The CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. JOHNSON of Louisiana. Mr. Chair, I want to thank Mr. O'HALLERAN and Mr. BIGGS for offering this amendment. It will help to prevent abuse at these national governing bodies and, as stated, it will encourage children to report abuse when they are able to quickly and easily access this information.

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

Mr. O'HALLERAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Arizona (Ms. SINEMA).

Ms. SINEMA. Mr. Chair, I thank Mr. O'HALLERAN for yielding and for his leadership on this important issue.

Sexual abuse is abhorrent. It is particularly abhorrent when it is conducted by an individual in a position of authority: a coach, a trainer, a teacher.

The community of Mesa, Arizona, which Mr. BIGGS and I represent, was rocked by a tragic event in which a young athlete was abused for at least 3 years before receiving help. Had he or other young athletes experiencing similar nightmares had access to resources and support, perhaps the nightmare could have ended sooner, perhaps it could have been prevented.

Our bipartisan amendment is simple. It builds on a very good bipartisan bill by requiring governing bodies to list dedicated information and resources for victims and families on official websites.

No individual should suffer from sexual abuse. No family should go without support when they are in need.

I thank the two gentlemen, my friends from Arizona, Mr. O'HALLERAN and Mr. BIGGS, for cosponsoring this amendment. I urge my colleagues to vote ''yes'' on our amendment and to support the underlying bill.

Mr. O'HALLERAN. Mr. Chair, I yield back the balance of my time.

Mr. JOHNSON of Louisiana. Mr. Chair, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. I thank the gentleman from Louisiana for his courtesies. I want to enthusiastically congratulate and thank the gentlemen and gentlewoman from Arizona for responding to their constituents and answering a question positively about protecting our young people.

I spoke earlier today about what happens with young people and their aspirations when they engage in sports. They want to win, but they also want to, if you will, to impress adults and to show that they can do the very best that they can do.

So I want to congratulate them for this amendment that advances the purposes and goals of protecting young victims from sexual abuse by requiring the national governing bodies to include resources and information regarding sexual assault and having sexual assault hotlines and other victim support services on their websites.

With this new technology, it will be at their fingertips. They don't have to, in essence, expose themselves. They can get this information and readily access the very people that will help them.

So I want to congratulate the manager, Mr. CONYERS, and, of course, the chairman of the committee and the proponents of the underlying bill. I want to congratulate Mr. O'HALLERAN. His efforts here are to be commended, and I thank him for this insightful amendment to the legislation.

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

The CHAIR. The question is on the amendment offered by the gentleman from Arizona (Mr. O'HALLERAN).

The amendment was agreed to.

The CHAIR. The question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCCARTHY) having assumed the chair, Mr. POLIQUIN, Chair 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. 1973) to prevent the sexual abuse of minors and amateur athletes by requiring the prompt reporting of sexual abuse to law enforcement authorities, and for other purposes, and, pursuant to House Resolution 352, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore (Mr. POLIQUIN). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the amendment in the nature of a substitute, as amended.

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. GOODLATTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1015

PROTECTING AGAINST CHILD EXPLOITATION ACT OF 2017

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 352, I call up the bill (H.R. 1761) to amend title 18, United States Code, to criminalize the knowing consent of the visual depiction, or live transmission, of a minor engaged in sexually explicit conduct, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROGERS of Kentucky). Pursuant to House Resolution 352, in lieu of the amendment in the nature of a substitute recommended by the Committee on the Judiciary printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115–19 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1761

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Against Child Exploitation Act of 2017''.

SEC. 2. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251 of title 18, United States Code, is amended—

(1) by amending subsections (a) and (b) to read as follows:

''(a) Any person who, in a circumstance described in subsection (f), knowingly—

''(1) employs, uses, persuades, induces, entices, or coerces a minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, or transmitting a live visual depiction of such conduct;

''(2) produces or causes to be produced a visual depiction of a minor engaged in any sexually explicit conduct where the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct;

''(3) transmits or causes to be transmitted a live visual depiction of a minor engaged in any sexually explicit conduct;

''(4) has a minor assist any other person to engage in any sexually explicit conduct during the commission of an offense set forth in paragraphs (1) through (3) of this subsection; or

''(5) transports any minor in or affecting interstate or foreign commerce with the intent that such minor be used in the production or live transmission of a visual depiction of a minor engaged in any sexually explicit conduct,

shall be punished as provided under subsection (e).

''(b) Any parent, legal guardian, or person having custody or control of a minor who, in a circumstance described in subsection (f), knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct knowing that a visual depiction of such conduct will be produced or transmitted shall be punished as provided under subsection (e).'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct'' and inserting ''engages in any conduct described in paragraphs (1) through (5) of subsection (a)''; and

(ii) by striking '', for the purpose of producing any visual depiction of such conduct,'';

(B) in paragraph (2)(A), by inserting after ''transported'' the following: ''or transmitted''; and

(C) in paragraph (2)(B), by inserting after ''transports'' the following; ''or transmits'';

(3) by adding at the end the following:

''(f) The circumstances referred to in subsections (a) and (b) are—

''(1) that the person knows or has reason to know that such visual depiction will be—

''(A) transported or transmitted using any means or facility of interstate or foreign commerce;

''(B) transported or transmitted in or affecting interstate or foreign commerce; or

''(C) mailed;

''(2) the visual depiction was produced or transmitted using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;

''(3) such visual depiction has actually been—

''(A) transported or transmitted using any means or facility of interstate or foreign commerce;

''(B) transported or transmitted in or affecting interstate or foreign commerce; or

''(C) mailed; or

''(4) any part of the offense occurred in a territory or possession of the United States or within the special maritime and territorial jurisdiction of the United States.

''(g) Notwithstanding any other provision of this section, no criminal charge under subsection (a)(3) may be brought against an electronic communication service provider or remote computing service provider unless such provider has intentionally transmitted or caused to be transmitted a visual depiction with actual knowledge that such depiction is of a minor engaged in sexually explicit conduct, nor may any such criminal charge be brought if barred by the provisions of section 2258B.''.

SEC. 3. LIMITED LIABILITY FOR CERTAIN PERSONS WHEN RESPONDING TO SEARCH WARRANTS OR OTHER LEGAL PROCESS.

Section 2258B of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''from the response to a search warrant or other legal process or'' before ''from the performance''; and

(2) in subsection (b)(2)(C), by inserting ''the response to a search warrant or other legal process or to'' before ''the performance of any responsibility''.

The SPEAKER pro tempore. After 1 hour of debate, it shall be in order to consider the further amendment printed in part B of House Report 115–152, if offered by the Member designated in the report, which shall be considered read, shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for a division of the question.

The gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. GOODLATTE. 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 materials on H.R. 1761.

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

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of H.R. 1761, the Protecting Against Child Exploitation Act of 2017, and urge my colleagues to do the same. I would like to note that May is National Missing Children's Month and today marks National Missing Children's Day. It is an honor to be on the floor here today as we continue our mission to protect these innocent victims.

We have made great strides toward ending child exploitation. However, gaps still exist in our laws that are contrary to Congress' goal of protecting children and criminalizing the production of images of child sexual abuse.

H.R. 1761 takes necessary steps to close an unfortunate loophole created by a Fourth Circuit decision in United States v. Palomino-Coronado—a case in which a defendant was able to walk free from Federal conviction despite photographic evidence he had engaged in the sexual abuse of a 7-year-old child.

On May 3, 2012, Prince George's County police officers responded to a home in Laurel, Maryland, based on a report of a missing 7-year-old child known as ''B.H.'' Officers found the child at the fence that separated her house and her neighbor's house. Upon investigation, it was uncovered that the neighbor, Anthony Palomino-Coronado, a 19-year-old male, had sexually molested the child.

At trial, the jury found the defendant guilty of knowingly employing, using, persuading, inducing, enticing, or coercing a minor in sexually explicit conduct, for the purpose of producing a visual depiction of that conduct—in other words, for the production of child pornography. The defendant appealed his conviction, alleging insufficient evidence.

Incredibly, the Fourth Circuit vacated the defendant's conviction, finding there was insufficient evidence the defendant's sexual abuse of the 7-year-old girl was ''for the purpose of'' creating an image of such conduct. The court found that, though the defendant engaged in sexual conduct with a child, ''the fact that only one image was produced militates against finding that his intent in doing so was to take a picture.''

Essentially, the court decided that the defendant had engaged in sexual conduct with a 7-year-old and taken a picture but had not engaged in sexual conduct with a 7-year-old to take a picture. To me, this is a preposterous, offensive result.

Under the Fourth Circuit's reasoning in Palomino, a defendant could admit to sexually abusing a child, and memorializing the conduct, but could argue that he should, nonetheless, escape Federal conviction because he lacked the requisite purpose or specific intent, prior to initiating the sexual abuse. Indeed, defense attorneys have begun to raise these Palomino defenses in other courts.

In response to Palomino, H.R. 1761 establishes additional bases of liability to the crime of production of child pornography. Specifically, the bill clarifies existing law by prohibiting the knowing production of, or knowingly causing the production of, a visual depiction of a real minor engaged in sexually explicit conduct.

Additionally, H.R. 1761 amends current law to prohibit the knowing transmission of, or knowingly causing the transmission of, a live visual depiction of a minor engaged in sexually explicit conduct while also criminalizing the knowing creation of the visual depiction of a minor engaged in sexually explicit conduct.

This language will serve to fix this judicially created loophole and ensure our court system will not have to spend time evaluating this meritless defense and will make certain predators such as this will not be able to escape Federal consequences.

Mr. Speaker, with this bill, Congress' intent is clear. We must continue to protect our children, the most vulnerable and innocent members of society. I commend the gentleman from Louisiana (Mr. JOHNSON), a member of the Judiciary Committee, for introducing this important legislation, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent that the gentleman from Louisiana (Mr. JOHNSON) may control that time.

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

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume, and rise in opposition to this bill.

Mr. Speaker, this bill restructures section 2251 of title 18 of the United States Code as apparently requested by the unit at the Department of Justice that enforces the laws against child pornography.

H.R. 1761 is intended to address limitations in the prosecution of cases pursuant to section 2251, as identified by the Department.

While we all agree that no child pornography offense should go unpunished, we cannot overlook the consequences of mandatory minimum sentencing.

Section 2251(a) prohibits the use of a child to produce child pornography and related conduct, including overseas production and advertising child pornography.

Pursuant to this bill, two new offenses would be added to this section to prohibit the production of child pornography and the transmission of live depictions of a child engaged in sexually explicit conduct, such as live-streaming abuse online.

This measure would also modify the existing offense that prohibits having a minor assist in sexually explicit conduct for the purpose of producing or transmitting child pornography. As amended, this offense would prohibit

having a minor assist in sexually explicit conduct that violates each of the three newly enumerated production offenses, except the transportation of a minor for use in child pornography production.

In addition, it would amend the prohibition against the production of child pornography abroad to forbid the live transmission of child pornography produced abroad.

The jurisdictional requirement for each of the offenses enumerated in section 2251, except the production of child pornography abroad, would be codified in a separate subsection. Other portions of the bill would be modified to follow the restructure of the statute for consistency.

Unfortunately, current law sets forth a series of mandatory minimum terms of imprisonment for production of child pornography offenses. First-time offenses are punishable by mandatory imprisonment of at least 15 years; offenders with a prior conviction face mandatory imprisonment for at least 25 years; and offenders with two or more prior convictions must be sentenced to imprisonment of at least 35 years.

By modifying and expanding section 2251 to include several new ways in which to violate the prohibition against the production of child pornography, the bill would subject new classes of defendants to mandatory minimum sentences. Although the bill does not establish new mandatory minimum sentences, it would—in this way—expand the application of the existing mandatory minimums, which I oppose.

Mandatory minimums have been studied extensively and found to distort rational sentencing systems, discriminate against minorities, waste taxpayers' money, and violate common sense. Under mandatory minimum sentences, regardless of the nature and circumstances surrounding the offense, the role of the offender in the particular crime, and the history and characteristics of the offender, a judge must impose a sentence set by the legislature.

Even if everyone involved in a case—from the arresting officer, prosecutor, and judge to the victim—believes that the mandatory minimum would be an unjust sentence for a particular defendant in a case, it still must be imposed. Mandatory minimum sentences are the wrong way to determine punishment under this or any other statute.

During the Judiciary Committee's consideration of this bill, the committee rejected an amendment that would have eliminated the applicable mandatory minimums in the current statute but would still have allowed judges to sentence these offenders to lengthy sentences up to the existing statutory maximums.

Because those changes were not made, the bill continues to present problems with mandatory minimums.

Accordingly, Mr. Speaker, I must oppose this legislation, and I reserve the balance of my time.

□ 1030

Mr. JOHNSON of Louisiana. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. MCCARTHY).

Mr. MCCARTHY. Mr. Speaker, before I begin, I want to thank the gentleman for his leadership on this issue to help save those who have been trafficked across not only just America, but around the world.

Mr. Speaker, they didn't list her name in the report, and that makes sense. It all happened before she even reached the age of 16. So to protect her identity, they called her Tonya.

She ran away from home and ended up living with a man they called Eddie. Eddie was the stepdad of one of her classmates. Tonya and Eddie started a relationship. Tonya felt that she really loved him. Eddie took advantage of that, and he pressured Tonya into a life no child should have to live.

Tonya was saved in large part by luck. A tip to the police led to action by the Federal special agent. And now Eddie is behind bars finishing the second year of his 12-year prison sentence. Meanwhile, Tonya is just trying to return to a normal life.

Mr. Speaker, I wish I could say this story wasn't true, that these fictitious names didn't reflect hard reality. I wish I could say it was isolated. I wish I could say that this type of thing doesn't happen here in America, but it does.

It repeats itself with different details even more disturbing than Tonya's story in towns and cities across our Nation. It is not just sex trafficking. It is forced labor. It is exploitation. It is slavery. And every single instance cries out against the moral truth written on every human heart.

Now, the numbers are staggering. 20.9 million people are trafficked globally. Of that number, over a quarter are children. The majority are pressed to work for little to no wages. And 4.5 million of these people are victims of forced sexual exploitation.

Here in America, there were 7,572 cases of human trafficking reported in 2016. That is an increase of 35 percent over just the year before. My home State of California is particularly dire. Of all the cases in the Nation, 1,323 come from California.

Though we need no explanation for why we are passing anti-trafficking and exploitation legislation today, I think it helps that we understand the magnitude of this evil.

We have, in this body, voted on 11 bills so far. Today we will vote on two more by the gentlewoman from Indiana (Mrs. BROOKS) and the gentleman from Louisiana (Mr. JOHNSON). Altogether, these bills address many aspects of this problem: international trafficking, recording and transmission of child pornography, abuse uncovered on the U.S. Olympic teams, the handling of trauma cases in our justice system.

I don't believe that these bills alone will end human trafficking or exploitation in and of themselves, but they will help. They will help prevent these crimes, they will help the victims recover, and they will bring us closer to a world where every person, especially those who need us most, won't be abused but will be truly loved.

Mr. Speaker, I thank the gentleman for his work in this effort.

Mr. CONYERS. Mr. Speaker, I now yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in opposition to H.R. 1761.

I first want to point out that the case outlined by the chair of the Judiciary Committee that failed in Federal court could have been brought in State court and the defendant would have been subjected to extremely long, lengthy prison time for the heinous conduct that he had participated in.

Mr. Speaker, this legislation expands the use of preexisting mandatory minimum sentences. Although the bill does not technically create new mandatory minimums, it does expose additional defendants to preexisting mandatory minimum sentences of 15, 25, and 35 years.

While I support the underlying goal of punishing sex offenders—and they should be punished harshly—the use of mandatory minimums has time and time again been shown to be inappropriate.

This expansion of mandatory minimum sentences comes on the heels of the Attorney General's memorandum of May 12, 2017, which has been roundly criticized for directing all Federal prosecutors to pursue the most serious charges and maximum sentences, to include mandatory minimum sentences. This directive takes away from Federal prosecutors and judges the ability to individually assess the unique circumstances of each case, including any factors that may mitigate against imposing mandatory minimum sentences.

This law is particularly appalling because it would apply to people who I think we should all agree should not be subject to these long mandatory minimum sentences. I am talking about teenagers. Teenage sexting is widespread. Under this law, teenagers who engage in consensual conduct and send photos of a sexual nature to their friends or even to each other may be prosecuted and the judge must sentence them to at least 15 years in prison.

The law explicitly states that the mandatory minimums will apply equally to an attempt or a conspiracy. That means if a teenager attempts to obtain a photo of sexually explicit conduct by requesting it from his teenage girlfriend, the judge must sentence that teenager to prison for at least 15 years for making such an attempt. If a teenager goads a friend to ask a teenager to take a sexually explicit image of herself, just by asking, he could be guilty of conspiracy or attempt, and the judge must sentence that teenager to at least 15 years in prison.

Under the Federal code, the term ''sexually explicit conduct'' includes actual or simulated conduct. That means if a teenager asks another teenager for a photo simulating sex, even if the minor is fully clothed, that attempt would violate the law and the teenager must get a sentence of at least 15 years mandatory minimum for making that attempt.

This law does not allow the judge to consider whether or not the conduct may have been consensual between minors. This circumstance is irrelevant when the sentence is mandatory.

For decades now, the extensive research and evidence has demonstrated that mandatory minimum sentences fail to reduce crime, discriminate against minorities, waste the taxpayers' money, and often require a judge to impose sentences so bizarre that they violate common sense.

Unfortunately, there are already too many mandatory minimums in the Federal code. If we ever expect to do anything about the problem and actually address this major driver of mass incarceration, the first step we have to take is to stop passing new mandatory minimums or bills that expand existing mandatory minimums.

Mr. Speaker, we have to recognize that mandatory minimums in the code did not get there all at once. They got there one at a time, each part of a larger bill, which, on balance, might seem like a good idea. Therefore, the only way to stop passing new mandatory minimums is to stop passing bills that contain or broaden the application of mandatory minimums.

Giving lip service to the suggestion that you would have preferred that the mandatory minimum had not been in the bill and then voting for the bill anyway not only creates that new mandatory minimum, but it also guarantees that mandatory minimums will be included in the next crime bill.

Mr. Speaker, this bill would not be controversial if it did not contain mandatory minimums, but, unfortunately, it does. Therefore, I urge my colleagues to vote ''no'' on H.R. 1761.

Mr. JOHNSON of Louisiana. Mr. Speaker, I yield myself such time as I may consume.

I am honored today to speak in support of my legislation, the Protecting Against Child Exploitation Act, which aims to close a court-created loophole, and as the title suggests, further protect our children from predators.

When I first arrived to Congress after almost 20 years of litigating constitutional law cases and drafting legislation for municipalities to control the proliferation of sexually oriented businesses, I was deeply concerned to learn that this particular loophole even existed in current Federal law, which essentially allows a child rapist to admit to sexually abusing a child and yet still evade punishment.

The background is important to reiterate. As my chairman stated moments ago, this comes from a 2015 case, United States v. Palomino-Coronado, where the U.S. Court of Appeals for the Fourth Circuit reversed the conviction of a child sex offender simply because the court determined the perpetrator lacked specific intent to record the disgusting images that were found on the offender's smartphone. This is despite the fact that the defendant admitted to sexually abusing the 7-year-old child from next door and memorializing the conduct.

In its opinion, the court decided the lack of purpose or specific intent was enough to overturn the conviction, even though the defendant himself took the photo of the heinous act and subsequently admitted to sexually abusing this child. This is absolutely in clear contradiction of our responsibility and this Congress' intention to protect America's children.

In Scripture, Romans 13 refers to the governing authorities as ''God's servants, agents of wrath to bring punishment on the wrongdoer.'' I, for one, believe we have a moral obligation, as any just government should, to defend the defenseless.

My legislation presents a simple fix and updates title 18 of the U.S. Code to ensure future defendants are not able to circumvent the law by simply claiming a lack of intent, especially after knowingly creating a visual depiction of a minor engaged in sexually conduct.

More specifically, my legislation amends section 2251 of title 18 to prohibit the production and transmission of a visual depiction of a real minor engaged in sexually explicit conduct.

Furthermore, it amends current law to include prohibiting the depiction of a minor assisting any person in engaging in a sexually explicit act.

Lastly, to clarify potential circumstances of misinterpretation of the statute and to ensure the statute is not used erroneously to prosecute internet services providers when they have not engaged in wrongdoing, my legislation emphasizes that to be criminally liable under section (a)(3), an internet service provider must have actual knowledge that the child pornography is on its server and that it must intentionally transmit that image or intentionally cause its transmission.

We also take the step of prohibiting any criminal or civil liability for internet service providers who are required to transmit child pornography to law enforcement in response to a legal process, such as a search warrant in child exploitation cases. Of course, we would never anticipate a prosecution of an internet service provider for merely responding to a legal process, but it is my hope that explicitly providing for this immunity in the statute will further enhance the relationship between internet service providers and law enforcement to work together to combat these predators.

In answer to the opposition that we have heard here, it is important to reiterate this legislation does not create new mandatory minimums. However, I would like to address the comments regarding the current law on mandatory minimum penalties under the production of child pornography statute.

There is simply no evidence that Federal prosecutors are abusing this statute. I think we should all recognize that producing child pornography is a horrific crime. It often means luring young children into acts that no one, man, woman, or child, should be forced to do.

It is not a photograph of a nude child. It is something far worse. Each photo is a crime scene. Such a horrific act by the perpetrator requires the maximum amount of legal deterrents.

While mandatory minimums have reached much scrutiny in the drug statutes, in this venue for this statute, there could be no doubt that the penalties that exist under current law are appropriate. Child sexual exploitation is vastly underreported. The number of images of child pornography keeps growing and the images are becoming more and more depraved. The harm is too great to these victims not to have significant penalties available to deter this conduct and punish the producers of child pornography.

Every time an image of child pornography is viewed, the victim gets revictimized. Once an image is on the internet, it is irretrievable and can continue to circulate forever. This permanent record of a child's sexual abuse can alter his or her life forever. Many victims of child pornography suffer from feelings of helplessness, fear, humiliation, and lack of control, given that their images are available for others to view in perpetuity.

□ 1045

These images are becoming more sadistic and violent, and the age of the average victim is becoming younger and younger. It is a horrifying fact that it is not uncommon for even toddlers and infants to now be subjects of these images.

It is also important that there is no confusion about one fact: The very creation of these images is repulsive, regardless of whether or not the abuse was done with a specific intent of creating an image or if the intent to memorialize this conduct was a secondary thought.

Consider the facts of the case that led to this bill. As was mentioned, an adult male had sexual relations with a 7-year-old girl who lived next door and decided to photograph it. That is the production of child pornography. There is no question about it. No one should be permitted to escape responsibility merely by asserting they did not have a specific intent to create the image before they abused the child. The act of taking a photo or making a video is enough to demonstrate intent.

Mr. Speaker, that is what this bill does. It is appropriate that we are doing all this on the day that we recognize as National Missing Children's

Day. I am going to urge all my colleagues to support the bill.

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

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Speaker, I thank the opponents and proponents of this legislation because they have said much the same thing.

H.R. 1761 is a bill that stands against everything we stand against. It is for protecting against child exploitation, and we all agree with that. We agree, as well, that the bill has existing mandatory minimums and the attempt of the proponent of this bill to ensure that the decision that occurred in Palomino would not occur again.

Some clarification has occurred, and that is that the bill, or the law, now, with H.R. 1761 explicitly prohibits the creation of a visual depiction or live transmission of a minor engaged in sexually explicit conduct. That is, of course, a meritorious and unanimously supported position. The mandatory minimums continue and also are added to, now, a number of other offenses. As have been indicated, those offenses can be upwards of 20 years, and they can be for a variety of offenses added under this bill.

So the bill is well intended, and the initial prohibition could draw support in a bipartisan manner, but the continued adding of offenses to mandatory minimums rather than language that would have left the sentencing to the discretion of the Federal court—which, by the way, many Federal judges have come to this Congress and to the Committee on the Judiciary to ask for and indicate the value of discretion as relates to their sentencing. This is not a death penalty case, so, clearly, the discretion of the court and the wisdom of the court could be utilized for the appropriate new offenses and the appropriate sentencing.

So while the bill is well intended, it is overbroad in scope and will punish the very people it indicates it is designed to protect: our children. H.R. 1761 would expand and modify the meaning of sexual exploitation of children, thereby granting new offenses that may be prosecuted under section 2251 of the Federal criminal code, which generally prohibits the production of child pornography.

As indicated, it works to fix the Fourth Circuit decision in Palomino, which reversed the defendant's conviction because the decision was that there was no proof of intent. The structure of the statute, however, would significantly be modified by H.R. 1761, separating section 2251(a) into five enumerated offenses, codified as 2251(a)(1) through (5). Based on the language in this bill, to criminalize the knowing consent of the visual depiction or live transmission of a minor engaged in sexually explicit conduct, a teenager sexting another teenager could be swept up under the statutory power of this new measure.

Research shows that 91 percent of teenagers, tweens, have access to the internet and/or a smartphone. Hence, given the rampant advancement in technology and, consequently, its usage among this demographic, we must exercise prudence when introducing legislation that is seemingly ignorant of the growing trend of communication among teenagers.

H.R. 1761 ignores the life-altering impact it would have on our juveniles who engage in otherwise stupid and immature behaviors and, in most cases, consensually explicit sexual conduct if we begin to criminalize such conduct. While this bill seeks to protect minors—and I congratulate the proponent for that intent—in the same vein, it drastically alters the penalty for minors who may face mandatory minimums in sentencing, and, therefore, it is flawed in its design and intended purpose.

Let me be very clear: Legislators have very good intentions, but we cannot stand on the floor and guarantee how it will be interpreted. We cannot guarantee that one teenager will not be caught up in this new legislation. Court interpretation, prosecutors' interpretation, all that will be subjected to mandatory minimums, which is in the underlying bill.

The SPEAKER pro tempore (Mr. POLIQUIN). The time of the gentlewoman has expired.

Mr. CONYERS. Mr. Speaker, I yield an additional 1 minute to the gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Speaker, I ask my colleagues to consider these concerns.

I heard the gentleman speak of his effort to ensure that the internet provider would have to show intent or have intentionally engaged.

Again, the interpretation of these bills are subject to interpretation, and the clearer we can be here on the floor of the House, the more we can be appropriate in its application.

My point is, in concluding, I hope we will ultimately have legislation that comes back to the floor of the House that we all may be able to join in and that the elements that do not impact and protect our teenagers will be eliminated and we can be assured that internet providers are protected as well.

Mr. JOHNSON of Louisiana. Mr. Speaker, I yield myself such time as I may consume to just say a couple of important points in rebuttal to what we have heard.

For one thing, there has been no evidence that the cases referenced by the gentlewoman involving conduct between minors are being prosecuted at the Federal level. I have not seen even one that has been cited. The point here is that prosecutorial discretion has been a sufficient buffer.

In committee, our colleagues on the other side have invoked stories of juvenile offenders being charged for consensual conduct and placed on sex offender registries unjustly; however, these are all cases that were prosecuted at the local level. Not one that has been mentioned has been a Federal case.

It is important to note that, for offenders under 18, the Federal Department of Justice policy on charging juveniles means that juvenile prosecutions very rarely occur, and only if no State court can assume jurisdiction. In fact, certification from the Attorney General himself is necessary to proceed against a juvenile.

Again, I know of no such case in which a juvenile has been prosecuted federally under any child pornography statute. So while we appreciate and understand the concerns about mandatory minimum sentencing and its abuse, particularly with the drug statutes, again, it is important to reiterate here, that is not the case with child pornography.

For that reason, Mr. Speaker, I would oppose these arguments and trust that my colleagues will see the wisdom in supporting this very important and timely legislation.

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

Mr. CONYERS. Mr. Speaker, I am prepared to close, and I yield myself the balance of my time.

Mr. Speaker, the Members of the House cannot rely on prospective discretion to protect juveniles under this statute. We simply can't rely on it, participate in, given the new policy of the Attorney General. We are under a new regime here at the Federal level, and I can't depend on relying on the prosecutorial discretion to protect juveniles under this statute.

Mr. Speaker, I believe this bill is well intended, and I share my colleagues' desire to protect children from being victimized by their depiction in pornography. However, I also believe that we must address the serious problem presented by the bill, namely, that it would expand the application of the existing array of mandatory minimum sentences that the code provides for these offenses.

This aspect of H.R. 1761 directly conflicts with the growing bipartisan realization that mandatory minimums are unjust and unwise; this is so even for egregious offenses for which judges should be allowed to impose sentences—often severe and even beyond the minimums—based on the facts and circumstances of each case. I want to leave it up to the judges.

In considering legislation to better protect our children from the types of exploitation addressed by this bill, we must not ignore the sentencing implications of these revisions to the statute. In light of the bill's failure to address these serious concerns, I oppose H.R. 1761 and urge my colleagues to do likewise.

We should consider even stronger legislation that addresses all these concerns. We are not through with the subject matter by this bill coming before us today. There is more work to be done. I thank my colleagues for this very important discussion.

Madam Speaker, I yield back the balance of my time.

Mr. JOHNSON of Louisiana. Madam Speaker, the concerns stated today are misplaced. The child pornography statutes have never been the subject of abuse by Federal prosecutors, and there is no evidence that that would happen in the future. However, the abuse that is being allowed and that we must address today is that of our children, and that abuse is being allowed because of a loophole that was, sadly, created by a Federal court.

Today we have an opportunity to correct that wrong. We have an opportunity to do what we all acknowledge to be the right thing: to defend the most defenseless among us. It is, indeed, an honor for us to take this action on the week that commemorates National Missing Children's Week and here, even, on this day, National Missing Children's Day.

I urge all my colleagues to join me in supporting the Protecting Against Child Exploitation Act. We hope that everyone will do the right thing here today.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. FOXX). All time for debate on the bill has expired.

AMENDMENT NO. 1 OFFERED BY MS. JACKSON LEE

The SPEAKER pro tempore. It is now in order to consider amendment No. 1 printed in part B of House Report 115–152.

Ms. JACKSON LEE. Madam Speaker, I have an amendment at the desk.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 5, line 3, insert after ''section 2258B.'' the following:

''(h) Notwithstanding subsection (e), a person who violates paragraph (2) or (3) of subsection (a) and is 19 years of age or younger at the time the violation occurred may, in the alternative, be punished for a violation of this section by imprisonment for not more than 1 year or a fine under this title, or both, if—

''(1) the minor is 15 years of age or older and not more than 4 years younger than the person who committed the violation, at the time the sexually explicit conduct occurred; and

''(2) the sexually explicit conduct that occurred was consensual.''

The SPEAKER pro tempore. Pursuant to House Resolution 352, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

□ 1100

Ms. JACKSON LEE. Madam Speaker, I associate myself with the words of the ranking member, Mr. CONYERS.

I look forward to strengthening these laws and, as well, working on legislation to continue to protect our children, our innocent children, from sexual abuse, sexual assault, and the devastation that it has on their lives.

So I rise to continue that theme and to indicate, as I said earlier, that some of the clarifications in the underlying bill are important, and important to clarify, and important to provide prohibitions that will be clear in possible further court interpretations. But I maintain that we cannot predict the court interpretations, and the better and clearer that we are to protect our children, I believe, is a route that we should take.

The bill would add new classes of offenses. But section 2251 does not provide for Romeo and Juliet exceptions; i.e., the penalties apply even when conduct is consensual and when the victim and offender are close in age. For example, a 19-year-old and a 17-year-old who videotaped themselves engaged in a sexual act, then emailed the video to their own email accounts, the 19-year-old would be subject to mandatory minimums. That is the basis of the amendment, the Jackson Lee amendment.

The Jackson Lee amendment is a Romeo and Juliet exception. The amendment is a reasonable approach to treatment of adolescent behavior that should not be left to prosecutors. The pervasiveness of personal technology, such as cell phones and tablets, have given rise to teenage sexting. Research has shown that teenage sexting is widespread, even among middle school-age youth.

Under section 2251, teenagers prosecuted for talking and sending messages, and then taking and sending messages, would be subject to mandatory prison sentences of at least 15 years and sex offender registration.

In light of the recent troubling statements by Attorney General Sessions, Congress should provide an alternative to existing mandatory penalties in sexting cases, particularly with juveniles. We cannot say that a juvenile will not be prosecuted federally. They could be, under this particular statute.

So this is a carve-out, a Romeo and Juliet carve-out, to ensure that it does not happen, to protect against the possibility of it happening.

A study conducted by Drexel University found that more than half of the undergraduate students who took part in an online survey said they had sexted when they were teenagers, and 30 percent said that they included photos in that message, meaning that they had sent sexual texts.

Therefore, I ask that my colleagues come together and support the Jackson Lee amendment for a Romeo and Juliet carve-out.

Madam Speaker, I reserve the balance of my time.

Mr. JOHNSON of Louisiana. Madam Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Louisiana. Madam Speaker, it is not only unnecessary, but it is fashioned in such a manner which may potentially create the type of loophole that we are looking to close.

Under current law, so-called Romeo and Juliet cases, such as those between 19- and 50-year-olds, could be prosecuted under any of the child pornography laws—possession, production, or distribution. That has always been the case.

However, I reiterate that we know of no such instance that has been brought under any of these Federal provisions under the circumstances covered by this amendment, which further supports the fact that Federal prosecutors do not appear to be bringing such cases. There is just simply no evidence that has been produced to suggest otherwise. For that reason, the amendment is completely unnecessary, and it is based upon no evidence at all.

On the contrary, the underlying bill is based upon a real case where a real 7-year-old girl was sexually abused and photographed by a real sexual predator.

Our colleagues on the other side have also continually referred to Attorney General Sessions' recent charging memoranda which suggests that under the policy in his memo prosecutors will suddenly be forced to aggressively prosecute 19-year-olds who are engaging in consensual sexual conduct under this statute. But that notion is preposterous and is also based on no evidence.

As an initial matter, the minority completely ignores the fact that a prosecutor makes an initial determination as to whether to commence or decline prosecution. And this is distinct from the subsequent decision of what charges should be brought, which would only occur if the decision to prosecute is made in the first place.

According to the U.S. attorneys' manual, in making the initial determination to commence a prosecution, a prosecutor must consider whether ''a substantial Federal interest would be served by the prosecution,'' and whether, ''in his or her judgment: One, the person is subject to effective prosecution in another jurisdiction; or, two, there exists an adequate noncriminal alternative to prosecution.''

The Sessions memo doesn't change any of that, and it is absurd to think that the memo will cause the Department of Justice to suddenly shift its prosecutions to aggressively go after Romeo and Juliet cases. This is especially ridiculous, as Attorney General Sessions had made clear from the outset, that the priorities of DOJ and this administration are to prosecute violent crimes and violent offenders.

I think that the minority just fundamentally misunderstands and mischaracterizes not only the Sessions memo but this legislation. For that reason, I urge all of my colleagues to oppose the Jackson Lee amendment.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON LEE. Madam Speaker, let me quickly say that I respect the

gentleman, but I take great issue in calling a Member's amendment, or the analysis of that amendment, ridiculous, because it is not ridiculous. It is an extremely reasonable amendment. And unless he has some powers that I am not aware of, no one can predict when a prosecutor will determine that they will prosecute. We cannot. We pass criminal justice laws every day and cannot predict.

Whether or not it is based upon the Sessions memo, which as far as anyone who can read knows that we are going back to a stricter enforcement of everything criminal against everyone. That is clear.

The Jackson Lee amendment recognizes that not all sex offenses are the same. And currently, section 2251 is a one-size-fits-all sentencing scheme. It fits all, even a 19-year-old.

The Jackson Lee amendment would provide a better alternative. Punishment will be available involving offenses. When defendants are no more than 19 years old, they would have other alternatives. The judge would have discretion. That is simply what we are asking for.

Madam Speaker, I include in the RECORD an article entitled, ''Keep Mandatory Minimums Out of the Juvenile Justice System.'' This bill does not do that; and I also include an article entitled, ''Teenage Sexting is Not Child Porn.''

[June 16, 2014]

OP-ED: KEEP MANDATORY MINIMUMS OUT OF THE JUVENILE JUSTICE SYSTEM

(By Lizzie Buchen)

Across the country, mandatory minimum sentences are falling out of favor. From Sen. Rand Paul to Attorney General Eric Holder, people from both ends of the political spectrum are blaming these harsh and punitive sentences for driving our skyrocketing incarceration rates and exacerbating racial disparities in the criminal justice system. But in this era of smart sentencing reform—particularly toward young people—a disturbing piece of legislation is coasting through the California legislature, threatening to wrench the state in the opposite direction. Senate Bill 838, authored by state Sen. Jim Beall (D–Santa Clara), would break new ground by establishing the first mandatory minimum sentences in the state's juvenile justice system.

The juvenile justice system was founded on the understanding that young people who commit offenses are often struggling in situations outside of their control, are highly amenable to rehabilitation and have the potential to lead productive and law-abiding lives. Mandatory minimum sentences automatic sentences of incarceration or confinement, meted out regardless of the facts of the case are completely at odds with these foundational principles. They are determined not by the youth's past circumstances or potential life ahead, but by what he or she has done. The only result is punishment, a sharp contrast to the rehabilitative ideals of the juvenile justice system.

Mandatory minimum sentences are completely incompatible with how juvenile court works. When a youth has committed an offense, juvenile court judges tailor sanctions to best meet a youth's unique needs for rehabilitation by weighing a comprehensive set of factors, including the severity of the crime, the statement of the victims, and the circumstances of the youth's life—including mental health issues and experience with abuse, homelessness and extreme poverty. The judge then chooses from a wide range of community-based and residential options, allowing him or her to tailor the sanction to best treat the youth and protect the community. In line with this focus on rehabilitation, the sentences are indeterminate, with terms based on the youth's progress.

Proponents of mandatory minimum sentences, including supporters of California's youth mandatory minimum bill, claim that these sentences deter crime. But the evidence tells us this is a dubious notion at best. Although this bill would introduce the first mandatory minimum sentences in California's juvenile justice system, such sentences have been in place in the adult system for decades—and are widely recognized as failures. A large and growing body of research has found that mandatory minimum sentences have come at enormous social, financial and human costs, with little benefit to public safety. There is no evidence that these sentences have a significant deterrent effect. If anything, these harsh punishments are counterproductive, putting the public at risk by disrupting families, impoverishing communities of human capital, making it more difficult for people to return to law-abiding society and diverting precious public resources away from social services and toward costly incarceration.

[From the New York Times, Apr. 4, 2016]

TEENAGE SEXTING IS NOT CHILD PORN

(By Amy Adele Hasinoff)

Teenagers who sext are in a precarious legal position. Though in most states teenagers who are close in age can legally have consensual sex, if they create and share sexually explicit images of themselves, they are technically producing, distributing or possessing child pornography. The laws that cover this situation, passed decades ago, were meant to apply to adults who exploited children and require those convicted under them to register as sex offenders.

Though most prosecutors do not use these laws against consensual teenage sexters, some do. The University of New Hampshire's Crimes Against Children Research Center estimates that 7 percent of people arrested on suspicion of child pornography production in 2009 were teenagers who shared images with peers consensually.

Almost two dozen states, including New York, Illinois and Florida, have tried to solve the legal problems that surround sexting with new legislation, and others, like Colorado, are considering new sexting laws. These reforms typically give prosecutors the discretion to choose between child-pornography felony charges or lesser penalties like misdemeanor charges or a mandatory educational program.

These new laws may seem like a measured solution to the problem of charging teenage sexters with child pornography felonies. However, once they have the option of lesser penalties, prosecutors are more likely to press charges—not only against teenagers who distribute private images without permission, but also against those who sext consensually.

Given the extensive research that shows that young people who are nonwhite, low income, gay or transgender are disproportionately prosecuted for many crimes, there is good reason to suspect that laws that criminalize teenage sexting are being unfairly applied as well. As legislators have tried to cope with the legal fallout, they have also opened up more types of images to scrutiny: While child pornography laws apply only to sexually explicit images, many new sexting laws criminalize all nude images of teenagers, including photos of topless teenage girls.

A better solution would be to bring child pornography laws in line with statutory rape laws by exempting teenagers who are close in age and who consensually create, share or receive sexual images. Vermont tried to enact major reform to its child pornography laws in 2009, but abandoned the effort after a national backlash and settled instead on a new misdemeanor law.

In February, New Mexico passed a limited version of child pornography reform, which shields teenagers who receive a sexual image from a peer from facing child-pornography possession charges. Teenagers who create or share sexual images can still be convicted of child pornography production or distribution.

Both existing child pornography laws and new sexting-specific laws criminalize a common behavior among teenagers. Studies have shown that roughly one-third of 16- and 17-year-olds share suggestive images on their cellphones. Among young adults, rates are above 50 percent. In the past, partners wrote love letters, sent suggestive Polaroids and had phone sex. Today, for better or worse, this kind of interpersonal sexual communication also occurs in a digital format. And it's not just young people: An article in an AARP magazine describes sexting as ''fun, easy and usually harmless.''

Like any sexual act, consensual sexting is somewhat risky and requires trust, but it is not inherently harmful as long as partners respect each other's privacy and are attentive to consent. Studies have found that around 3 percent of Americans report that someone has distributed private sexual images without their permission, and around 10 percent of sexters report negative consequences. The risk of distribution is significantly higher among those who were coerced into sexting.

The victim of a sexual privacy violation can be traumatized and humiliated, and is often blamed for his or her victimization. Unfortunately, the criminalization of sexting worsens this problem because teenagers know that if they report the incident they may be punished at school and possibly charged with the same offense as the perpetrator. In most jurisdictions, distributing a sexual image of a teenager is illegal, regardless of whether one is consensually sending a nude selfie to a partner or maliciously distributing a private photo of another person without permission.

Though some people believe that prohibiting sexting discourages the practice and protects teenagers from harm, research on abstinence-only sex education demonstrates that those policies actually increase unwanted pregnancies and sexually transmitted infections. Abstinence-only messages about sexting are likely to be counterproductive as well.

What parents and educators need to do instead is help young people learn how to navigate sexual risk and trust. Whether or not it is criminalized, we cannot prevent sexting, just as we cannot prevent teenagers from having sex. What we need to focus on is preventing acts of sexual violation, like the distribution of a private image without permission, pressuring a partner to sext or sending a sexual image to an unwilling recipient. Though not all teenagers are sexting, those who are (and those who will when they are older) need to learn how to practice safer sexting, which means that it always has to be consensual.

As State Senator George Muñoz, a prominent supporter of the amendment that established New Mexico's new sexting regime, told

The Guardian, ''Our laws have to change with technology.'' To keep up with those changes, the first step is to decriminalize consensual sexting by creating exceptions in child pornography laws for teenagers who are close in age.

Once we do this, we can concentrate on developing better ways to deal with the new digital forms of harm.

Ms. JACKSON LEE. Madam Speaker, I ask my colleagues to support the Jackson Lee amendment.

Mr. Speaker, I rise to speak about my amendment to H.R. 1761, ''Protecting Against Child Exploitation Act.''

As Ranking Member of the House Judiciary Subcommittee on Crime, I offer this amendment to help make H.R. 1761 a better bill to achieve its intended purpose.

Though troubled by any sexually explicit activity that may exploit and otherwise, harm our children, I believe that H.R. 1761, the ''Protecting Against Child Exploitation Act,'' is deadly and counterproductive to ensuring protection of our youth population in our new technology era.

This bill will exacerbate overwhelming concerns with the unfair and unjust mandatory minimum sentencing that contributes to the over-criminalization of juveniles and mass incarceration generally.

Simply put, this bill will add to the already tragic realities of many juveniles. Rather than proceeding with the caution befitting an expansion of the mandatory sentencing penalty, H.R. 1761 is being rushed to the House Floor, without a single hearing and without the opportunity to consider amendments directly relevant to whether our system of criminalizing juveniles for sexting is fair, just, and sound policy.

Though presented as a proposal to protect children, H.R. 1761 excessively penalizes juveniles and creates life altering criminal charges when engaged in 'sexting'.

Rather, it raises new constitutional concerns; and it does not address documented and systemic unfairness and racial disparity in the imposition of mandatory sentencing and its overbroad sweep of criminalizing juveniles.

My amendment fixes that problem. It creates an alternative punishment (not more than one year of imprisonment) under section 2251 for teenagers who participate in ''sexting'' and might otherwise be subject to mandatory minimum sentences of at least 15 years in prison.

The Jackson Lee is a thoughtful, narrowly-drawn provision that provides judges with a sensible sentencing option for teenagers no more than 19 years old who participate in sexting that may be applied in the judges' discretion, in appropriate cases.

The Jackson Lee amendment is a reasonable approach to treatment of adolescent behavior that should not be left to prosecutors. The pervasiveness of personal technology, such as cellphones and tablets, has given rise to teenage ''sexting.'' Research has shown that teenage sexting is widespread, even among middle school-aged youth. Under section 2251, teenagers prosecuted for taking and sending such messages would be subject to mandatory prison sentences of at least 15 years and sex offender registration. In light of the recent troubling statements made by Attorney General Sessions, Congress should provide an alternative to existing mandatory minimum penalties in ''sexting'' cases.

A study conducted by Drexel University found that more than half of the undergraduate students who took part in an online survey said that they sexted when they were teenagers. Thirty percent said they included photos in their messages and 61 percent did not know that sending nude photos via text could be considered child pornography. Another online survey published in 2008 found that almost 40 percent of teenagers between ages 13 and 19 had sent ''sext'' messages, almost 50 percent had received a sext message, and 20 percent posted nude or semi-nude content online.

The Jackson Lee amendment recognizes that not all sex offenses are the same. Currently, section 2251 employs a one-size-fits-all sentencing scheme. Under section 2251, a 19 year-old, who engages in ''sexting'' (sending or receiving a sexually explicit photo or video of a minor) with a willing, 17 year-old girlfriend or boyfriend, would be subject to the same mandatory minimum sentence as a 50 year-old man, who engages in the same conduct with a 17 year-old.

The Jackson Lee amendment would provide a better alternative. The alternative punishment would be available in prosecutions involving offenses under section 2251(a)(2) or 2251(a)(3), when the defendant is no more than 19 years old, the difference in age between the defendant and victim is no more than four years, and the sexually explicit conduct depicted in the photo or video was consensual. Judges would not be required to sentence teenagers pursuant to the alternative punishment.

Madam Speaker, I yield to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Madam Speaker, I thank the gentlewoman and congratulate her on this very important amendment.

This amendment creates alternative sentencing specifically for teenagers who participate in sexting and could, as a result of this bill and the application of current mandatory minimum sentences, be subject to mandatory sentences of at least 15 years. We should not, as she has already stated so well, leave it to prosecutors to determine whether teenagers take part in teenage behavior.

Ms. JACKSON LEE. Madam Speaker, I yield back the balance of my time.

Mr. JOHNSON of Louisiana. Madam Speaker, I have tremendous respect for my colleagues on the other side, Mr. CONYERS and Ms. JACKSON LEE. I understand her amendment is heartfelt and has the proper motive and attention.

I would just suggest, again, that the risk of this amendment outweighs any potential benefit because it creates the kind of loopholes that we are trying here desperately to prevent.

Madam Speaker, I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. JACKSON LEE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on adoption of the amendment will be followed by 5-minute votes on passage of the bill, if ordered, and passage of H.R. 1973.

The vote was taken by electronic device, and there were—yeas 180, nays 238, not voting 12, as follows:

[Roll No. 283]

YEAS—180

Adams
Aguilar
Amash
Barragán
Bass
Beatty
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Courtney
Crist
Crowley
Cuellar
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty (CT)
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Labrador
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Norcross
O'Halleran
O'Rourke
Pallone
Pascrell
Payne
Pelosi
Perlmutter
Pingree
Pocan
Polis
Price (NC)
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NAYS—238

Abraham
Aderholt
Allen
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bera
Bergman
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costa
Costello (PA)

Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Estes (KS)
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gottheimer
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Harris
Hartzler
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
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LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Noem
Nunes
Olson
Palazzo
Palmer
Panetta
Paulsen
Pearce
Perry
Peters
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford
Scalise
Schrader
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—12

Cummings
Johnson (GA)
Johnson, Sam
Kihuen
Kustoff (TN)
Maloney, Carolyn B.
McSally
Meeks
Newhouse
Nolan
Quigley
Swalwell (CA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1132

Ms. STEFANIK, Messrs. WILSON of South Carolina, ARRINGTON, BURGESS, BISHOP of Michigan, GARRETT, ROGERS of Alabama, YOHO, and DIAZ-BALART changed their vote from ''yea'' to ''nay.''

Mr. RICHMOND changed his vote from ''nay'' to ''yea.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

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.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 368, noes 51, not voting 11, as follows:

[Roll No. 284]

AYES—368

Abraham
Adams
Aderholt
Aguilar
Allen
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barragán
Barton
Beatty
Bera
Bergman
Biggs
Bilirakis
Bishop (GA)
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Blunt Rochester
Bost
Boyle, Brendan F.
Brady (PA)
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Brown (MD)
Brownley (CA)
Buchanan
Buck
Bucshon
Budd
Burgess
Bustos
Butterfield
Byrne
Calvert
Capuano
Carbajal
Carson (IN)
Carter (GA)
Carter (TX)
Cartwright
Castor (FL)
Chabot
Chaffetz
Cheney
Cicilline
Clark (MA)
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Connolly
Cook
Cooper
Correa
Costa
Costello (PA)
Courtney
Cramer
Crawford
Crist
Crowley
Cuellar
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
Denham
Dent
DeSantis
DesJarlais
Deutch
Diaz-Balart
Dingell
Doggett
Donovan
Doyle, Michael F.
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Engel
Eshoo
Espaillat
Estes (KS)
Esty (CT)
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foster
Foxx
Frankel (FL)
Franks (AZ)
Frelinghuysen
Gabbard
Gaetz
Gallagher
Gallego
Garamendi
Garrett
Gibbs
Gohmert
Gonzalez (TX)
Goodlatte
Gosar
Gottheimer
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green, Gene
Griffith
Grothman
Guthrie
Hanabusa
Harper
Harris
Hartzler
Heck
Hensarling
Herrera Beutler
Hice, Jody B.
Higgins (LA)
Higgins (NY)
Hill
Himes
Holding
Hollingsworth
Hoyer
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jeffries
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Jones
Jordan
Joyce (OH)
Kaptur
Katko
Keating
Kelly (IL)
Kelly (MS)
Kelly (PA)
Kennedy
Kildee
Kilmer
Kind
King (IA)
King (NY)
Kinzinger
Knight
Krishnamoorthi
Kuster (NH)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latta
Lawrence
Lawson (FL)
Levin
Lewis (MN)
Lieu, Ted
Lipinski
LoBiondo
Loebsack
Lofgren
Long
Loudermilk
Love
Lowey
Lucas
Luetkemeyer
Lujan Grisham, M.
Luján, Ben Ray
Lynch
MacArthur
Maloney, Sean
Marchant
Marino
Marshall
Mast
Matsui
McCarthy
McCaul
McClintock
McCollum
McHenry
McKinley
McMorris Rodgers
McNerney
Meadows
Meehan
Meng
Messer
Mitchell
Moolenaar
Mooney (WV)
Moulton
Mullin
Murphy (FL)
Murphy (PA)
Napolitano
Neal
Noem
Norcross
Nunes
O'Halleran
O'Rourke
Olson
Palazzo
Palmer
Panetta
Pascrell
Paulsen
Pearce
Pelosi
Perlmutter
Perry
Peters
Peterson
Pingree
Pittenger
Poe (TX)
Poliquin
Polis
Posey
Price (NC)
Quigley
Raskin
Ratcliffe
Reed
Reichert
Renacci
Rice (NY)
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Rosen
Roskam
Ross
Rothfus
Rouzer
Roybal-Allard
Royce (CA)
Ruiz
Ruppersberger
Russell
Rutherford
Ryan (OH)
Sánchez
Sanford
Sarbanes
Scalise
Schiff
Schneider
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell (AL)
Shea-Porter
Shimkus
Shuster
Simpson
Sinema
Sires
Slaughter
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Soto
Speier
Stefanik
Stewart
Stivers
Suozzi
Taylor
Tenney
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Titus
Tonko
Torres
Trott
Tsongas
Turner
Upton
Valadao
Vargas
Vela
Velázquez
Visclosky
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Walz
Weber (TX)
Webster (FL)
Welch
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yarmuth
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOES—51

Amash
Bass
Beyer
Blumenauer
Bonamici
Cárdenas
Castro (TX)
Chu, Judy
Clarke (NY)
Clay
Cleaver
Clyburn
Conyers
Davis, Danny
DeSaulnier
Ellison
Evans
Fudge
Green, Al
Grijalva
Gutiérrez
Hastings
Huffman
Jackson Lee
Jayapal
Johnson (GA)
Johnson, E. B.
Khanna
Lee
Lewis (GA)
Lowenthal
Massie
McEachin
McGovern
Moore
Nadler
Pallone
Payne
Pocan
Richmond
Rush
Schakowsky
Scott (VA)
Sherman
Smith (WA)
Takano
Veasey
Wasserman Schultz
Waters, Maxine
Watson Coleman
Wilson (FL)

NOT VOTING—11

Cummings
Davis (CA)
Johnson, Sam
Kihuen
Kustoff (TN)
Maloney, Carolyn B.
McSally
Meeks
Newhouse
Nolan
Swalwell (CA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1140

Ms. WASSERMAN SCHULTZ changed her vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROTECTING YOUNG VICTIMS FROM SEXUAL ABUSE ACT OF 2017

The SPEAKER pro tempore. The unfinished business is the vote on passage of the bill (H.R. 1973) to prevent the