

110TH CONGRESS
2D SESSION

S. 431

AN ACT

To require convicted sex offenders to register online
identifiers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Keeping the Internet
3 Devoid of Sexual Predators Act of 2008” or the “KIDS
4 Act of 2008”.

5 **SEC. 2. REGISTRATION OF ONLINE IDENTIFIERS OF SEX**
6 **OFFENDERS.**

7 (a) IN GENERAL.—Section 114(a) of the Sex Of-
8 fender Registration and Notification Act (42 U.S.C.
9 16914(a)) is amended—

10 (1) by redesignating paragraphs (4) through
11 (7) as paragraphs (5) through (8); and

12 (2) by inserting after paragraph (3) the fol-
13 lowing:

14 “(4) Any electronic mail address or other des-
15 ignation the sex offender uses or will use for self-
16 identification or routing in Internet communication
17 or posting.”.

18 (b) UPDATING OF INFORMATION.—Section 113(c) of
19 the Sex Offender Registration and Notification Act (42
20 U.S.C. 16913(c)) is amended by adding at the end the
21 following: “The Attorney General shall have the authority
22 to specify the time and manner for reporting of other
23 changes in registration information, including any addi-
24 tion or change of an electronic mail address or other des-
25 ignation used for self-identification or routing in Internet
26 communication or posting.”.

1 (c) FAILURE TO REGISTER ONLINE IDENTIFIERS.—
2 Section 2250 of title 18, United States Code, is amend-
3 ed—

4 (1) in subsection (b), by inserting “or (d)” after
5 “subsection (a)”; and

6 (2) by adding at the end the following:

7 “(d) KNOWING FAILURE TO REGISTER ONLINE
8 IDENTIFIERS.—Whoever—

9 “(1) is required to register under the Sex Of-
10 fender Registration and Notification Act (42 U.S.C.
11 16901 et seq.); and

12 “(2) uses an email address or any other des-
13 ignation used for self-identification or routing in
14 Internet communication or posting which the indi-
15 vidual knowingly failed to provide for inclusion in a
16 sex offender registry as required under that Act;
17 shall be fined under this title or imprisoned not more than
18 10 years, or both.”.

19 (d) CONFORMING AMENDMENT; DIRECTIVE TO
20 UNITED STATES SENTENCING COMMISSION.—Section
21 141(b) of the Adam Walsh Child Protection and Safety
22 Act of 2006 (Public Law 109–248; 120 Stat. 602) is
23 amended by striking “offense specified in subsection (a)”
24 and inserting “offenses specified in subsections (a) and
25 (d) of section 2250 of title 18, United States Code”.

1 **SEC. 3. CHECKING OF ONLINE IDENTIFIERS AGAINST SEX**
2 **OFFENDER REGISTRATION INFORMATION.**

3 (a) PUBLIC ACCESS.—Section 118(b) of the Sex Of-
4 fender Registration and Notification Act (42 U.S.C.
5 16918(b)) is amended—

6 (1) in paragraph (3), by striking “and” at the
7 end;

8 (2) by redesignating paragraph (4) as para-
9 graph (5); and

10 (3) by inserting after paragraph (3) the fol-
11 lowing:

12 “(4) any electronic mail address or designation
13 used for self-identification or routing in Internet
14 communication or posting; and”.

15 (b) ONLINE IDENTIFIER CHECKING SYSTEM FOR SO-
16 CIAL NETWORKING WEBSITES.—Section 121 of the Sex
17 Offender Registration and Notification Act (42 U.S.C.
18 16921) is amended by adding at the end the following:

19 “(d) CHECKING SYSTEM FOR SOCIAL NETWORKING
20 WEBSITES.—

21 “(1) IN GENERAL.—The Attorney General shall
22 maintain a system available to social networking
23 websites that permits the automated comparison of
24 lists or databases of the electronic mail addresses
25 and other designations used for self-identification or
26 routing in Internet communication or posting of the

1 registered users of such websites, to the cor-
2 responding information contained in or derived from
3 sex offender registries.

4 “(2) QUALIFICATION FOR USE OF SYSTEM.—A
5 social networking website seeking to use the system
6 established under paragraph (1) shall submit an ap-
7 plication to the Attorney General which provides—

8 “(A) the name and legal status of the
9 website;

10 “(B) the contact information for the
11 website;

12 “(C) a description of the nature and oper-
13 ations of the website;

14 “(D) a statement explaining why the
15 website seeks to use the system; and

16 “(E) such other information or attestations
17 as the Attorney General may require to ensure
18 that the website will use the system—

19 “(i) to protect the safety of the users
20 of such website; and

21 “(ii) not for any unlawful or improper
22 purpose.

23 “(3) SEARCHES AGAINST THE SYSTEM.—

1 “(A) IN GENERAL.—A social networking
2 website approved to use the system established
3 under paragraph (1) shall—

4 “(i) submit the information to be
5 compared in a form satisfying the technical
6 requirements for searches against the sys-
7 tem; and

8 “(ii) pay any fee established by the
9 Attorney General for use of the system.

10 “(B) FREQUENCY OF USE OF THE SYS-
11 TEM.—A social networking website approved by
12 the Attorney General to use the system estab-
13 lished under paragraph (1) may conduct
14 searches under the system as frequently as the
15 Attorney General may allow.

16 “(C) AUTHORITY OF AG TO SUSPEND
17 USE.—The Attorney General may deny, sus-
18 pend, or terminate use of the system by a social
19 networking website that—

20 “(i) provides false information in its
21 application for use of the system; or

22 “(ii) may be using or seeks to use the
23 system for any unlawful or improper pur-
24 pose.

1 “(4) LIMITATION ON RELEASE OF INTERNET
2 IDENTIFIERS.—

3 “(A) NO PUBLIC RELEASE.—Neither the
4 Attorney General nor a social networking
5 website approved to use the system established
6 under paragraph (1) may release to the public
7 any list of the e-mail addresses or other des-
8 ignations used for self-identification or routing
9 in Internet communication or posting of sex of-
10 fenders contained in the system.

11 “(B) ADDITIONAL LIMITATIONS.—The At-
12 torney General shall limit the release of infor-
13 mation obtained through the use of the system
14 established under paragraph (1) by social net-
15 working websites approved to use such system.

16 “(C) STRICT ADHERENCE TO LIMITA-
17 TION.—The use of the system established under
18 paragraph (1) by a social networking website
19 shall be conditioned on the website’s agreement
20 to observe the limitations required under this
21 paragraph.

22 “(D) RULE OF CONSTRUCTION.—This sub-
23 section shall not be construed to limit the au-
24 thority of the Attorney General under any other
25 provision of law to conduct or to allow searches

or checks against sex offender registration information.

“(5) LIMITATION ON LIABILITY.—

“(A) IN GENERAL.—A civil claim against a social networking website, including any director, officer, employee, parent, or agent of that social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.

“(B) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the social networking website, or a director, officer, employee, or agent of that social networking website—

“(i) engaged in intentional misconduct; or

“(ii) acted, or failed to act—

“(I) with actual malice;

“(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

“(III) for a purpose unrelated to the performance of any responsibility

1 or function described in paragraph
2 (3).

3 “(C) ORDINARY BUSINESS ACTIVITIES.—

4 Subsection (a) shall not apply to an act or
5 omission to act relating to an ordinary business
6 activity of any social networking website, in-
7 cluding to any acts related to the general ad-
8 ministration or operations of such website, the
9 use of motor vehicles by employees or agents of
10 such website, or any personnel management de-
11 cisions of such websites.

12 “(D) MINIMIZING ACCESS.—A social net-
13 working website shall minimize the number of
14 employees that are provided access to the list of
15 electronic mail addresses, and other designa-
16 tions used for self-identification or routing in
17 Internet communication or posting by persons
18 in the National Sex Offender Registry.

19 “(6) RULE OF CONSTRUCTION.—Nothing is this
20 section shall be construed to require any Internet
21 website, including a social networking website, to
22 compare its database of registered users with the list
23 of electronic mail addresses and other designations
24 used for self-identification or routing in Internet
25 communication or posting by persons in the National

1 Sex Offender Registry, and no Federal or State li-
2 ability, or any other actionable adverse consequence,
3 shall be imposed on such website based on its deci-
4 sion not to compare its database with such list.”.

5 **SEC. 4. DEFINITIONS.**

6 Section 111 of the Sex Offender Registration and No-
7 tification Act (42 U.S.C. 16911) is amended by adding
8 at the end the following:

9 “(15) The term ‘social networking website’
10 means an Internet website that—

11 “(A) allows users, through the creation of
12 web pages or profiles or by other means, to pro-
13 vide information about themselves that is avail-
14 able publicly or to other users; and

15 “(B) offers a mechanism for communica-
16 tion with other users.

17 “(16) The term ‘Internet’ has the meaning
18 given that term in section 1101 of the Internet Tax
19 Freedom Act (47 U.S.C. 151 note).

20 “(17) The term ‘electronic mail address’ has
21 the meaning given that term in section 3 of the Con-
22 trolling the Assault of Non-Solicited Pornography
23 and Marketing Act of 2003 (15 U.S.C. 7702).”.

1 **SEC. 5. CRIMINALIZATION OF AGE MISREPRESENTATION IN**
2 **CONNECTION WITH ONLINE SOLICITATION**
3 **OF A MINOR.**

4 Section 2422 of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(c) MISREPRESENTATION OF AGE.—Whoever know-
7 ingly misrepresents his or her age using the Internet or
8 any other facility or means of interstate or foreign com-
9 merce or the mail, with the intent to further or facilitate
10 a violation of this section, shall be fined under this title
11 and imprisoned not more than 20 years. A sentence im-
12 posed under this subsection shall be in addition and con-
13 secutive to any sentence imposed for the offense the age
14 misrepresentation was intended to further or facilitate.”.

15 **SEC. 6. KNOWINGLY ACCESSING CHILD PORNOGRAPHY**
16 **WITH THE INTENT TO VIEW CHILD PORNOG-**
17 **RAPHY.**

18 (a) MATERIALS INVOLVING SEXUAL EXPLOITATION
19 OF MINORS.—Section 2252(a)(4) of title 18, United
20 States Code, is amended—

21 (1) in subparagraph (A), by inserting “, or
22 knowingly accesses with intent to view,” after “pos-
23 sesses”; and

24 (2) in subparagraph (B), by inserting “, or
25 knowingly accesses with intent to view,” after “pos-
26 sesses”.

1 (b) MATERIALS CONSTITUTING OR CONTAINING
2 CHILD PORNOGRAPHY.—Section 2252A(a)(5) of title 18,
3 United States Code, is amended—

4 (1) in subparagraph (A), by inserting “, or
5 knowingly accesses with intent to view,” after “pos-
6 sesses”; and

7 (2) in subparagraph (B), by inserting “, or
8 knowingly accesses with intent to view,” after “pos-
9 sesses”.

10 **SEC. 7. CLARIFYING BAN OF CHILD PORNOGRAPHY.**

11 (a) IN GENERAL.—Chapter 110 of title 18, United
12 States Code, is amended—

13 (1) in section 2251—

14 (A) in each of subsections (a), (b), and (d),
15 by inserting “using any means or facility of
16 interstate or foreign commerce or” after “be
17 transported”;

18 (B) in each of subsections (a) and (b), by
19 inserting “using any means or facility of inter-
20 state or foreign commerce or” after “been
21 transported”;

22 (C) in subsection (c), by striking “com-
23 puter” each place that term appears and insert-
24 ing “using any means or facility of interstate or
25 foreign commerce”; and

1 (D) in subsection (d), by inserting “using
2 any means or facility of interstate or foreign
3 commerce or” after “is transported”;

4 (2) in section 2251A(c), by inserting “using
5 any means or facility of interstate or foreign com-
6 merce or” after “or transported”;

7 (3) in section 2252(a)—

8 (A) in paragraph (1), by inserting “using
9 any means or facility of interstate or foreign
10 commerce or” after “ships”;

11 (B) in paragraph (2)—

12 (i) by inserting “using any means or
13 facility of interstate or foreign commerce
14 or” after “distributes, any visual depic-
15 tion”; and

16 (ii) by inserting “using any means or
17 facility of interstate or foreign commerce
18 or” after “depiction for distribution”;

19 (C) in paragraph (3)—

20 (i) by inserting “using any means or
21 facility of interstate or foreign commerce”
22 after “so shipped or transported”; and

23 (ii) by striking “by any means,”; and

24 (D) in paragraph (4), by inserting “using
25 any means or facility of interstate or foreign

commerce or” after “has been shipped or transported”; and

(4) in section 2252A(a)—

(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”;

(B) in paragraph (2), by inserting “using any means or facility of interstate or foreign commerce” after “mailed, or” each place it appears;

(C) in paragraph (3), by inserting “using any means or facility of interstate or foreign commerce or” after “mails, or” each place it appears;

(D) in each of paragraphs (4) and (5), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, or shipped or transported”; and

(E) in paragraph (6), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, shipped, or transported”.

(b) AFFECTING INTERSTATE COMMERCE.—Chapter 110 of title 18, United States Code, is amended in each of sections 2251, 2251A, 2252, and 2252A, by striking

1 “in interstate” each place it appears and inserting “in or
2 affecting interstate”.

3 (c) CERTAIN ACTIVITIES RELATING TO MATERIAL
4 INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—
5 Section 2252(a)(3)(B) of title 18, United States Code, is
6 amended by inserting “, shipped, or transported using any
7 means or facility of interstate or foreign commerce” after
8 “that has been mailed”.

9 (d) CERTAIN ACTIVITIES RELATING TO MATERIAL
10 CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—
11 Section 2252A(a)(6)(C) of title 18, United States Code,
12 is amended by striking “or by transmitting” and all that
13 follows through “by computer,” and inserting “or any
14 means or facility of interstate or foreign commerce,”.

Passed the Senate May 20, 2008.

Attest:

Secretary.

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identifiers, and for other purposes.