties are or whether they are mandatory or not or whether they can carry additional incarceration terms? I doubt it.

Finally, we have people that have written, professionals, scientific researchers treatment professionals, child advocates, who have serious reservations about this measure, H.R. 3132.

From the Center on Child Abuse and Neglect, the Editor-in-Chief on Child Maltreatment, the Journal of American Professional Society of the Abuse of Children, the Director of Crimes Against Children Research Center, the National Crime Victims Research and Treatment Center, Dr. Friedrich of the Mayo Clinic and Mayo Medical School, from the Board of Directors Association of the Treatment of Sexual Abusers, all these letters have poured in urging that we put more prevention into this measure rather than less.

Please let us turn this measure back.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I am a co-sponsor of the Children's Safety Act because we must crack down against child molesters by making sure they serve longer sentences and by requiring sex offenders who fail to comply with registration requirements to go back to jail where they belong.

□ 1230

The best way to protect young children is to keep child predators locked up in the first place because someone who has molested a child will do it again and again and again.

Earlier this year, two young girls from my home State of Florida, 9-year-old Jessica Lunsford and 13-year-old Sarah Lunde, were abducted, raped and killed. In both cases, the crimes were committed by convicted sex offenders who were out on probation. Coddling pedophiles with rehabilitation and self-esteem courses does not work. Locking them up works.

This law imposes a mandatory minimum punishment of 30 years for those who commit violent sexual crimes against children, as well as a minimum punishment of life in prison or a death sentence when that crime results in the child's death.

This legislation also cracks down on those sex offenders who refuse to follow registration requirements. Nearly 100,000 sex offenders remain unregistered and are moving freely about the country. This legislation will make it a Federal crime for those sex offenders who fail to register and will send them back to jail for another 5 to 20 years.

It is high time that our government cracks down on child molesters by implementing these commonsense reforms, and I urge my colleagues to vote ''yes'' on H.R. 3132.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Chairman, I would like to thank my colleague for the time.

Mr. Chairman, I rise in support of H.R. 3132, the Children's Safety Act. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for advancing this legislation.

It is unfortunate, but our children are not as safe as they could be. There are nearly 550,000 registered sex offenders here in the United States, one for nearly every 200 children. Worse, many of these individuals are able to slip through the cracks and become lost to law enforcement because many of these do not register; and when they move, States do not reregister. A 2003 investigation found in California alone 33,000 registered sex offenders could not be accounted for.

Studies indicate that the recidivism rate for child molesters is as high as 13 percent.

Consider the horrific case that all of us have read about recently of 9-year-old Jessica Lunsford. Jessica was abducted from her home, raped and then buried alive by a convicted sex offender who lived 150 feet from her home. Law enforcement officials had lost track of her murderer and were unaware that he worked at her school.

Mr. Chairman, when I worked in the White House, we worked on passing Megan's Law. That law was effective because it used the right technology at that point to help ensure the safety of our children. This legislation, with this type of technology, builds on the progress we made under Megan's Law to protect our children.

To utilize this new technology and to make our children safer, I introduced H.R. 3407, the Jessica Lunsford and Sarah Lunde Act, with companion legislation in the Senate with Senator NELSON.

Similar to programs already under way in some States, the system would utilize electronic technology, such as GPS, to track sexual predators upon their release from prison. There is no opt in or opt out. It would be a system to track them within 10 feet of their location at any time.

I am pleased that the gentleman from Wisconsin (Mr. SENSENBRENNER) has included an electronic monitoring pilot program in the Children's Safety Act. Furthermore, I am pleased that the chairman is also willing to address some of the other issues we discussed in the manager's amendment.

I would also like to thank the gentleman from Indiana (Mr. BURTON) for his help in securing our amendments.

Mr. Chairman, the fact is our children are not as safe as they could be. This bill, the Children's Safety Act, is an important step toward ensuring their safety and using the technology that is available today in the marketplace to ensure our law enforcement community has all the tools that are necessary to protect our children.

I support this bill and hope that my colleagues will join me and quickly pass this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. POE).

Mr. POE. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for sponsoring this legislation. I am glad to be a co-author/cosponsor of the legislation.

The burden victims carry does not go away when the headlines do. The Children's Safety Act has important preventative measures, but it also instigates appropriate response after a citizen has been victimized.

The Children's Safety Act provides tough tools to keep predators accountable and their whereabouts known by the rest of us. There is one thing that a predator wants more than anything else and that is to remain anonymous, to sneak in and out of our communities and commit their criminal ways.

The issue of protecting our children from predators is on the minds of every mother and father as they put their children on school buses every morning during the school year. From the countless phone calls, letters, and e-mails pleading to protect our kids from sex predators, we know these protections to our children in the Children's Safety Act are a priority to our Nation and our people.

Keeping our children safe from predators should be all of our priorities here in the United States Congress. We know that child molesters, after they leave the penitentiary, most of them do it again.

In this country, we are able to track a cow from the time it is born as a calf to the time it ends up on the supper table somewhere in the United States as a steak. We do that because of public safety. Now we are going to track child molesters when they leave the penitentiary. We will track them indefinitely because of public safety. Children should be at least as important as cattle.

As a co-author and cosponsor of the Children's Safety Act, as a former judge in Houston, Texas, I urge my colleagues on both sides of the aisle to listen to their constituents, listen to the people of this country, vote in favor of safety for American children. The days of child molesters running and hiding are over.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in strong support of the Children's Safety Act of 2005. I commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for this legislation and appreciate very much the bipartisan way in which he has worked with me in developing this legislation and in listening to the concerns that I have brought from experiences in our region.

Deviant sexual predators have clearly shown us that sex offenders do not stop at State lines, and neither should our sex offender laws. The Children's Safety Act is a comprehensive, bipartisan child safety bill that brings uniformity to our current sex offender registry system and increases penalties for those who prey upon our children.

The urgent need for a national system is clearly and tragically demonstrated by the case of Dru Sjodin. Dru Sjodin was a lovely young woman, a senior at the University of North Dakota, where she was holding down two jobs. She was an exceptional student, a leader in our community. She was abducted from a shopping center parking lot in broad daylight on a Saturday afternoon nearly 2 years ago.

This type of disappearance never happens in our part of the country, and it traumatized the whole community. Thousands spent weeks trudging through snow banks in the worst weather we ever saw searching for Dru.

Well, 5 months later, her dead body was found in a ravine just outside of Crookston, Minnesota.

It just so happens the investigation has revealed that a recently released Level III sex offender from Minnesota named Alfonso Rodriguez, Jr., was charged with Dru's kidnapping and murder. He was living in Minnesota. We did not know of his existence in North Dakota. He was registered as a sex offender only in the State of Minnesota.

This tragic example illustrates why we have to have a comprehensive response here, a nationwide Internet available, a registry system that families can access. It provides the kind of information in terms of where these high-risk offenders are living, where they are working, going to school, what kind of vehicle they are driving. People need this information to keep their children safe, and that is why I am proud to be a cosponsor of this bill and pleased that the chairman has designated in the legislation this registry in memory of Dru Sjodin, the Dru Sjodin National Sex Offender Registry.

The bill also has tough requirements for complying with keeping the registration information current so that the information on there is of value to families. It also has tough sanctions for those who would harm our children and, finally, Federal dollars to assist local police departments in making certain that people are complying with their registry requirements.

I believe that this legislation is a comprehensive response to a significant public policy need, and I urge the adoption of this. Families need this protection.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, as cochairman of the Congressional Missing and Exploited Children's Caucus and an original author of the Sex Offender Registration and Notification measure included in this bill, I rise in strong support of H.R. 3132, the Children's Safety Act of 2005.

Mr. Speaker, we have all heard the names: Jessica Lunsford, Jetseta Gage, Sarah Lunde, Megan Kanka, Jacob Wetterling, just to name a few. All beautiful children carrying with them the hopes and dreams of every young child in this country. All taken away from their parents and their futures, killed by sex offenders.

This is an important piece of legislation we are faced with today. It is probably one of the most tragic things any family will ever deal with. While Katrina, the hurricane, and Judge Roberts are much in the headlines, below the fold seems to be daily an occurrence of a violent act against our children. It is time we get tough.

I have said repeatedly that in this country we track library books better than we do sex offenders. This bill, thanks to the good efforts of the gentleman from Wisconsin (Mr. SENSENBRENNER) and others, seeks to correct that.

This bill is not a knee-jerk reaction. We have worked over 1 year on this legislation with the National Center For Missing and Exploited Children, the U.S. Department of Justice, and other Federal agencies.

It is horrific that in this country we are experiencing these untold tragedies throughout our Nation; but we can do better, and in this bill we will do better.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and his staff, Mike Volkov, for working tirelessly to produce this comprehensive child protection legislation. This bill has indeed many fathers and mothers. It is for the children, though, that we work and we labor.

I have often said this bill is a labor of love. Yet it is a labor of shame that we have these kinds of incidents of violence and tragedies affecting our kids.

I would like to thank Bradley Schreiber, my legislative director, who has worked so many hours in trying to perfect and work alongside staff to make this legislation possible; Ernie Allen from the National Center for Missing and Exploited Children; John Walsh from America's Most Wanted, who has led a crusade for well over 20 years since the death of his beautiful son Adam in Florida. John Walsh has brought a scrutiny to child protection legislation unlike any other human being.

Finally, and most important, I want to recognize the victims' parents. It is their hard work and determination, their tears and their frustration, and their fears for their other children that has brought this bill to the floor so quickly. They took away from their own tragedies a chance to help fellow Americans protect other children; and for that we are entirely grateful.

Mr. Chairman, these are not petty criminals. These are sex offenders, and they must be dealt with accordingly.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank my friend from Virginia very much for the time.

Mr. Chairman, I rise today in strong support of H.R. 3132, the Children's Safety Act of 2005. I am proud to have been an original cosponsor of this legislation, and I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for incorporating a piece of legislation that the gentleman from Florida (Mr. FOLEY) and I proposed last year, the Sex Offenders Registration and Notification Act.

The gentleman from Florida (Mr. FOLEY) and I stood with John Walsh, with Ernie Allen, with the Center for Missing and Exploited Children, representatives of the Boys and Girls Club as well, and parents of children who have been killed by sex offenders.

This Children's Safety Act of 2005 does, in fact, close the gaps. It tightens the ability to track down where convicted sex offenders are living and to improve the ways we notify our neighborhoods and our school districts when convicted sex offenders choose to live in our community.

I am pleased that the gentleman from Florida's (Mr. FOLEY) legislation and my legislation was effectively included in title I of the bill we are considering today. When watching the news for the past 2 years, it is sickening to see of how many communities, how many neighborhoods, how many parents are terrorized because sex offenders are back in their neighborhoods.

I know from being a district attorney that our States have done a lot to correct the gaps, but more needs to be done. As a father, I do not want to see a child of mine victimized in that way, and I want to put myself in the shoes of those parents who had to experience this dreadful victimization.

We must support this legislation today because the Children's Safety Act will increase and tighten supervision of those sex offenders and will enhance uniform notification standards for tracking sex offenders. I strongly believe that this comprehensive bill finally will give law enforcement officers the tools and resources they need to track these criminals and to protect our children and families.

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Mr. Chairman, I strongly urge my colleagues to adopt the Children's Safety Act.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. SCHMIDT).

Mrs. SCHMIDT. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time. I appreciate the gentleman's work on this important legislation that will help protect our Nation's children.

Mr. Chairman, I rise in strong support of H.R. 3132, the Children's Safety Act. As we are hearing today, there is an epidemic of violence against our Nation's children. Almost weekly we hear of another tragic report of sex offenders preying on children. We all remember Jessica Lunsford, age 9, who was buried alive and murdered. Jessica's mother lives in my congressional district.

Tragically, one in five girls and 1 in 10 boys is sexually assaulted before adulthood. One of every six sexual assault victims is under the age of 6.

This is an issue that is very important to me. My home State of Ohio has made significant improvements to its sex offender registration and notification system. As a legislator in the Ohio General Assembly, I authored legislation, now Ohio law, that requires law enforcement to notify neighbors who live within a thousand feet of a sexual predator. I sought this change from prior law after a sexual predator moved across the street from a school bus stop in my district.

Mr. Chairman, I ask that this bipartisan legislation be unanimously passed.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

During the last few minutes, we have heard a lot of praise of mandatory minimums. I just want to remind the House that the Judicial Conference writes us frequently and reminds us that mandatory minimums violate common sense. That is because if the offense requires the mandatory minimum and that makes common sense, it can be applied; but if it makes no sense, mandatory minimums require us to impose that sentence anyway.

Many of the provisions of the bill are crimes which we do not think would be subject to 5- or 10-year mandatory minimums. There is a provision in the bill that says that felonious assaults against a juvenile, which could be two juveniles having a fist fight in the school yard, if it gets into a big fight, that that is a 10-year mandatory minimum if no injury occurs. Now, of course, if an injury occurs in the fight, then you are talking about 20 years. I think common sense should prevail and a more appropriate sentence could be given.

This entire registration program that requires people to register has not been shown to reduce the incidence of child molestation. For someone who commits a crime, even as a juvenile, they will be subject to lifetime registration. There is no suggestion and there is no evidence that that reduces crime. It may actually increase crime.

We know that 90 percent of the offenses against children were people that would not be covered by the legislation, and 3.3 percent of those covered by the legislation might offend. We have other ways of dealing with that in such a way that we can actually reduce that 3.3 as much as 50 percent. We ought to be focused on that.

Mr. Chairman, we need to focus on the things that will actually reduce crime. This bill, many of the provisions of it, obviously, do not; and I would hope that we would focus appropriately to actually protect the children.

Mr. HOLT. Mr. Chairman, I rise today to oppose the so-called Child Safety Act, H.R. 3132, because it forsakes meaningful crime reduction in favor of ineffective solutions that will only create a false illusion that our children are better protected from sexual abuse.

We have all read with heartbreak and anger the horrible, the terrible stories of sexual abuse, abduction, and murder of children. It is clear that we need to protect children from sexual predators and pedophiles through stronger laws and better enforcement. I realize that voting against a bill with a title as attractive as this is easily misunderstood and mischaracterized. But I have never been one to vote for form over substance, nor to shy away from standing up for what is right regardless of the political slings and arrows. Unfortunately, this bill will do more harm than good, and in the balance will do precious little to make our children safer. I hope the Senate will do better.

We need a real system that gives parents peace of mind and enables them to be aware of the presence of pedophiles in their neighborhood. A National Sex Offender Registry, that is maintained by the United States Department of Justice is a very good idea that I support. Members of every local community would be able to access this registry online, and be able to keep tabs on those who may pose harm to our children. States would notify each other when sex offenders move between States, and reporting requirements would be uniform so that it's easier to keep the lists current and accurate. This is a sensible thing that we should be doing to protect our children. I would be proud to support it and I hope it will be addressed on the floor in a more rational way.

That leads me to my overriding criticism of this bill: Its flaws are so troubling and fundamental that it compels me to oppose passage despite my support of one component part.

This bill creates 36 new mandatory minimum penalties. Mandatory minimum penalties do not work. They discount mitigating factors in crimes, prevent judges from meting out punishments that are tailored to the criminal, and have been proven discriminatory to people of color. They do not work. They may make legislators feel good but they have been shown not to reduce crime rates. Even the Judicial Conference, the group that represents Federal judges, has said that mandatory minimums violate common sense. Let me explain how just one of the new minimums will make us less safe, instead of more. If a previously convicted but released sex offender commits a technical violation of the reporting requirements—for example, they miss the registration deadline by a day or a week—they would receive a mandatory 5-year sentence. There is no discussion, and there can be no evaluation by a Federal judge.

The result is that sex offenders who miss the deadline or commit other technical violations will only be driven underground. Instead of turning themselves in, they will go under the radar and into unsuspecting communities. This is exactly the opposite of what needs to happen.

Also troubling is the fact that this legislation creates two additional death penalties. Yet, research has shown that capital punishment is not a deterrent to crime. Let me repeat, the death penalty simply does not reduce crime.

Those who commit the most heinous and terrible crimes against our children should have to face being locked away for the rest of their lives, where they must contemplate their crimes until the end of their days, without posing harm to society. But expanding the already ineffective death penalty to crimes where the victim's death is not even intentional is not only illogical, it is immoral. The government's job is to prevent crime and punish criminals, often severely. But killing citizens in order to exact retribution is inappropriate for a government that seeks to be moral.

We do need a Child Safety Act, but it should be a real one. We need sensible punishments and preventative measures that will actually reduce sexual predation, not just talk tough.

I am very disappointed that this bill weakens sound registration requirements and penalties by stacking them on fundamentally flawed provisions. It is my hope that sensible actions to protect our children are considered at the earliest possible date.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 3132, the Children's Safety Act of 2005. Once again, this Congress is attempting to address a very serious and complicated problem with a law that substitutes the talking points of "tough on crime" politicians for the wisdom of judges, prosecutors, treatment professionals and child advocates. As a father and someone who has fought for better foster care, education, and health care for children, I object to this ill-conceived legislation that is as much an attack on our independent judiciary as it is a bill to protect kids.

Many child advocates themselves oppose this bill because kids in grade school or junior high will be swept up alongside paroled adults in sex offender registries. Many caught in registries would be 13 and 14 year olds. In some States, children 10 and under would be registered.

This bill creates 36 new mandatory minimum sentences, which impose the judgment of Congress over every case, regardless of the circumstances. The Judicial Conference of the United States and the U.S. Sentencing Commission have found that mandatory minimums actually have the opposite of their intended effect. They "destroy honesty in sentencing by encouraging plea bargains." They treat dissimilar offenders in a similar manner, even though there are vast differences in the seriousness of their conduct and their danger to society. Judges serve a very important role in criminal justice, and Congress should not attempt to do their job for them.

Finally, this bill expands the death penalty, which is not a deterrent, costs more to implement than life imprisonment, and runs the risk of executing the innocent.

Nobody, especially the parents and victims of sexual abuse who have contacted me on this issue, should confuse my objections to this bad policy with indifference to the problem of child sex abuse in this country. It is a huge problem, affecting millions of American children. Recent news stories prove that the registry system isn't working well.

I support aspects of this bill, including a strengthened nationwide registry for pedophiles, with strict requirements for reporting changes of address and punishments for failing to report. I support establishing treatment programs for sex offenders in prison, background checks for foster parents, funding for computer systems to track sex crimes involving the Internet, and, at last resort, procedures for committing sexually dangerous persons to secure treatment facilities.

However, I cannot violate my constitutional duty to protect our independent judiciary nor can I support extreme, dangerous policies, so I will vote against this bill. I hope that, working with the Senate, we can improve this legislation and implement the policies that everyone agrees are needed without the unintended consequences of the bill in its current form.

Mr. SMITH of Texas. Mr. Chairman, I support H.R. 3132. It is an important bill that will help ensure the safety of American children against sexual predators.

In recent months we have heard all too often about the innocent lives of children being shattered by an adult who sexually abuses the child.

We are all familiar with the cases, some of which have been mentioned today, such as Jessica Lunsford who was kidnapped, held captive, abused and tortured for 3 days by a

convicted sex offender who ultimately killed her by burying her alive.

And there was the case of 8-year-old Shasta Groene who was kidnapped, sexually abused, and held captive for weeks by a convicted sex offender who murdered her family.

These stories are atrocious and that is why Congress is acting to further protect American children with the Children's Safety Act.

The bill requires jurisdiction-wide sex offender registries containing information like where the sex offender resides and is employed or attends school. The bill requires a sex offender to appear in person at least once every 6 months to verify their registration information.

The bill also creates a new Federal crime for failure to register as a sex offender and sets the mandatory minimum for that offense at 5 years and a maximum of 20 years.

The bill sets other mandatory minimum sentences for crimes of violence against children like murder, kidnapping, maiming, aggravated sexual abuse, sexual abuse or where the crime results in serious bodily injury.

The statistics surrounding child sexual abuse are astonishing—1 in 5 girls and 1 in 10 boys are sexually exploited before they reach adulthood. And one of every six sexually assaulted victims is under the age of 6.

We must protect our children by every possible means. The Children's Safety Act of 2005 will help us do so and for that reason I support this legislation.

Mr. ROYCE. Mr. Chairman, I am a cosponsor of H.R. 3132, the Children's Safety Act. I would have voted ''yes'' on this legislation. However, I am in New York City on official business for the House of Representatives. I was appointed by Speaker HASTERT as a delegate from the Committee on International Relations to serve as a representative to the United Nations General Assembly.

H.R. 3132 will help to address loopholes in current sex offender notification requirements, so that parents and the public can be armed with knowledge of any sex offenders living and working in their community. This legislation addresses a number of child crime issues, including registration of sex offenders, violent crimes against children, sexual crimes against children, sexual exploitation of children, and protection of foster and adopted children. The Children's Safety Act was drafted in response to the recent horrific attacks and murders of Jessica Lunsford, Sarah Lunde, Jetseta Gage, and others who have recently been killed by sex offenders. I strongly support this bill and look forward to it becoming law.

Mr. COSTA. Mr. Chairman, I rise today to speak in support of the Children's Safety Act. This legislation will close sexual offender registration loopholes and punish offenders who do not follow the law.

Sadly, every year hundreds of children are victimized by a convicted sexual offender. Convicted predators should be put in prison where they belong and kept away from our Nation's children. The Children's Safety Act, H.R. 3132, will do this. These tougher sentences will lock up repeat offenders and help keep our children safe. Because we know the recidivism rate of sexual offenders is very high, these longer sentences are crucial to protecting our children. We must hold these sexual offenders accountable and lock them up.

A National Sex Offender Registry, which is one of the components of the Children's Safety Act, will better enable us to protect our children. People have a right to know where sex offenders live and it is important for parents to have access to a national registry in order to make sure their children are safe.

In addition, to punishing sexual offenders and protecting our children, we must also provide services, resources and counseling to the people who are victims of these horrible crimes. Children need help healing the wounds caused by the heinous actions of sexual offenders. We must not forget their needs. Because the needs of victims are so crucial, I along with Congressman TED POE and Congresswoman KATHERINE HARRIS have formed the Victims' Rights Caucus. Through the caucus we draw attention to victim issues, work to protect funding that provides victims' services and introduce legislation to assist with victims. We must not forget the victims of crimes, especially when they are children.

Mr. GRAVES. Mr. Chairman, I rise today to speak in support of the Children's Safety Act of 2005. This legislation, if passed, will close the loopholes in the current system that allow sexual predators to evade law enforcement. It will enhance the current sex offender registration and community notification law. It will create a comprehensive national system for sex offender registration, improve information exchange between States when sex offenders move from State to State, and increase penalties for failing to comply with the registration law.

I would like to commend the Chairman for bringing this outstanding package to the floor today. I am very grateful that the Chairman has included several provisions from a bill that I introduced entitled the Sexual Predator Sentencing Act of 2005. These provisions would toughen several existing sentencing guidelines and keep sex offenders off the street.

Provisions incorporated from my bill will increase the criminal penalties and establish mandatory minimums for those that harm our children whether it is over the Internet or in person.

Strong laws that hold the criminal accountable are a vital component in the effort to protect children. Those who abduct children are often serial offenders who have already been convicted of similar offenses. Strong sentencing is an essential component in any effort to fight crimes against children.

This legislation contains many vital provisions in protecting our children from these violent predators. Our children must be protected against repeat sexual offenders. The Children's Safety Act of 2005 should be passed to keep sexual predators behind bars and our children safe.

Mr. GILLMOR. Mr. Chairman, I rise today in strong support of H.R. 3132, the Children's Safety Act of 2005.

Mr. Chairman, as a father and a grandfather I am often reminded of the dangers that surround my loved ones. Specifically, the growing threat that sexual predators pose to our Nation's children and their families represents an area where our criminal justice system has failed the American people. In order to effectively protect our loved ones, we must provide the American public with unfettered access to know who these dangerous criminals are and where they are living. If a picture is worth a thousand words, then a comprehensive nationwide publicly accessible database is worth at least that many lives.

I was pleased that Chairman SENSENBRENNER included provisions from my bill, H.R. 95, that would create a national, comprehensive, and publicly accessible sex offender database into this comprehensive piece of legislation. Additionally, I was delighted at the level of bi-partisanship that both my bill and today's legislation have received and I would like to personally thank Mr. POMEROY from North Dakota for his leadership and support. Also, I would like to extend my gratitude to organizations like the Big Brothers and Big Sisters of America and the Safe Now Project for their endorsements of H.R. 95's national database provision.

H.R. 3132 directly addresses the shortcomings of our criminal justice system and aims to make our country safer and more secure from those that would prey on our most vulnerable and our most prized assets—our children. With over 500,000 registered sex offenders and countless others which remain unknown, law enforcement and corrections personnel will have additional resources at their disposal to prevent and solve these types of crimes. Additionally, this bill strengthens the criminal code for sexually violent crimes and creates more stringent regulations which convicted offenders must adhere to in order to ensure proper monitoring. Americans have heard the heart wrenching stories of innocent children being harmed by predators, and we must make every effort to ensure that tragedies like these never happen again.

Mr. Chairman, today we must come together to make certain that our children grow up in a safe and secure environment and that parents are unafraid to let their children play in the neighborhood because they have the information they need to protect them. Knowledge is power, and today we have an opportunity before us to supply the American public with the tools necessary to protect themselves, their family, and their friends against those that would commit these heinous crimes. I urge all of my colleagues to cast their vote in support of this legislation and collectively answer the American public's call to provide them with additional resources to combat these predators before another life is lost and tragedy befalls another family.

Mr. SCOTT of Virginia. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule by title, and each title shall be considered read.

No amendment to that amendment shall be in order except those printed in that portion of the CONGRESSIONAL RECORD designated for that purpose and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 3132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Safety Act of 2005''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Sec. 101. Short title.
Sec. 102. Declaration of purpose.

Subtitle A—Jacob Wetterling Sex Offender Registration and Notification Program

Sec. 111. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators.
Sec. 112. Registry requirements for jurisdictions.
Sec. 113. Registry requirements for sex offenders.
Sec. 114. Information required in registration.
Sec. 115. Duration of registration requirement.
Sec. 116. In person verification.
Sec. 117. Duty to notify sex offenders of registration requirements and to register.
Sec. 118. Jessica Lunsford Address Verification Program.
Sec. 119. National Sex Offender Registry.
Sec. 120. Dru Sjodin National Sex Offender Public Website.
Sec. 121. Public access to sex offender information through the Internet.
Sec. 122. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.
Sec. 123. Actions to be taken when sex offender fails to comply.
Sec. 124. Immunity for good faith conduct.
Sec. 125. Development and availability of registry management software.
Sec. 126. Federal duty when State programs not minimally sufficient.
Sec. 127. Period for implementation by jurisdictions.
Sec. 128. Failure to comply.
Sec. 129. Sex Offender Management Assistance (SOMA) Program.
Sec. 130. Demonstration project for use of electronic monitoring devices.
Sec. 131. Bonus payments to States that implement electronic monitoring.
Sec. 132. National Center for Missing and Exploited Children access to Interstate Identification Index.
Sec. 133. Limited immunity for National Center for Missing and Exploited Children with respect to CyberTipline.

Subtitle B—Criminal law enforcement of registration requirements

Sec. 151. Amendments to title 18, United States Code, relating to sex offender registration.
Sec. 152. Investigation by United States Marshals of sex offender violations of registration requirements.
Sec. 153. Sex offender apprehension grants.
Sec. 154. Use of any controlled substance to facilitate sex offense.
Sec. 155. Repeal of predecessor sex offender program.

TITLE II—DNA FINGERPRINTING

Sec. 201. Short title.
Sec. 202. Expanding use of DNA to identify and prosecute sex offenders.
Sec. 203. Stopping Violent Predators Against Children.
Sec. 204. Model code on investigating missing persons and deaths.

TITLE III—PREVENTION AND DETERRENCE OF CRIMES AGAINST CHILDREN ACT OF 2005

Sec. 301. Short title.
Sec. 302. Assured punishment for violent crimes against children.
Sec. 303. Ensuring fair and expeditious Federal collateral review of convictions for killing a child.

TITLE IV—PROTECTION AGAINST SEXUAL EXPLOITATION OF CHILDREN ACT OF 2005

Sec. 401. Short title.
Sec. 402. Increased penalties for sexual offenses against children.

TITLE V—FOSTER CHILD PROTECTION AND CHILD SEXUAL PREDATOR DETERRENCE

Sec. 501. Short title.
Sec. 502. Requirement to complete background checks before approval of any foster or adoptive placement and to check national crime information databases and state child abuse registries; suspension and subsequent elimination of opt-out.
Sec. 503. Access to Federal crime information databases by child welfare agencies for certain purposes.
Sec. 504. Penalties for coercion and enticement by sex offenders.
Sec. 505. Penalties for conduct relating to child prostitution.
Sec. 506. Penalties for sexual abuse.
Sec. 507. Sex offender submission to search as condition of release.
Sec. 508. Kidnapping penalties and jurisdiction.
Sec. 509. Marital communication and adverse spousal privilege.
Sec. 510. Abuse and neglect of Indian children.
Sec. 511. Civil commitment.
Sec. 512. Mandatory penalties for sex-trafficking of children.
Sec. 513. Sexual abuse of wards.

The CHAIRMAN. Are there amendments to section 1? The Clerk will designate title I.

The text of title I is as follows:

TITLE I—SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Sex Offender Registration and Notification Act''.

SEC. 102. DECLARATION OF PURPOSE.

In response to the vicious attacks by violent sexual predators against the victims listed below, Congress in this Act establishes a comprehensive national system for the registration of sex offenders:

(1) Jacob Wetterling, who was 11 years old, was abducted in 1989 in Minnesota, and remains missing.

(2) Megan Nicole Kanka, who was 7 years old, was abducted, sexually assaulted and murdered in 1994, in New Jersey.

(3) Pam Lychner, who was 31 years old, was attacked by a career offender in Houston, Texas.

(4) Jetseta Gage, who was 10 years old, was kidnapped, sexually assaulted, and murdered in 2005 in Cedar Rapids, Iowa.

(5) Dru Sjodin, who was 22 years old, was sexually assaulted and murdered in 2003, in North Dakota.

(6) Jessica Lunsford, who was 9 years, was abducted, sexually assaulted, buried alive, and murdered in 2005, in Homosassa, Florida.

(7) Sarah Lunde, who was 13 years old, was strangled and murdered in 2005, in Ruskin, Florida.

(8) Amie Zyla, who was 8 years old, was sexually assaulted in 1996 by a juvenile offender in Waukesha, Wisconsin, and has become an advocate for child victims and protection of children from juvenile sex offenders.

(9) Christy Ann Fornoff, who was 13 years old, was abducted, sexually assaulted and murdered in 1984, in Tempe, Arizona.

(10) Alexandra Nicole Zapp, who was 30 years old, was brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Bridgewater, Massachusetts.

Subtitle A—Jacob Wetterling Sex Offender Registration and Notification Program

SEC. 111. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA EXPANSION OF SEX OFFENDER DEFINITION AND EXPANDED INCLUSION OF CHILD PREDATORS.

In this title the following definitions apply:

(1) SEX OFFENDER REGISTRY.—The term ''sex offender registry'' means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(2) JURISDICTION.—The term jurisdiction means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Somoa.

(F) Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) A federally recognized Indian tribe.

(3) AMIE ZYLA EXPANSION OF SEX OFFENDER DEFINITION.—The term ''sex offender'' means an individual who, either before or after the enactment of this Act, was convicted of, or adjudicated a juvenile delinquent for, an offense (other than an offense involving sexual conduct where the victim was at least 13 years old and the offender was not more than 4 years older than the victim and the sexual conduct was consensual, or an offense consisting of consensual sexual conduct with an adult) whether Federal, State, local, tribal, foreign (other than an offense based on conduct that would not be a crime if the conduct took place in the United States), military, juvenile or other, that is—

(A) a specified offense against a minor;

(B) a serious sex offense; or

(C) a misdemeanor sex offense against a minor.

(4) EXPANSION OF DEFINITION OF OFFENSE TO INCLUDE ALL CHILD PREDATORS.—The term ''specified offense against a minor'' means an offense against a minor that involves any of the following:

(A) Kidnapping (unless committed by a parent).

(B) False imprisonment (unless committed by a parent).

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Possession, production, or distribution of child pornography.

(G) Criminal sexual conduct towards a minor.

(H) Any conduct that by its nature is a sexual offense against a minor.

(I) Any other offense designated by the Attorney General for inclusion in this definition.

(J) Any attempt or conspiracy to commit an offense described in this paragraph.

(5) SEX OFFENSE.—The term ''sex offense'' means a criminal offense that has an element involving sexual act or sexual contact with another, or an attempt or conspiracy to commit such an offense.

(6) SERIOUS SEX OFFENSE.—The term ''serious sex offense'' means—

(A) a sex offense punishable under the law of a jurisdiction by imprisonment for more than one year;

(B) any Federal offense under chapter 109A, 110, 117, or section 1591 of title 18, United States Code;

(C) an offense in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law 105–119 (10 U.S.C. 951 note);

(D) any other offense designated by the Attorney General for inclusion in this definition.

(7) MISDEMEANOR SEX OFFENSE AGAINST A MINOR.— The term ''misdemeanor sex offense against a minor'' means a sex offense against a minor punishable by imprisonment for not more than one year.

(8) STUDENT.—The term ''student'' means an individual who enrolls or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(9) EMPLOYEE.—The term ''employee'' includes an individual who is self-employed or works for any other entity, whether compensated or not.

(10) RESIDES.—The term ''resides'' means, with respect to an individual, the location of the individual's home or other place where the individual lives.

(11) MINOR.—The term ''minor'' means an individual who has not attained the age of 18 years.

SEC. 112. REGISTRY REQUIREMENTS FOR JURISDICTIONS.

Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this title. The Attorney General shall issue and interpret guidelines to implement the requirements and purposes of this title.

SEC. 113. REGISTRY REQUIREMENTS FOR SEX OFFENDERS.

(a) IN GENERAL.—A sex offender must register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student.

(b) INITIAL REGISTRATION.—The sex offender shall initially register—

(1) before completing a sentence of imprisonment with respect to the offense giving rise to the registration requirement; or

(2) not later than 5 days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.

(c) KEEPING THE REGISTRATION CURRENT.—A sex offender must inform each jurisdiction involved, not later than 5 days after each change of residence, employment, or student status.

(d) RETROACTIVE DUTY TO REGISTER.—The Attorney General shall prescribe a method for the registration of sex offenders convicted before the enactment of this Act.

(e) STATE PENALTY FOR FAILURE TO COMPLY.—Each jurisdiction shall provide a criminal penalty, that includes a maximum term of imprisonment that is greater than one year, for the failure of a sex offender to comply with the requirements of this title.

SEC. 114. INFORMATION REQUIRED IN REGISTRATION.

(a) PROVIDED BY THE OFFENDER.—The sex offender must provide the following information to the appropriate official for inclusion in the sex offender registry:

(1) The name of the sex offender (including any alias used by the individual).

(2) The Social Security number of the sex offender.

(3) The address and location of the residence at which the sex offender resides or will reside.

(4) The place where the sex offender is employed or will be employed.

(5) The place where the sex offender is a student or will be a student.

(6) The license plate number of any vehicle owned or operated by the sex offender.

(7) A photograph of the sex offender.

(8) A set of fingerprints and palm prints of the sex offender, if the appropriate official determines that the jurisdiction does not already have available an accurate set.

(9) A DNA sample of the sex offender, if the appropriate official determines that the jurisdiction does not already have available an appropriate DNA sample.

(10) Any other information required by the Attorney General.

(b) PROVIDED BY THE JURISDICTION.—The jurisdiction in which the sex offender registers shall include the following information in the registry for that sex offender:

(1) A statement of the facts of the offense giving rise to the requirement to register under this title.

(2) The criminal history of the sex offender.

(3) Any other information required by the Attorney General.

SEC. 115. DURATION OF REGISTRATION REQUIREMENT.

A sex offender shall keep the registration current—

(1) for the life of the sex offender, if the offense is a specified offense against a minor, a serious sex offense, or a second misdemeanor sex offense against a minor; and

(2) for a period of 20 years, in any other case.

SEC. 116. IN PERSON VERIFICATION.

A sex offender shall appear in person and verify the information in each registry in which that offender is required to be registered not less frequently than once every six months.

SEC. 117. DUTY TO NOTIFY SEX OFFENDERS OF REGISTRATION REQUIREMENTS AND TO REGISTER.

An appropriate official shall, shortly before release from custody of the sex offender, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register—

(1) inform the sex offender of the duty to register and explain that duty;

(2) require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement; and

(3) ensure that the sex offender is registered.

SEC. 118. JESSICA LUNSFORD ADDRESS VERIFICATION PROGRAM.

(a) ESTABLISHMENT.—There is established the Jessica Lunsford Address Verification Program (hereinafter in this section referred to as the ''Program'').

(b) VERIFICATION.—In the Program, an appropriate official shall verify the residence of each registered sex offender not less than monthly or, in the case of a sex offender required to register because of a misdemeanor sex offense against a minor, not less than quarterly.

(c) USE OF MAILED FORM AUTHORIZED.—Such verification may be achieved by mailing a nonforwardable verification form to the last known address of the sex offender. The date of the mailing may be selected at random. The sex offender must return the form, including a notarized signature, within a set period of time. A failure to return the form as required may be a failure to register for the purposes of this title.

SEC. 119. NATIONAL SEX OFFENDER REGISTRY.

The Attorney General shall maintain a national database at the Federal Bureau of Investigation for each sex offender and other person required to register in a jurisdiction's sex offender registry. The database shall be known as the National Sex Offender Registry.

SEC. 120. DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE.

(a) ESTABLISHMENT.—There is established the Dru Sjodin National Sex Offender Public Website (hereinafter referred to as the ''Website'').

(b) INFORMATION TO BE PROVIDED.—The Attorney General shall maintain the Website as a site on the Internet which allows the public to obtain relevant information for each sex offender by a single query in a form established by the Attorney General.

(c) ELECTRONIC FORWARDING.—The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions, unless the Attroney General determines that each jurisdiction has so modified its sex offender registry and notification program that there is no longer a need for the Attorney General to do.

SEC. 121. PUBLIC ACCESS TO SEX OFFENDER INFORMATION THROUGH THE INTERNET.

Each jurisdiction shall make available on the Internet all information about each sex offender in the registry, except for the offender's Social Security number, the identity of any victim, and any other information exempted from disclosure by the Attorney General. The jurisdiction shall provide this information in a manner that is readily accessible to the public.

SEC. 122. MEGAN NICOLE KANKA AND ALEXANDRA NICOLE ZAPP COMMUNITY NOTIFICATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Program (hereinafter in this section referred to as the ''Program'').

(b) NOTIFICATION.—In the Program, as soon as possible, and in any case not later than 5 days after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:

(1) The Attorney General, who shall include that information in the National Sex Offender Registry.

(2) Appropriate law enforcement agencies (including probation agencies, if appropriate), and each school and public housing agency, in each area in which the individual resides, is employed, or is a student.

(3) Each jurisdiction from or to which a change of residence, work, or student status occurs.

(4) Any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

(5) Social service entities responsible for protecting minors in the child welfare system.

(6) Volunteer organizations in which contact with minors or other vulnerable individuals might occur.

SEC. 123. ACTIONS TO BE TAKEN WHEN SEX OFFENDER FAILS TO COMPLY.

An appropriate official shall notify the Attorney General and appropriate State and local law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry. The appropriate official, the Attorney General, and each such State and local law enforcment agency shall take any appropriate action to ensure compliance.

SEC. 124. IMMUNITY FOR GOOD FAITH CONDUCT.

Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and officials of jurisdictions and other political subdivisions shall not be civilly or criminally liable for good faith conduct under this title.

SEC. 125. DEVELOPMENT AND AVAILABILITY OF REGISTRY MANAGEMENT SOFTWARE.

The Attorney General shall develop and support software for use to establish, maintain, publish, and share sex offender registries.

SEC. 126. FEDERAL DUTY WHEN STATE PROGRAMS NOT MINIMALLY SUFFICIENT.

If the Attorney General determines that a jurisdiction does not have a minimally sufficient sex offender registration program, the Department of Justice shall, to the extent practicable, carry out the duties imposed on that jurisdiction by this title.

SEC. 127. PERIOD FOR IMPLEMENTATION BY JURISDICTIONS.

Each jurisdiction shall implement this title not later than 2 years after the date of the enactment of this Act. However, the Attorney General may authorize a one-year extension of the deadline.

SEC. 128. FAILURE TO COMPLY.

(a) IN GENERAL.—For any fiscal year after the end of the period for implementation, a jurisdiction that fails to implement this title shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under each of the following programs:

(1) BYRNE.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) LLEBG.—The Local Government Law Enforcement Block Grants program.

(b) REALLOCATION.—Amounts not allocated under a program referred to in paragraph (1) to a jurisdiction for failure to fully implement this title shall be reallocated under that program to jurisdictions that have not failed to implement this title.

SEC. 129. SEX OFFENDER MANAGEMENT ASSISTANCE (SOMA) PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this title referred to as the ''SOMA program'') under which the Attorney General may award a grant to a jurisdiction to offset the costs of implementing this title.

(b) APPLICATION.—The chief executive of a jurisdiction shall, on an annual basis, submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(c) BONUS PAYMENTS FOR PROMPT COMPLIANCE.—A jurisdiction that, as determined by the Attorney General, has implemented this title not later than two years after the date of the enactment of this Act is eligible for a bonus payment. Such payment shall be made under the SOMA program for the first fiscal year beginning after that determination. The amount of the payment shall be—

(1) 10 percent of the total received by the jurisdiction under the SOMA program for the preceding fiscal year, if implementation is not later than one year after the date of enactment of this Act; and

(2) 5 percent of such total, if not later than two years after that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to the Attorney General, to be available only for the SOMA program, for fiscal years 2006 through 2008.

SEC. 130. DEMONSTRATION PROJECT FOR USE OF ELECTRONIC MONITORING DEVICES.

(a) PROJECT REQUIRED.—The Attorney General shall carry out a demonstration project under which the Attorney General makes grants to jurisdictions to demonstrate the extent to which electronic monitoring devices can be used effectively in a sex offender management program.

(b) USE OF FUNDS.—The jurisdiction may use grant amounts under this section directly, or through arrangements with public or private entities, to carry out programs under which the whereabouts of sex offenders are monitored by electronic monitoring devices.

(c) PARTICIPANTS.—Not more than 10 jurisdictions may participate in the demonstration project at any one time.

(d) FACTORS.—In selecting jurisdictions to participate in the demonstration project, the Attorney General shall consider the following factors:

(1) The total number of sex offenders in the jurisdiction.

(2) The percentage of those sex offenders who fail to comply with registration requirements.

(3) The threat to public safety posed by those sex offenders who fail to comply with registration requirements.

(4) Any other factor the Attorney General considers appropriate.

(e) DURATION.—The Attorney General shall carry out the demonstration project for fiscal years 2007, 2008, and 2009.

(f) REPORTS.—The Attorney General shall submit to Congress an annual report on the demonstration project. Each such report shall describe the activities carried out by each participant, assess the effectiveness of those activities, and contain any other information or recommendations that the Attorney General considers appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

SEC. 131. BONUS PAYMENTS TO STATES THAT IMPLEMENT ELECTRONIC MONITORING.

(a) IN GENERAL.—A State that, within 3 years after the date of the enactment of this Act, has in effect laws and policies described in subsection (b) shall be eligible for a bonus payment described in subsection (c), to be paid by the Attorney General from any amounts available to the Attorney General for such purpose.

(b) ELECTRONIC MONITORING LAWS AND POLICIES.—

(1) IN GENERAL.—Laws and policies referred to in subsection (a) are laws and policies that ensure that electronic monitoring is required of a person if that person is released after being convicted of a State sex offense in which an individual who has not attained the age of 18 years is the victim.

(2) MONITORING REQUIRED.—The monitoring required under paragraph (1) is a system that actively monitors and identifies the person's location and timely reports or records the person's presence near or within a crime scene or in a prohibited area or the person's departure from specified geographic limitations.

(3) DURATION.—The electronic monitoring required by paragraph (1) shall be required of the person—

(A) for the life of the person, if—

(i) an individual who has not attained the age of 12 years is the victim; or

(ii) the person has a prior sex conviction (as defined in section 3559(e) of title 18, United States Code); and

(B) for the period during which the person is on probation, parole, or supervised release for the offense, in any other case.

(4) STATE REQUIRED TO MONITOR ALL SEX OFFENDERS RESIDING IN STATE.—In addition, laws and policies referred to in subsection (a) also includee laws and policies that ensure that the State frequently monitors each person residing in the State for whom electronic monitoring is required, whether such monitoring is required under this section or under section 3563(a)(9) of title 18, United States Code.

(c) BONUS PAYMENTS.—The bonus payment referred to in subsection (a) is a payment equal to 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under each of the following programs:

(1) BYRNE.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) LLEBG.—The Local Government Law Enforcement Block Grants program.

(d) DEFINITION.—In this section, the term ''State sex offense'' means any criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by the following:

(1) A specified offense against a minor.

(2) A serious sex offense.

SEC. 132. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN ACCESS TO INTERSTATE IDENTIFICATION INDEX.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General shall ensure that the National Center for Missing and Exploited Children has access to the Interstate Identification Index, to be used by the Center only within the scope of its duties and responsibilities under Federal law. The access provided under this section shall be authorized only to personnel of the Center that have met all the requirements for access, including training, certification, and background screening.

(b) IMMUNITY.—Personnel of the Center shall not be civilly or criminally liable for any use or misuse of information in the Interstate Identification Index if in good faith.

SEC. 133. LIMITED IMMUNITY FOR NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN WITH RESPECT TO CYBERTIPLINE.

Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended by adding at the end the following new subsection:

''(g) LIMITATION ON LIABILITY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the National Center for Missing and Exploited Children, including any of its directors, officers, employees, or agents, is not liable in any civil or criminal action for damages directly related to the performance of its CyberTipline responsibilities and functions as defined by this section.

''(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) does not apply in an action in which a party proves that the National Center for Missing and Exploited Children, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this section.

''(3) ORDINARY BUSINESS ACTIVITIES.—Paragraph (1) does not apply to an act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management.''.

Subtitle B—Criminal Law Enforcement of Registration Requirements

SEC. 151. AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO SEX OFFENDER REGISTRATION.

(a) CRIMINAL PENALTIES FOR NONREGISTRATION.—Part I of title 18, United States Code, is amended by inserting after chapter 109A the following:

''CHAPTER 109B—SEX OFFENDER AND CRIMES AGAINST CHILDREN REGISTRY

''Sec.

''2250. Failure to register.

''§2250. Failure to register

''Whoever receives a notice from an official that such person is required to register under the Sex Offender Registration and Notification Act and—

''(1) is a sex offender as defined for the purposes of that Act by reason of a conviction under Federal law; or

''(2) thereafter travels in interstate or foreign commerce, or enters or leaves Indian country;

and knowingly fails to register as required shall be fined under this title and imprisoned not less than 5 years nor more than 20 years.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 109A the following new item:

''109B. Sex offender and crimes against children registry .... 2250''.

(c) FALSE STATEMENT OFFENSE.—Section 1001(a) of title 18, United States Code, is amended by adding at the end the following: ''If the matter relates to an offense under chapter 109A, 109B, 110, or 117, then the term of imprisonment imposed under this section shall be not less than 5 years nor more than 20 years.''

(d) PROBATION.—Paragraph (8) of section 3563(a) of title 18, United States Code, is amended to read as follows:

''(8) for a person required to register under the Sex Offender Registration and Notification Act, that the person comply with the requirements of that Act; and''.

(e) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), in the sentence beginning with ''The court shall order, as an explicit condition of supervised release for a person described in section 4042(c)(4)'', by striking ''described in section 4042(c)(4)'' and all that follows through the end of the sentence and inserting ''required to register under the Sex Offender Registration and Notification Act that the person comply with the requirements of that Act.''

(2) in subsection (k)—

(A) by striking ''2244(a)(1), 2244(a)(2)'' and inserting ''2243, 2244, 2245, 2250'';

(B) by inserting ''not less than 5,'' after ''any term of years''; and

(C) by adding at the end the following: ''If a defendant required to register under the Sex Offender Registration and Notification Act violates the requirements of that Act or commits any criminal offense for which imprisonment for a term longer than one year can be imposed, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment under subsection (e)(3) without regard to the exception contained therein. Such term shall be not less than 5 years, and if the offense was an offense under chapter 109A, 109B, 110, or 117, not less than 10 years.'' .

(f) DUTIES OF BUREAU OF PRISONS.—Paragraph (3) of section 4042(c) of title 18, United States Code, is amended to read as follows:

''(3) The Director of the Bureau of Prisons shall inform a person who is released from prison and required to register under the Sex Offender Registration and Notification Act of the requirements of that Act as they apply to that person and the same information shall be provided to a person sentenced to probation by the probation officer responsible for supervision of that person.''.

(g) CONFORMING AMENDMENT OF CROSS REFERENCE.—Paragraph (1) of section 4042(c) of title 18, United States Code, is amended by striking ''(4)'' and inserting ''(3)''.

(h) CONFORMING REPEAL OF DEADWOOD.—Paragraph (4) of section 4042(c) of title 18, United States Code, is repealed.

SEC. 152. INVESTIGATION BY UNITED STATES MARSHALS OF SEX OFFENDER VIOLATIONS OF REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The Attorney General shall use the authority provided in section 566(e)(1)(B) of title 28, United States Code, to assist States and other jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2006 through 2008 to implement this section.

SEC. 153. SEX OFFENDER APPREHENSION GRANTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following new part:

''PART JJ—SEX OFFENDER APPREHENSION GRANTS

''SEC. 3011. AUTHORITY TO MAKE SEX OFFENDER APPREHENSION GRANTS.

''(a) IN GENERAL.—From amounts made available to carry out this part, the Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof for activities specified in subsection (b).

''(b) COVERED ACTIVITIES.—An activity referred to in subsection (a) is any program, project, or other activity to assist a State in enforcing sex offender registration requirements.

''SEC. 3012. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for fiscal years 2006 through 2008 to carry out this part.''.

SEC. 154. USE OF ANY CONTROLLED SUBSTANCE TO FACILITATE SEX OFFENSE.

(a) INCREASED PUNISHMENT.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following:

''§ 2249. Use of any controlled substance to facilitate sex offense

''(a) Whoever, knowingly uses a controlled substance to substantially impair the ability of a person to appraise or control conduct, in order to commit a sex offense, other than an offense where such use is an element of the offense, shall, in addition to the punishment provided for the sex offense, be imprisoned for any term of years not less than 10, or for life.

''(b) As used in this section, the term 'sex offense' means an offense under this chapter other than an offense under this section.''.

(b) AMENDMENT TO TABLE.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

''2249. Use of any controlled substance to facilitate sex offense.''.

SEC. 155. REPEAL OF PREDECESSOR SEX OFFENDER PROGRAM.

Sections 170101 (42 U.S.C. 14071) and 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994, and section 8 of the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (42 U.S.C. 14073), are repealed.

AMENDMENT NO. 27 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. SENSENBRENNER:

Page 11, line 2, after ''jurisdiction'' insert '', other than a Federally recognized Indian tribe''.

Page 27, line 5, insert '', or resides in,'' after ''enters or leaves''.

Page 6, line 22, strike ''A'' and insert ''To the extent provided and subject to the requirements of section 126, a''.

Page 6, line 19, strike ''Somoa'' and insert ''Samoa''.

Page 6, line 20, insert ''The'' before ''Northern''.

Page 10, line 4, strike ''and interpret''.

Page 10, line 5, strike ''to implement the requirements and purposes of'' and insert ''and regulations to interpret and implement''.

Page 12, line 23, after ''years'' insert ''(but such 20-year period shall not include any time the offender is in custody or civilly committed)''.

Page 16, line 15, after ''jurisdiction'' insert ''where the sex offender resides, works, or attends school, and each jurisdiction''.

Strike section 124 and insert the following:

SEC. 124. IMMUNITY FOR GOOD FAITH CONDUCT.

The Federal Government, jurisdictions, political subdivisions of jurisdictions, and their agencies, officers, employees, and agents shall be immune from liability for good faith conduct under this title.

Page 18, beginning in line 7, strike ''a one-year extension'' and insert ''up to two one-year extensions''.

Page 19, line 3, after ''title'' insert ''or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this title''.

Page 25, beginning in line 14, strike ''for damages directly related to'' and insert ''arising from''.

Page 26, beginning in line 20, strike ''receives a notice from an official that such person''.

Page 27, line 16, insert ''or section 1591,'' after ''117,''.

Page 29, line 3, insert ''or section 1591,'' after ''117,''.

Page 29, strike lines 14 through 17 and insert the following:

(g) CONFORMING AMENDMENTS TO CROSS REFERENCES.—Paragraphs (1) and (2) of section 4042(c) of title 18, United States Code, are each amended by striking ''(4)'' and inserting ''(3)''.

Page 10, line 26, after ''Act'' insert ''or its effective date in a particular jurisdiction''.

Page 19, after line 3, insert the following:

(c) RULE OF CONSTRUCTION.—The provisions of this title that are cast as directions to jurisdictions or their officials constitute only conditions required to avoid the reduction of Federal funding under this section.

Page 11, line 20, after ''plate number'' insert ''and description''.

Page 26, after line 7, insert the following:

SEC. 135. TREATMENT AND MANAGEMENT OF SEX OFFENDERS IN THE BUREAU OF PRISONS.

Section 3621 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(f) SEX OFFENDER MANAGEMENT.—

''(1) IN GENERAL.—The Bureau of Prisons shall make available appropriate treatment to sex offenders who are in need of and suitable for treatment, as follows:

''(A) SEX OFFENDER MANAGEMENT PROGRAMS.—The Bureau of Prisons shall establish non-residential sex offender management programs to provide appropriate treatment, monitoring, and supervision of sex offenders and to provide aftercare during pre-release custody.

''(B) RESIDENTIAL SEX OFFENDER TREATMENT PROGRAMS.—The Bureau of Prisons shall establish residential sex offender treatment programs to provide treatment to sex offenders who volunteer for such programs and are deemed by the Bureau of Prisons to be in need of and suitable for residential treatment.

''(2) REGIONS.—At least one sex offender management program under paragraph (1)(A), and at least one residential sex offender treatment program under paragraph (1)(B), shall be established in each region within the Bureau of Prisons.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Prisons for each fiscal year such sums as may be necessary to carry out this subsection.''.

At the end of title I, insert the following:

SEC. 155. ASSISTANCE FOR PROSECUTIONS OF CASES CLEARED THROUGH USE OF DNA BACKLOG CLEARANCE FUNDS.

(a) IN GENERAL.—The Attorney General may make grants to train and employ personnel to help investigate and prosecute cases cleared through use of funds provided for DNA backlog elimination.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010 to carry out this section.

SEC. 156. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to any other amounts authorized by law, there are authorized to be appropriated for grants to the American Prosecutors Research Institute under section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003) $7,500,000 for each of fiscal years 2006 through 2010.

Page 15, line 13, strike ''Each'' and insert ''(a) IN GENERAL.—Except as provided in subsection (b), each''.

Page 15, after line 19, insert the following:

(b) EXCEPTION.—To the extent authorized by the Attorney General, a jurisdiction need not make available on the Internet information about a sex offender required to register

for committing a misdemeanor sex offense against a minor who has attained the age of 16 years.

Page 8, line 15, insert ''a'' before ''sexual act''.

Page 12, line 13, insert '', including the date of the offense, and whether or not the sex offender was prosecuted as a juvenile at the time of the offense'' before the period.

Page 5, after line 23, insert the following:

(11) Polly Klaas, who was 12 years old, was abducted, sexually assaulted and murdered in 1993 by a career offender in California.

Page 24, beginning in line 7, strike ''in a range'' and all that follows through ''by'' in line 9 and inserting ''that is one of''.

Page 21, after line 15, insert the following (and redesignate succeeding subsections accordingly):

(f) INNOVATION.—In making grants under this section, the Attorney General shall ensure that different approaches to monitoring are funded to allow an assessment of effectiveness.

(g) ONE-TIME REPORT AND RECOMMENDATIONS.—Not later than April 1, 2008, the Attorney General shall submit to Congress a report—

(1) assessing the effectiveness and value of programs funded by this section;

(2) comparing the cost-effectiveness of the electronic monitoring to reduce sex offenses compared to other alternatives; and

(3) making recommendations for continuing funding and the appropriate levels for such funding.

Mr. SENSENBRENNER. Mr. Chairman, I rise to offer an amendment to the bill which makes a number of technical changes and substantive improvements to title I of the bill dealing with the sex offender registration and notification requirements and related issues. Let me briefly summarize some of the most important provisions.

First, the amendment includes a requirement that the Bureau of Prisons provide adequate treatment programs for sex offenders in all six of the regions and that they have adequate access to treatment in both residential and nonresidential programs.

Second, the amendment authorizes grants to States for prosecution of cases solved by DNA evidence. With the overwhelming passage of the Justice for All Act last Congress, this body recognized that DNA is a valuable tool for solving crimes. The amendment incorporates the proposal by the gentleman from California (Mr. GALLEGLY) which will further assist States in hiring more prosecutors and investigators for cases solved by DNA evidence.

Third, the amendment includes proposals contained in H.R. 3687, offered by the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from Massachusetts (Mr. DELAHUNT), and the gentleman from Texas (Mr. POE), and specifically authorizes technical assistance grants to improve the quality of criminal investigation and prosecution of child abuse cases.

Fourth, the amendment expands on the pilot program for electronic monitoring programs for sex offenders. As technology develops, we need to use tracking technologies to monitor sex offenders' locations and movements so that the public can be protected and law enforcement can intervene before another tragic attack against a child occurs.

Mr. Chairman, I urge my colleagues to support this amendment in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 28 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. SENSENBRENNER:

Page 26, after line 7, insert the following:

SEC. 136. ASSISTANCE IN IDENTIFICATION AND LOCATION OF SEX OFFENDERS RELOCATED AS A RESULT OF HURRICANE KATRINA.

The Attorney General shall provide technical assistance to jurisdictions to assist them in the identification and location of sex offenders relocated as a result of Hurricane Katrina.

Mr. SENSENBRENNER. Mr. Chairman, I rise to offer this amendment to respond to the law enforcement problems being faced by Louisiana, Mississippi, Alabama, Texas, and other States as a result of the devastation from Hurricane Katrina.

It is estimated that at least 15,000 sex offenders have been relocated from the affected area as a part of disaster relief efforts. Criminal records and sex offender information are, in many cases, not available to law enforcement or the community to track these offenders as they move to new areas. But this is just the tip of the iceberg.

It has been reported by the Texas Department of Justice, for example, that the State is experiencing significant increases in violent crime. There are 1,350 sex offenders unaccounted for in Houston alone after being evacuated from Louisiana. The parole department in Louisiana has no idea where these people are and can provide no identifying information, fingerprints or photos.

Reports also indicate that crimes against children in Texas shelters are rising. These States are in desperate need of Federal assistance. My amendment does just that by directing the Justice Department to provide technical assistance to help law enforcement in these areas and to identify sex offenders who have been relocated.

It is critical we protect our children while disaster relief is being provided, and I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

PERMISSION TO OFFER AMENDMENTS NO. 4 AND 7 DURING CONSIDERATION OF TITLE III

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to consider amendments No. 4 and 7, preprinted in the CONGRESSIONAL RECORD, when we call up title III. These amendments primarily affect title III. However, there is a little portion that affects title I.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDMENT NO. 18 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. CUELLAR:

Page 11, line 4, after the comma insert ''and a minimum term of imprisonment that is no less than 90 days,''.

Mr. CUELLAR. Mr. Chairman, I rise in support of the Children's Safety Act; and I offer this amendment, which I believe is acceptable to the Chair and which I believe also is in the best interest of our communities.

Today, Mr. Chairman, we consider a bill that sets serious penalties for sex offenders. I want to thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for bringing this bill up; and of course I also want to thank the ranking members, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. SCOTT), for considering this bill and the amendments.

Mr. Chairman, we all agree such offenses are tragic, with effects that scar victims for a lifetime. I am proud this body is considering tough legislation that punishes sex offenders who prey upon youth and innocence.

The sex offender registry is a critical tool that helps protect our communities from sexual predators. It allows local law enforcement officers and probation and parole authorities to keep current information about the residence, work, and student information of a sex offender.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding. I will be happy to accept his amendment. I think it makes a useful addition to the bill.

Mr. SCOTT of Virginia. Mr. Chairman, I would incorporate by reference the comments I have made on mandatory minimums, and I think it would apply to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

AMENDMENT NO. 16 OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. GIBBONS:

Page 26, after line 7, insert the following new section (and redesignate succeeding sections, and conform the table of contents, accordingly):

SEC. 134. GAO STUDIES ON FEASIBILITY OF USING DRIVER'S LICENSE REGISTRATION PROCESSES AS ADDITIONAL REGISTRATION REQUIREMENTS FOR SEX OFFENDERS.

For the purposes of determining the feasibility of using driver's license registration processes as additional registration requirements for sex offenders to improve the level of compliance with sex offender registration requirements for change of address upon relocation and other related updates of personal information, the Congress requires the following studies:

(1) Not later than 180 days after the date of the enactment of this Act, the Government Accountability Office shall complete a study for the Committee on the Judiciary of the House of Representatives to survey a majority of the States to assess the relative systems capabilities to comply with a Federal law that required all State driver's license systems to automatically access State and national databases of registered sex offenders in a form similar to the requirement of the Nevada law described in paragraph (2). The Government Accountability Office shall use the information drawn from this survey, along with other expert sources, to determine what the potential costs to the States would be if such a Federal law came into effect, and what level of Federal grants would be required to prevent an unfunded mandate. In addition, the Government Accountability Office shall seek the views of Federal and State law enforcement agencies, including in particular the Federal Bureau of Investigation, with regard to the anticipated effects of such a national requirement, including potential for undesired side effects in terms of actual compliance with this Act and related laws.

(2) Not later than October 2006, the Government Accountability Office shall complete a study to evaluate the provisions of Chapter 507 of Statutes of Nevada 2005 to determine—

(A) if those provisions are effective in increasing the registration compliance rates of sex offenders;

(B) the aggregate direct and indirect costs for the state of Nevada to bring those provisions into effect; and

(C) whether those provisions should be modified to improve compliance by registered sex offenders.

(Mr. GIBBONS asked and was given permission to revise and extend his remarks.)

Mr. GIBBONS. Mr. Chairman, our Nation has a solemn responsibility to protect the most innocent among us, our children. The Children's Safety Act of 2005, introduced by our chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), will help to ensure that sex offenders are registered properly and that they maintain their registration wherever they reside.

I originally sought to offer an amendment to this important bill that would have required States to ensure that sex offenders are properly registered before they are issued a driver's license and in doing so mandate that their license would have to be renewed every single year. The State of Nevada passed a law earlier this year that does just that.

The purpose of such a requirement is to add another layer of protection for the children and families of our communities. In short, if a sex offender refuses to keep their registration current, which is now a problem facing too many States, then he would be unable to obtain a legal driver's license. This means that the sex offender is at risk at any time of being caught driving without a license and arrested.

I think that this threat can serve as a useful deterrent and encourage sex offenders to maintain their registration—in fact, improving the registration compliance rate of these offenders.

In a State where over 30 percent of sex offenders are non-compliant and lost in the system, we took these very same steps in Nevada to ensure a greater compliance rate.

We simply must do everything we can to protect our children and prevent sexual crimes against them.

I am proud that Nevada is a leader in this Nation in having modern, efficient computer systems that will allow it to implement this licensing procedure.

Unfortunately, several other States have not yet fully updated their DMV and criminal registry systems.

As a result, concerns have been raised regarding the cost on other States of such a system, and these concerns should be addressed.

In consideration of these concerns, my amendment today will require the GAO to study the feasibility and costs of this driver's license requirement.

This amendment also will require the GAO to study what type of Federal grant program may be needed to assist the States with implementing this requirement.

This study will also seek the opinions and expertise of Federal and State law enforcement to ensure that this additional reform of our sex offender laws assists them in protecting our children.

Finally, my amendment calls on the GAO to study the effectiveness of Nevada's State law so that Congress and this Nation can learn from my State how this system might work on a national level and how we can do a better job in monitoring sex offenders.

Since I think that it is prudent for all States to follow Nevada's lead, I will also introduce stand-alone legislation today that will require States to begin implementing Nevada's driver's license requirement.

However, I understand the importance of ensuring appropriate resources are provided, and will work with Mr. SENSENBRENNER to study this issue so we can move forward in implementing these regulations to protect our children and prevent these horrible crimes.

I look forward to gathering the necessary information and finding a legislative solution that will not put an undue burden on our States, but will ensure the safety of our children.

I want to thank the chairman and his staff for working with me on this issue.

Finally, I want to close by expressing my thanks to George Togliatti, Director of the Nevada Department of Public Safety and to Donna Coleman, member of Demanding Justice for America's Children.

They both have worked tirelessly with my office to ensure that Nevada's children are protected.

Mr. Chairman, I ask my colleagues to support this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, as with the previous amendment, I believe this amendment also improves the bill, and I would urge support of it.

Mr. SCOTT of Virginia. Mr. Chairman, I rise in opposition to the amendment and would just point out that this requirement for a driver's license just adds another little "gotcha" for which someone could be subjected to a 5-year mandatory minimum and, therefore, would oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. GIBBONS).

The amendment was agreed to.

AMENDMENT NO. 22 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. CONYERS:

At the end of title I, add the following new subtitle:

Subtitle C—Children's Safety Office

SEC. 171. ESTABLISHMENT.

There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Children's Safety Office.

SEC. 172. PURPOSE.

The purpose of the Office is to administer the sex offender registration program under subtitle A and to coordinate with other departments, agencies, and offices in preventing sexual abuse of children, prosecuting child sex offenders, and tracking child abusers post-conviction .

SEC. 173. DIRECTOR.

(a) ADVICE AND CONSENT.—At the head of the Office shall be a Director, appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the Attorney General.

(b) QUALIFICATIONS.—The Director shall be appointed from among distinguished individuals who have—

(1) proven academic, management, and leadership credentials;

(2) a superior record of achievement; and

(3) training or expertise in criminal law or the exploitation of children, or both.

(c) DUTIES.—The Director shall have the following duties:

(1) To maintain liaison with the judicial branches of the Federal and State Governments on matters relating to children's safety from sex offenders.

(2) To provide information to the President, the Congress, the Judiciary, State and local governments, and the general public on matters relating to children's safety from sex offenders.

(3) To serve, when requested by the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to children's safety from sex offenders.

(4) To provide technical assistance, coordination, and support to—

(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to sexual assaults against children, including the litigation of civil and criminal actions relating to enforcing such laws; and

(B) other Federal, State, and local agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate sexual assaults against children.

(5) To exercise such other powers and functions as may be vested in the Director pursuant to this or any other Act or by delegation of the Attorney General in accordance with law.

(6) To establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

(7) To oversee—

(A) the grant programs under subtitle A; and

(B) any other grant programs of the Department of Justice to the extent they relate to sexual assaults against children.

SEC. 174. ANNUAL REPORT.

Not later than 180 days after the end of each fiscal year for which grants are made under subtitle A, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State or other jurisdiction—

(1) the number of grants made and funds distributed under subtitle A;

(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability, and the membership of persons served in any underserved population; and

(4) an evaluation of the effectiveness of programs funded under subtitle A.

SEC. 175. STAFF.

The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the responsibilities of the Director.

SEC. 176. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

SEC. 177. NONMONETARY ASSISTANCE.

In addition to the assistance provided under subtitle A, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts consistent with the purposes of this title.

Mr. CONYERS. Mr. Chairman, my amendment creates a national Office of Children's Safety within the Department of Justice, which would be run by a Presidential appointment and would report to the Attorney General. The director's duties would be to track State compliance with new registration requirements in the bill and report back to Congress on their progress. It would coordinate the Federal Government's response to the sexual abuse of minors and provide expertise and resources for the unique crime of child sexual abuse to States, local, and Federal authorities.

□ 1300

It is important that this amendment, if accepted, be run by someone qualified for the job. The FEMA incident illustrates this part of the provision.

The large number of sexually exploited children in this country is certainly an emergency. That is why I ask my colleagues to support this amendment to ensure our Department of Justice makes combating the exploitation of children one of its highest priorities.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe this amendment is a constructive addition to the bill. It might need a little fine-tuning regarding the structure of the office, but we can do that in conference. I urge the House to accept the amendment.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for his acceptance of the amendment. I would be happy to work on any suggested improvements to the amendment.

I think we have special offices in the Department of Justice concerning Violence Against Women and Cops on the Beat programs, and I think our children deserve no less.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

AMENDMENT NO. 24 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. CONYERS:

At the end of title I, add the following new section (and conform the table of contents accordingly):

SEC. 1_____. GRANTS TO COMBAT SEXUAL ABUSE OF CHILDREN.

(a) IN GENERAL.—The Bureau of Justice Assistance shall make grants to law enforcement agencies for purposes of this section. The Bureau shall make such a grant—

(1) to each law enforcement agency that serves a jurisdiction with 50,000 or more residents; and

(2) to each law enforcement agency that serves a jurisdiction with fewer than 50,000 residents, upon a showing of need.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used by the law enforcement agency to—

(1) hire additional law enforcement personnel, or train existing staff to combat the sexual abuse of children through community education and outreach, investigation of complaints, enforcement of laws relating to sex offender registries, and management of released sex offenders;

(2) investigate the use of the Internet to facilitate the sexual abuse of children; and

(3) purchase computer hardware and software necessary to investigate sexual abuse of children over the Internet, access local, State, and Federal databases needed to apprehend sex offenders, and facilitate the creation and enforcement of sex offender registries.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2006 through 2008 to carry out this section.

Mr. CONYERS. Mr. Chairman, while there are many different grant programs in the Department of Justice providing resources for initiatives fighting violent or sexual assault, we have not found any that are directly and specifically at local law enforcement's ability to protect children from sexual predators.

This provision takes an important step to make sure that after offenders are prosecuted and released, they are registered and made publicly known. However, it does nothing to prevent the abuse from happening in the first place, nor does it help officers investigate and track down offenders after complaints. So this amendment would not only help fund local sheriff and police units, implementation and enforcement of the registration, but would provide funds to make sure that local units have the resources necessary to pursue child abusers, including additional staff, training of existing personnel, and computers and software necessary to investigate predators who find children over the Internet.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this amendment sounds good to me, and I am happy to accept this amendment as well.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his consideration.

There are few needs as pressing as the importance of stopping the sexual abuse of children, and I appreciate the fact that we are providing special grant programs for prescription drug abuse, telemarketing fraud; and now we can find a way to fund programs to protect the most vulnerable in our society, our children. I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

AMENDMENT NO. 19 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. POE:

At the end of title I, add the following new section (and amend the table of contents accordingly):

SEC. ___. EXPANSION OF TRAINING AND TECHNOLOGY EFFORTS.

(a) TRAINING.—The Attorney General, in consultation with the Office of Juvenile Justice and Delinquency Prevention, shall—

(1) expand training efforts with Federal, State, and local law enforcement officers and prosecutors to effectively respond to the threat to children and the public posed by sex offenders who use the internet and technology to solicit or otherwise exploit children;

(2) facilitate meetings, between corporations that sell computer hardware and software or provide services to the general public related to use of the Internet, to identify problems associated with the use of technology for the purpose of exploiting children;

(3) host national conferences to train Federal, State, and local law enforcement officers, probation and parole officers, and prosecutors regarding pro-active approaches to monitoring sex offender activity on the Internet;

(4) develop and distribute, for personnel listed in paragraph (3), information regarding multi-disciplinary approaches to holding

offenders accountable to the terms of their probation, parole, and sex offender registration laws; and

(5) partner with other agencies to improve the coordination of joint investigations among agencies to effectively combat on-line solicitation of children by sex offenders.

(b) TECHNOLOGY.—The Attorney General, in consultation with the Office of Juvenile Justice and Delinquency Prevention, shall—

(1) deploy, to all Internet Crimes Against Children Task Forces and their partner agencies, technology modeled after the Canadian Child Exploitation Tracking System; and

(2) conduct training in the use of that technology.

(c) REPORT.—Not later than July 1, 2006, the Attorney General, in consultation with the Office of Juvenile Justice and Delinquency Prevention, shall submit to Congress a report on the activities carried out under this section. The report shall include any recommendations that the Attorney General, in consultation with the Office, considers appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General, for fiscal year 2006—

(1) $1,000,000 to carry out subsection (a); and

(2) $2,000,000 to carry out subsection (b).

Mr. POE. Mr. Chairman, I rise today with my colleague, the gentleman from California (Mr. SCHIFF), to offer this training technology amendment.

The training and technology amendment addresses several key issues for law enforcement throughout the country when dealing with Internet crime against children. These crimes committed against children on the Internet are facilitated by the latest technologies and advances in computers and the Internet.

Without properly equipping law enforcement, these cases will not be investigated and prosecuted effectively, allowing many predators to slip through the cracks in our criminal justice system. Furthermore, many cases involving exploitation and enticement of children on the Internet cross jurisdictional lines and even international boundaries. There is a great need for law enforcement prosecutors and investigators to have the ability to share information quickly as cases unfold.

To address these needs, the training and technology amendment funds the Department of Justice $3 million to do two things:

(1) Train law enforcement to use the most up to date technology while investigating and collecting evidence from a suspected internet predator—for example, recovering files from hard drives of suspected child pornographers.

(2) Provide hardware and training to use software that Microsoft is developing and donating to the Department of Justice. A similar project has successfully been implemented in Canada. The software would link Office of Juvenile Justice and Delinquency Preventions' 46 regional Internet Crimes Against Children Units with one database. This will allow law enforcement across the country and even internationally to work together and share information on cases that cross jurisdictions.

In order for the Child Safety Act to be successfully implemented, law enforcement must be equipped and trained to meet the challenges of investigating cases involving advanced technological tools. I urge my colleagues to support this important amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. POE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I believe the gentleman has an instructive amendment, and I am prepared to support it.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

I join in support of the amendment. It is money that will be extremely well spent and actually deals with the problem. I thank the gentleman for introducing the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MR. INGLIS OF SOUTH CAROLINA

Mr. INGLIS of South Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. INGLIS of South Carolina:

Page 27, line 7, strike ''not less than 5 years nor''.

Page 27, lines 17 through 18, strike ''not less than 5 years nor''.

Mr. INGLIS of South Carolina. Mr. Chairman, I rise in support of the bill, but hopeful that we can make it even a little bit better. The thrust of the bill is clearly a good idea. We need a national registration for sex offenders. We need to make it with teeth, and that is why I support the underlying bill.

There is, however, this issue of mandatory minimums in the bill. I am a member of the Committee on the Judiciary, and I have said there that I am more uncomfortable than ever with our use of mandatory minimums. We have a coherent system of sentencing called the sentencing guidelines. We have people who thought very carefully about how it would be that rape, for example, would compare with bank robbery and how that would compare with cashing bad checks, and so they came up with a system.

Into that system have come some reactions from Congress to particularly heinous crimes. The result is sort of a patchwork of mandatory minimums that disrupt the coherent system established by the sentencing guidelines. So here today we have a bill before us that has a particularly dangerous mandatory minimum when it comes to the situation of someone failing to register.

Now, I think it is pretty confusing when you move from State to State. In fact, it is quite often the case that you send your possessions on ahead in a moving van; and the question is when did you move from California to Ohio, was it when the moving van got there, or was it when you took the first flight from California to Ohio, but then you returned to California to get the rest of your possessions and drove back. When did you move to Ohio?

Under this bill as it is right now, if you fail to register, you have a mandatory minimum. I think the mandatory minimum in this case is particularly inappropriate. In fact, Mr. Chairman, it is a 5-year mandatory minimum. So the hypothetical I just posed of somebody moving from California to Ohio, the moving truck is there, they fly out twice to Ohio, and finally they are moved, if they do not register in a timely fashion, and it is a very brief time they have to register, then what happens is they must go off to jail for 5 years. This is somebody who has not committed another offense. If they commit another offense, there are mandatory minimums that handle that.

This is a failing to register, which is an important thing. It is very important that we register, but it seems to me that this is a classic case of where we should give judges discretion within the sentencing guidelines to deal with exactly the hypothetical I have just described. Let the judge decide, well, the person actually did move to Ohio on that second trip and when they moved, they failed to register. But maybe they had an appendectomy. If they did, give them some time, give them some grace because they were clearly attempting to comply with the law.

On the other hand, the judge could hear this person was not attempting to comply with the law. They were flouting the layout; and if they were, he gives them some time.

The amendment here would simply strike the 5-year minimum and make it so that it could be up to a maximum of 20 years. So a judge could still send the flagrant violator, the person who has failed to register, off to jail for a good long time because registration is crucial to the underlying nature of this bill.

So I support the bill, and I hope that we can improve it by eliminating what could be manifest injustice with a mandatory minimum that is unchangeable by a judge, a judge who can see the circumstances. Of course that requires some trust in the judges, but I am thinking we can do that. At least in South Carolina, we have good judges, judges who make decisions that seem to be consistent with the spirit of this law.

If jurisdictions have judges who do not do that, perhaps there should be some pressure brought to bear on these judges and, in fact, impeachments if those judges consistently violate the sentencing guidelines. But let us let the system work; let us let the Constitution work and respect the judiciary and respect the competence of the people that the U.S. Senate confirms. We have a confirmation hearing going on right now where we are confirming, I hope, somebody who is clearly a capable jurist. When he is on that Court, we

should defer to him because he is a coequal branch of the Federal Government.

So my amendment is very simple. It strikes the mandatory minimum in the case of failing to register. I hope my colleagues will support it.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment deletes the 5-year mandatory minimum sentence for a sex offender who crosses State lines to fail to register in the new State and also deletes the 5-year mandatory minimum for making false statements in a sexual abuse investigation.

Let me say that the whole issue of the sentencing guidelines has been a very vexatious one. Earlier this year, the Supreme Court decided two cases that made the sentencing guidelines only advisory, rather than mandatory. So if this amendment is adopted, judges will be given the power to place on probation those who were convicted of not registering in a new State or making a false statement to law enforcement relative to a sexual abuse investigation.

I do not think that probation is advisable in these instances, and that is why this amendment should be defeated.

The most significant enforcement issue that exists today in the sex offender program is that over 100,000 sex offenders, or nearly one-fifth in the Nation, are ''missing,'' meaning they have not complied with the sex offender registration requirements. This typically occurs when the sex offenders move from one State to another.

To ensure compliance with the registration requirements, States are required to inform the sex offender of his or her obligations and obtain a signed form indicating he or she understands those obligations and will comply with them. In order to address the problem of the missing sex offenders, that is, those who fail to comply with moving from one State to another, sex offenders will now face Federal prosecution with a mandatory minimum of 5 years.

The combination of incentives for the sex offender to comply and stiff criminal penalties and additional law enforcement resources to focus on this problem should help address the overwhelming number of noncomplying or ''missing'' sex offenders in our community.

The 5-year mandatory minimum penalty is a critical component of this new enforcement scheme, and this amendment punches a hole in that enforcement scheme and allows a loophole to have the current situation continue to fester. The mandatory minimum applies for a knowing violation that will help ensure that sex offenders comply with all registration requirements.

□ 1315

Never again should our communities have to suffer from the fear of unidentified sex offenders in their communities, their schools, and their youth organizations.

Similarly, the 5-year mandatory minimum for false statements made during a sexual abuse investigation is critical. The facts surrounding the Jessica Lunsford case in Florida demonstrate that time is of the essence and false statements can make the difference between life and death of a missing child.

In the Lunsford case, three witnesses knew that John Couey, the alleged rapist and murderer of 9-year-old Jessica Lunsford, was living within 150 yards of Jessica's house but failed to tell investigators. If they had told the truth, maybe, just maybe, Jessica Lunsford would be alive today.

A 5-year mandatory minimum penalty would ensure truthful and full cooperation by witnesses in such investigations. It is an important policy goal, and these penalties send a strong deterrent message.

I strongly urge opposition to this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this amendment eliminates the 5-year mandatory minimum for failing to properly register and the 5-year mandatory minimum for falsifying registration information, with the possibility still of 20 years.

The amendment keeps the 20-year maximum for both crimes and leaves it to the Sentencing Commission and the courts to determine the gradations of seriousness and the punishment for violations based on the facts and circumstances of the violation.

It is absurd that misdemeanants and other minor offenders who get a suspended sentence for a crime that was committed 15 years ago could get a 5-year mandatory minimum sentence for a technical violation of a registration requirement such as showing up at 5:30 on the last day of registration when the office closed at 5 o'clock or failing to register the fact that they are in a community college that has different sites. Do they have to register everywhere they might take a class or just the main registration place for the community college? Or if they work in construction, if they register at the home office of the construction company, do they also have to register at each location where they are doing construction? If they guess wrong, 5 years mandatory minimum, no discretion on the part of the judge.

Are our children going to be safer or less safe if an offender knows that he is in technical violation? If he shows up to register after he has been in technical violation, he knows he is looking at a 5-year mandatory minimum. Is he going to show up or not?

Mr. Chairman, it is also absurd that an offender would be sentenced to a minimum 5 years for giving a technically false statement regarding this registration when, under the same section of the law, there is a maximum of 8 years, no minimum sentence, for either making a false statement in connection with international or domestic terrorism. A false statement on terrorism, 8 years maximum, no minimum; technical violation on registration, 5 years mandatory minimum, 20 years possibility.

Again, this amendment retains the 20-year maximum for cases such as those cited by the chairman, but it allows common sense in determining which offenders would get what sentence for what violations.

We have been told by the Sentencing Commission and the Judicial Conference time and time again that mandatory minimum sentences violate common sense. For someone who deserves the time, the mandatory minimum has no effect because they will get the time. For those who do not deserve the time, that violates common sense. They will get that time anyway.

In everyday experiences judges can see differences, great and small, in the facts and circumstances in the cases before them. The name of the crime is often a poor indicator of the facts and circumstances of the crime. So it makes sense to have a rational assessment by one who has heard and seen the evidence and facts and circumstances of the case making the appropriate decision within the guidelines set by the Sentencing Commission relating to the gradations in seriousness of the crime and the other characteristics. That is why we set up the Sentencing Reform Act that set up the Sentencing Commission, and these mandatory minimums obviously violate that entire system.

Of course, under the Federal system, the ones who will primarily be affected will be Native Americans because they try all their cases in Federal courts; and it is unfair to them and unfair to common sense where identical offenses can be committed, one by a Native American, another a few miles away, the same crime and vastly different sentences because the Native American is stuck in Federal court with the 5-year mandatory minimum. These mandatory minimums violate common sense, and so I am delighted to join the gentleman from South Carolina in this amendment and hope our colleagues will support it.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly oppose this amendment.

Sex offenders are the worst in our society. They prey on our children as if they were cattle. The idea that they will voluntarily register needs to be thrown out the window because they simply will not.

Time and time again we have seen experiences where these people realize that the microscope of society is upon them. So they move and they try to relocate into other communities. Our States, our 50 States, many are border States whereby if they are in Tallahassee, Florida, it is very easy to go to Valdosta, Georgia, very easy to get a new job and a new occupation.

That has been the problem with the laws. We cannot properly track these offenders. We cannot follow their whereabouts. And if we do not have a strict punishment on them, they simply will continue to move about the country and prey on vulnerable children in other States.

For God's sake, if I come to Washington, D.C., and want to get a Blockbuster movie, I have to get a new registration card. I have to put down my credit card, my driver's license to rent a movie. And if I fail to return the movie, they charge me for the movie. There are penalties for violating simple rules of video rentals, and my colleagues would have us believe, oh, let us not be too harsh on these people.

Jessica Lunsford was buried in a garbage bag by a known sex offender who failed to register. Oh, let us not give him a 5-year minimum mandatory. Let us not inconvenience him, John Couey. Let us not cause any unnecessary paperwork for John Couey, while Jessica Lunsford is in a plastic garbage bag.

We have to have a driver's license in the State in which we live. We have to have a license tag in the State in which we reside. It takes us 48 hours to get our cable installed. But, God, no, let us not inconvenience by mandatory punishment if a sex offender fails to report.

They are instructed before they are released of the obligations of their sentencing. They are told they must report in the new State. They are given adequate warning. For far too long we have opened up our jails and said hope you are better and then lost track of them. I said it before, we track library books better than we do these criminals, and it is time we balance the scale of justice in favor of our children.

Mr. INGLIS of South Carolina. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from South Carolina.

Mr. INGLIS of South Carolina. Mr. Chairman, I agree exactly with what the gentleman just said, and that is why I am voting for the underlying bill.

But the gentleman said earlier that this is some kind of voluntary registration. There is nothing voluntary about this. We, in strong action here, are requiring exactly the person he just described to register, and we say to them they must register within the prescribed period. There is no voluntary nature to that. That is a strong and good law. That is what we are doing here.

The question is whether we can trust the sentencing guidelines and the Sentencing Commission and Federal judges to come up with a system to figure out whether that person that the gentleman is describing, flagrantly violating it, should go off for 20 years as opposed to the hypothetical that I posed as somebody in confusion about when exactly they moved, let us say, from California to Florida, as to whether that case deserves a mandatory minimum of 5 years.

Because what we are doing here, if this amendment fails, is tying the hands of that judge in Ohio such that he must or she must send the person off for 5 years if there was confusion about when and how they moved to the State of Ohio. It may be somebody who did not flagrantly violate. It was just confusion as to when they moved. And if we have sentencing guidelines and judges that follow those guidelines, if they do not, put pressure on them and then impeach them.

Mr. FOLEY. Mr. Chairman, reclaiming my time, I wish the perpetrator would have thought about the penalties before they committed the crime. The minimum mandatory may tie the hands of judges, but it will, in fact, tie the hands of the predator. They know full well before they are released what the requirements are, and if there is confusion, it is the perpetrator's fault. I do not want it to be relied upon the victim to say the victim should have known he may have been a perpetrator but we were not registered.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. INGLIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. INGLIS of South Carolina. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina (Mr. INGLIS) will be postponed.

AMENDMENT NO. 23 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to offer amendment No. 23 at this time.

The CHAIRMAN. Is there objection to the consideration of the gentleman's amendment at this point? The amendment is in title III.

There was no objection.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. CONYERS:

At the end of title III insert the following:

SEC. 304. STATISTICS.

(a) COVERAGE.—Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting "gender," before "or ethnicity".

(b) DATA.—Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting ", including data about crimes committed by and directed against juveniles" after "data acquired under this section".

Mr. CONYERS. Mr. Chairman, I offer this amendment to the bill to address a blight on our society, the scourge of hate violence. Because, currently, we lack sufficient data to assist in determining how to address bias crime directed toward children. This amendment would correct that oversight.

For the year 2003, for example, the most recent available data, the FBI compiled reports from law enforcement agencies across the country identifying 7,489 criminal incidents that were motivated by an offender's irrational antagonism towards some personal attribute associated with the victim.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am prepared to accept this amendment.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I thank the chairman for accepting the amendment.

Law enforcement agencies have identified 9,100 victims arising from 8,715 separate criminal offenses. FBI data has also revealed that a disproportionately high percentage of both the victims and the perpetrators of hate violence were children, young people under 18 years of age.

The FBI's annual Hate Crime Statistics Act report provides the best snapshot of the magnitude of the hate violence problem in America. However, there is a paucity of regularly published information about juvenile hate crime offenses because the statute does not require data analysis for gender or juvenile categories.

This is an important omission, as indicated by a special DOJ report on the subject in 2001. This report, which carefully analyzed nearly 3,000 of the 24,000 hate crimes to the FBI from 1997 to 1999, revealed that a disproportionately high percentage of both the victims and the perpetrators of hate violence were young people under 18 years of age. For example: 30 percent of all victims of bias-motivated aggravated assaults and 34 percent of the victims of simple assault were under 18.

As we address legislation for the protection of children, we should utilize the full extent of Federal resources and data collection plays an important role. I hope that this amend will find broad support so that we can work to eliminate hate violence directed against young people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—DNA FINGERPRINTING

SEC. 201. SHORT TITLE.

This title may be cited as the "DNA Fingerprinting Act of 2005".

SEC. 202. EXPANDING USE OF DNA TO IDENTIFY AND PROSECUTE SEX OFFENDERS.

(a) EXPANSION OF NATIONAL DNA INDEX SYSTEM.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1)(C), by striking ", provided" and all that follows through "System"; and

(2) by striking subsections (d) and (e).

(b) DNA SAMPLE COLLECTION FROM PERSONS ARRESTED OR DETAINED UNDER FEDERAL AUTHORITY.—

(1) IN GENERAL.—Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended

(A) in subsection (a)—

(i) in paragraph (1), by striking "The Director" and inserting the following:

"(A) The Attorney General may, as provided by the Attorney General by regulation, collect DNA samples from individuals who are arrested,

detained, or convicted under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.

''(B) The Director''; and

(ii) in paragraphs (3) and (4), by striking ''Director of the Bureau of Prisons'' each place it appears and inserting ''Attorney General, the Director of the Bureau of Prisons,''; and

(B) in subsection (b), by striking ''Director of the Bureau of Prisons'' and inserting ''Attorney General, the Director of the Bureau of Prisons,''.

(2) CONFORMING AMENDMENT.—Subsections (b) and (c)(1)(A) of section 3142 of title 18, United States Code, are each amended by inserting ''and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a)'' after ''period of release''.

(c) TOLLING OF STATUTE OF LIMITATIONS IN SEXUAL ABUSE CASES.—Section 3297 of title 18, United States Code, is amended by striking ''except for a felony offense under chapter 109A,''.

SEC. 203. STOPPING VIOLENT PREDATORS AGAINST CHILDREN.

In carrying out Acts of Congress relating to DNA databases, the Attorney General shall give appropriate consideration to the need for the collection and testing of DNA to stop violent predators against children.

SEC. 204. MODEL CODE ON INVESTIGATING MISSING PERSONS AND DEATHS.

(a) MODEL CODE REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall publish a model code setting forth procedures to be followed by law enforcement officers when investigating a missing person or a death. The procedures shall include the use of DNA analysis to help locate missing persons and to help identify human remains.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each State should, not later than 1 year after the date on which the Attorney General publishes the model code, enact laws implementing the model code.

(c) GAO STUDY.—Not later than 2 years after the date on which the Attorney General publishes the model code, the Comptroller General shall submit to Congress a report on the extent to which States have implemented the model code. The report shall, for each State—

(1) describe the extent to which the State has implemented the model code; and

(2) to the extent the State has not implemented the model code, describe the reasons why the State has not done so.

PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. SCOTT of Virginia. Mr. Chairman, are we in title III?

The CHAIRMAN. The Clerk just designated title II.

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—PREVENTION AND DETERRENCE OF CRIMES AGAINST CHILDREN ACT OF 2005

SEC. 301. SHORT TITLE.

This title may be cited as the ''Prevention and Deterrence of Crimes Against Children Act of 2005''.

SEC. 302. ASSURED PUNISHMENT FOR VIOLENT CRIMES AGAINST CHILDREN.

(a) SPECIAL SENTENCING RULE.—Subsection (d) of section 3559 of title 18, United States Code, is amended to read as follows:

''(d) MANDATORY MINIMUM TERMS OF IMPRISONMENT FOR VIOLENT CRIMES AGAINST CHILDREN.—A person who is convicted of a felony crime of violence against the person of an individual who has not attained the age of 18 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense—

''(1) if the crime of violence results in the death of a person who has not attained the age of 18 years, be sentenced to death or life in prison;

''(2) if the crime of violence is kidnapping, aggravated sexual abuse, sexual abuse, or maiming, or results in serious bodily injury (as defined in section 2119(2)) be imprisoned for life or any term of years not less than 30;

''(3) if the crime of violence results in bodily injury (as defined in section 1365) or is an offense under paragraphs (1), (2), or (5) of section 2244(a), be imprisoned for life or for any term of years not less than 20;

''(4) if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 15; and

''(5) in any other case, be imprisoned for life or for any term of years not less than 10.''.

SEC. 303. ENSURING FAIR AND EXPEDITIOUS FEDERAL COLLATERAL REVIEW OF CONVICTIONS FOR KILLING A CHILD.

(a) LIMITS ON CASES.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

''(j)(1) A court, justice, or judge shall not have jurisdiction to consider any claim relating to the judgment or sentence in an application described under paragraph (2), unless the applicant shows that the claim qualifies for consideration on the grounds described in subsection (e)(2). Any such application that is presented to a court, justice, or judge other than a district court shall be transferred to the appropriate district court for consideration or dismissal in conformity with this subsection, except that a court of appeals panel must authorize any second or successive application in conformity with section 2244 before any consideration by the district court.

''(2) This subsection applies to an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court for a crime that involved the killing of a individual who has not attained the age of 18 years.

''(3) For an application described in paragraph (2), the following requirements shall apply in the district court:

''(A) Any motion by either party for an evidentiary hearing shall be filed and served not later than 90 days after the State files its answer or, if no timely answer is filed, the date on which such answer is due.

''(B) Any motion for an evidentiary hearing shall be granted or denied not later than 30 days after the date on which the party opposing such motion files a pleading in opposition to such motion or, if no timely pleading in opposition is filed, the date on which such pleading in opposition is due.

''(C) Any evidentiary hearing shall be—

''(i) convened not less than 60 days after the order granting such hearing; and

''(ii) completed not more than 150 days after the order granting such hearing.

''(D) A district court shall enter a final order, granting or denying the application for a writ of habeas corpus, not later than 15 months after the date on which the State files its answer or, if no timely answer is filed, the date on which such answer is due, or not later than 60 days after the case is submitted for decision, whichever is earlier.

''(E) If the district court fails to comply with the requirements of this paragraph, the State may petition the court of appeals for a writ of mandamus to enforce the requirements. The court of appeals shall grant or deny the petition for a writ of mandamus not later than 30 days after such petition is filed with the court.

''(4) For an application described in paragraph (2), the following requirements shall apply in the court of appeals:

''(A) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order pending final disposition of the appeal.

''(B) The court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

''(i) not later than 120 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

''(ii) if a cross-appeal is filed, not later than 120 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

''(C)(i) Following a decision by a panel of the court of appeals under subparagraph (B), a petition for panel rehearing is not allowed, but rehearing by the court of appeals en banc may be requested. The court of appeals shall decide whether to grant a petition for rehearing en banc not later than 30 days after the date on which the petition is filed, unless a response is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

''(ii) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 120 days after the date on which the order granting rehearing en banc is entered.

''(D) If the court of appeals fails to comply with the requirements of this paragraph, the State may petition the Supreme Court or a justice thereof for a writ of mandamus to enforce the requirements.

''(5)(A) The time limitations under paragraphs (3) and (4) shall apply to an initial application described in paragraph (2), any second or successive application described in paragraph (2), and any redetermination of an application described in paragraph (2) or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings.

''(B) In proceedings following remand in the district court, time limits running from the time the State files its answer under paragraph (3) shall run from the date the remand is ordered if further briefing is not required in the district court. If there is further briefing following remand in the district court, such time limits shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, the date on which such brief is due.

''(C) In proceedings following remand in the court of appeals, the time limit specified in paragraph (4)(B) shall run from the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (4)(B) shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(6) The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(b) VICTIMS' RIGHTS IN HABEAS CASES.—Section 3771(b) of title 18, United States Code, is

amended by adding at the end the following: ''The rights established for crime victims by this section shall also be extended in a Federal habeas corpus proceeding arising out of a State conviction to victims of the State offense at issue.''.

(c) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—The amendment made by this section apply to cases pending on the date of the enactment of this Act as well as to cases commenced on and after that date.

(2) SPECIAL RULE FOR TIME LIMITS.—In a case pending on the date of the enactment of this Act, if the amendment made by subsection (a) provides that a time limit runs from an event or time that has occurred before that date, the time limit shall instead run from that date.

AMENDMENT NO. 14 OFFERED BY MR. BAIRD

Mr. BAIRD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. BAIRD:

Add at the end of title III the following:

SEC. 304. STUDY OF INTERSTATE TRACKING OF PERSONS CONVICTED OF OR UNDER INVESTIGATION FOR CHILD ABUSE.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall study the establishment of a nationwide interstate tracking system of persons convicted of, or under investigation for, child abuse. The study shall include an analysis, along with the costs and benefits, of various mechanisms for establishing an interstate tracking system, and include the extent to which existing registries could be used.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to the Congress the results of the study under this section.

Mr. BAIRD. Mr. Chairman, this is a commonsense amendment designed to address a problem that most people are unaware of but I believe adversely affects thousands of children across this country.

Every week, child protective agencies throughout the U.S. receive more than 50,000 reports of suspected child abuse or neglect. A total of 2.6 million reports were filed in 2002. In approximately two-thirds of these cases there is sufficient evidence to prompt an assessment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I think this study is a good idea. I believe that child abusers should be tracked the same way as sex offenders.

If the gentleman is prepared to yield back, I will be happy to accept his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. BAIRD).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. PORTER:

At the end of title III of the bill, insert the following (and make such conforming changes to the table of contents as may be necessary):

SEC. 304. ACCESS TO FEDERAL CRIME INFORMATION DATABASES BY EDUCATIONAL AGENCIES FOR CERTAIN PURPOSES.

(a) IN GENERAL.—The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), pursuant to a request submitted by a local educational agency or State educational agency in that State, on individuals under consideration for employment by the agency in a position in which the individual would work with or around children. Where possible, the check shall include a fingerprint-based check of State criminal history databases. The Attorney General and the States may charge any applicable fees for these checks.

(b) PROTECTION OF INFORMATION.—An individual having information derived as a result of a check under subsection (a) may release that information only to an appropriate officer of a local educational agency or State educational agency, or to another person authorized by law to receive that information.

(c) CRIMINAL PENALTIES.—An individual who knowingly exceeds the authority in subsection (a), or knowingly releases information in violation of subsection (b), shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(d) DEFINITION.—In this section, the terms ''local educational agency'' and ''State educational agency'' have the meanings given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(Mr. PORTER asked and was given permission to revise and extend his remarks.)

□ 1330

Mr. PORTER. Mr. Chairman, again, I appreciate the opportunity to speak on this great bill today, but I think we can add a few things.

We send our children off to school every day and we trust that our teachers are the best and the safest and the best trained in the country. Unfortunately, there are a small few, a number of teachers across this country who are slipping between the cracks. In the State of Nevada, we hire about 1,400 to 2,000 new teachers a year. Unfortunately, some States are not able to share information regarding the criminal activity of these particular teachers.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I will make the same offer I have made to others. This is a great amendment, and we are happy to accept it.

Mr. PORTER. Mr. Chairman, I thank the gentleman from Wisconsin.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. PORTER).

The amendment was agreed to.

AMENDMENTS NO. 4 AND 7 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer amendments 4 and 7, which unanimous consent was granted to consider at this point.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

Page 31, line 17, strike ''not less than 10''.

Page 43, line 10, strike paragraph (1) and redesignate succeeding paragraphs accordingly.

Page 44, beginning on line 5, strike ''not less than 10 years and''.

Page 45, line 8, strike subparagraph (A) and redesignate succeeding subparagraphs accordingly.

Page 45, line 11, strike the semicolon and insert ''; and''.

Page 45, line 18, strike the semicolon and insert a period.

Page 45, strike line 19 through line 6 on page 46.

Page 46, strike line 18 and all that follows through line 8 on page 47.

Page 47, line 4, strike the semicolon and insert ''; and''.

Page 47, line 5, strike ''; and'' and insert a period.

Page 47, starting on line 6, strike clause (iii) and all that follows through line 13 on page 49.

Page 55, strike section 504 and all that follows through line 22 on page 57, and redesignate succeeding sections accordingly.

Page 68, line 21, strike the semicolon and insert ''; and''.

Page 68, strike lines 22 through 23.

Page 69, strike lines 8 through 11.

Amendment No. 7 offered by Mr. SCOTT of Virginia:

Amendment No. 7: Strike section 302. Redesignate any succeeding sections accordingly.

Page 44, strike line 10 and all that follows through line 2 on page 11.

Mr. SCOTT of Virginia. Mr. Chairman, these amendments eliminate section 302 from the bill. Section 302 is extremely problematic.

First of all, it includes a death penalty that applies to unintentional deaths. That raises severe constitutional problems that you could be put to death for an unintentional act. We already have penalties for the death penalty for intentional acts. This would add unintentional acts.

Over 100 people have been totally exonerated or otherwise released from death row due to erroneous death penalties, and one study showed that 68 of death penalties were overturned as illegal. That does not include the ones where mistakes were made for which the error was so-called ''harmless.'' Other studies have shown that death penalties have been discriminatory against minorities, either affecting the consideration, undue consideration of the race of the defendant or the race of the victim.

We, a few years ago, passed the Innocence Protection Act, which provides for effective counsel and case development to be well-funded, but we have not fully funded that Innocence Protection Act, so until it is fully funded, we should not be passing more death penalties.

In addition, section 302 includes mandatory minimums. Let us see what

these mandatory minimums are for. Any felonious attack on someone under 18 years of age. That would include a schoolyard brawl which gets bad enough when they start throwing chairs at each other or something like that. If there is no injury in that situation, that is a 10-year mandatory minimum. If a dangerous weapon, whatever that means, is used, then you get 15 years, if there is no injury. Now, if there is actually an injury, then the mandatory minimum for this brawl for teenagers fighting teenagers would be 20 years; and if the crime of violence is a more serious offense, then 30 years mandatory minimum.

Starting with 10 years mandatory minimum for a schoolyard brawl, Mr. Chairman, is why these mandatory minimums make no sense. If the felony has been committed, maybe they should be sentenced to 10 years, maybe 20 years. This says no less than 10 years, even if there is no injury.

I would hope, Mr. Chairman, as we consider mandatory minimums that we would look at this as being excessive. Give the judge the discretion to apply a sentence that makes sense. But to have a mandatory minimum to apply in situations where no injury has occurred, no dangerous weapon was involved, 10 years mandatory minimum for teenagers having a fight, this just does not make any sense at all. If an injury actually occurs, it is actually 20 years mandatory minimum.

I would hope we would eliminate the entire section 302 to eliminate those mandatory minimums. There are plenty of provisions throughout this bill and throughout the Criminal Code to deal with people who deserve this kind of time, but to have a mandatory minimum in cases where no injury occurred is clearly excessive to be applied in all cases without discretion, whether it makes any sense or not.

We need to remove this section, and I hope that is what we do by adopting the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, the gentleman from Virginia's opposition to both mandatory minimum penalties and the death penalty is well-known and respected. I believe in this case he is wrong.

First of all, we do need to have a swift and effective death penalty in the case of violent offenders who murder children. There have been several scientifically balanced, statistical studies that consistently show that the death penalty is a deterrent; and I think that if it is just a little bit of a deterrent when we are dealing with our kids, that is enough to say that the amendment should be defeated.

Secondly, we have talked quite a bit about mandatory minimum penalties in the context of the previous amendment that was offered by the gentleman from South Carolina (Mr. INGLIS). Let me say that if all mandatory minimum penalties contained in this bill for sexual abuse and exploitation of children are eliminated, it does allow judges to send out into society on probation people who have been convicted of sex offenses for or against children. When I think of anybody who does something like that, we should tell society and those who might be thinking of committing such a crime that if you do the crime, you are sure to do some time.

I kind of listened with interest and with respect to the argument of the gentleman from South Carolina (Mr. INGLIS) on mandatory minimums in the previously debated amendment. He says that if judges do not comply with sentencing guidelines, then maybe what Congress should do is impeach them.

Impeachment is a severe penalty, and if you look at the 17 impeachments that the House of Representatives has voted on in its history, the only time where there has been an impeachment voted is when a Federal civilian official ends up conducting himself or herself in a manner that obstructs the functioning of government, whether it is the branch that that official serves in or the other two equal and separate branches.

Simply saying that if a judge makes a discretionary call to give a child sex offender probation even when the crime is terrible is an impeachable offense I do not think comports with the history of impeachment, because it is within the discretion of the court.

I am saying that, in this case, the discretion of the court should be eliminated and those who are convicted should go to jail, and that is why the mandatory minimums ought to stay in this bill.

Mr. Chairman, I urge the defeat of this amendment en bloc.

The Acting CHAIRMAN (Mr. SWEENEY). The question is on the amendments offered by the gentleman from Virginia (Mr. SCOTT).

The amendments were rejected.

AMENDMENT NO. 13 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. FLAKE:

Page 42, line 6, strike the close quotation mark and the period that follows.

Page 42, after line 6, insert the following:

''(k) SENTENCING CLAIMS.—A court, justice, or judge shall not have jurisdiction to consider an application with respect to an error relating to the applicant's sentence or sentencing that has been found to be harmless or not prejudicial in State court proceedings, or that was found by a State court to be procedurally barred, unless a determination that the error is not structural is contrary to clearly established Federal law, as determined by the Supreme Court of the United States.''.

Mr. FLAKE. Mr. Chairman, this amendment will reduce the backlog and delay of the Federal courts' dockets by limiting harmless error sentencing claims. These are claims in which the Federal court is asked to review alleged errors in death penalty cases in State court that were either procedurally defaulted, in which the defendant failed to present the claim in State court; or, two, that already have been reviewed by the State courts and have been determined to be harmless and that only relate to the prisoner's sentencing, not the portion of the trial that determines guilt or innocence.

Under this amendment, fact-intensive and time-consuming ''harmless error sentencing claims'' will be reviewed again in Federal court only if the State court erred in determining that the claim was subject to harmless review.

An example of how this impacts victims of child abusers was raised at the House Committee on the Judiciary Subcommittee on Crime hearing by Ms. Carol Fornoff, whose 13-year-old daughter was raped and murdered in Tempe, Arizona, in 1984. The evidence of the guilt of the man convicted in killing her daughter was overwhelming. Yet, today, 21 years after Christy Ann Fornoff was murdered, the gentleman is still litigating his habeas appeals.

Mr. Chairman, this amendment will reduce the backlog and delay of the Federal courts' dockets by limiting harmless-error sentencing claims.

These are claims in which the Federal court is asked to review alleged errors in death penalty cases in State court that were either (1) procedurally defaulted—in which the defendant failed to present the claim in state court, or (2) that already have been reviewed by State courts and have been determined to be harmless, and (3) that only relate to the prisoner's sentencing—not to the portion of the trial that determines guilt or innocence.

Under this amendment, fact-intensive and time-consuming ''harmless-error sentencing claims'' will be reviewed again in Federal court only if the State court erred in determining that the claim was subject to harmlessness review.

An example of how this impacts victims of child abusers was raised at a House Judiciary Crime Subcommittee hearing by Mrs. Carol Fornoff, whose 13-year-old daughter was raped and murdered in Tempe, Arizona in 1984.

The evidence of the guilt of the man convicted of killing her daughter is overwhelming, yet today—21 years after Christy Ann Fornoff was murdered—the defendant still is litigating his habeas appeals in the Federal courts.

Mrs. Fornoff's testimony raised important questions. There needs to be some limit, some end to the process in these cases.

After 9 years under the Anti-Terrorism and Effective Death Penalty Act of 1996 or ''AEDPA'' (Ay-Depa), it is clear that the Act did not eliminate or even reduce the problem of delay in the Federal habeas process.

As evidenced by testimony in the Senate Judiciary Committee, in my home state of Arizona, 63 capital cases have been filed and remain pending since the effective date of the AEDPA (Ay-Depa).

Of those cases, only one has advanced to the Ninth Circuit, where it has remained pending for the past 5 years.

Thirteen pre-AEDPA (Ay-Depa) cases remain pending in Federal court; five of those cases have been in Federal court longer than 15 years; the others range in time from 9 years to 14 years. This is unacceptable.

The current system is grossly unfair to crime victims and their families. While defendants always should be allowed to litigate meaningful evidence of their innocence, we also should not allow endless appeals to become routine.

We need to protect innocent defendants, and we also need to allow victims and their families closure on these crimes.

Let me be clear that fundamental sentencing errors, and all guilt-phase errors, still would be subject to a second round of review in Federal court under this amendment.

Also, this amendment does not in any way limit the State courts' review of State criminal convictions, nor does it affect the U.S. Supreme Court's review of either a defendant's direct appeals or State-habeas petitions.

The amendment only limits the Federal habeas review that begins in the lower Federal courts after all State appeals and U.S. Supreme Court certiorari review are completed. Congress unquestionably has the authority to limit such review.

Deference to State courts is appropriate in this context, since these courts are closer to the trial and will have a better sense of what facts are likely to influence local juries.

This section merely precludes a repeat of this process at the Federal level for minor errors that are not related to guilt of the underlying offense, and that already have had an opportunity for review in State courts.

I urge my colleagues to adopt this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I will make the same offer on this amendment. I am prepared to accept it if the gentleman will yield back his time.

Mr. FLAKE. Mr. Chairman, that is too good an offer to turn down.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the language in the bill is bad enough. This just makes it worse. We should eliminate the section of the bill where the bill already severely restricts the right of those convicted of sex offenses from their access to appeal.

Many who have been exonerated through DNA or other evidence have been exonerated and released due to their access to habeas corpus petitions. Restricting access to habeas will result in more innocent people being put to death or languishing in jail for crimes they did not commit.

We have a serious question, Mr. Chairman, as to whether guilty people are entitled a fair trial. If you have a person who is not suggesting that they are actually innocent, but they just did not get a fair trial, they do not have access to habeas corpus anyway. An allegation of innocence is a prerequisite to getting into habeas corpus petitions anyway. This is just going to make it worse, and more innocent people will be in jail. I would hope we would not adopt the amendment to make it worse.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Chairman, I would simply point out that this applies only to the sentencing portion of the hearing or the sentencing portion of the trial, not the guilt or innocent phase. We are not limiting habeas corpus at all on that phase.

Mr. SCOTT of Virginia. Mr. Chairman, if you are going to have any review, I think it ought to be a full review: sentencing, conviction, and otherwise. I would hope that we would not make the bill any worse than it is, and the underlying provision is bad enough.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

The Acting CHAIRMAN. Are there any further amendments to title III?

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—PROTECTION AGAINST SEXUAL EXPLOITATION OF CHILDREN ACT OF 2005

SEC. 401. SHORT TITLE.

This title may be cited as the ''Protection Against Sexual Exploitation of Children Act of 2005''.

SEC. 402. INCREASED PENALTIES FOR SEXUAL OFFENSES AGAINST CHILDREN.

(a) SEXUAL ABUSE AND CONTACT.—

(1) AGGRAVATED SEXUAL ABUSE OF CHILDREN.—Section 2241(c) of title 18, United States Code, is amended by striking '', imprisoned for any term of years or life, or both.'' and inserting ''and imprisoned for not less than 30 years or for life.''.

(2) ABUSIVE SEXUAL CONTACT WITH CHILDREN.—Section 2244 of chapter 109A of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''subsection (a) or (b) of'' before ''section 2241'';

(ii) by striking ''or'' at the end of paragraph (3);

(iii) by striking the period at the end of paragraph (4) and inserting ''; or''; and

(iv) by inserting after paragraph (4) the following:

''(5) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title and imprisoned for not less than 10 years and not more than 25 years.''; and

(B) in subsection (c), by inserting ''(other than subsection (a)(5))'' after ''violates this section''.

(3) SEXUAL ABUSE OF CHILDREN RESULTING IN DEATH.—Section 2245 of title 18, United States Code, is amended—

(A) by inserting '', chapter 110, chapter 117, or section 1591'' after ''this chapter'';

(B) by striking ''A person'' and inserting ''(a) IN GENERAL.—A person''; and

(C) by adding at the end the following:

''(b) OFFENSES INVOLVING YOUNG CHILDREN.—A person who, in the course of an offense under this chapter, chapter 110, chapter 117, or section 1591 engages in conduct that results in the death of a person who has not attained the age of 12 years, shall be punished by death or imprisoned for not less than 30 years or for life.''.

(4) DEATH PENALTY AGGRAVATING FACTOR.—Section 3592(c)(1) of title 18, United States Code, is amended by inserting ''section 2245 (sexual abuse resulting in death),'' after ''(wrecking trains),''.

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(e) of title 18, United States Code, is amended—

(A) by striking ''15 years nor more than 30 years'' and inserting ''25 years or for life'';

(B) by inserting ''section 1591,'' after ''this chapter,'' the first place it appears;

(C) by striking ''the sexual exploitation of children'' the first place it appears and inserting ''aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography'';

(D) by striking ''not less than 25 years nor more than 50 years, but if such person has 2 or more prior convictions under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), 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 35 years nor more than life.'' and inserting ''life.''; and

(E) by striking ''any term of years or for life'' and inserting ''not less than 30 years or for life''.

(2) ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.—Section 2252(b) of title 18, United States Code, is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (1)'' and inserting ''paragraph (1)'';

(ii) by inserting ''section 1591,'' after ''this chapter,'';

(iii) by inserting '', or sex trafficking of children'' after ''pornography'';

(iv) by striking ''5 years and not more than 20 years'' and inserting ''25 years or for life''; and

(v) by striking ''not less than 15 years nor more than 40 years.'' and inserting ''life.''; and

(B) in paragraph (2)—

(i) by striking ''or imprisoned not more than 10 years'' and inserting ''and imprisoned for not less than 10 nor more than 30 years'';

(ii) by striking '', or both''; and

(iii) by striking ''10 years nor more than 20 years.'' and inserting ''30 years or for life.''.

(3) ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b) of title 18, United States Code, is amended—

(A) in paragraph (1)—

(i) by inserting ''section 1591,'' after ''this chapter,'';

(ii) by inserting '', or sex trafficking of children'' after ''pornography'';

(iii) by striking ''5 years and not more than 20 years'' and inserting ''25 years or for life''; and

(iv) by striking ''not less than 15 years nor more than 40 years'' and inserting ''life''; and

(B) in paragraph (2)—

(i) by striking ''or imprisoned not more than 10 years, or both'' and inserting ''and imprisoned for not less than 10 nor more than 30 years''; and

(ii) by striking ''10 years nor more than 20 years'' and inserting ''30 years or for life''.

(4) USING MISLEADING DOMAIN NAMES TO DIRECT CHILDREN TO HARMFUL MATERIAL ON THE INTERNET.—Section 2252B(b) of title 18, United States Code, is amended by striking ''or imprisoned not more than 4 years, or both'' and inserting '' and imprisoned not less than 10 nor more than 30 years''.

(5) PRODUCTION OF SEXUALLY EXPLICIT DEPICTIONS OF CHILDREN.—Section 2260(c) of title 18, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) shall be fined under this title and imprisoned for any term or years not less than 25 or for life; and

''(2) if the person has a prior conviction under this chapter, section 1591, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), shall be fined under this title and imprisoned for life.''.

(c) MANDATORY LIFE IMPRISONMENT FOR CERTAIN REPEATED SEX OFFENSES AGAINST CHILDREN.—Section 3559(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking ''or 2423(a)'' and inserting ''2423(a)''; and

(2) by inserting '', 2423(b) (relating to travel with intent to engage in illicit sexual conduct), 2423(c) (relating to illicit sexual conduct in foreign places), or 2425 (relating to use of interstate facilities to transmit information about a minor)'' after ''minors)''.

AMENDMENT NO. 5 OFFERED BY MR. RYUN OF KANSAS

Mr. RYUN of Kansas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. RYUN of Kansas:

At the end of title IV add the following:

SEC. 403. SENSE OF CONGRESS WITH RESPECT TO PROSECUTIONS UNDER SECTION 2422(b) OF TITLE 18, UNITED STATES CODE.

(a) FINDINGS.—Congress finds that—

(1) a jury convicted Jan P. Helder, Jr., of using a computer to attempt to entice an individual who had not attained the age of 18 years to engage in unlawful sexual activity;

(2) during the trial, evidence showed that Jan Helder had engaged in an online chat with an individual posing as a minor, who unbeknownst to him, was an undercover law enforcement officer;

(3) notwithstanding, Dean Whipple, District Judge for the Western District of Missouri, acquitted Jan Helder, ruling that because he did not, in fact, communicate with a minor, he did not commit a crime;

(4) the 9th Circuit Court of Appeals, in United States v. Jeffrey Meek, specifically addressed the question facing Judge Whipple and concurred with the 5th and 11th Circuit Courts in finding that ''an actual minor victim is not required for an attempt conviction under 18 U.S.C. § 2422(b).'';

(5) the Department of Justice has successfully used evidence obtained through undercover law enforcement to prosecute and convict perpetrators who attempted to solicit children on the Internet; and

(6) the Department of Justice states, ''Online child pornography/child sexual exploitation is the most significant cyber crime problem confronting the FBI that involves crimes against children''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is a crime under section 2422(b) of title 18, United States Code, to use a facility of interstate commerce to attempt to entice an individual who has not attained the age of 18 years into unlawful sexual activity, even if the perpetrator incorrectly believes that the individual has not attained the age of 18 years;

(2) well-established caselaw has established that section 2422(b) of title 18, United States Code, criminalizes any attempt to entice a minor into unlawful sexual activity, even if the perpetrator incorrectly believes that the individual has not attained the age of 18 years;

(3) the Department of Justice should appeal Judge Whipple's decision in United States v. Helder, Jr. and aggressively continue to track down and prosecute sex offenders on the Internet; and

(4) Judge Whipple's decision in United States v. Helder, Jr. should be overturned in light of the law as it is written, the intent of Congress, and well-established caselaw.

Mr. RYUN of Kansas. Mr. Chairman, today I am offering an amendment to restate Congress's commitment to protecting children on the Internet and to condemn a recent judicial decision that, if left standing, would impede the work of law enforcement in tracking down pedophiles on the Internet.

Recently, Jan Helder, a resident of Mission Hills, Kansas, was convicted by a jury for attempting to solicit a minor over the Internet. Notwithstanding the jury's verdict, the U.S. District Judge, Dean Whipple, acquitted Jan Helder, saying that he did not commit a crime because he was not communicating with a minor but, in fact, was communicating with an undercover agent posing as a minor.

Judge Whipple clearly ignored the law's intent and contradicted well-established case law addressing the issue.

In United States v. Jeffrey Meek, the Ninth Circuit Court of Appeals specifically addressed the question of whether a crime of attempting to solicit a minor on the Internet applies when the actual victim is an adult rather than a minor. In this case, the Court concurred with the decisions of the Fifth and Eleventh Circuit Courts in finding that an actual minor victim is not required for an attempted conviction under this section.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. RYUN of Kansas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this sounds like a good amendment, and I would be happy to accept it.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. RYUN).

The amendment was agreed to.

□ 1345

The Acting CHAIRMAN (Mr. SWEENEY). Are there any further amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—FOSTER CHILD PROTECTION AND CHILD SEXUAL PREDATOR DETERRENCE

SEC. 501. SHORT TITLE.

This title may be cited as the ''Foster Child Protection and Child Sexual Predator Sentencing Act of 2005''.

SEC. 502. REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES; SUSPENSION AND SUBSEQUENT ELIMINATION OF OPT-OUT.

(a) REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES; SUSPENSION OF OPT-OUT.—

(1) REQUIREMENT TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting '', including checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code),'' after ''criminal records checks''; and

(II) by striking ''on whose behalf foster care maintenance payments or adoption assistance payments are to be made'' and inserting ''regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child''; and

(ii) in each of clauses (i) and (ii), by inserting ''involving a child on whose behalf such payments are to be so made'' after ''in any case''; and

(B) by adding at the end the following:

''(C) provides that the State shall—

''(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

''(ii) comply with any request described in clause (i) that is received from another State; and

''(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;''.

(2) SUSPENSION OF OPT-OUT.—Section 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B)) is amended—

(A) by inserting '', on or before September 30, 2005,'' after ''plan if''; and

(B) by inserting '', on or before such date,'' after ''or if''.

(b) ELIMINATION OF OPT-OUT.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)), as amended by subsection (a) of this section, is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking ''unless an election provided for in subparagraph (B) is made with respect to the State,''; and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on October 1, 2005, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(2) ELIMINATION OF OPT-OUT.—The amendments made by subsection (b) shall take effect on October 1, 2007, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under section 471 of the Social Security Act to meet the additional requirements imposed by the

amendments made by a subsection of this section, the plan shall not be regarded as failing to meet any of the additional requirements before the first day of the first calendar quarter beginning after the first regular session of the State legislature that begins after the otherwise applicable effective date of the amendments. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

SEC. 503. ACCESS TO FEDERAL CRIME INFORMATION DATABASES BY CHILD WELFARE AGENCIES FOR CERTAIN PURPOSES.

(a) IN GENERAL.—The Attorney General shall, upon request of the chief executive of a State, ensure that appropriate officers of child welfare agencies have the authority for ''read only'' online access to the databases of the national crime information databases (as defined in section 534 of title 28, United States Code) to carry out criminal history records checks, subject to subsection (b).

(b) LIMITATION.—An officer may use the authority under subsection (a) only in furtherance of the purposes of the agency and only on an individual relevant to casework of the agency.

(c) PROTECTION OF INFORMATION.—An individual having information derived as a result of a check under subsection (a) may release that information only to appropriate officers of child welfare agencies or another person authorized by law to receive that information.

(d) CRIMINAL PENALTIES.—An individual who knowingly exceeds the authority in subsection (a), or knowingly releases information in violation of subsection (c), shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(e) CHILD WELFARE AGENCY DEFINED.—In this section, the term ''child welfare agency'' means—

(1) the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act; and

(2) any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the placement of foster or adoptive children.

SEC. 504. PENALTIES FOR COERCION AND ENTICEMENT BY SEX OFFENDERS.

Section 2422(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 20 years, or both'' and inserting ''and imprisoned not less than 10 years nor more than 30 years''.

SEC. 505. PENALTIES FOR CONDUCT RELATING TO CHILD PROSTITUTION.

Section 2423 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''5 years and not more than 30 years'' and inserting ''30 years or for life'';

(2) in subsection (b), by striking ''or imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for not less than 10 years and not more than 30 years'';

(3) in subsection (c), by striking ''or imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for not less than 10 years and not more than 30 years''; and

(4) in subsection (d), by striking ''imprisoned not more than 30 years, or both'' and inserting ''and imprisoned for not less than 10 nor more than 30 years''.

SEC. 506. PENALTIES FOR SEXUAL ABUSE.

(a) AGGRAVATED SEXUAL ABUSE.—Section 2241 of title 18, United States Code, is amended—

(1) in subsection (a), by striking '', imprisoned for any term of years or life, or both'' and inserting ''and imprisoned for any term of years not less than 30 or for life''; and

(2) in subsection (b), by striking '', imprisoned for any term of years or life, or both'' and inserting ''and imprisoned for any term of years not less than 25 or for life''.

(b) SEXUAL ABUSE.—Section 2242 of title 18, United States Code, is amended by striking '', imprisoned not more than 20 years, or both'' and inserting ''and imprisoned not less than 15 years nor more than 40 years''.

(c) ABUSIVE SEXUAL CONTACT.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking '', imprisoned not more than three years, or both'' and inserting ''and imprisoned not less than 5 years nor more than 30 years'';

(2) in paragraph (3), by striking '', imprisoned not more than two years, or both'' and inserting ''and imprisoned not less than 4 years nor more than 20 years''; and

(3) in paragraph (4), by striking '', imprisoned not more than six months, or both'' and inserting ''and imprisoned not less than 2 years nor more than 10 years''.

SEC. 507. SEX OFFENDER SUBMISSION TO SEARCH AS CONDITION OF RELEASE.

(a) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended——

(1) in paragraph (9), by striking the period and inserting ''; and''; and

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

''(10) for a person who is a felon or required to register under the Sex Offender Registration and Notification Act, that the person submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.''.

(b) SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by adding at the end the following: ''The court may order, as an explicit condition of supervised release for a person who is a felon or required to register under the Sex Offender Registration and Notification Act, that the person submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions.''

SEC. 508. KIDNAPPING PENALTIES AND JURISDICTION.

Section 1201 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''if the person was alive when the transportation began'' and inserting '', or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense''; and

(2) in subsection (b), by striking ''to interstate'' and inserting ''in interstate''.

SEC. 509. MARITAL COMMUNICATION AND ADVERSE SPOUSAL PRIVILEGE.

(a) IN GENERAL.—Chapter 119 of title 28, United States Code, is amended by inserting after section 1826 the following:

''§ 1826A. Marital communications and adverse spousal privilege

''The confidential marital communication privilege and the adverse spousal privilege shall be inapplicable in any Federal proceeding in which a spouse is charged with a crime against—

''(1) a child of either spouse; or

''(2) a child under the custody or control of either spouse.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 119 of title 28, United States Code, is amended by inserting after the item relating to section 1826 the following:

''1826A. Marital communications and adverse spousal privilege.''.

SEC. 510. ABUSE AND NEGLECT OF INDIAN CHILDREN.

Section 1153(a) of title 18, United States Code, is amended by inserting ''felony child abuse or neglect,'' after ''years,''.

SEC. 511. CIVIL COMMITMENT.

Chapter 313 of title 18, United States Code, is amended—

(1) in the chapter analysis—

(A) in the item relating to section 4241, by inserting ''or to undergo postrelease proceedings'' after ''trial''; and

(B) by inserting at the end the following:

''4248. Civil commitment of a sexually dangerous person.'';

(2) in section 4241—

*(A) in the heading, by inserting ''**or to undergo postrelease proceedings**'' after ''**trial**'';*

(B) in the first sentence of subsection (a), by inserting ''or at any time after the commencement of probation or supervised release and prior to the completion of the sentence,'' after ''defendant,'';

(C) in subsection (d)—

(i) by striking ''trial to proceed'' each place it appears and inserting ''proceedings to go forward''; and

(ii) by striking ''section 4246'' and inserting ''sections 4246 and 4248''; and

(D) in subsection (e)—

(i) by inserting ''or other proceedings'' after ''trial''; and

(ii) by striking ''chapter 207'' and inserting ''chapters 207 and 227'';

(3) in section 4247—

(A) by striking '', or 4246'' each place it appears and inserting '', 4246, or 4248'';

(B) in subsections (g) and (i), by striking ''4243 or 4246'' each place it appears and inserting ''4243, 4246, or 4248'';

(C) in subsection (a)—

(i) by amending subparagraph (1)(C) to read as follows:

''(C) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence or any condition that makes the individual dangerous to others; and'';

(ii) in paragraph (2), by striking ''and'' at the end;

(iii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iv) by inserting at the end the following:

''(4) 'bodily injury' includes sexual abuse;

''(5) 'sexually dangerous person' means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others; and

''(6) 'sexually dangerous to others' means that a person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.'';

(D) in subsection (b), by striking ''4245 or 4246'' and inserting ''4245, 4246, or 4248''; and

(E) in subsection (c)(4)—

(i) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) respectively; and

(ii) by inserting after subparagraph (C) the following:

''(D) if the examination is ordered under section 4248, whether the person is a sexually dangerous person;''; and

(4) by inserting at the end the following:

''§ 4248. Civil commitment of a sexually dangerous person

''(a) INSTITUTION OF PROCEEDINGS.—In relation to a person who is in the custody of the Bureau of Prisons, or who has been committed to

the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons relating to the mental condition of the person, the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

''(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

''(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

''(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall place the person for treatment in a suitable facility, until—

''(1) such a State will assume such responsibility; or

''(2) the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment;

whichever is earlier. The Attorney General shall make all reasonable efforts to have a State to assume such responsibility for the person's custody, care, and treatment.

''(e) DISCHARGE.—When the Director of the facility in which a person is placed pursuant to subsection (d) determines that the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that—

''(1) he will not be sexually dangerous to others if released unconditionally, the court shall order that he be immediately discharged; or

''(2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall—

''(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and

''(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

''(f) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that he is sexually dangerous to others in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

''(g) RELEASE TO STATE OF CERTAIN OTHER PERSONS.—If the director of the facility in which a person is hospitalized or placed pursuant to this chapter certifies to the Attorney General that a person, against him all charges have been dismissed for reasons not related to the mental condition of the person, is a sexually dangerous person, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.''.

SEC. 512. MANDATORY PENALTIES FOR SEX-TRAFFICKING OF CHILDREN.

Section 1591(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''or imprisonment'' and inserting ''and imprisonment'';

(B) by inserting ''not less than 20'' after ''any term of years''; and

(C) by striking '', or both''; and

(2) in paragraph (2)—

(A) by striking ''or imprisonment for not'' and inserting ''and imprisonment for not less than 10 years nor''; and

(B) by striking '', or both''.

SEC. 513. SEXUAL ABUSE OF WARDS.

Chapter 109A of title 18, United States Code, is amended—

(1) in section 2243(b), by striking ''one year'' and inserting ''five years'';

(2) in section 2244(b), by striking ''six months'' and inserting ''two years''; and

(3) by inserting after ''Federal prison,'' each place it appears, other than the second sentence of section 2241(c), the following: ''or being in the custody of the Attorney General or the Bureau of Prisons or confined in any institution or facility by direction of the Attorney General or the Bureau of Prisons,''.

AMENDMENT NO. 29 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 29 offered by Mr. SENSENBRENNER:

Page 69, after line 17, insert the following:

SEC. 514. NO LIMITATION FOR PROSECUTION OF FELONY SEX OFFENSES.

Chapter 213 of title 18, United States Code, is amended—

(1) by adding at the end the following:

''§ 3298. Child abduction and sex offenses.

''Notwithstanding any other 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.''; and

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

''3298. Child abduction and sex offenses.''.

SEC. 515. CHILD ABUSE REPORTING.

Section 2258 of title 18, United States Code, is amended by striking ''Class B misdemeanor'' and inserting ''Class A misdemeanor''.

Mr. SENSENBRENNER. Mr. Chairman, this amendment that I am offering contains two provisions. The first would amend title XVIII to eliminate any statute of limitations on criminal prosecutions for kidnapping a child, committing a felony sex offense, or a human trafficking violation.

Eliminating these statutes for these crimes reflects the increased use of the success of DNA in solving decade-old crimes. We have all heard about individuals who have been exonerated by DNA evidence. However, there are even more reports of unsolved cases that have been solved and a perpetrator identified by DNA evidence years after the crime was committed.

This provision reflects this new reality and allows Federal prosecutors to prosecute sex offenders and child abusers who have escaped apprehension because of the statute of limitations.

I would note that this same provision was passed by the House in the 108th Congress as a part of the Child Abduction Prevention Act by the overwhelming vote of 410 to 4. It was modified in conference with the Senate as a part of the Protect Act.

The second provision in this amendment raises the class on the existing misdemeanor for failure to report child abuse, thereby raising the maximum penalty for such an offense from 6 months' imprisonment to a year imprisonment.

I strongly urge support of the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 30 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 offered by Mr. SENSENBRENNER:

Page 54, strike line 10 and all that follows through line 19 on page 55 and insert the following:

SEC. 503. ACCESS TO FEDERAL CRIME INFORMATION DATABASES BY CHILD WELFARE AGENCIES FOR CERTAIN PURPOSES.

(a) IN GENERAL.—The Attorney General shall, upon request of the chief executive of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code) submitted by a local welfare agency for conducting a background check required under section 471(a)(20) of the Social Security Act on individuals under consideration as foster or adoptive parents. Where possible, the check shall include a fingerprint-based check of state criminal history databases. The Attorney General and the States may charge any applicable fees for the checks.

(b) LIMITATION.—An officer may use the authority under subsection (a) only for the purpose of conducting the background checks required under section 471(a)(20) of the Social Security Act.

(c) PROTECTION OF INFORMATION.—An individual having information derived as a result of a check under subsection (a) may release that information only to appropriate officers of child welfare agencies or another person authorized by law to receive that information.

(d) CRIMINAL PENALTIES.—An individual who knowingly exceeds the authority in subsection (a), or knowingly releases information in violation of subsection (c), shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(e) CHILD WELFARE AGENCY DEFINED.—In this section, the term ''child welfare agency'' means—

(1) the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act; and

(2) any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the licensing or approval of foster or adoptive parents.

Mr. SENSENBRENNER. Mr. Chairman, this amendment makes technical changes to section 503 of the bill relating to access to Federal crime information databases by child welfare agencies.

The amendment requires fingerprint-based checks when conducting background checks for a limited purpose, to verify that a prospective adoptive or foster parent does not have a criminal record.

Before we allow foster or adoptive parents to take children into their homes, we must ensure that these applicants do not have prior convictions, let alone prior sex offense convictions. I urge my colleagues to support this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 31 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Ms. JACKSON-LEE of Texas:

At the end of the Title V, add the following new section:

SEC. ___. SENSE OF CONGRESS.

It is the sense of Congress that background checks conducted as a precondition to approval of any foster or adoptive placement of children affected by a natural disaster or terrorist attack should be expedited in order to ensure that such children do not become subjected to the offenses enumerated in this act.

Ms. JACKSON-LEE of Texas. Mr. Chairman, there is not a time that in the backdrop of the tragedy of Katrina that I cannot rise and thank the many volunteers and supporters around the Nation and particularly my home town of Houston and the State of Texas.

With that in mind, as I watched the evacuees come into the Houston Astrodome and the George R. Brown Convention Center, Mr. Chairman, one of the striking aspects of it was the enormous number of children, thousands of children. In fact, it is calculated that 300,000 to 400,000 children will be homeless and will be impacted by this tragedy.

This very bill impacts our children by seeking to protect them. So I raise an amendment and a cause of concern that I would like to include and the specific language involved, making sure that the process of adoption and foster care can be expedited through the language of a sense of Congress, that background checks conducted as a precondition to approval of any foster or adoptive placement of children, affected by a natural disaster or terrorist act should be expedited in order to ensure that such children do not become subjected to the offenses enumerated in the Children's Safety Act.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I will be happy to accept this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the chairman's generosity. I understand his generosity and if he would allow me to conclude two or three comments about what I saw, I would be happy to accept a voice vote.

Mr. Chairman, I just wanted to put in the RECORD, why, if you are kind enough to accept this, this is so very important. As I spoke to the evacuees, what they said to me was that in the Superdome there were outright examples of rape and abuse of children. They may not have been the family members; but in that instance, if the family members are lost, an expedited foster care and an expedited adoption would be relevant.

If in this instance of this law we can expedite those background checks and have this language in this bill, I certainly know that it would help the thousands of children that may be impacted.

Let me conclude by saying that I hope, as I indicated before, that we will initiate a children's initiative to address the concerns of these children. But if this language is placed in this bill, at least they will have a placeholder that their cases will be expedited so that their lives can be put back in place and so that sex offenders will not be the ones to be adopting and/or have foster care of these vulnerable children.

As was the case with September 11, Hurricane Katrina has left many children without their natural parents. Many kids are now wondering who will care for them and how their needs will be met. Not only is this enormous pressure on a child but it greatly diminishes the joys of childhood. My amendment would set forth a sense of Congress that background checks conducted as a precondition to approval of any foster or adoptive placement of children affected by a natural disaster or terrorist attack should be expedited in order to ensure that such children do not become subjected to the offenses enumerated in this act. While family members often step in to take care of children who have lost their natural parents, these family members usually only have limited resources and as a result, the child may be passed from family member to family member. As we all know, this can be a very unstable environment for a child. This amendment attempts to move the background check process along in a timely manner so these displaced children can enter a loving and caring family and get back to a normal life.

As we all watched the devastating stories of Hurricane Katrina unfold, it was very disturbing to me to learn that several minors were raped while waiting to be rescued from the New Orleans Superdome. This is a prime example of the many negative situations that can arise as a result of a natural disaster which displaces children from their parents, or even causes the parents lives to be lost. As a parent and Chair of the Children's Caucus, I am very concerned with the well being of our nation's children. As natural disasters seem to be more prevalent in our society, we must begin to think about how we care for those children who lose their natural parents. This amendment is not intended to circumvent the precondition background check for approval of any foster or adoptive placement; it is only intended to speed the process up so we can get these displaced children with loving and caring families.

In closing, just like most other States, Louisiana has an open and searchable sex offender registry. The primary party responsible in most communities for checking up on the status of sex offenders who have served their sentences but must register is the local police. However, the police and local law officials are swamped with the task of rescuing survivors and ensuring that every one gets out of the city. This makes it difficult to monitor the moves and whereabouts of registered sex offenders. In addition, as the citizens of New Orleans and other states wait for assistance in cities around the country, sex offenders are among innocent children who have lost their natural parents and are vulnerable. In these troubled times, let us not leave our children helpless.

[September 4, 2005]

I have a feeling I could be accused of a kind of insensitivity, or at worst a sort of obsessiveness by bringing this up now, but after reading about some of the terrible things that have been said to have happened in New Orleans after the destruction wrought by Hurricane Katrina on August 29, 2005, this idea occurred to me in a kind of lightbulb moment.

Sex crimes are part of war. War produces an anarchic mindset. So does a disaster on the scale of what we have seen in Louisiana and Southern Mississippi. Just as invading soldiers from various countries in the past have made sexual assault a part of their subjugating of a native population, so the criminals loose on the streets in New Orleans and even inside the SuperDome have made sexual assault another part of their overall orgy of violence. In the entry I wrote earlier today I wrote briefly of the horrific story coming out of the SuperDome of the rape and murder of a little girl, followed by the beating death at the hands of 10 men of the perpetrator.

I began thinking about how many people must be unaccounted for in New Orleans and the surrounding region devastated by the storm. The number must be astonishing, just as we keep hearing the final death toll will be. Of the survivors who have made it this long and perhaps been able to get to refuge in other states, whatever procedures officials who run shelters in these states have in place for registering who stays there must certainly take into account the fact that many people left their homes so quickly and under such duress that they may have only the clothes on their backs—no identification, money, etc.

Registered sex offenders, of course, are more closely accounted for than other citizens. Louisiana has an open and searchable sex offender registry just like many other states across the U.S. The primary party responsible in most communities for checking up on the status of sex offenders who have served their sentences but must register are the local police. As we know, it is all the New Orleans P.D. can do at the moment to maintain their number and keep cops from walking off or getting killed themselves. Just like everyone else, the cops have lost family, homes, in a sense, their lives.

We can surmise that if the death toll from Katrina in Louisiana alone is as high as 10,000, as has been reported in the mainstream media, a number of sex offenders will have succumbed to the storm and its aftermath.

We can also guess that if the larger portion of the population of New Orleans was able to leave before the storm, or has now been taken to refugee centers in surrounding states, a larger number of sex offenders are now not just out of the residence registered in the Louisiana offender database, but quite possibly off the grid completely and free to throw off what many of them surely must view as the shackles of having to register and have their faces placed on the internet next to a summary of whatever crimes they were convicted of committing.

Of that number, a percentage will be considered what many states refer to as level III sex offender. The most likely to use violence in the commission of their crimes, and the most likely to re-offend.

Click on the thumbnail inserted into the first paragraph of this blog entry to see a screen capture of a map I made at *mapsexoffenders.com*, the service that matches up sex offender databases with maps and satellite photos and marks the registered offenders' homes with a red balloon.

The blue balloon on the large map you see when you look at the screen cap I made represents the city center of New Orleans. The red balloons, which you will see are numerous, represent all the registered offenders' addresses.

As I said, some of those offenders are likely victims of this epochal storm just like many other residents of the Big Easy. But a larger number of them probably survived. Of those who survived, there will be some who truly are trying to live the 'straight' life, and they will likely be dutiful in reporting their identities and true status as a registered sex offender. But there may even be a larger number who realize that a remarkable opportunity has presented itself.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 20 OFFERED BY MR. WELDON OF FLORIDA

Mr. WELDON of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. WELDON of Florida:

At the end of the bill, add the following new section:

SEC. 5___. DEFENDANTS IN CERTAIN CRIMINAL CASES TO BE TESTED FOR HIV.

(a) IN GENERAL.—A jurisdiction shall have in effect laws or regulations with respect to a defendant against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity that require as follows:

(1) That the defendant be tested for HIV disease if—

(A) the nature of the alleged crime is such that the sexual activity would have placed the victim at risk of becoming infected with HIV; or

(B) the victim requests that the defendant be so tested.

(2) That if the conditions specified in paragraph (1) are met, the defendant undergo the test not later than 48 hours after the date on which the information or indictment is presented, and that as soon thereafter as is practicable the results of the test be made available to—

(A) the victim;

(B) the defendant (or if the defendant is a minor, to the legal guardian of the defendant);

(C) the attorneys of the victim;

(D) the attorneys of the defendant;

(E) the prosecuting attorneys; and

(F) the judge presiding at the trial, if any.

(3) That if the defendant has been tested pursuant to paragraph (2), the defendant, upon request of the victim, undergo such follow-up tests for HIV as may be medically appropriate, and that as soon as is practicable after each such test the results of the test be made available in accordance with paragraph (1) (except that this paragraph applies only to the extent that the individual involved continues to be a defendant in the judicial proceedings involved, or is convicted in the proceedings).

(4) That, if the results of a test conducted pursuant to paragraph (2) or (3) indicate that the defendant has HIV disease, such fact may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime.

(b) FAILURE TO COMPLY.—

(1) IN GENERAL.—For any fiscal year beginning 2 or more years after the date of the enactment of this Act, a jurisdiction that fails to implement this section shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under each of the following programs:

(A) BYRNE.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(B) LLEBG.—The Local Government Law Enforcement Block Grants program.

(2) REALLOCATION.—Amounts not allocated under a program referred to in paragraph (1) to a jurisdiction for failure to fully implement this section shall be reallocated under that program to jurisdictions that have not failed to implement this section.

Mr. WELDON of Florida. Mr. Chairman, for my colleagues this amendment specifically deals with the issue where you have a situation of a sexual assault and a victim is trying to determine the HIV status of the perpetrator.

Many States have taken action on this issue. But there are several States that have yet to do so. Why am I offering this? Well, we had a case in Alabama of a 41-year-old man, HIV positive, transmitting HIV to a 4-year-old girl that he had raped. A 35-year-old man in Iowa raped a 15-year-old girl and her 69-year-old grandmother. He was infected with HIV.

Under the laws of that State, they had no right to obtain the HIV status of this rapist. He was HIV positive. And as many people may note today, if you are exposed to HIV, it is possible to take a 1-month long course of medication and dramatically reduce the likelihood of contracting human immunodeficiency disease.

I think this is an excellent amendment. This body passed this by large vote years ago.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to accept this amendment. I would point out that this is nearly identical to H.R. 3088, which passed the House 380 to 19 in October of 2000.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. WELDON).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. WASSERMAN SCHULTZ

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. WASSERMAN SCHULTZ:

Insert after section 511 the following new section (and redesignate succeeding sections accordingly):

SEC. 512. STATE CIVIL COMMITMENT PROGRAMS FOR SEXUALLY DANGEROUS PERSONS.

(a) GRANTS AUTHORIZED.—The Attorney General shall make grants to jurisdictions

for the purpose of establishing, enhancing, or operating effective civil commitment programs for sexually dangerous persons.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a jurisdiction must, before the expiration of the compliance period—

(A) have established a civil commitment program for sexually dangerous persons that is consistent with guidelines issued by the Attorney General; or

(B) submit a plan for the establishment of such a program.

(2) COMPLIANCE PERIOD.—The compliance period referred to in paragraph (1) expires on the date that is 2 years after the date of the enactment of this Act. However, the Attorney General may, on a case-by-case basis, extend the compliance period that applies to a jurisdiction if the Attorney General considers such an extension to be appropriate.

(c) ATTORNEY GENERAL REPORTS.—Not later than January 31 of each year, beginning with 2008, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of jurisdictions in implementing this section and the rate of sexually violent offenses for each jurisdiction.

(d) DEFINITIONS.—As used in this section:

(1) The term ''civil commitment program'' means a program that involves—

(A) secure civil confinement, including appropriate control, care, and treatment during such confinement; and

(B) appropriate supervision, care, and treatment for individuals released following such confinement.

(2) The term ''sexually dangerous person'' means an individual who is dangerous to others because of a mental illness, abnormality, or disorder that creates a risk that the individual will engage in sexually violent conduct or child molestation.

(3) The term ''jurisdiction'' has the meaning given such term in section 111.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006, 2007, 2008, and 2009.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, today I offer an amendment to provide guidelines and incentives for States to civilly confine violent sexual predators.

I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and his staff for this support in working with my office on this provision. I would also like to thank the gentleman from Michigan (Mr. CONYERS) for his support as well.

Most criminals deemed as sexually violent have broken State, as opposed to Federal, laws. This amendment would incentivize States to implement civil confinement programs. This is not a new or radical idea. As of 2002, 16 States and the District of Columbia have implemented some form of a civil confinement law. Under this amendment, civil confinement would encompass those who admit their illness, as well as those who are deemed too dangerous to return to society without proper treatment and rehabilitation.

Texas prisoner Larry Don McQuay is an example of the kind of person who would merit civil confinement. He is a convicted child molester who describes himself alternatively as scum of the Earth and a monster.

He is currently serving a 20-year sentence for molesting three children.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. WASSERMAN SCHULTZ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is also a good amendment. I would just point out that it has been carefully drafted to ensure compliance with the Supreme Court decisions approving of such laws in Kansas v. Hendrick 1997, and Kansas v. Crane in 2002.

I am happy to accept the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. MCDERMOTT

Mr. MCDERMOTT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. MCDERMOTT:

Page 69, after line 17, insert the following:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. FOSTER CHILDREN IN AREAS AFFECTED BY HURRICANE KATRINA DEEMED ELIGIBLE FOR FOSTER CARE MAINTENANCE PAYMENTS.

(a) IN GENERAL.—As a condition of eligibility for payments under part E of title IV of the Social Security Act, each State with a plan approved under such part shall, during the 12-month period that begins with September 2005, make foster care maintenance payments (as defined in section 475(4) of such Act) in accordance with such part on behalf of each child who is in foster care under the responsibility of the State, and who resides or, just before August 28, 2005, had resided in an area for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina.

(b) PAYMENTS TO STATES.—In lieu of any entitlement to payment under section 474 of the Social Security Act with respect to any child described in subsection (a) of this section, each State with such a plan shall be entitled to a payment for each quarter in which there is month in which the State has made a foster care maintenance payment pursuant to such subsection (a), in an amount equal to the sum of—

(1) the total of the amounts expended by the State during the quarter pursuant to such subsection (a) for children described in such subsection (a) who are in foster family homes (as defined in section 472(c)(1) of such Act) or child-care institutions (as defined in section 472(c)(2) of such Act); and

(2) the total of the amounts expended by the State during the quarter as found necessary by the Secretary for the provision of child placement services for such children, for the proper and efficient administration of the plan with respect to such children, or for the provision of services which seek to improve the well-being of such children.

Mr. SENSENBRENNER. Mr. Chairman, I reserve a point of order on the amendment.

The Acting CHAIRMAN. The gentleman from Wisconsin reserves a point of order.

Mr. MCDERMOTT. Mr. Chairman, I rise in defense of children. While I stand alone at the podium, I wish we were all standing together on behalf of foster children created by Katrina.

The other day I introduced the Emergency Action for Vulnerable Children Act, H.R. 3711. Today I offer 3711 as an amendment to the Child Safety Act of 2005.

There is really not a moment to lose. We must accept responsibility for the safety and welfare of foster children affected in this crisis. When Katrina slammed into the Gulf Coast, thousands of foster children were separated from foster families in shelters, and they will fall through the social safety net unless we act.

In drafting this legislation, I worked closely with organizations like the National Foster Parent Association and the Child Welfare League of America. These organizations are working directly with others on the ground in the affected region, and they said what we needed to hear: the Federal Government must become an immediate and reliable partner for States trying to cope with the human needs that are outstripping their individual ability to effectively respond.

Late yesterday the Child Welfare League, which represents 900 public and private caregivers across the country, endorsed the Emergency Action for Vulnerable Children.

Mr. Chairman, I would like to quote from their letter: ''Many Child Welfare League of America member agencies are working in the disaster area to connect children with their families and to continue to provide services to those children in care.''

They report to us directly about their struggles in attempting to meet the needs of children and families devastated by the disaster.

H.R. 3711 begins to address these issues. It is clear that it will take a sustained effort on the part of volunteers and local, State and Federal governments, to help these children and families, quote, and continuing to quote, ''this legislation provides an assurance that the Federal Government stands as a partner with State and local governments to meet the needs of these children.''

Mr. Chairman, there are no gotchas in this amendment. Its intent is clear, and will focus much more needed Federal resources on foster children affected by the hurricane.

□ 1400

The legislation is bipartisan in spirit and humanitarian in fact. The current child welfare program simply cannot handle a crisis of this magnitude. Rules of eligibility vary from State to State. In many cases, vulnerable children may not be receiving mental health treatment or family counseling.

We must change that, and we can. Because H.R. 3711 cuts through the red tape and makes the Federal Government, appropriately in a national crisis, responsible for paying for urgently

needed care. This is no time to have a boatload of rules and regulations. This is a time to provide a boatload of help.

With one vote, we can demonstrate our leadership in this time of national crisis. With one vote, we can make every foster child entitled to immediate Federal help. There is no reason to wait. There is no justification to wait.

Katrina is a natural disaster and a national crisis. This act is a rescue mission, plain and simple.

Mr. Chairman, given the magnitude of the crisis and the urgency of the need, I urge my colleagues to allow my amendment to be voted on. If there was an alternative before us, I could accept that as a price of speaking for the minority party, but no such legislation exists.

Mr. Chairman, the question really is, if not now, when? If not us, who will defend and save these children?

We witnessed the horror and the tragedy on TV. Thousands of foster children lived through that. The image in their minds, the insecurity in their hearts is real and overwhelming. We cannot leave them alone.

As the ranking Democrat on the Subcommittee on Human Resources, this committee is responsible for protecting these children. We cannot turn our backs and hope that somehow, some way, someone somewhere will respond to the needs of these children.

Across this country, Americans are responding to the crisis the only way they know how, by stepping up with a big heart and an open wallet to help their fellow Americans in need. They are looking to us to lead the Nation through this crisis. We did it once together. We can do it again. Let us prove it by saving the children, today.

CHILD WELFARE LEAGUE OF AMERICA,
Washington, DC, September 13, 2005.

Hon. JIM MCDERMOTT,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN MCDERMOTT: The Child Welfare League of America (CWLA), with our 900 public and private child-serving member agencies, endorses H.R. 3711, the Emergency Action for Vulnerable Children Act. We applaud your leadership in highlighting the needs of vulnerable foster children and families affected by Hurricane Katrina.

Many CWLA member agencies are working in the disaster area to connect children with their families and to continue to provide services to those children in care. They report to us directly about their struggles in attempting to meet the needs of children and families devastated by this disaster.

H.R. 3711 begins to address these issues by providing federal assistance to ensure that foster children receive the supports and services they need, including mental health treatment. H.R. 3711 allows the kind of broad and flexible funding that will assist Louisiana, Alabama, and Mississippi, as well as help other states that are extending their hands in support of the relief efforts.

It is clear that it will take a sustained effort on the part of volunteers and local, state, and federal governments to help these children and families cope. This legislation provides an assurance that the federal government stands as a partner with state and local governments to meet the needs of these children.

Thank you again for your continued leadership on behalf of children and families. Count on CWLA to work with you in any way possible to help the children and families affected by this disaster.

Sincerely,

SHAY BILCHIK,
President/CEO.

POINT OF ORDER

The Acting CHAIRMAN (Mr. SWEENEY). Does the gentleman from Wisconsin (Mr. SENSENBRENNER) insist on his point of order?

Mr. SENSENBRENNER. I do, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. SENSENBRENNER. Mr. Chairman, I make a point of order against the amendment because it is in violation of section 302(f) of the Congressional Budget Act of 1974. This amendment would provide new budget authority in excess of the allocation made under section 302(a) of the Committee on the Judiciary and thus is not permitted under section 302(f) of the Act.

I ask for a ruling of the Chair.

The Acting CHAIRMAN. Is there anyone else who wishes to be heard on the point of order?

If not, the Chair is prepared to rule on the point of order.

The gentleman from Wisconsin raises a point of order that the amendment offered by the gentleman from Washington violates section 302(f) of the Budget Act.

Section 302(f) of the Budget Act provides a point of order against any amendment providing new budget authority that would cause a breach of the relevant allocation of budget authority under section 302(a) of the Budget Act.

The Chair is authoritatively guided under section 312 of the Budget Act by an estimate of the Committee on the Budget that the new mandatory budget authority provided by this amendment would cause a breach of the allocation of the Committee on the Judiciary.

The amendment offered by the gentleman from Washington would increase the level of new mandatory budget authority in the bill above the allocation made under section 302(a). As such, the amendment violates section 302(f) of the Budget Act. The point of order is sustained.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. NADLER:

Page 4, before line 1, at the end of the table of contents, add the following:

TITLE VI—MISCELLANEOUS PROVISION

Sec. 601. Ban on firearm for person convicted of a misdemeanor sex offense against a minor.

Page 69, after line 17, insert the following:

TITLE VI—MISCELLANEOUS PROVISION

SEC. 601. BAN ON FIREARM FOR PERSON CONVICTED OF A MISDEMEANOR SEX OFFENSE AGAINST A MINOR.

(a) DISPOSITION OF FIREARM.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; or'' ; and

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

''(10) has been convicted in any court of a misdemeanor sex offense against a minor.''.

(b) POSSESSION OF FIREARM.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (8);

(2) by striking the comma at the end of paragraph (9) and inserting ''; or'' ; and

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

''(10) who has been convicted in any court of a misdemeanor sex offense against a minor,''.

(c) MISDEMEANOR SEX OFFENSE AGAINST A MINOR DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

''(36)(A) The term 'misdemeanor sex offense against a minor' means a sex offense against a minor punishable by imprisonment for not more than one year.

''(B) The term 'sex offense' means a criminal offense that has, as an element, a sexual act or sexual contact with another, or an attempt or conspiracy to commit such an offense.

''(C) The term 'minor' means an individual who has not attained 18 years of age.''.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Chairman. I believe the Chair has not called for further amendments to title V, and the proposed amendment of the gentleman from New York (Mr. NADLER) is to title VI. I do not think title V has been closed out yet.

The Acting CHAIRMAN. The amendment of the gentleman from New York (Mr. NADLER) proposes to add a new title after title V. The gentleman is correct that the adoption of such an amendment would close title V to further amendment. But the Chair is unaware of any further amendment to title V.

Mr. NADLER. Mr. Chairman, my amendment prohibits the transfer to or possession of a firearm by any individual convicted of committing a sex offense against the minor.

Under current law, it is illegal to transfer or sell a gun to anyone convicted of a crime punishable by more than a year in jail. It is also illegal for any individual convicted of such a crime to possess a gun. For some misdemeanor offenses that, although punishable by less than a year in jail, are of a particular serious nature, we currently prohibit all transfers of guns or possession of guns by individuals convicted of such crimes.

For example, we prohibit anyone convicted of a crime of domestic violence, whether a felony or a misdemeanor, from purchasing or possessing a gun. Shockingly, we do not prohibit the sale or possession of guns to people convicted of misdemeanor sex crimes against

a minor. We should not treat child sex offenders any more leniently with respect to possessing guns than we do domestic abusers.

If Congress is prepared in the underlying bill to require rigorous, severe and intrusive registration for 20 years from persons convicted of a misdemeanor sex offense against a minor, and is prepared to require States to verify this information four times a year, then the offense is indeed of such a serious nature that a convicted sex offender against a child must not be allowed possession of a firearm.

A criminal convicted of indecent exposure, lewd conduct or molestation against a minor should not have access to a gun. These are misdemeanor offenses, but dangerous criminals convicted of committing a sexual crime against a child, even when such offense carries a penalty of less than a year, pose too great a danger to society if in possession of a firearm.

I urge my colleagues to support this amendment to close this loophole.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the amendment bans possession and transfer of firearms by a convicted misdemeanor sex offender against a minor, and I am happy to accept the amendment.

Mr. NADLER. Mr. Chairman, I appreciate the comments of the gentleman.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The amendment was agreed to.

AMENDMENT NO. 26 OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mrs. KELLY:

At the end of the bill add the following (and amend the table of contents accordingly):

TITLE VI—NATIONAL REGISTER OF CASES OF CHILD ABUSE OR NEGLECT

SEC. 601. NATIONAL REGISTER OF CASES OF CHILD ABUSE OR NEGLECT.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall create a national register of cases of child abuse or neglect. The information in such register shall be supplied by States, or, at the option of a State, by political subdivisions of such State.

(b) INFORMATION.—The register described in subsection (a) shall collect in a central electronic database information on children reported to a State, or a political subdivision of a State, as abused or neglected.

(c) SCOPE OF INFORMATION.—

(1) IN GENERAL.—

(A) TREATMENT OF REPORTS.—The information to be provided to the Secretary of Health and Human Services under this section shall relate to substantiated reports of child abuse or neglect. Except as provided in subparagraph (B), each State, or, at the option of a State, each political subdivision of such State, shall determine whether the information to be provided to the Secretary of Health and Human Services under this section shall also relate to reports of suspected instances of child abuse or neglect that were unsubstantiated or determined to be unfounded.

(B) EXCEPTION.—If a State or political subdivision of a State has an equivalent electronic register of cases of child abuse or neglect that it maintains pursuant to a requirement or authorization under any other provision of law, the information provided to the Secretary of Health and Human Services under this section shall be coextensive with that in such register.

(2) FORM.—Information provided to the Secretary of Health and Human Services under this section—

(A) shall be in a standardized electronic form determined by the Secretary of Health and Human Services; and

(B) shall contain case-specific identifying information, except that, at the option of the entity supplying the information, the confidentiality of identifying information concerning an individual initiating a report or complaint regarding a suspected or known instance of child abuse or neglect may be maintained.

(d) CONSTRUCTION.—This section shall not be construed to require a State or political subdivision of a State to modify—

(1) an equivalent register of cases of child abuse or neglect that it maintains pursuant to a requirement or authorization under any other provision of law; or

(2) any other record relating to child abuse or neglect, regardless of whether the report of abuse or neglect was substantiated, unsubstantiated, or determined to be unfounded.

(e) DISSEMINATION.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish standards for the dissemination of information in the national register of cases of child abuse or neglect. Such standards shall preserve the confidentiality of records in order to protect the rights of the child and the child's parents or guardians while also ensuring that Federal, State, and local government entities have access to such information in order to carry out their responsibilities under law to protect children from abuse and neglect.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and succeeding fiscal years.

Mrs. KELLY. Mr. Chairman, H.R. 3132, the Children's Safety Act, is a good, commonsense bill. It seeks to protect our children from sex offenders and increase the tools for law enforcement and help defend the innocence of our children.

My amendment would strengthen this bill by adding an additional tool for our State and local child protection services and by eliminating the loophole in our local laws which allow child adjudicated abusers to find sanctuary by merely crossing a State's borders. This amendment is similar to legislation I have introduced in the House, H.R. 764, which has strong bipartisan support.

Child abuse and neglect is an issue that crosses jurisdictions. It is, therefore, vital for Federal and local officials to work together to ensure necessary laws and resources to fight child abusers are in place at every level of the government.

Mr. Chairman, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, as my colleague points out, under current law what does this mean? Let me offer an example.

If there is a child abuser in California who has been proven through the courts to have a history of child abuse, that history is on record in the State of California. But should that abuser decide to move to my State of Arizona, there is no documented history of his record of abuse in California that exists in Arizona. Currently, there is no national child abuse registry to show that this is a child abuser, no easy way, therefore, for localities to know this is a child abuser who is unfit to have children in their care.

This is the problem that our local governments currently encounter. Nothing is in place nationally that provides one State a direct way to report to other States that someone has an established history of child abuse, making the job for our local and State child advocacy services much more difficult.

Children are being placed in danger when child abuse offenders move to a State where their history is unknown. This national registry would be a commonsense and a necessary step in the fight against child abuse. Local authorities need a more certain way to uncover an individual's history of child abuse in another State, and this amendment will allow the Attorney General and the Secretary of HHS to work together to create this database that can be updated by data from the several States and utilized by States to keep children safe.

Child abusers can run, but they cannot hide. We will not let them hide. This amendment makes it possible to deal with this effectively. I congratulate my co-sponsor, the gentlewoman from New York (Mrs. KELLY); and I ask the House to move forward on this favorably.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Mrs. KELLY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I will make the gentlewoman an offer she cannot refuse. I am happy to accept the amendment if the gentlewoman will yield back the balance of her time.

Mrs. KELLY. That is an offer I will not refuse.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Mrs. KELLY).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

Mr. PENCE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. PENCE:

Add at the end the following new title:

TITLE VI—CHILD PORNOGRAPHY PREVENTION ACT OF 2005

SEC. 601. SHORT TITLE.

This title may be cited as the ''Child Pornography Prevention Act of 2005''.

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) The effect of the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography on interstate market in child pornography.

(A) The illegal production, transportation, distribution, receipt, advertising and possession of child pornography, as defined in section 2256(8) of title 18, United States Code, as well as the transfer of custody of children for the production of child pornography, is harmful to the physiological, emotional, and mental health of the children depicted in child pornography and has a substantial and detrimental effect on society as a whole.

(B) A substantial interstate market in child pornography exists, including not only a multimillion dollar industry, but also a nationwide network of individuals openly advertising their desire to exploit children and to traffic in child pornography. Many of these individuals distribute child pornography with the expectation of receiving other child pornography in return.

(C) The interstate market in child pornography is carried on to a substantial extent through the mails and other instrumentalities of interstate and foreign commerce, such as the Internet. The advent of the Internet has greatly increased the ease of transporting, distributing, receiving, and advertising child pornography in interstate commerce. The advent of digital cameras and digital video cameras, as well as videotape cameras, has greatly increased the ease of producing child pornography. The advent of inexpensive computer equipment with the capacity to store large numbers of digital images of child pornography has greatly increased the ease of possessing child pornography. Taken together, these technological advances have had the unfortunate result of greatly increasing the interstate market in child pornography.

(D) Intrastate incidents of production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the transfer of custody of children for the production of child pornography, have a substantial and direct effect upon interstate commerce because:

(i) Some persons engaged in the production, transportation, distribution, receipt, advertising, and possession of child pornography conduct such activities entirely within the boundaries of one state. These persons are unlikely to be content with the amount of child pornography they produce, transport, distribute, receive, advertise, or possess. These persons are therefore likely to enter the interstate market in child pornography in search of additional child pornography, thereby stimulating demand in the interstate market in child pornography.

(ii) When the persons described in subparagraph (D)(i) enter the interstate market in search of additional child pornography, they are likely to distribute the child pornography they already produce, transport, distribute, receive, advertise, or possess to persons who will distribute additional child pornography to them, thereby stimulating supply in the interstate market in child pornography.

(iii) Much of the child pornography that supplies the interstate market in child pornography is produced entirely within the boundaries of one state, is not traceable, and enters the interstate market surreptitiously. This child pornography supports demand in the interstate market in child pornography and is essential to its existence.

(E) Prohibiting the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of custody of children for the production of child pornography, will cause some persons engaged in such intrastate activities to cease all such activities, thereby reducing both supply and demand in the interstate market for child pornography.

(F) Federal control of the intrastate incidents of the production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of children for the production of child pornography, is essential to the effective control of the interstate market in child pornography.

(2) The importance of protecting children from repeat exploitation in child pornography:

(A) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and related media.

(B) Child pornography is not entitled to protection under the First Amendment and thus may be prohibited.

(C) The government has a compelling state interest in protecting children from those who sexually exploit them, and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain.

(D) Every instance of viewing images of child pornography represents a renewed violation of the privacy of the victims and a repetition of their abuse.

(E) Child pornography constitutes prima facie contraband, and as such should not be distributed to, or copied by, child pornography defendants or their attorneys.

(F) It is imperative to prohibit the reproduction of child pornography in criminal cases so as to avoid repeated violation and abuse of victims, so long as the government makes reasonable accommodations for the inspection, viewing, and examination of such material for the purposes of mounting a criminal defense.

SEC. 603. STRENGTHENING SECTION 2257 TO ENSURE THAT CHILDREN ARE NOT EXPLOITED IN THE PRODUCTION OF PORNOGRAPHY.

Section 2257 of title 18 of the United States Code is amended—

(1) in subsection (a)(1), by striking ''actual'';

(2) in subsection (b), by striking ''actual'';

(3) in subsection (f)(4)(A), by striking ''actual'';

(4) by amending paragraph (1) of subsection (h) to read as follows:

''(1) the term 'sexually explicit conduct' has the meaning set forth in subparagraphs (A)(i) through (v) of paragraph (2) of section 2256 of this title;'';

(5) in subsection (h)(4), by striking ''actual.'';

(6) in subsection (f)—

(A) at the end of paragraph (3), by striking ''and'';

(B) at the end of paragraph (4)(B), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (4)(B) the following new paragraph:

''(5) for any person to whom subsection (a) applies to refuse to permit the Attorney General or his or her delegee to conduct an inspection under subsection (c).''.

(7) in subsection (h)(3), by striking ''to produce, manufacture, or publish any book, magazine, periodical, film, video tape, computer generated image, digital image, or picture, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing or otherwise arranging for the participation of the performers depicted'' and inserting ''actually filming, videotaping, photographing; creating a picture, digital image, or digitally- or computer-manipulated image of an actual human being; or digitizing an image, of a visual depiction of sexually explicit conduct; or, assembling, manufacturing, publishing, duplicating, reproducing, or reissuing a book, magazine, periodical, film, videotape, digital image, or picture, or other matter intended for commercial distribution, that contains a visual depiction of sexually explicit conduct; or, inserting on a computer site or service a digital image of, or otherwise managing the sexually explicit content, of a computer site or service that contains a visual depiction of, sexually explicit conduct'';

(8) in subsection (a), by inserting after ''videotape,'' the following: ''digital image, digitally- or computer-manipulated image of an actual human being, or picture,''; and

(9) in subsection (f)(4), by inserting after ''video'' the following: ''digital image, digitally- or computer-manipulated image of an actual human being, or picture,''.

SEC. 604. PREVENTION OF DISTRIBUTION OF CHILD PORNOGRAPHY USED AS EVIDENCE IN PROSECUTIONS.

Section 3509 of title 18, United States Code, is amended by adding at the end the following:

''(m) PROHIBITION ON REPRODUCTION OF CHILD PORNOGRAPHY.—

''(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) must remain in the care, custody, and control of either the Government or the court.

''(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.

''(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, aid any individual the defendant may seek to qualify to furnish expert testimony at trial.''.

SEC. 605. AUTHORIZING CIVIL AND CRIMINAL ASSET FORFEITURE IN CHILD EXPLOITATION AND OBSCENITY CASES.

(a) CONFORMING FORFEITURE PROCEDURES FOR OBSCENITY OFFENSES.—Section 1467 of title 18, United States Code, is amended—

(1) in subsection (a)(3), by inserting a period after ''of such offense'' and striking all that follows; and

(2) by striking subsections (b) through (n) and inserting the following:

''(b) The provisions of section 413 of the Controlled Substance Act (21 U.S.C. 853) with the exception of subsection (d), shall apply to the criminal forfeiture of property pursuant to subsection (a).

''(c) Any property subject to forfeiture pursuant to subjection (a) may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46 of this title.''.

(b) AMENDMENTS TO CHILD EXPLOITATION FORFEITURE PROVISIONS.—

(1) CRIMINAL FORFEITURE.—Section 2253(a) of title 18, United States Code, is amended—

(A) in the matter preceding paragraph (1) by—

(i) inserting ''or who is convicted of an offense under sections 2252B or 2257 of this chapter,'' after ''2260 of this chapter'';

(ii) inserting '', or 2425'' after ''2423'' and striking ''or'' before ''2423''; and

(iii) inserting ''or an offense under chapter 109A'' after ''of chapter 117''; and

(B) in paragraph (I), by inserting '', 2252A, 2252B or 2257'' after ''2252''.

(2) CIVIL FORFEITURE.—Section 2254(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting '', 2252A, 2252B, or 2257'' after ''2252'';

(B) in paragraph (2) —

(i) by striking ''or'' and inserting ''of'' before ''chapter 117'';

(ii) by inserting '', or an offense under section 2252B or 2257 of this chapter,'' after ''Chapter 117,'' and

(iii) by inserting '', or an offense under chapter 109A'' before the period; and

(C) in paragraph (3) by—

(i) inserting '', or 2425'' after ''2423'' and striking ''or'' before ''2423''; and

(ii) inserting '', a violation of section 2252B or 2257 of this chapter, or a violation of chapter 109A'' before the period.

(c) AMENDMENTS TO RICO.—Section 1961(1)(B) of title 18, United States Code, is amended by inserting ''2252A, 2252B,'' after ''2252''.

SEC. 606. PROHIBITING THE PRODUCTION OF OBSCENITY AS WELL AS TRANSPORTATION, DISTRIBUTION, AND SALE.

(a) SECTION 1465.—Section 1465 of title 18 of the United States Code is amended—

(1) by inserting ''**Production and**'' before ''**Transportation**'' in the heading of the section;

(2) by inserting ''produces with the intent to transport, distribute, or transmit in interstate or foreign commerce, or whoever knowingly'' after ''whoever knowingly'' and before ''transports or travels in''; and

(3) by inserting a comma after ''in or affecting such commerce''.

(b) SECTION 1466.—Section 1466 of title 18 of the United States Code is amended—

(1) in subsection (a), by inserting ''producing with intent to distribute or sell, or'' before ''selling or transferring obscene matter,'';

(2) in subsection (b), by inserting, ''produces'' before ''sells or transfers or offers to sell or transfer obscene matter''; and

(3) in subsection (b) by inserting ''production,'' before ''selling or transferring or offering to sell or transfer such material.''.

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I rise today in strong support of both the Pence amendment and the Child Safety Act of 2005. I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his tireless advocacy of families and children.

While this legislation today is very much about using the force of Federal law to confront child predators, we know that the fuel that fires the wicked hearts of child predators is child pornography; and my amendment, which is drawn from the Child Pornography Prevention Act of 2005, is designed to give law enforcement the tools to stop child pornography at the source.

It will fix a glaring loophole in the current law by requiring pornographers to keep records of the names and ages of their subject, proof of identification. This requirement, we believe, will deter the use of underage children in pornography.

Additionally, pornographers will be required to allow law enforcement to inspect their records. Failure to do so will be a criminal offense.

We also in this legislation extend Federal jurisdiction to so-called ''home pornographers'' that use downloading on the Internet and digital and Polaroid photography to essentially create an at-home cottage industry for child pornography.

It is time to protect our children. It is time to enact the Pence amendment, the Child Pornography Prevention Act of 2005 and make it a part of this truly landmark legislation, the Children's Safety Act of 2005.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. PENCE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would just like to add my words of support for the amendment of the gentleman from Indiana (Mr. PENCE). I think it makes a very important addition to this bill.

Mr. PENCE. I thank the chairman for his endorsement.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in the recent case of Free Speech Coalition v. Ashcroft, the Supreme Court indicated that if the material is not obscene it cannot be prohibited unless real children are involved. This amendment prohibits simulated conduct, digital images that may have been produced without real children being involved. If real children are not involved, the material has to be technically obscene to be prohibited.

The Supreme Court indicated in the decision that the fact that this material may whet someone's appetite or the nature of the case caused problems for law enforcement, those could not be the grounds for violating the Constitution in having material that is not obscene being prohibited.

The case, whether you like it or not, and bringing it up as a floor amendment means we cannot try to conform the language to the Supreme Court decision, so the only thing we can do is to vote against it if we believe in the Constitution and if we read Free Speech Coalition v. Ashcroft.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. PENCE).

The amendment was agreed to.

AMENDMENT NO. 17 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment as the designee of the gentlewoman from Texas (Ms. JACKSON-LEE).

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. CONYERS: Add at the end the following new title:

TITLE VI—PERSONAL DATA OF CHILDREN

SEC. 601. MISAPPROPRIATION OF DATA.

(a) IN GENERAL.—Chapter 88 of title 18, United States Code, is amended by adding at the end the following:

''§ 1802. Misappropriation of personal data of children

''Whoever, in or affecting interstate or foreign commerce, knowingly misappropriates the personally identifiable information of a person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 10 years, or both.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 88 of title 18, United States Code, is amended by adding at the end the following new item:

''1802. Misappropriation of personal data of children.''.

Mr. CONYERS. Mr. Chairman, this question of the well-being of our Nation's children is a result of the fact that children have increasingly become targets for identity theft. There have been sharp rises in incidents of fraud involving children's Social Security numbers which have been documented. Crimes using the stolen data are typically credit card frauds or the issuance of fraudulent driver's licenses. However, it is not too farfetched to think that the misappropriations of the personally identifiable information of a person who has not attained the age of 18 could be used in a way that could bring about many of the offenses set forth in this Act.

□ 1415

So the objective of the amendment crafted by the gentlewoman from Texas is to protect our children at all costs, and this amendment would do this by making it a crime to knowingly misappropriate the personal identification information of a minor in interstate or foreign commerce. The offense would be punishable by fines or imprisonment not to exceed 10 years.

Identity thieves often target children for these type of crimes because they are much less likely to notice that someone else is using their identity.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am prepared to accept this amendment, but I think it needs a little bit of work on it. I am concerned about the drafting and application of the provision and am concerned about what might be construed as, quote, personally identifiable information of a person who is under age 18.

The amendment requires clarification of these issues, but I am willing to work with my colleague on this amendment to possibly modify or clarify the language at a conference later on. So I am prepared to accept the amendment and hope that it passes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am delighted to be able to cosponsor this amendment, and I thank the distinguished gentleman from Michigan for presenting this amendment on identity theft, and I thank the chairman.

I think the key element of the purpose of this amendment which we present today is to realize that children are vulnerable. Documents have

been lost, and now that we know that identity theft is as prolific, unfortunately, as Katrina was and the rain and the floods, these children need protecting.

So I would hope we could work together. I would like to work with the gentleman from Wisconsin (Mr. SENSENBRENNER) if this amendment could be accepted.

As chair and founder of the Children's Caucus, I am very concerned with the well being of our Nation's children. Unfortunately, children have increasingly become targets for identity theft. Sharp rises in incidents of fraud involving children's Social Security numbers have been documented. Crimes using this stolen data are typically credit card fraud or the issuance of fraudulent driver's licenses. However, it is not too far fetched to think that the misappropriation of the personally identifiable information of a person who has not attained the age of 18 years could be used in a way that could bring about many of the offenses set forth in this act. The objective is to protect our children at all costs. My amendment would do just that by making it a crime to knowingly misappropriate the personal identification information of a minor in interstate or foreign commerce. The offense will be punishable by fines or imprisonment for not more than 10 years.

Identity thieves often target children for these types of crimes because they are much less likely to notice that someone else is using their identity. Even infants have had their identities stolen by identity thieves. These crimes may be discovered only when bewildered parents get the bill. Some children never learn that fraudulent activity has taken place in their name until they are refused a driver's license because one has already been issued to their Social Security number. Worse still, some apply for student loans only to learn that their credit has been ruined.

Sadly, the Federal Trade Commission estimates that 9 percent of children in this situation learn that a member of their own family had actually perpetrated this fraud. Fixing these credit reports can be very time-consuming and particularly expensive for young adults just entering the job market. Victims now spend an average of 600 hours recovering from this crime, often over a period of years, at an average cost of $1,400.

These crimes against unsuspecting and defenseless children are among the most insidious that can be committed because they rob children of opportunity. Instead, their entry to adulthood is a setback with massive debt, legal bills, and an extraordinary battle just to get a fair chance in life.

This amendment provides stiff penalties to criminals who prey on a child's future. I would like to thank Mr. CONYERS for offering my amendment and therefore I join him as a cosponsor of this amendment. After being detained in a meeting on Hurricane Katrina, I was grateful that my amendment was able to be offered by Mr. CONYERS, the ranking member.

Mr. CONYERS. Mr. Chairman, I thank the gentlewoman, and I think that covers it.

The Acting CHAIRMAN (Mr. SWEENEY). The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The amendment was agreed to.

AMENDMENT NO. 25 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. CONYERS:

At the end of the bill, add the following new title:

TITLE VI—LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION

SECTION 601. SHORT TITLE.

This title may be cited as the ''Local Law Enforcement Hate Crimes Prevention Act of 2005''.

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 603. DEFINITION OF HATE CRIME.

In this title, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 604. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2006, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2006 and 2007.

SEC. 605. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 606. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of Justice, including the Community Relations Service, for fiscal years 2006, 2007, and 2008 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section 607.

SEC. 607. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title;

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title; and

''(3) the term 'gender identity' for the purposes of this chapter means actual or perceived gender-related characteristics.

''(d) RULE OF EVIDENCE.—In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

SEC. 608. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender and gender identity,'' after ''race,''.

SEC. 609. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. CONYERS. Mr. Chairman, this is a very important consideration; and I offer this amendment to address a problem, the scourge of hate violence, and hope that my colleagues will carefully consider the merits of the proposal.

The larger measure before us, H.R. 3132, finally gives us an opportunity to pass a hate crimes legislation that has been supported by a majority of the House and the Senate for three Congresses. Regularly, on motions to instruct, this House voted 232 to 192 in support of hate crimes legislation. Clearly, after a series of procedural votes in favor of the bill, the time has come for us to act on the substance; and this is what brings me to the well today.

In 2003, for the most available data, the FBI compiled reports from law enforcement agencies across the country identifying 7,489 criminal incidents that were motivated by an offender's irrational antagonism towards some personal attribute associated with the victim. Law enforcement agencies have identified 9,100 victims arising from 8,715 separate criminal offenses. While every State reported at least a small number of incidents, it is important to note that the reporting by law enforcement is voluntary, and it is widely believed that hate crimes are seriously underreported.

Children are not immune from this violence. The FBI data has revealed that a disproportionately high percentage of both victims and perpetrators of hate violence were children, young people under 18 years of age. A Department of Justice report, a special one on the subject, in 2001 carefully analyzed nearly 3,000 of the 24,000 hate crimes reported and revealed 30 percent of all victims of bias-motivated aggravated assaults, and 34 percent of the victims of simple assault were under 18.

So that is the problem. Despite the pervasiveness of the problem, current

law limits Federal jurisdiction over hate crimes to incidents against protected classes that occur only during the exercise of federally protected activities such as voting. Further, the statutes do not permit Federal involvement in a range of cases where crimes are motivated by bias against the victims' perceived sexual orientation, gender disability, or gender identity.

This loophole is particularly significant given the fact that four States have no hate crime laws on the books and 21 others have weak hate crime laws.

So the amendment will make it easier for the Federal authorities to prosecute bias crimes, in the same way that the Church Arson Prevention Act helped Federal prosecutors combat church arsonists, that is, by loosening the unduly rigid jurisdictional requirements under Federal law.

State and local authorities currently prosecute the overwhelming majority of hate crimes and will continue to do so under this legislation with the enhanced support of the Federal Government. Through an intergovernmental assistance program created by this legislation, the Department of Justice will provide technical, forensic, or prosecutorial assistance to State and local law officials in cases of bias crime.

The proposal also authorizes the Attorney General to make grants to State and local law enforcement agencies that have incurred extraordinary expenses associated with the investigation and prosecution of hate crimes.

I hope in supporting H.R. 3132 we can also move forward in this important area of hate crimes with reference to protecting children.

Behind each of the statistics cited above lies an individual or community targeted for violence for no other reason than race, religion, ethnicity, sexual orientation, gender, disability or gender identity. Let us be clear that a significant number of children lie within these statistics.

These discrete communities have learned the hard way that a failure to address the problem of bias crime can cause a seemingly isolated incident to fester into wide spread tension that can damage the social fabric of the wider community. This amendment is a constructive and measured response to a problem that continues to plague our nation. These are crimes that shock and shame our national conscience and they should be subject to comprehensive federal law enforcement assistance and prosecution.

I hope that in supporting H.R. 3132 we can also move forward in this area, hate crimes, that is equally important to protecting children.

Mr. SENSENBRENNER. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, this is a poison pill to a very good and strongly supported bill; and regardless of whether or not one favors or opposes the Federal hate crimes law, I would ask the membership not to put highly controversial legislation of this nature on a bill that has attracted such strong and bipartisan support.

Earlier today, when we were considering the bill granting immunity from civil liability to Good Samaritans who are going down to help the victims of Hurricane Katrina, the Members of the minority party complained about the fact that there had been no hearings, there had been no committee consideration of this legislation, which is arguably of an emergency nature.

There have been no hearings. There have been no markups to this legislation, and we are talking about a major amendment to the Federal Criminal Code, one that poses constitutional problems of double jeopardy and whether Congress is exceeding its constitutional authority, which is something that should go through the regular order. I do not think the changes to the criminal code should be taken lightly.

Statistics on hate crimes prosecution should be fully considered in a very thoughtful way, including testimony that scholars have presented that says that hate crimes legislation actually increases those types of crimes, rather than decreases them.

We also should consider the case of United States v. Morrison, where the Supreme Court considered whether or not section 8 of the Commerce Clause or section 5 of the 14th amendment would allow Congress to enact a Federal civil remedy for victims of gender-motivated violence. There the Supreme Court said the Congress did not have the constitutional authority to do that.

I think both on the merits and on the process and on the practicalities of putting a controversial piece of legislation such as this amendment on a bill that has attracted broad and bipartisan support, this amendment should be strongly rejected. Do not kill the bill with this amendment. Vote it down.

Ms. BALDWIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the underlying bill that we are dealing with today is about safety and protection, and so is the Conyers amendment, which is why I rise in strong support of it.

It is tragic when hate crimes occur, but they do. It is irresponsible and naive to deny that there are people out there who seek to commit violence against others because they are gay, lesbian or transgender or because they are female or because they have a disability. It happens far too often, and we must not be silent about it.

The FBI collects statistics on these crimes; and for the past 10 years, violent hate crimes committed on the basis of sexual orientation have been the third highest number of hate crimes committed. The problem is real, and people are dying solely because of who they are.

Enactment of Federal hate crimes protections is important for both substantive and symbolic reasons. The legal protections are essential to our system of ordered justice; but on a symbolic basis, it is important that Congress enunciate clearly that hate-motivated violence based on gender-sexual orientation or disability is wrong, because, quite frankly, too much of what we do in this Chamber conveys the message that we really do not believe in equality for all, and that is sort of like a wink and a nod, that a little discrimination is okay.

I want to speak briefly about why hate crimes differ from other violent crimes. A senior Republican Member of the other body said a few years ago: ''A crime committed not just to harm an individual, but out of motive of sending a message of hatred to an entire community is appropriately punished more harshly, or in a different manner, than other crimes.''

Hate crimes are different than other violent crimes because they seek to instill fear and terror throughout a whole community, be it burning a cross in someone's yard, the burning of a synagogue, a rash of physical assaults in a gay community center. This sort of domestic terrorism demands a strong Federal response because this country was founded on the premise that persons should be free to be whoever they are, without fear of violence.

Both in the 107th and 108th Congresses, the House of Representatives voted in favor of motions to instruct conferees to retain the Local Law Enforcement Hate Crimes Prevention Act as part of the Department of Defense authorization bill. Unfortunately, despite the support of a solid bipartisan majority in both this body and the other body, the provisions were dropped in conference.

The urgency to pass hate crimes legislation and protections is as great as ever. Just last year, in separate instances, two men in Mississippi were brutally murdered based on their sexual orientation.

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Scotty Joe Weaver was strangled, beaten, and stabbed before his body was carried to a wooded area and set on fire. The following week, Roderick George was shot in the forehead. Authorities have concluded that anti-gay animus was a motivating factor in both cases.

All Americans, regardless of their race, gender, disability, or sexual orientation, have a right to feel safe in their communities. Gays and lesbians should not have to live in fear anywhere in the United States of America.

For far too long this body has failed to act to prevent or respond to hate crimes. We have the opportunity to do so today. I urge my colleagues to recognize that both the underlying bill and this amendment are about safety and protection of our citizens. I urge my colleagues to support this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, and I yield to the gentleman from Michigan (Mr. CONYERS),

the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Virginia for his generosity in yielding to me.

Members of the Committee, there is an historical underlying importance about what we are discussing here. I mention its importance. We have never had on the Federal books, in Federal law, a prohibition against killing someone because of their race. Dr. E.B. DuBois and the NAACP brought this up in the 1930s. It was debated even further back during Reconstruction. We are at a very critical, important point.

This House has approved this, but we have never dealt with it substantively before this afternoon. So I urge the Members to seriously consider the historical nature of what it is we are considering here. This is the first substantive consideration of a hate crimes measure that makes it a Federal violation of criminal law to kill a person because of their race. It is exceedingly important from that point of view.

As I said, it has been debated down from Reconstruction times. It was debated during the 1930s. It has been dealt with indirectly here on the floor. The majority of the Members have concurred with it through other procedures. But today, for the very first time, we are now considering this matter.

I commend this to the careful attention of all of my colleagues in this 109th Congress. We have a tremendous opportunity of an historical nature before us, and I hope that we will successfully move this part of the bill forward with this amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the hate crimes prevention amendment offered by the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary, and I thank him for his strong leadership on this subject.

I disagree with the distinguished chairman of the committee. This is not a poison pill. This amendment does nothing to weaken the underlying bill. We all agree we must take strong measures to protect our children from sexual predators. As a mother of five and grandmother of five, I appreciate fully the underlying bill and intend to vote for it.

This is, Mr. Chairman, another issue; and it relates to hate crimes. This vehicle is one that gives Congress the opportunity to go on record, and hopefully in the majority, to reject hate crimes in our country. Hate crimes prevention is long overdue. Hate crimes have no place in America. All Americans have a fundamental right to feel safe in their communities. Federal hate crimes prevention legislation is the right thing to do, and we must do it now. We have waited far too long.

A year ago, a majority of this House voted to support including hate crimes prevention legislation in the Department of Defense authorization bill, on the heels of a strong vote in the Senate. Similarly, the House acted in September of 2000. Twice, the Republican leadership defied the will of the majority of the House and stripped these essential provisions out in conference. Today, we should not be denied. We will have a vote that counts.

Our Nation was founded on the principle that all are created equal, all are entitled to the protections of the laws, and all are entitled to justice. It violates this principle to have individuals in our country targeted for violence because of who they are, the color of their skin, how they worship, and who they love. The perpetrators of violence intend to send a message to certain members of our community that they are not welcome.

Mr. Chairman, this amendment is based on H.R. 2662, the Local Enforcement Hate Crimes Prevention Act of 2005, introduced by the gentleman from Michigan (Mr. CONYERS), and joined by 142 Members as cosponsors, of which I am proud to be one. It will help prevent violence visited upon individuals because of their race, sexual orientation, sexual identity, religion, national origin, gender, or disability.

As the gentleman from Michigan (Mr. CONYERS) explained, these protections are necessary and must be enacted into law. Who can ever forget the brutal murders of James Byrd in Texas, Matthew Shepard in Wyoming, Waqar Hasan in Texas, Gwen Araujo in California, and so many others who have died because of ignorance and intolerance. This legislation would increase the ability of local, State and Federal law enforcement agencies to solve and prevent a wide range of violent hate crimes.

Mr. Chairman, I call this very specifically to your attention and to that of our colleagues, that numerous law enforcement organizations, including the International Association of Chiefs of Police support the need for Federal hate crimes legislation.

Mr. Chairman, as we deal with the aftermath of Hurricane Katrina, we must remember that we are one America, a Nation that must be united not just in common purpose but in common effort and common community. We must work to end false distinctions among us.

In the words of my good friend, the gentleman from Georgia (Mr. LEWIS), who I consider to be the conscience of this House, we must strive towards our ''Beloved Community.'' ''We must move our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate.''

Let that be our call. Let us live up to the ideals of equality and opportunity that are both our hope and our future. Let us pass this amendment to secure justice for all. We must continue to vote for justice, for hope, and for freedom by ensuring that hate crimes prevention provisions are enacted into law. I urge my colleagues to vote for this important amendment.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I just wanted to commend the minority leader on the legislative history she has recounted for the benefit of us who have dealt with this across the years and add that this is a bipartisan measure. I only wish that all of our colleagues on the other side of the aisle who support this measure would also join with their voices and their votes with us on this very important day.

We can track back a record that goes back to reconstruction where we have been trying to attempt to successfully pass this measure. So I congratulate the gentlewoman on her explanation of why we are here.

Ms. PELOSI. Reclaiming my time, Mr. Chairman, I would just say to the gentleman that we passed this legislation, as I mentioned, at least two times on the floor with Republican votes. As the gentleman knows, we do not have the majority on the Democratic side, so it was with Republican votes that we passed it before.

I, too, hope those votes will be here today because we do have an historic opportunity to pass the underlying bill but, more importantly in terms of this historical opportunity that is presented to us, to pass this amendment as well.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to address some of the misconceptions that arise when we deal with this legislation. I and many of the strongest proponents of hate crimes legislation are also among the strongest proponents of free expression in this House, and I want to be very clear. A belief in free expression means the belief in the right of obnoxious people to say hateful things. This is not an effort to prevent people from engaging in racist or homophobic or sexist insults. I regard that to be a very unpleasant but fully constitutionally protected practice, and there have been mistaken assertions in this.

There was in fact a case in Philadelphia which lent itself to the interpretation that unpleasant speech was being prosecuted. That case was thrown out of court, and it was wrong. Nothing in this law in any way, this amendment that the gentleman from Michigan, who happens to be one of the greatest defenders of freedom of expression in the history of Congress, nothing in this amendment impinges in any way on anybody's right to say or write anything they want.

What it says is that if you commit an act which is otherwise a crime, because the predicate for this is that you have to commit a physical act which would be a crime against a person or property, but generally against a person, that it becomes an aggravating factor

if it is demonstrated to be motivated, and the courts have made it clear that you have to demonstrate this is an element of the crime in some way, you must demonstrate that it was motivated by prejudice.

Now the argument is, well, why is one kind of crime worse than any other? Well, in fact, of course, our laws, State and Federal, are replete with examples where the exact same act is treated more harshly depending on the motivation. We have laws that particularly single out crimes against the elderly. We have laws that say if you desecrate one kind of property it is worse than if you desecrate another.

Here is the rationale for this. If an individual is assaulted and the individual chosen for the assault was chosen randomly, that is a very serious problem for that individual, and the crime ought to be punished and the individual protected. But where individuals are singled out for assault because of their race, because of their sexual orientation, because of their gender or identity, and transgendered people are among those who have been most recently viciously and violently attacked, it is not simply the victim of the violent assault who is assaulted. Other people in that vicinity, in that area, who share those characteristics, are also put in fear. And it is legitimate for us to say that when you have individuals being singled out because of a certain characteristic, this becomes a crime that transcends the assault against the individual. It does not mean we do not protect the individual. It means that we go beyond that.

Now there are people who say, look, if you hit anybody, it is exactly the same thing. I doubt their sincerity, Mr. Chairman. Because, as I understand it, under Federal law, if one of us were to be walking out in the street with a private citizen and we were both assaulted, the individual assaulting us has committed a greater crime than the individual assaulting a private citizen. That is, we have one category of hate crimes in that it is a more serious crime to assault a Member of Congress.

Now, by the way, it is obviously not in any way constitutionally inappropriate to denounce Members of Congress. We all know that. So anyone who thinks that when you have enhanced a sentencing by singling out an individual you have immunized him or her from criticism, just look at us. I do not know anybody who is proposing that we get rid of that.

So here is what we are dealing with. We are dealing with a law which in no way impinges on anyone's freedom of expression and says that when individuals are physically harmed in part because of who they are that others who share that characteristic are also put in fear, and that is a way to try to diminish that form of activity.

I should add, too, that we have recently seen more of an outbreak of this sort of violence against people who are transgendered, and it is important for us to come to people's aid.

Of course, when people say, oh, well, this whole new thing is here, of course, the parent of hate crimes legislation is the anti-lynch laws of the 1930s. We tried in the 1930s to pass laws which were Federal hate crimes. The lynch laws were laws that said murder is murder, but where people are murdered for racial reasons in parts of the country where the individuals may not be protected, where law enforcement might be complicit, that is a Federal law.

Now it is true that while this House continuously passed such legislation, the Senate never did because of other things.

□ 1445

But the fact is that the principle of Federal intervention to protect individuals against crimes of violence that are ordinarily State crimes, in those cases where there is a pattern of nonenforcement, which is a predicate again for activity in this bill, goes back to anti-lynch laws, and I think many of us regret that those laws have not been passed.

The Acting CHAIRMAN (Mr. SWEENEY). The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. CONYERS) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 9 offered by the gentleman from South Carolina (Mr. INGLIS) and amendment No. 25 offered by the gentleman from Michigan (Mr. CONYERS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 9 OFFERED BY MR. INGLIS OF SOUTH CAROLINA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. INGLIS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 316, not voting 11, as follows:

[Roll No. 468]

AYES—106

Abercrombie
Ackerman
Baird
Baldwin
Becerra
Berman
Bishop (GA)
Boucher
Brown (OH)
Brown, Corrine
Butterfield
Capuano
Carson
Case
Clay
Cleaver
Conyers
Crowley
Cummings
Davis (IL)
Deal (GA)
DeGette
Delahunt
Dingell
Ehlers
Engel
Evans
Farr
Filner
Frank (MA)
Green, Al
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Hoyer
Inglis (SC)
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick (MI)
Kucinich
Lantos
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lungren, Daniel E.
Maloney
Markey
Matsui
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Millender-McDonald
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pastor
Paul
Pelosi
Price (NC)
Rahall
Rangel
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schwarz (MI)
Scott (VA)
Serrano
Sherman
Smith (WA)
Snyder
Solis
Stark
Stupak
Tierney
Towns
Udall (NM)
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Woolsey
Wynn

NOES—316

Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Bean
Berkley
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larson (CT)
Latham
Leach

Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—11

Barton (TX)
Beauprez
Clyburn
Gilchrest
Harman
Hoekstra
Melancon
Payne
Royce
Walsh
Weiner

□ 1510

Ms. ZOE LOFGREN of California, Mrs. CUBIN, Messrs. BOYD, GREEN of Wisconsin, NUSSLE, WICKER, WILSON of South Carolina, DAVIS of Florida, RENZI, KINGSTON, EMANUEL, BACA, BARTLETT of Maryland, LARSON of Connecticut, HOBSON, COOPER, and Ms. ESHOO changed their vote from ''aye'' to ''no.''

Messrs. BROWN of Ohio, SMITH of Washington, and McDERMOTT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 25 OFFERED BY MR. CONYERS

The Acting CHAIRMAN (Mr. SWEENEY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. CONYERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 199, not voting 11, as follows:

[Roll No. 469]

AYES—223

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Foley
Ford
Frank (MA)
Gerlach
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McCotter
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Platts
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weldon (PA)
Weller
Wexler
Woolsey
Wu
Wynn

NOES—199

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ryan (WI)
Ryun (KS)
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Barton (TX)
Beauprez
Clyburn
Gilchrest
Harman
Hoekstra
Melancon
Payne
Royce
Walsh
Weiner

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1520

Mr. NUSSLE changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GUTKNECHT) having assumed the chair, Mr. SWEENEY, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3132) to make improvements to the national sex offender registration program, and for other purposes, pursuant to House Resolution

436, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 371, nays 52, not voting 10, as follows:

[Roll No. 470]

YEAS—371

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Wasserman Schultz
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—52

Akin
Barrett (SC)
Blunt
Bonilla
Buyer
Conaway
Davis (IL)
Deal (GA)
Duncan
Flake
Gingrey
Gohmert
Hefley
Hinchey
Holt
Honda
Hunter
Johnson, Sam
Jones (NC)
Jones (OH)
Kingston
Kucinich
Lee
Lewis (GA)
McDermott
McKinney
Miller (FL)
Mollohan
Moran (KS)
Norwood
Oberstar
Paul
Price (GA)
Rahall
Ryun (KS)
Sabo
Schakowsky
Scott (VA)
Shadegg
Souder
Stark
Tancredo
Thornberry
Velázquez
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Westmoreland
Woolsey

NOT VOTING—10

Barton (TX)
Beauprez
Camp
Clyburn
Gilchrest
Melancon
Payne
Royce
Walsh
Weiner

□ 1541

Messrs. FLAKE, WAMP and DUNCAN changed their vote from ''yea'' to ''nay.''

Mr. BURTON of Indiana and Mr. MANZULLO changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GILCHREST. Mr. Speaker, I was unavoidably detained for the vote on passage of H.R. 3132, the Children's Safety Act of 2005. If I had been present for this vote, I would have voted "yea."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3132, CHILDREN'S SAFETY ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3132, the Clerk be authorized to correct section numbers, cross-references, punctuation and indentation, and to make other technical and conforming changes necessary to reflect the actions of the House.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PUT OUR FEDERAL POLICIES IN ORDER

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, for several years I have come to the floor of the House using the perilous situation that faced New Orleans as a rallying cry for us to get our policies right dealing with water resources, floods, and disaster mitigation.

We now have a wide variety of plans and proposals that are flying about, which is encouraging. But it is important that we do it right, that any plan that we undertake is comprehensive and harnesses the forces of nature to solve problems rather than create them.

It is important that we start now with the vast sums of Federal money that is flowing into the gulf region, and it is critical that we involve the local people in shaping their own destiny.

Last but not least, we must implement long overdue reform to the way the Corps of Engineers operates, and even more important, how Congress treats the Corps of Engineers. This will go a long way towards not just helping New Orleans and the Katrina damaged area; but it will make all our families safer, healthier, and more economically secure.