

(I) such aggregate gross receipts exceeds 20 percent of the gross receipts of such person for such taxable year, and

(II) the aggregate gross receipts of such person for aid, assistance, and advice with respect to all COVID-ERTC documents (determined after application of paragraph (3)) exceeds \$500,000.

(2) EXCEPTION FOR CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The term “COVID-ERTC promoter” shall not include a certified professional employer organization (as defined in section 7705).

(3) AGGREGATION RULE.—For purposes of paragraph (1)(B)(ii)(II), all persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986, or subsection (m) or (o) of section 414 of such Code, shall be treated as 1 person.

(4) SHORT TAXABLE YEARS.—In the case of any taxable year of less than 12 months, paragraph (1) shall be applied with respect to the calendar year in which such taxable year begins (in addition to applying to such taxable year).

(f) COVID-ERTC DOCUMENT.—For purposes of this section, the term “COVID-ERTC document” means any return, affidavit, claim, or other document related to any COVID-related employee retention tax credit, including any document related to eligibility for, or the calculation or determination of any amount directly related to any COVID-related employee retention tax credit.

(g) COVID-RELATED EMPLOYEE RETENTION TAX CREDIT.—For purposes of this section, the term “COVID-related employee retention tax credit” means—

(1) any credit, or advance payment, under section 3134 of the Internal Revenue Code of 1986, and

(2) any credit, or advance payment, under section 2301 of the CARES Act.

(h) LIMITATION ON CREDIT AND REFUND OF COVID-RELATED EMPLOYEE RETENTION TAX CREDITS.—Notwithstanding section 6511 of the Internal Revenue Code of 1986 or any other provision of law, no credit or refund of any COVID-related employee retention tax credit shall be allowed or made after January 31, 2024, unless a claim for such credit or refund is filed by the taxpayer on or before such date.

(i) AMENDMENTS TO EXTEND LIMITATION ON ASSESSMENT.—

(1) IN GENERAL.—Section 3134(1) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) EXTENSION OF LIMITATION ON ASSESSMENT.—

“(1) IN GENERAL.—Notwithstanding section 6501, the limitation on the time period for the assessment of any amount attributable to a credit claimed under this section shall not expire before the date that is 6 years after the latest of—

“(A) the date on which the original return which includes the calendar quarter with respect to which such credit is determined is filed,

“(B) the date on which such return is treated as filed under section 6501(b)(2), or

“(C) the date on which the claim for credit or refund with respect to such credit is made.

“(2) DEDUCTION FOR WAGES TAKEN INTO ACCOUNT IN DETERMINING IMPROPERLY CLAIMED CREDIT.—

“(A) IN GENERAL.—Notwithstanding section 6511, in the case of an assessment attributable to a credit claimed under this section, the limitation on the time period for credit or refund of any amount attributable to a deduction for improperly claimed ERTC wages shall not expire before the time period for such assessment expires under paragraph (1).

“(B) IMPROPERLY CLAIMED ERTC WAGES.—For purposes of this paragraph, the term ‘im-

properly claimed ERTC wages’ means, with respect to an assessment attributable to a credit claimed under this section, the wages with respect to which a deduction would not have been allowed if the portion of the credit to which such assessment relates had been properly claimed.”.

(2) APPLICATION TO CARES ACT CREDIT.—Section 2301 of the CARES Act is amended by adding at the end the following new subsection:

“(o) EXTENSION OF LIMITATION ON ASSESSMENT.—

“(1) IN GENERAL.—Notwithstanding section 6501 of the Internal Revenue Code of 1986, the limitation on the time period for the assessment of any amount attributable to a credit claimed under this section shall not expire before the date that is 6 years after the latest of—

“(A) the date on which the original return which includes the calendar quarter with respect to which such credit is determined is filed,

“(B) the date on which such return is treated as filed under section 6501(b)(2) of such Code, or

“(C) the date on which the claim for credit or refund with respect to such credit is made.

“(2) DEDUCTION FOR WAGES TAKEN INTO ACCOUNT IN DETERMINING IMPROPERLY CLAIMED CREDIT.—

“(A) IN GENERAL.—Notwithstanding section 6511 of such Code, in the case of an assessment attributable to a credit claimed under this section, the limitation on the time period for credit or refund of any amount attributable to a deduction for improperly claimed ERTC wages shall not expire before the time period for such assessment expires under paragraph (1).

“(B) IMPROPERLY CLAIMED ERTC WAGES.—For purposes of this paragraph, the term ‘improperly claimed ERTC wages’ means, with respect to an assessment attributable to a credit claimed under this section, the wages with respect to which a deduction would not have been allowed if the portion of the credit to which such assessment relates had been properly claimed.”.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the provisions of this section shall apply to aid, assistance, and advice provided after March 12, 2020.

(2) DUE DILIGENCE REQUIREMENTS.—Subsections (b) and (c) shall apply to aid, assistance, and advice provided after the date of the enactment of this Act.

(3) LIMITATION ON CREDIT AND REFUND OF COVID-RELATED EMPLOYEE RETENTION TAX CREDITS.—Subsection (h) shall apply to credits and refunds allowed or made after January 31, 2024.

(4) AMENDMENTS TO EXTEND LIMITATION ON ASSESSMENT.—The amendments made by subsection (i) shall apply to assessments made after the date of the enactment of this Act.

(k) TRANSITION RULE WITH RESPECT TO REQUIREMENTS TO DISCLOSE INFORMATION, MAINTAIN CLIENT LISTS, ETC.—Any return under section 6111 of the Internal Revenue Code of 1986, or list under section 6112 of such Code, required by reason of subsection (d) of this section to be filed or maintained, respectively, with respect to any aid, assistance, or advice provided by a COVID-ERTC promoter with respect to a COVID-ERTC document before the date of the enactment of this Act, shall not be required to be so filed or maintained (with respect to such aid, assistance or advice) before the date which is 90 days after such date.

(l) PROVISIONS NOT TO BE CONSTRUED TO CREATE NEGATIVE INFERENCES.—

(1) NO INFERENCE WITH RESPECT TO APPLICATION OF KNOWLEDGE REQUIREMENT TO PRE-EN-

ACTMENT CONDUCT OF COVID-ERTC PROMOTERS, ETC.—Subsection (b) shall not be construed to create any inference with respect to the proper application of section 6701(a)(3) of the Internal Revenue Code of 1986 with respect to any aid, assistance, or advice provided by any COVID-ERTC promoter on or before the date of the enactment of this Act (or with respect to any other aid, assistance, or advice to which such subsection does not apply).

(2) REQUIREMENTS TO DISCLOSE INFORMATION, MAINTAIN CLIENT LISTS, ETC.—Subsections (d) and (k) shall not be construed to create any inference with respect to whether any COVID-related employee retention tax credit is (without regard to subsection (d)) a listed transaction (or reportable transaction) with respect to any COVID-ERTC promoter; and, for purposes of subsection (j), a return or list shall not be treated as required (with respect to such aid, assistance, or advice) by reason of subsection (d) if such return or list would be so required without regard to subsection (d).

(m) REGULATIONS.—The Secretary (as defined in subsection (c)(5)) shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section (and the amendments made by this section).

SA 2011. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XIV—STOP CSAM ACT

SEC. 1401. SHORT TITLE.

This title may be cited as the “Strengthening Transparency and Obligations to Protect Children Suffering from Abuse and Mistreatment Act of 2024” or the “STOP CSAM Act of 2024”.

SEC. 1402. PROTECTING CHILD VICTIMS AND WITNESSES IN FEDERAL COURT.

(a) IN GENERAL.—Section 3509 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking “or exploitation” and inserting “exploitation, or kidnapping, including international parental kidnapping”;

(B) in paragraph (3), by striking “physical or mental injury” and inserting “physical injury, psychological abuse”;

(C) by striking paragraph (5) and inserting the following:

“(5) the term ‘psychological abuse’ includes—

“(A) a pattern of acts, threats of acts, or coercive tactics intended to degrade, humiliate, intimidate, or terrorize a child; and

“(B) the infliction of trauma on a child through—

“(i) isolation;

“(ii) the withholding of food or other necessities in order to control behavior;

“(iii) physical restraint; or

“(iv) the confinement of the child without the child’s consent and in degrading conditions;”;

(D) in paragraph (6), by striking “child prostitution” and inserting “child sex trafficking”;

(E) by striking paragraph (7) and inserting the following:

“(7) the term ‘multidisciplinary child abuse team’ means a professional unit of individuals working together to investigate child abuse and provide assistance and support to a victim of child abuse, composed of representatives from—

“(A) health, social service, and legal service agencies that represent the child;

“(B) law enforcement agencies and prosecutorial offices; and

“(C) children’s advocacy centers;”;

(F) in paragraph (9)(D)—

(i) by striking “genitals” and inserting “anus, genitals.”; and

(ii) by striking “or animal”;

(G) in paragraph (11), by striking “and” at the end;

(H) in paragraph (12)—

(i) by striking “the term ‘child abuse’ does not” and inserting “the terms ‘physical injury’ and ‘psychological abuse’ do not”; and

(ii) by striking the period and inserting a semicolon; and

(I) by adding at the end the following:

“(13) the term ‘covered person’ means a person of any age who—

“(A) is or is alleged to be—

“(i) a victim of a crime of physical abuse, sexual abuse, exploitation, or kidnapping, including international parental kidnapping; or

“(ii) a witness to a crime committed against another person; and

“(B) was under the age of 18 when the crime described in subparagraph (A) was committed;

“(14) the term ‘protected information’, with respect to a covered person, includes—

“(A) personally identifiable information of the covered person, including—

“(i) the name of the covered person;

“(ii) an address;

“(iii) a phone number;

“(iv) a user name or identifying information for an online, social media, or email account; and

“(v) any information that can be used to distinguish or trace the identity of the covered person, either alone or when combined with other information that is linked or linkable to the covered person;

“(B) medical, dental, behavioral, psychiatric, or psychological information of the covered person;

“(C) educational or juvenile justice records of the covered person; and

“(D) any other information concerning the covered person that is deemed ‘protected information’ by order of the court under subsection (d)(5); and

“(15) the term ‘child sexual abuse material’ has the meaning given the term in section 2256(8).”;

(2) in subsection (b)—

(A) in paragraph (1)(C), by striking “minor” and inserting “child”; and

(B) in paragraph (2)—

(i) in the heading, by striking “VIDEOTAPED” and inserting “RECORDED”; and

(ii) in subparagraph (A), by striking “that the deposition be recorded and preserved on videotape” and inserting “that a video recording of the deposition be made and preserved”;

(iii) in subparagraph (B)—

(I) in clause (ii), by striking “that the child’s deposition be taken and preserved on videotape” and inserting “that a video recording of the child’s deposition be made and preserved”;

(II) in clause (iii)—

(aa) in the matter preceding subclause (I), by striking “videotape” and inserting “recorded”; and

(bb) in subclause (IV), by striking “videotape” and inserting “recording”; and

(III) in clause (v)—

(aa) in the heading, by striking “VIDEO-TAPE” and inserting “VIDEO RECORDING”; and

(bb) in the first sentence, by striking “made and preserved on video tape” and inserting “recorded and preserved”; and

(cc) in the second sentence, by striking “videotape” and inserting “video recording”; and

(iv) in subparagraph (C), by striking “child’s videotaped” and inserting “video recording of the child’s”;

(v) in subparagraph (D)—

(I) by striking “videotaping” and inserting “deposition”; and

(II) by striking “videotaped” and inserting “recorded”;

(vi) in subparagraph (E), by striking “videotaped” and inserting “recorded”; and

(vii) in subparagraph (F), by striking “videotape” each place the term appears and inserting “video recording”;

(3) in subsection (d)—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking “the name of or any other information concerning a child” and inserting “a covered person’s protected information”; and

(ii) in clause (ii)—

(I) by striking “documents described in clause (i) or the information in them that concerns a child” and inserting “a covered person’s protected information”; and

(II) by striking “, have reason to know such information” and inserting “(including witnesses or potential witnesses), have reason to know each item of protected information to be disclosed”;

(B) in paragraph (2)—

(i) by striking “the name of or any other information concerning a child” each place the term appears and inserting “a covered person’s protected information”; and

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(iii) by striking “All papers” and inserting the following:

“(A) IN GENERAL.—All papers”; and

(iv) by adding at the end the following:

“(B) ENFORCEMENT OF VIOLATIONS.—The court may address a violation of subparagraph (A) in the same manner as disobedience or resistance to a lawful court order under section 401(3).”;

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking “a child from public disclosure of the name of or any other information concerning the child” and inserting “a covered person’s protected information from public disclosure”; and

(II) by striking “, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child”;

(ii) in subparagraph (B)—

(I) in clause (i)—

(aa) by striking “a child witness, and the testimony of any other witness” and inserting “any witness”; and

(bb) by striking “the name of or any other information concerning a child” and inserting “a covered person’s protected information”; and

(II) in clause (ii), by striking “child” and inserting “covered person”; and

(iii) by adding at the end the following:

“(C)(i) For purposes of this paragraph, there shall be a presumption that public disclosure of a covered person’s protected information would be detrimental to the covered person.

“(ii) The court shall deny a motion for a protective order under subparagraph (A) only if the court finds that the party opposing the motion has rebutted the presumption under clause (i) of this subparagraph.”;

(D) in paragraph (4)—

(i) by striking “This subsection” and inserting the following:

“(A) DISCLOSURE TO CERTAIN PARTIES.—This subsection”;

(ii) in subparagraph (A), as so designated—

(I) by striking “the name of or other information concerning a child” and inserting “a covered person’s protected information”; and

(II) by striking “or an adult attendant, or to” and inserting “an adult attendant, a law enforcement agency for any intelligence or investigative purpose, or”; and

(iii) by adding at the end the following:

“(B) REQUEST FOR PUBLIC DISCLOSURE.—If any party requests public disclosure of a covered person’s protected information to further a public interest, the court shall deny the request unless the court finds that—

“(i) the party seeking disclosure has established that there is a compelling public interest in publicly disclosing the covered person’s protected information;

“(ii) there is a substantial probability that the public interest would be harmed if the covered person’s protected information is not disclosed;

“(iii) the substantial probability of harm to the public interest outweighs the harm to the covered person from public disclosure of the covered person’s protected information; and

“(iv) there is no alternative to public disclosure of the covered person’s protected information that would adequately protect the public interest.”;

(E) by adding at the end the following:

“(5) OTHER PROTECTED INFORMATION.—The court may order that information shall be considered to be ‘protected information’ for purposes of this subsection if the court finds that the information is sufficiently personal, sensitive, or identifying that it should be subject to the protections and presumptions under this subsection.”;

(4) by striking subsection (f) and inserting the following:

“(f) VICTIM IMPACT STATEMENT.—

“(1) PROBATION OFFICER.—In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the multidisciplinary child abuse team, if applicable, or other appropriate sources to determine the impact of the offense on a child victim and any other children who may have been affected by the offense.

“(2) GUARDIAN AD LITEM.—A guardian ad litem appointed under subsection (h) shall—

“(A) make every effort to obtain and report information that accurately expresses the views of a child victim, and the views of family members as appropriate, concerning the impact of the offense; and

“(B) use forms that permit a child victim to express the child’s views concerning the personal consequences of the offense, at a level and in a form of communication commensurate with the child’s age and ability.”;

(5) in subsection (h), by adding at the end the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There is authorized to be appropriated to the United States courts to carry out this subsection \$25,000,000 for each fiscal year.

“(B) SUPERVISION OF PAYMENTS.—Payments from appropriations authorized under subparagraph (A) shall be made under the supervision of the Director of the Administrative Office of the United States Courts.”;

(6) in subsection (i)—

(A) by striking “A child testifying at or attending a judicial proceeding” and inserting the following:

“(1) IN GENERAL.—A child testifying at a judicial proceeding, including in a manner described in subsection (b).”;

(B) in paragraph (1), as so designated—

(i) in the third sentence, by striking “proceeding” and inserting “testimony”; and

(ii) by striking the fifth sentence; and

(C) by adding at the end the following:

“(2) RECORDING.—If the adult attendant is in close physical proximity to or in contact with the child while the child testifies—

“(A) at a judicial proceeding, a video recording of the adult attendant shall be made and shall become part of the court record; or

“(B) in a manner described in subsection (b), the adult attendant shall be visible on the closed-circuit television or in the recorded deposition.

“(3) COVERED PERSONS ATTENDING PROCEEDING.—A covered person shall have the right to be accompanied by an adult attendant when attending any judicial proceeding.”;

(7) in subsection (j)—

(A) by striking “child” each place the term appears and inserting “covered person”; and

(B) in the fourth sentence—

(i) by striking “and the potential” and inserting “, the potential”;

(ii) by striking “child’s” and inserting “covered person’s”; and

(iii) by inserting before the period at the end the following: “, and the necessity of the continuance to protect the defendant’s rights”;

(8) in subsection (k), by striking “child” each place the term appears and inserting “covered person”;

(9) in subsection (l), by striking “child” each place the term appears and inserting “covered person”; and

(10) in subsection (m)—

(A) by striking “(as defined by section 2256 of this title)” each place it appears;

(B) in paragraph (1), by inserting “and any civil action brought under section 2255 or 2255A” after “any criminal proceeding”;

(C) in paragraph (2), by adding at the end the following:

“(C)(i) Notwithstanding Rule 26 of the Federal Rules of Civil Procedure, a court shall deny, in any civil action brought under section 2255 or 2255A, any request by any party to copy, photograph, duplicate, or otherwise reproduce any child sexual abuse material, or property or item containing such material.

“(ii) In a civil action brought under section 2255 or 2255A, for purposes of paragraph (1), the court may—

“(I) order the plaintiff or defendant to provide to the court or the Government, as applicable, any equipment necessary to maintain care, custody, and control of such child sexual abuse material, property, or item; and

“(II) take reasonable measures, and may order the Government (if the child sexual abuse material, property, or item is in the care, custody, and control of the Government) to take reasonable measures, to provide each party to the action, the attorney of each party, and any individual a party may seek to qualify as an expert, with ample opportunity to inspect, view, and examine such child sexual abuse material, property, or item at the court or a Government facility, as applicable.”; and

(D) in paragraph (3)—

(i) by inserting “and during the 1-year period following the date on which the criminal proceeding becomes final or is terminated” after “any criminal proceeding”; and

(ii) by striking “, as defined under section 2256(8).”;

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct that occurs before, on, or after the date of enactment of this Act.

SEC. 1403. FACILITATING PAYMENT OF RESTITUTION; TECHNICAL AMENDMENTS TO RESTITUTION STATUTES.

Title 18, United States Code, is amended—

(1) in section 1593(c)—

(A) by inserting “(1)” after “(c)”;

(B) by striking “chapter, including, in” and inserting the following: “chapter.

“(2) In”; and

(C) in paragraph (2), as so designated, by inserting “may assume the rights of the victim under this section” after “suitable by the court”;

(2) in section 2248(c)—

(A) by striking “For purposes” and inserting the following:

“(1) IN GENERAL.—For purposes”;

(B) by striking “chapter, including, in” and inserting the following: “chapter.

“(2) ASSUMPTION OF CRIME VICTIM’S RIGHTS.—In”; and

(C) in paragraph (2), as so designated, by inserting “may assume the rights of the victim under this section” after “suitable by the court”;

(3) in section 2259—

(A) by striking subsection (a) and inserting the following:

“(A) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under—

“(1) section 1466A, to the extent the conduct involves a visual depiction of an identifiable minor; or

“(2) this chapter.”;

(B) in subsection (b)—

(i) in paragraph (1), by striking “DIRECTIONS.—Except as provided in paragraph (2), the” and inserting “RESTITUTION FOR PRODUCTION OF CHILD SEXUAL ABUSE MATERIAL.—If the defendant was convicted of production of child sexual abuse material, the”; and

(ii) in paragraph (2)(B), by striking “\$3,000.” and inserting the following: “—

“(i) \$3,000; or

“(ii) 10 percent of the full amount of the victim’s losses, if the full amount of the victim’s losses is less than \$3,000.”; and

(C) in subsection (c)—

(i) by striking paragraph (1) and inserting the following:

“(1) PRODUCTION OF CHILD SEXUAL ABUSE MATERIAL.—For purposes of this section and section 2259A, the term ‘production of child sexual abuse material’ means—

“(A) a violation of, attempted violation of, or conspiracy to violate section 1466A(a) to the extent the conduct involves production of a visual depiction of an identifiable minor;

“(B) a violation of, attempted violation of, or conspiracy to violate section 1466A(a) involving possession with intent to distribute, or section 1466A(b), to the extent the conduct involves a visual depiction of an identifiable minor—

“(i) produced by the defendant; or

“(ii) that the defendant attempted or conspired to produce;

“(C) a violation of subsection (a), (b), or (c) of section 2251, or an attempt or conspiracy to violate any of those subsections under subsection (e) of that section;

“(D) a violation of section 2251A;

“(E) a violation of section 2252(a)(4) or 2252A(a)(5), or an attempt or conspiracy to violate either of those sections under section 2252(b)(2) or 2252A(b)(2), to the extent such conduct involves child sexual abuse material—

“(i) produced by the defendant; or

“(ii) that the defendant attempted or conspired to produce;

“(F) a violation of subsection (a)(7) of section 2252A, or an attempt or conspiracy to violate that subsection under subsection (b)(3) of that section, to the extent the conduct involves production with intent to distribute;

“(G) a violation of section 2252A(g) if the series of felony violations involves not fewer than 1 violation—

“(i) described in subparagraph (A), (B), (E), or (F) of this paragraph;

“(ii) of section 1591; or

“(iii) of section 1201, chapter 109A, or chapter 117, if the victim is a minor;

“(H) a violation of subsection (a) of section 2260, or an attempt or conspiracy to violate that subsection under subsection (c)(1) of that section;

“(I) a violation of section 2260B(a)(2) for promoting or facilitating an offense—

“(i) described in subparagraph (A), (B), (D), or (E) of this paragraph; or

“(ii) under section 2422(b); and

“(J) a violation of chapter 109A or chapter 117, if the offense involves the production or attempted production of, or conspiracy to produce, child sexual abuse material.”;

(ii) by striking paragraph (3) and inserting the following:

“(3) TRAFFICKING IN CHILD SEXUAL ABUSE MATERIAL.—For purposes of this section and section 2259A, the term ‘trafficking in child sexual abuse material’ means—

“(A) a violation of, attempted violation of, or conspiracy to violate section 1466A(a) to the extent the conduct involves distribution or receipt of a visual depiction of an identifiable minor;

“(B) a violation of, attempted violation of, or conspiracy to violate section 1466A(a) involving possession with intent to distribute, or section 1466A(b), to the extent the conduct involves a visual depiction of an identifiable minor—

“(i) not produced by the defendant; or

“(ii) that the defendant did not attempt or conspire to produce;

“(C) a violation of subsection (d) of section 2251 or an attempt or conspiracy to violate that subsection under subsection (e) of that section;

“(D) a violation of paragraph (1), (2), or (3) of subsection (a) of section 2252, or an attempt or conspiracy to violate any of those paragraphs under subsection (b)(1) of that section;

“(E) a violation of section 2252(a)(4) or 2252A(a)(5), or an attempt or conspiracy to violate either of those sections under section 2252(b)(2) or 2252A(b)(2), to the extent such conduct involves child sexual abuse material—

“(i) not produced by the defendant; or

“(ii) that the defendant did not attempt or conspire to produce;

“(F) a violation of paragraph (1), (2), (3), (4), or (6) of subsection (a) of section 2252A, or an attempt or conspiracy to violate any of those paragraphs under subsection (b)(1) of that section;

“(G) a violation of subsection (a)(7) of section 2252A, or an attempt or conspiracy to violate that subsection under subsection (b)(3) of that section, to the extent the conduct involves distribution;

“(H) a violation of section 2252A(g) if the series of felony violations exclusively involves violations described in this paragraph (except subparagraphs (A) and (B));

“(I) a violation of subsection (b) of section 2260, or an attempt or conspiracy to violate that subsection under subsection (c)(2) of that section; and

“(J) a violation of subsection (a)(1) of section 2260B, or a violation of subsection (a)(2) of that section for promoting or facilitating an offense described in this paragraph (except subparagraphs (A) and (B)).”;

(iii) in paragraph (4), in the first sentence, by inserting “or an identifiable minor harmed as a result of the commission of a crime under section 1466A” after “under this chapter”;

(4) in section 2259A(a)—

(A) in paragraph (1), by striking “under section 2252(a)(4) or 2252A(a)(5)” and inserting “described in subparagraph (B) or (E) of section 2259(c)(3)”;

(B) in paragraph (2), by striking “any other offense for trafficking in child pornography” and inserting “any offense for trafficking in child sexual abuse material other than an offense described in subparagraph (B) or (E) of section 2259(c)(3)”;

(5) in section 2429—

(A) in subsection (b)(3), by striking “2259(b)(3)” and inserting “2259(c)(2)”;

(B) in subsection (d)—

(i) by inserting “(1)” after “(d)”;

(ii) by striking “chapter, including, in” and inserting the following: “chapter.

“(2) In”; and

(iii) in paragraph (2), as so designated, by inserting “may assume the rights of the victim under this section” after “suitable by the court”;

(6) in section 3664, by adding at the end the following:

“(q) TRUSTEE OR OTHER FIDUCIARY.—

“(1) IN GENERAL.—

“(A) APPOINTMENT OF TRUSTEE OR OTHER FIDUCIARY.—When the court issues an order of restitution under section 1593, 2248, 2259, 2429, or 3663, or subparagraphs (A)(i) and (B) of section 3663A(c)(1), for a victim described in subparagraph (B) of this paragraph, the court, at its own discretion or upon motion by the Government, may appoint a trustee or other fiduciary to hold any amount paid for restitution in a trust or other official account for the benefit of the victim.

“(B) COVERED VICTIMS.—A victim referred to in subparagraph (A) is a victim who is—

“(i) under the age of 18 at the time of the proceeding;

“(ii) incompetent or incapacitated; or

“(iii) subject to paragraph (3), a foreign citizen or stateless person residing outside the United States.

“(2) ORDER.—When the court appoints a trustee or other fiduciary under paragraph (1), the court shall issue an order specifying—

“(A) the duties of the trustee or other fiduciary, which shall require—

“(i) the administration of the trust or maintaining an official account in the best interests of the victim; and

“(ii) disbursing payments from the trust or account—

“(I) to the victim; or

“(II) to any individual or entity on behalf of the victim;

“(B) that the trustee or other fiduciary—

“(i) shall avoid any conflict of interest;

“(ii) may not profit from the administration of the trust or maintaining an official account for the benefit of the victim other than as specified in the order; and

“(iii) may not delegate administration of the trust or maintaining the official account to any other person;

“(C) if and when the trust or the duties of the other fiduciary will expire; and

“(D) the fees payable to the trustee or other fiduciary to cover expenses of administering the trust or maintaining the official account for the benefit of the victim, and the schedule for payment of those fees.

“(3) FACT-FINDING REGARDING FOREIGN CITIZENS AND STATELESS PERSON.—In the case of a victim who is a foreign citizen or stateless person residing outside the United States and is not under the age of 18 at the time of the proceeding or incompetent or incapacitated, the court may appoint a trustee or other fiduciary under paragraph (1) only if the court finds it necessary to—

“(A) protect the safety or security of the victim; or

“(B) provide a reliable means for the victim to access or benefit from the restitution payments.

“(4) PAYMENT OF FEES.—

“(A) IN GENERAL.—The court may, with respect to the fees of the trustee or other fiduciary—

“(i) pay the fees in whole or in part; or

“(ii) order the defendant to pay the fees in whole or in part.

“(B) APPLICABILITY OF OTHER PROVISIONS.—With respect to a court order under subparagraph (A)(ii) requiring a defendant to pay fees—

“(i) subsection (f)(3) shall apply to the court order in the same manner as that subsection applies to a restitution order;

“(ii) subchapter C of chapter 227 (other than section 3571) shall apply to the court order in the same manner as that subchapter applies to a sentence of a fine; and

“(iii) subchapter B of chapter 229 shall apply to the court order in the same manner as that subchapter applies to the implementation of a sentence of a fine.

“(C) EFFECT ON OTHER PENALTIES.—Imposition of payment under subparagraph (A)(ii) shall not relieve a defendant of, or entitle a defendant to a reduction in the amount of, any special assessment, restitution, other fines, penalties, or costs, or other payments required under the defendant’s sentence.

“(D) SCHEDULE.—Notwithstanding any other provision of law, if the court orders the defendant to make any payment under subparagraph (A)(ii), the court may provide a payment schedule that is concurrent with the payment of any other financial obligation described in subparagraph (C).

“(5) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There is authorized to be appropriated to the United States courts to carry out this subsection \$15,000,000 for each fiscal year.

“(B) SUPERVISION OF PAYMENTS.—Payments from appropriations authorized under subparagraph (A) shall be made under the supervision of the Director of the Administrative Office of the United States Courts.”

SEC. 1404. CYBERTIPLINE IMPROVEMENTS, AND ACCOUNTABILITY AND TRANSPARENCY BY THE TECH INDUSTRY.

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

(1) in section 2258A—

(A) by striking subsections (a), (b), and (c) and inserting the following:

“(a) DUTY TO REPORT.—

“(1) DUTY.—In order to reduce the proliferation of online child sexual exploitation and to prevent the online sexual exploitation of children, as soon as reasonably possible after obtaining actual knowledge of any facts or circumstances described in paragraph (2) or any apparent child sexual abuse material on the provider’s service, and in any event not later than 60 days after obtaining such knowledge, a provider shall submit to the CyberTipline of NCMEC, or any successor to the CyberTipline operated by NCMEC, a report that—

“(A) shall contain—

“(i) the mailing address, telephone number, facsimile number, electronic mailing address of, and individual point of contact for, such provider; and

“(ii) information described in subsection (b)(1)(A) concerning such facts or circumstances or apparent child sexual abuse material; and

“(B) may contain information described in subsection (b)(2), including any available information to identify or locate any involved minor.

“(2) FACTS OR CIRCUMSTANCES.—The facts or circumstances described in this paragraph are any facts or circumstances indicating an apparent, planned, or imminent violation of

section 1591 (if the violation involves a minor), 2251, 2251A, 2252, 2252A, 2252B, 2260, or 2422(b).

“(b) CONTENTS OF REPORT.—

“(1) IN GENERAL.—In an effort to prevent the future sexual victimization of children, and to the extent the information is within the custody or control of a provider, each report provided under subsection (a)(1)—

“(A) shall include, to the extent that it is applicable and reasonably available—

“(i) the name, address, electronic mail address, user or account identification, Internet Protocol address, and uniform resource locator of any individual who is a subject of the report;

“(ii) the terms of service in effect at the time of—

“(I) the apparent violation; or

“(II) the detection of apparent child sexual abuse material or a planned or imminent violation;

“(iii) a copy of any apparent child sexual abuse material that is the subject of the report that was identified in a publicly available location;

“(iv) for each item of apparent child sexual abuse material included in the report under clause (iii) or paragraph (2)(E), information indicating whether—

“(I) the apparent child sexual abuse material was publicly available; or

“(II) the provider, in its sole discretion, viewed the apparent child sexual abuse material, or any copy thereof, at any point concurrent with or prior to the submission of the report; and

“(v) for each item of apparent child sexual abuse material that is the subject of the report, an indication as to whether the apparent child sexual abuse material—

“(I) has previously been the subject of a report under subsection (a)(1); or

“(II) is the subject of multiple contemporaneous reports due to rapid and widespread distribution; and

“(B) may, at the sole discretion of the provider, include the information described in paragraph (2) of this subsection.

“(2) OTHER INFORMATION.—The information referred to in paragraph (1)(B) is the following:

“(A) INFORMATION ABOUT ANY INVOLVED INDIVIDUAL.—Any information relating to the identity or location of any individual who is a subject of the report, including payment information (excluding personally identifiable information) and self-reported identifying or locating information.

“(B) INFORMATION ABOUT ANY INVOLVED MINOR.—Information relating to the identity or location of any involved minor, which may include an address, electronic mail address, Internet Protocol address, uniform resource locator, or any other information that may identify or locate any involved minor, including self-reported identifying or locating information.

“(C) HISTORICAL REFERENCE.—Information relating to when and how a customer or subscriber of a provider uploaded, transmitted, or received content relating to the report or when and how content relating to the report was reported to, or discovered by the provider, including a date and time stamp and time zone.

“(D) GEOGRAPHIC LOCATION INFORMATION.—Information relating to the geographic location of the involved individual or website, which may include the Internet Protocol address or verified address, or, if not reasonably available, at least one form of geographic identifying information, including area code or zip code, provided by the customer or subscriber, or stored or obtained by the provider.

“(E) APPARENT CHILD SEXUAL ABUSE MATERIAL.—Any apparent child sexual abuse material not described in paragraph (1)(A)(iii), or other content related to the subject of the report.

“(F) COMPLETE COMMUNICATION.—The complete communication containing any apparent child sexual abuse material or other content, including—

“(i) any data or information regarding the transmission of the communication; and

“(ii) any visual depictions, data, or other digital files contained in, or attached to, the communication.

“(G) TECHNICAL IDENTIFIER.—An industry-standard hash value or other similar industry-standard technical identifier for any reported visual depiction as it existed on the provider's service.

“(H) DESCRIPTION.—For any item of apparent child sexual abuse material that is the subject of the report, an indication of whether—

“(i) the depicted sexually explicit conduct involves—

“(I) genital, oral, or anal sexual intercourse;

“(II) bestiality;

“(III) masturbation;

“(IV) sadistic or masochistic abuse; or

“(V) lascivious exhibition of the anus, genitals, or pubic area of any person; and

“(ii) the depicted minor is—

“(I) an infant or toddler;

“(II) prepubescent;

“(III) pubescent;

“(IV) post-pubescent; or

“(V) of an indeterminate age or developmental stage

“(3) FORMATTING OF REPORTS.—When a provider includes any information described in paragraph (1) or, at its sole discretion, any information described in paragraph (2) in a report to the CyberTipline of NCMEC, or any successor to the CyberTipline operated by NCMEC, the provider shall use best efforts to ensure that the report conforms with the structure of the CyberTipline or the successor, as applicable.

“(c) FORWARDING OF REPORT AND OTHER INFORMATION TO LAW ENFORCEMENT.—

“(1) IN GENERAL.—Pursuant to its clearinghouse role as a private, nonprofit organization, and at the conclusion of its review in furtherance of its nonprofit mission, NCMEC shall make available each report submitted under subsection (a)(1) to one or more of the following law enforcement agencies:

“(A) Any Federal law enforcement agency that is involved in the investigation of child sexual exploitation, kidnapping, or enticement crimes.

“(B) Any State or local law enforcement agency that is involved in the investigation of child sexual exploitation.

“(C) A foreign law enforcement agency designated by the Attorney General under subsection (d)(3) or a foreign law enforcement agency that has an established relationship with the Federal Bureau of Investigation, Immigration and Customs Enforcement, or INTERPOL, and is involved in the investigation of child sexual exploitation, kidnapping, or enticement crimes.

“(2) TECHNICAL IDENTIFIERS.—If a report submitted under subsection (a)(1) contains an industry-standard hash value or other similar industry-standard technical identifier—

“(A) NCMEC may compare that hash value or identifier with any database or repository of visual depictions owned or operated by NCMEC; and

“(B) if the comparison under subparagraph (A) results in a match, NCMEC may include the matching visual depiction from its database or repository when forwarding the re-

port to an agency described in subparagraph (A) or (B) of paragraph (1).”;

(B) in subsection (d)—

(i) in paragraph (2), by striking “subsection (c)(1)” and inserting “subsection (c)(1)(A)”; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by striking “subsection (c)(3)” and inserting “subsection (c)(1)(C)”; and

(II) in subparagraph (C), by striking “subsection (c)(1)(C)” and inserting “subsection (c)(1)(C)”; and

(iii) in paragraph (5)(B)—

(I) in clause (i), by striking “forwarded” and inserting “made available”; and

(II) in clause (ii), by striking “forwarded” and inserting “made available”;

(C) by striking subsection (e) and inserting the following:

“(e) FAILURE TO COMPLY WITH REQUIREMENTS.—

“(1) CRIMINAL PENALTY.—

“(A) OFFENSE.—It shall be unlawful for a provider to knowingly—

“(i) fail to submit a report under subsection (a)(1) within the time period required by that subsection; or

“(ii) fail to preserve material as required under subsection (h).

“(B) PENALTY.—

“(i) IN GENERAL.—A provider that violates subparagraph (A) shall be fined—

“(I) in the case of an initial violation, not more than—

“(aa) \$850,000 if the provider has not fewer than 100,000,000 monthly active users; or

“(bb) \$600,000 if the provider has fewer than 100,000,000 monthly active users; and

“(II) in the case of any second or subsequent violation, not more than—

“(aa) \$1,000,000 if the provider has not fewer than 100,000,000 monthly active users; or

“(bb) \$850,000 if the provider has fewer than 100,000,000 monthly active users.

“(ii) HARM TO INDIVIDUALS.—The maximum fine under clause (i) shall be doubled if an individual is harmed as a direct and proximate result of the applicable violation.

“(2) CIVIL PENALTY.—

“(A) VIOLATIONS RELATING TO CYBERTIPLINE REPORTS AND MATERIAL PRESERVATION.—A provider shall be liable to the United States Government for a civil penalty in an amount of not less than \$50,000 and not more than \$250,000 if the provider knowingly—

“(i) fails to submit a report under subsection (a)(1) within the time period required by that subsection;

“(ii) fails to preserve material as required under subsection (h); or

“(iii) submits a report under subsection (a)(1) that—

“(I) contains materially false or fraudulent information; or

“(II) omits information described in subsection (b)(1)(A) that is reasonably available.

“(B) ANNUAL REPORT VIOLATIONS.—A provider shall be liable to the United States Government for a civil penalty in an amount of not less than \$100,000 and not more than \$1,000,000 if the provider knowingly—

“(i) fails to submit an annual report as required under subsection (i); or

“(ii) submits an annual report under subsection (i) that—

“(I) contains a materially false, fraudulent, or misleading statement; or

“(II) omits information described in subsection (i)(1) that is reasonably available.

“(C) HARM TO INDIVIDUALS.—The amount of a civil penalty under subparagraph (A) or (B) shall be tripled if an individual is harmed as a direct and proximate result of the applicable violation.

“(D) COSTS OF CIVIL ACTIONS.—A provider that commits a violation described in sub-

paragraph (A) or (B) shall be liable to the United States Government for the costs of a civil action brought to recover a civil penalty under that subparagraph.

“(E) ENFORCEMENT.—This paragraph shall be enforced in accordance with sections 3731, 3732, and 3733 of title 31, except that a civil action to recover a civil penalty under subparagraph (A) or (B) of this paragraph may only be brought by the United States Government.

“(3) DEPOSIT OF FINES AND PENALTIES.—Notwithstanding any other provision of law, any criminal fine or civil penalty collected under this subsection shall be deposited into the Reserve for Victims of Child Sexual Abuse Material as provided in section 2259B.”;

(D) in subsection (f), by striking paragraph (3) and inserting the following:

“(3) affirmatively search, screen, or scan for—

“(A) facts or circumstances described in subsection (a)(2);

“(B) information described in subsection (b)(2); or

“(C) any apparent child sexual abuse material.”;

(E) in subsection (g)—

(i) in paragraph (2)(A)—

(I) in clause (iii), by inserting “or personnel at a children's advocacy center” after “State”;

(II) in clause (iv), by striking “State or subdivision of a State” and inserting “State, subdivision of a State, or children's advocacy center”;

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking “subsection (a)” and inserting “subsection (a)(1)”; and

(F) in subsection (h), by adding at the end the following:

“(7) RELATION TO REPORTING REQUIREMENT.—Submission of a report as described in subsection (a)(1) does not satisfy the obligations under this subsection.”; and

(G) by adding at the end the following:

“(i) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than March 31 of the second year beginning after the date of enactment of the STOP CSAM Act of 2024, and of each year thereafter, a provider that had more than 1,000,000 unique monthly visitors or users during each month of the preceding year and accrued revenue of more than \$50,000,000 during the preceding year shall submit to the Attorney General and the Chair of the Federal Trade Commission a report, disaggregated by subsidiary, that provides the following information for the preceding year to the extent such information is applicable and reasonably available:

“(A) CYBERTIPLINE DATA.—

“(i) The total number of reports that the provider submitted under subsection (a)(1).

“(ii) Which items of information described in subsection (b)(2) are routinely included in the reports submitted by the provider under subsection (a)(1).

“(B) REPORT AND REMOVE DATA.—With respect to section 1406 of the STOP CSAM Act of 2024—

“(i) a description of the provider's designated reporting system;

“(ii) the number of complete notifications received;

“(iii) the number of items of child sexual abuse material that were removed; and

“(iv) the total amount of any fine ordered and paid.

“(C) OTHER REPORTING TO THE PROVIDER.—

“(i) The measures the provider has in place to receive other reports concerning child sexual exploitation and abuse using the provider's product or on the provider's service.

“(ii) The average time for responding to reports described in clause (i).

“(iii) The number of reports described in clause (i) that the provider received.

“(iv) A summary description of the actions taken upon receipt of the reports described in clause (i).

“(D) POLICIES.—

“(i) A description of the policies of the provider with respect to the commission of child sexual exploitation and abuse using the provider's product or on the provider's service, including how child sexual exploitation and abuse is defined.

“(ii) A description of possible consequences for violations of the policies described in clause (i).

“(iii) The methods of informing users of the policies described in clause (i).

“(iv) The process for adjudicating potential violations of the policies described in clause (i).

“(E) CULTURE OF SAFETY.—

“(i) The measures and technologies that the provider deploys to protect children from sexual exploitation and abuse using the provider's product or service.

“(ii) The measures and technologies that the provider deploys to prevent the use of the provider's product or service by individuals seeking to commit child sexual exploitation and abuse.

“(iii) Factors that interfere with the provider's ability to detect or evaluate instances of child sexual exploitation and abuse.

“(iv) An assessment of the efficacy of the measures and technologies described in clauses (i) and (ii) and the impact of the factors described in clause (iii).

“(F) SAFETY BY DESIGN.—The measures that the provider takes before launching a new product or service to assess—

“(i) the safety risks for children with respect to sexual exploitation and abuse; and

“(ii) whether and how individuals could use the new product or service to commit child sexual exploitation and abuse.

“(G) TRENDS AND PATTERNS.—Any information concerning emerging trends and changing patterns with respect to the commission of online child sexual exploitation and abuse.

“(2) AVOIDING DUPLICATION.—Notwithstanding the requirement under the matter preceding paragraph (1) that information be submitted annually, in the case of any report submitted under that paragraph after the initial report, a provider shall submit information described in subparagraphs (D) through (G) of that paragraph not less frequently than once every 3 years or when new information is available, whichever is more frequent.

“(3) LIMITATION.—Nothing in paragraph (1) shall require the disclosure of trade secrets or other proprietary information.

“(4) PUBLICATION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Attorney General and the Chair of the Federal Trade Commission shall publish the reports received under this subsection.

“(B) REDACTION.—

“(i) IN GENERAL.—Whether or not such redaction is requested by the provider, the Attorney General and Chair of the Federal Trade Commission shall redact from a report published under subparagraph (A) any information as necessary to avoid—

“(I) undermining the efficacy of a safety measure described in the report; or

“(II) revealing how a product or service of a provider may be used to commit online child sexual exploitation and abuse.

“(ii) ADDITIONAL REDACTION.—

“(I) REQUEST.—In addition to information redacted under clause (i), a provider may request the redaction, from a report published under subparagraph (A), of any information that is law enforcement sensitive or otherwise not suitable for public distribution.

“(II) AGENCY DISCRETION.—The Attorney General and Chair of the Federal Trade Commission—

“(aa) shall consider a request made under subclause (I); and

“(bb) may, in their discretion, redact from a report published under subparagraph (A) any information pursuant to the request.”;

(2) in section 2258B—

(A) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) LIMITED LIABILITY.—Except as provided in subsection (b), a civil claim or criminal charge described in paragraph (2) may not be brought in any Federal or State court.

“(2) COVERED CLAIMS AND CHARGES.—A civil claim or criminal charge referred to in paragraph (1) is a civil claim or criminal charge against a provider or domain name registrar, including any director, officer, employee, or agent of such provider or domain name registrar, that is directly attributable to—

“(A) the performance of the reporting or preservation responsibilities of such provider or domain name registrar under this section, section 2258A, or section 2258C;

“(B) transmitting, distributing, or mailing child sexual abuse material to any Federal, State, or local law enforcement agency, or giving such agency access to child sexual abuse material, in response to a search warrant, court order, or other legal process issued or obtained by such agency; or

“(C) the use by the provider or domain name registrar of any material being preserved under section 2258A(h) by such provider or registrar for research and the development and training of tools, undertaken voluntarily and in good faith for the sole and exclusive purpose of—

“(i) improving or facilitating reporting under this section, section 2258A, or section 2258C; or

“(ii) stopping the online sexual exploitation of children.”; and

(B) in subsection (b)—

(i) in paragraph (1), by striking “; or” and inserting “or knowingly failed to comply with a requirement under section 2258A.”;

(ii) in paragraph (2)(C)—

(I) by striking “sections” and inserting “this section or section”; and

(II) by striking the period and inserting “; or”; and

(iii) by adding at the end the following:

“(3) for purposes of subsection (a)(2)(C), knowingly distributed or transmitted the material, or made the material available, except as required by law, to—

“(A) any other entity;

“(B) any person not employed by the provider or domain name registrar; or

“(C) any person employed by the provider or domain name registrar who is not conducting any research described in that subsection.”;

(3) in section 2258C—

(A) in the section heading, by striking “the **CyberTipline**” and inserting “**NCMEC**”;

(B) in subsection (a)—

(i) in the subsection heading, by striking “ELEMENTS” and inserting “PROVISION TO PROVIDERS AND NONPROFIT ENTITIES”;

(ii) in paragraph (1)—

(I) by striking “to a provider” and inserting the following: “or submission to the child victim identification program to—

“(A) a provider”;

(II) in subparagraph (A), as so designated—

(aa) by inserting “use of the provider's products or services to commit” after “stop the”; and

(bb) by striking the period at the end and inserting “; or”; and

(III) by adding at the end the following:

“(B) a nonprofit entity for the sole and exclusive purpose of preventing and curtailing the online sexual exploitation of children.”; and

(iii) in paragraph (2)—

(I) in the heading, by striking “INCLUSIONS” and inserting “ELEMENTS”;

(II) by striking “unique identifiers” and inserting “similar technical identifiers”; and

(III) by inserting “or submission to the child victim identification program” after “CyberTipline report”;

(C) in subsection (b)—

(i) in the heading, by inserting “OR NON-PROFIT ENTITIES” after “PROVIDERS”;

(ii) by striking “Any provider” and inserting the following:

“(1) IN GENERAL.—Any provider or nonprofit entity”;

(iii) in paragraph (1), as so designated—

(I) by striking “receives” and inserting “obtains”; and

(II) by inserting “or submission to the child victim identification program” after “CyberTipline report”; and

(iv) by adding at the end the following:

“(2) LIMITATION ON SHARING WITH OTHER ENTITIES.—A provider or nonprofit entity that obtains elements under subsection (a)(1) may not distribute those elements, or make those elements available, to any other entity, except for the sole and exclusive purpose of stopping the online sexual exploitation of children.”;

(D) in subsection (c)—

(i) by striking “subsections” and inserting “subsection”;

(ii) by striking “providers receiving” and inserting “a provider to obtain”;

(iii) by inserting “or submission to the child victim identification program” after “CyberTipline report”; and

(iv) by striking “to use the elements to stop the online sexual exploitation of children”; and

(E) in subsection (d), by inserting “or to the child victim identification program” after “CyberTipline”;

(4) in section 2258E—

(A) in paragraph (6), by striking “electronic communication service provider” and inserting “electronic communication service”;

(B) in paragraph (7), by striking “and” at the end;

(C) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

“(9) the term ‘publicly available’, with respect to a visual depiction on a provider's service, means the visual depiction can be viewed by or is accessible to all users of the service, regardless of the steps, if any, a user must take to create an account or to gain access to the service in order to access or view the visual depiction; and

“(10) the term ‘child victim identification program’ means the program described in section 404(b)(1)(K)(ii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)(ii)).”;

(5) in section 2259B(a), by inserting “, any fine or penalty collected under section 2258A(e) or subparagraph (A) of section 1406(g)(24) of the STOP CSAM Act of 2024 (except as provided in clauses (i) and (ii)(I) of subparagraph (B) of such section 1406(g)(24)).” after “2259A”; and

(6) by adding at the end the following:

“§ 2260B. **Liability for certain child sexual exploitation offenses**

“(a) OFFENSE.—It shall be unlawful for a provider of an interactive computer service, as that term is defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230), that operates through the use of any facility or means of interstate or foreign commerce

or in or affecting interstate or foreign commerce, through such service to—

“(1) intentionally host or store child sexual abuse material or make child sexual abuse material available to any person; or

“(2) knowingly promote or facilitate a violation of section 2251, 2251A, 2252, 2252A, or 2422(b).

“(b) PENALTY.—A provider of an interactive computer service that violates subsection (a)—

“(1) subject to paragraph (2), shall be fined not more than \$1,000,000; and

“(2) if the offense involves a conscious or reckless risk of serious personal injury or an individual is harmed as a direct and proximate result of the violation, shall be fined not more than \$5,000,000.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to any good faith action by a provider of an interactive computer service that is necessary to comply with a valid court order, subpoena, search warrant, statutory obligation, or preservation request from law enforcement.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

“2260B. Liability for certain child sexual exploitation offenses.”

(c) EFFECTIVE DATE FOR AMENDMENTS TO REPORTING REQUIREMENTS OF PROVIDERS.—The amendments made by subsection (a)(1) of this section shall take effect on the date that is 120 days after the date of enactment of this Act.

SEC. 1405. EXPANDING CIVIL REMEDIES FOR VICTIMS OF ONLINE CHILD SEXUAL EXPLOITATION.

(a) STATEMENT OF INTENT.—Nothing in this section shall be construed to abrogate or narrow any case law concerning section 2255 of title 18, United States Code.

(b) CIVIL REMEDY FOR PERSONAL INJURIES.—Section 2255(a) of title 18, United States Code, is amended—

(1) by striking “IN GENERAL.—Any person who, while a minor, was a victim of a violation of section 1589, 1590, 1591, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue” and inserting the following: “PRIVATE RIGHT OF ACTION.—

“(1) IN GENERAL.—Any person described in subparagraph (A), (B), or (C) of paragraph (2) who suffers personal injury as a result of a violation described in that subparagraph, regardless of whether the injury occurred while such person was a minor, may bring a civil action”; and

(2) by adding at the end the following:

“(2) ELIGIBLE PERSONS.—Paragraph (1) shall apply to any person—

“(A) who, while a minor, was a victim of—

“(i) a violation of section 1589, 1590, 1591, 2241, 2242, 2243, 2251, 2251A, 2260(a), 2421, 2422, or 2423;

“(ii) an attempt to violate section 1589, 1590, or 1591 under section 1594(a);

“(iii) a conspiracy to violate section 1589 or 1590 under section 1594(b); or

“(iv) a conspiracy to violate section 1591 under section 1594(c);

“(B) who—

“(i) is depicted as a minor in child sexual abuse material; and

“(ii) is a victim of a violation of 2252, 2252A, or 2260(b) (regardless of when the violation occurs); or

“(C) who—

“(i) is depicted as an identifiable minor in a visual depiction described in section 1466A; and

“(ii) is a victim of a violation of that section (regardless of when the violation occurs).”

(c) CIVIL REMEDY AGAINST ONLINE PLATFORMS AND APP STORES.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2255 the following:

“§ 2255A. Civil remedy for certain victims of child sexual abuse material or child sexual exploitation

“(a) IN GENERAL.—

“(1) PROMOTION OR AIDING AND ABETTING OF CERTAIN VIOLATIONS.—Any person who is a victim of the intentional or knowing promotion, or aiding and abetting, of a violation of section 1591 or 1594(c) (involving a minor), or section 2251, 2251A, 2252, 2252A, or 2422(b), where such promotion, or aiding and abetting, is by a provider of an interactive computer service or an app store, and who suffers personal injury as a result of such promotion or aiding and abetting, regardless of when the injury occurred, may bring a civil action in any appropriate United States District Court for relief set forth in subsection (b).

“(2) ACTIVITIES INVOLVING CHILD SEXUAL ABUSE MATERIAL.—Any person who is a victim of the intentional or knowing hosting or storing of child sexual abuse material or making child sexual abuse material available to any person by a provider of an interactive computer service, and who suffers personal injury as a result of such hosting, storing, or making available, regardless of when the injury occurred, may bring a civil action in any appropriate United States District Court for relief set forth in subsection (b).

“(b) RELIEF.—In a civil action brought by a person under subsection (a)—

“(1) the person shall recover the actual damages the person sustains or liquidated damages in the amount of \$300,000, and the cost of the action, including reasonable attorney fees and other litigation costs reasonably incurred; and

“(2) the court may, in addition to any other relief available at law, award punitive damages and such other preliminary and equitable relief as the court determines to be appropriate, including a temporary restraining order, a preliminary injunction, or a permanent injunction ordering the defendant to cease the offending conduct.

“(c) STATUTE OF LIMITATIONS.—There shall be no time limit for the filing of a complaint commencing an action under subsection (a).

“(d) VENUE; SERVICE OF PROCESS.—

“(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28.

“(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

“(A) is an inhabitant; or

“(B) may be found.

“(e) RELATION TO SECTION 230 OF THE COMMUNICATIONS ACT OF 1934.—Nothing in section 230 of the Communications Act of 1934 (47 U.S.C. 230) shall be construed to impair or limit any claim brought under subsection (a).

“(f) RULES OF CONSTRUCTION.—

“(1) APPLICABILITY TO LEGAL PROCESS OR OBLIGATION.—Nothing in this section shall be construed to apply to any good faith action that is necessary to comply with a valid court order, subpoena, search warrant, statutory obligation, or preservation request from law enforcement.

“(2) KNOWLEDGE WITH RESPECT TO SUBSECTION (a)(2).—For purposes of a civil action brought under subsection (a)(2), the term ‘knowing’ shall be construed to mean knowl-

edge of the instance when, or the course of conduct during which, the provider—

“(A) hosted or stored the child sexual abuse material at issue in the civil action; or

“(B) made available the child sexual abuse material at issue in the civil action.

“(g) ENCRYPTION TECHNOLOGIES.—

“(1) IN GENERAL.—None of the following actions or circumstances shall serve as an independent basis for liability under subsection (a):

“(A) Utilizing full end-to-end encrypted messaging services, device encryption, or other encryption services.

“(B) Not possessing the information necessary to decrypt a communication.

“(C) Failing to take an action that would otherwise undermine the ability to offer full end-to-end encrypted messaging services, device encryption, or other encryption services.

“(2) CONSIDERATION OF EVIDENCE.—

“(A) PERMITTED USE.—Evidence of actions or circumstances described in paragraph (1) shall be admissible in a civil action brought under subsection (a) only if—

“(i) the actions or circumstances are relevant under rules 401 and 402 of the Federal Rules of Evidence to—

“(I) prove motive, intent, preparation, plan, absence of mistake, or lack of accident; or

“(II) rebut any evidence or factual or legal claim; and

“(ii) the actions or circumstances—

“(I) are otherwise admissible under the Federal Rules of Evidence; and

“(II) are not subject to exclusion under rule 403 or any other rule of the Federal Rules of Evidence.

“(B) NOTICE.—In a civil action brought under subsection (a), a plaintiff seeking to introduce evidence of actions or circumstances under subparagraph (A) of this paragraph shall—

“(i) provide reasonable notice—

“(I) in writing before trial; or

“(II) in any form during trial if the court, for good cause, excuses lack of pretrial notice; and

“(ii) articulate in the notice described in clause (i) the permitted purpose for which the plaintiff intends to offer the evidence and the reasoning that supports the purpose.

“(3) NO EFFECT ON DISCOVERY.—Nothing in paragraph (1) or (2) shall be construed to create a defense to a discovery request or otherwise limit or affect discovery in any civil action brought under subsection (a).

“(h) DEFENSE.—In a civil action under subsection (a)(2) involving knowing conduct, it shall be a defense at trial, which the provider of an interactive computer service must establish by a preponderance of the evidence as determined by the finder of fact, that—

“(1) the provider disabled access to or removed the child sexual abuse material within a reasonable timeframe, and in any event not later than 48 hours after obtaining knowledge that the child sexual abuse material was being hosted, stored, or made available by the provider (or, in the case of a provider that, for the most recent calendar year, averaged fewer than 10,000,000 active users on a monthly basis in the United States, within a reasonable timeframe, and in any event not later than 2 business days after obtaining such knowledge);

“(2) the provider exercised a reasonable, good faith effort to disable access to or remove the child sexual abuse material but was unable to do so for reasons outside the provider's control; or

“(3) it is technologically impossible for the provider to disable access to or remove the child sexual abuse material without compromising encryption technologies.

“(i) SANCTIONS FOR REPEATED BAD FAITH CIVIL ACTIONS OR DEFENSES.—

“(1) DEFINITIONS.—In this subsection:

“(A) BAD FAITH CIVIL ACTION.—The term ‘bad faith civil action’ means a civil action brought under subsection (a) in bad faith where the finder of fact determines that at the time the civil action was filed, the party, attorney, or law firm described in paragraph (2) had actual knowledge that—

“(i) the alleged conduct did not involve any minor; or

“(ii) the alleged child sexual abuse material did not depict—

“(I) any minor; or

“(II) sexually explicit conduct, sexual suggestiveness, full or partial nudity, or implied sexual activity.

“(B) BAD FAITH DEFENSE.—The term ‘bad faith defense’ means a defense in a civil action brought under subsection (a) raised in bad faith where the finder of fact determines that at the time the defense was raised, the party, attorney, or law firm described in paragraph (3) had actual knowledge that the defense—

“(i) was made solely for purpose of delaying the civil action or increasing the costs of the civil action; or

“(ii) was objectively baseless in light of the applicable law or facts at issue.

“(2) BAD FAITH CIVIL ACTION.—In the case of a civil action brought under subsection (a), the court may impose sanctions on—

“(A) the party bringing the civil action if the court finds that the party has brought 2 or more bad faith civil actions (which may include the instant civil action); or

“(B) an attorney or law firm representing the party bringing the civil action if the court finds that the attorney or law firm has represented—

“(i) a party who has brought 2 or more bad faith civil actions (which may include the instant civil action); or

“(ii) 2 or more parties who have each brought a bad faith civil action (which may include the instant civil action).

“(3) BAD FAITH DEFENSE.—In the case of a civil action brought under subsection (a), the court may impose sanctions on—

“(A) the party defending the civil action if the court finds that the party has raised 2 or more bad faith defenses (which may include 1 or more defenses raised in the instant civil action); or

“(B) an attorney or law firm representing the party defending the civil action if the court finds that the attorney or law firm has represented—

“(i) a party who has raised 2 or more bad faith defenses (which may include 1 or more defenses raised in the instant civil action); or

“(ii) 2 or more parties who have each raised a bad faith defense (which may include a defense raised in the instant civil action).

“(4) IMPLEMENTATION.—Rule 11(c) of the Federal Rules of Civil Procedure shall apply to sanctions imposed under this subsection in the same manner as that Rule applies to sanctions imposed for a violation of Rule 11(b) of those Rules.

“(5) RULES OF CONSTRUCTION.—

“(A) RULE 11.—This subsection shall not be construed to limit or expand the application of Rule 11 of the Federal Rules of Civil Procedure.

“(B) CSAM DEFINITION.—Paragraph (1)(A)(ii) shall not be construed to apply to a civil action affected by a contemporaneous change in the law with respect to the definition of ‘child sexual abuse material’.

“(j) DEFINITIONS.—In this section:

“(1) APP.—The term ‘app’ means a software application or electronic service that may be run or directed by a user on a computer, a

mobile device, or any other general purpose computing device.

“(2) APP STORE.—The term ‘app store’ means a publicly available website, software application, or other electronic service that—

“(A) distributes apps from third-party developers to users of a computer, a mobile device, or any other general purpose computing device; and

“(B) operates—

“(i) through the use of any means or facility of interstate or foreign commerce; or

“(ii) in or affecting interstate or foreign commerce.

“(3) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ means an interactive computer service, as defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)), that operates—

“(A) through the use of any means or facility of interstate or foreign commerce; or

“(B) in or affecting interstate or foreign commerce.

“(k) SAVINGS CLAUSE.—Nothing in this section, including the defenses under this section, shall be construed to apply to any civil action brought under any other Federal law, rule, or regulation, including any civil action brought under section 2255.”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2255 the following:

“2255A. Civil remedy for certain victims of child sexual abuse material or child sexual exploitation.”.

SEC. 1406. REPORTING AND REMOVAL OF CHILD SEXUAL ABUSE MATERIAL; ESTABLISHMENT OF CHILD ONLINE PROTECTION BOARD.

(a) FINDINGS.—Congress finds the following:

(1) Over 40 years ago, the Supreme Court of the United States ruled in *New York v. Ferber*, 458 U.S. 747 (1982), that child sexual abuse material (referred to in this subsection as “CSAM”) is a “category of material outside the protections of the First Amendment”. The Court emphasized that children depicted in CSAM are harmed twice: first through the abuse and exploitation inherent in the creation of the materials, and then through the continued circulation of the imagery, which inflicts its own emotional and psychological injury.

(2) The Supreme Court reiterated this point 10 years ago in *Paroline v. United States*, 572 U.S. 434 (2014), when it explained that CSAM victims suffer “continuing and grievous harm as a result of [their] knowledge that a large, indeterminate number of individuals have viewed and will in the future view images of the sexual abuse [they] endured”.

(3) In these decisions, the Supreme Court noted that the distribution of CSAM invades the privacy interests of the victims.

(4) The co-mingling online of CSAM with other, non-explicit depictions of the victims links the victim’s identity with the images of their abuse. This further invades a victim’s privacy and disrupts their sense of security, thwarting what the Supreme Court has described as “the individual interest in avoiding disclosure of personal matters”.

(5) The internet is awash with child sexual abuse material. In 2022, the CyberTipline, operated by the National Center for Missing & Exploited Children to combat online child sexual exploitation, received reports about 49,400,000 images and 37,700,000 videos depicting child sexual abuse.

(6) Since 2017, Project Arachnid, operated by the Canadian Centre for Child Protection, has sent over 38,000,000 notices to online providers about CSAM and other exploitive ma-

terial found on their platforms. According to the Canadian Centre, some providers are slow to remove the material, or take it down only for it to be reposted again a short time later.

(7) This legislation is needed to create an easy-to-use and effective procedure to get CSAM and harmful related imagery quickly taken offline and kept offline to protect children, stop the spread of illegal and harmful content, and thwart the continued invasion of the victims’ privacy.

(b) IMPLEMENTATION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act, the Child Online Protection Board established under subsection (d), shall begin operations, at which point providers shall begin receiving notifications as set forth in subsection (c)(2).

(2) EXTENSION.—The Commission may extend the deadline under paragraph (1) by not more than 180 days if the Commission provides notice of the extension to the public and to Congress.

(3) PUBLIC NOTICE.—The Commission shall provide notice to the public of the date that the Child Online Protection Board established under subsection (d) is scheduled to begin operations on—

(A) the date that is 60 days before such date that the Board is scheduled to begin operations; and

(B) the date that is 30 days before such date that the Board is scheduled to begin operations.

(c) REPORTING AND REMOVAL OF CHILD SEXUAL ABUSE MATERIAL.—

(1) IN GENERAL.—If a provider receives a complete notification as set forth in paragraph (2)(A) that the provider is hosting child sexual abuse material, as soon as possible, but in any event not later than 48 hours after such notification is received by the provider (or, in the case of a small provider, not later than 2 business days after such notification is received by the small provider), the provider shall—

(A)(i) remove the child sexual abuse material; and

(ii) notify the complainant that it has done so; or

(B) notify the complainant that the provider—

(i) has determined that the visual depiction referenced in the notification does not constitute child sexual abuse material;

(ii) is unable to remove the child sexual abuse material using reasonable means; or

(iii) has determined that the notification is duplicative under paragraph (2)(C)(i).

(2) NOTIFICATIONS.—

(A) IN GENERAL.—To be complete under this subsection, a notification must be a written communication to the designated reporting system of the provider (or, if the provider does not have a designated reporting system, a written communication that is served on the provider in accordance with subparagraph (F)) that includes the following:

(i) An identification of, and information reasonably sufficient to permit the provider to locate, the child sexual abuse material. Such information may include, at the option of the complainant, a copy of the child sexual abuse material or the uniform resource locator where such child sexual abuse material is located.

(ii) The complainant’s name and contact information, to include a mailing address, telephone number, and an electronic mail address, except that, if the complainant is the victim depicted in the child sexual abuse material, the complainant may elect to use an alias, including for purposes of the signed statement described in clause (v), and omit a mailing address.

(iii) If applicable, a statement indicating that the complainant has previously notified the provider about the child sexual abuse material which may, at the option of the complainant, include a copy of the previous notification.

(iv) A statement indicating that the complainant has a good faith belief that the information in the notification is accurate.

(v) A signed statement under penalty of perjury indicating that the notification is submitted by—

(I) the victim depicted in the child sexual abuse material;

(II) an authorized representative of the victim depicted in the child sexual abuse material; or

(III) a qualified organization.

(B) INCLUSION OF ADDITIONAL VISUAL DEPICTIONS IN A NOTIFICATION.—

(i) MULTIPLE ITEMS OF CHILD SEXUAL ABUSE MATERIAL IN SAME NOTIFICATION.—A notification may contain information about more than one item of child sexual abuse material, but shall only be effective with respect to each item of child sexual abuse material included in the notification to the extent that the notification includes sufficient information to identify and locate such item of child sexual abuse material.

(ii) RELATED EXPLOITIVE VISUAL DEPICTIONS.—

(I) IN GENERAL.—A notification may contain information about any related exploitive visual depictions associated with the child sexual abuse material described in the notification, along with the information described in subparagraph (A)(i) for each related exploitive visual depiction. Such notification shall clearly indicate which visual depiction is a related exploitive visual depiction. Such notification shall include a statement indicating that the complainant acknowledges that the provider may, but is not required to, remove the related exploitive visual depiction, and that the complainant cannot file a petition with the Child Online Protection Board concerning any alleged failure to remove a related exploitive visual depiction.

(II) NO OBLIGATION.—A provider shall not be required to take any action under this section concerning a related exploitive visual depiction. A provider may, in its sole discretion, remove a related exploitive visual depiction. The procedure set forth in subsection (g)(1) shall not apply to related exploitive visual depictions.

(C) LIMITATION ON DUPLICATIVE NOTIFICATIONS.—

(i) IN GENERAL.—After a complainant has submitted a notification to a provider, the complainant may submit additional notifications at any time only if the subsequent notifications involve—

(I) a different item of child sexual abuse material;

(II) the same item of child sexual abuse material relating to a minor that is in a different location; or

(III) recidivist hosting.

(ii) NO OBLIGATION.—A provider who receives any additional notifications that do not comply with clause (i) shall not be required to take any additional action except—

(I) as may be required with respect to the original notification; and

(II) to notify the complainant as provided in paragraph (1)(B)(iii).

(D) INCOMPLETE OR MISDIRECTED NOTIFICATION.—

(i) REQUIREMENT TO CONTACT COMPLAINANT REGARDING INSUFFICIENT INFORMATION.—

(I) REQUIREMENT TO CONTACT COMPLAINANT.—If a notification that is submitted to a provider under this subsection does not contain sufficient information under subparagraph (A)(i) to identify or locate the child

sexual abuse material that is the subject of the notification but does contain the complainant contact information described in subparagraph (A)(ii), the provider shall, not later than 48 hours after receiving the notification (or, in the case of a small provider, not later than 2 business days after such notification is received by the small provider), contact the complainant via electronic mail address to obtain such information.

(II) EFFECT OF COMPLAINANT PROVIDING SUFFICIENT INFORMATION.—If the provider is able to contact the complainant and obtain sufficient information to identify or locate the child sexual abuse material that is the subject of the notification, the provider shall then proceed as set forth in paragraph (1), except that the applicable timeframes described in such paragraph shall commence on the day the provider receives the information needed to identify or locate the child sexual abuse material.

(III) EFFECT OF COMPLAINANT INABILITY TO PROVIDE SUFFICIENT INFORMATION.—If the provider is able to contact the complainant but does not obtain sufficient information to identify or locate the child sexual abuse material that is the subject of the notification, the provider shall so notify the complainant not later than 48 hours after the provider determines that it is unable to identify or locate the child sexual abuse material (or, in the case of a small provider, not later than 2 business days after the small provider makes such determination), after which no further action by the provider is required and receipt of the notification shall not be considered in determining whether the provider has actual knowledge of any information described in the notification.

(IV) EFFECT OF COMPLAINANT FAILURE TO RESPOND.—If the complainant does not respond to the provider's attempt to contact the complainant under this clause within 14 days of such attempt, no further action by the provider is required and receipt of the notification shall not be considered in determining whether the provider has actual knowledge of any information described in the notification.

(ii) TREATMENT OF INCOMPLETE NOTIFICATION WHERE COMPLAINANT CANNOT BE CONTACTED.—If a notification that is submitted to a provider under this subsection does not contain sufficient information under subparagraph (A)(i) to identify or locate the child sexual abuse material that is the subject of the notification and does not contain the complainant contact information described in subparagraph (A)(ii) (or if the provider is unable to contact the complainant using such information), no further action by the provider is required and receipt of the notification shall not be considered in determining whether the provider has actual knowledge of any information described in the notification.

(iii) TREATMENT OF NOTIFICATION NOT SUBMITTED TO DESIGNATED REPORTING SYSTEM.—If a provider has a designated reporting system, and a complainant submits a notification under this subsection to the provider without using such system, the provider shall not be considered to have received the notification.

(E) OPTION TO CONTACT COMPLAINANT REGARDING THE CHILD SEXUAL ABUSE MATERIAL.—

(i) CONTACT WITH COMPLAINANT.—If the provider believes that the child sexual abuse material referenced in the notification does not meet the definition of such term as provided in subsection (q)(10), the provider may, not later than 48 hours after receiving the notification (or, in the case of a small provider, not later than 2 business days after such notification is received by the small

provider), contact the complainant via electronic mail address to so indicate.

(ii) FAILURE TO RESPOND.—If the complainant does not respond to the provider within 14 days after receiving the notification, no further action by the provider is required and receipt of the notification shall not be considered in determining whether the provider has actual knowledge of any information described in the notification.

(iii) COMPLAINANT RESPONSE.—If the complainant responds to the provider within 14 days after receiving the notification, the provider shall then proceed as set forth in paragraph (1), except that the applicable timeframes described in such paragraph shall commence on the day the provider receives the complainant's response.

(F) SERVICE OF NOTIFICATION WHERE PROVIDER HAS NO DESIGNATED REPORTING SYSTEM; PROCESS WHERE COMPLAINANT CANNOT SERVE PROVIDER.—

(i) NO DESIGNATED REPORTING SYSTEM.—If a provider does not have a designated reporting system, a complainant may serve the provider with a notification under this subsection to the provider in the same manner that petitions are required to be served under subsection (g)(4).

(ii) COMPLAINANT CANNOT SERVE PROVIDER.—If a provider does not have a designated reporting system and a complainant cannot reasonably serve the provider with a notification as described in clause (i), the complainant may bring a petition under subsection (g)(1) without serving the provider with the notification.

(G) RECIDIVIST HOSTING.—If a provider engages in recidivist hosting of child sexual abuse material, in addition to any action taken under this section, a complainant may submit a report concerning such recidivist hosting to the CyberTipline operated by the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by the National Center for Missing and Exploited Children.

(H) PRESERVATION.—A provider that receives a complete notification under this subsection shall preserve the information in such notification in accordance with the requirements of sections 2713 and 2258A(h) of title 18, United States Code. For purposes of this subparagraph, the period for which providers shall be required to preserve information in accordance with such section 2258A(h) may be extended in 90-day increments on written request by the complainant or order of the Board.

(I) NON-DISCLOSURE.—Except as otherwise provided in subsection (g)(19)(C), for 120 days following receipt of a notification under this subsection, a provider may not disclose the existence of the notification to any person or entity except to an attorney for purposes of obtaining legal advice, the Board, the Commission, a law enforcement agency described in subparagraph (A), (B), or (C) of section 2258A(g)(3) of title 18, United States Code, the National Center for Missing and Exploited Children, or as necessary to respond to legal process. Nothing in the preceding sentence shall be construed to infringe on the provider's ability to communicate general information about terms of service violations.

(d) ESTABLISHMENT OF CHILD ONLINE PROTECTION BOARD.—

(1) IN GENERAL.—There is established in the Federal Trade Commission a Child Online Protection Board, which shall administer and enforce the requirements of subsection (e) in accordance with this section.

(2) OFFICERS AND STAFF.—The Board shall be composed of 3 full-time Child Online Protection Officers who shall be appointed by the Commission in accordance with paragraph (5)(A). A vacancy on the Board shall

not impair the right of the remaining Child Online Protection Officers to exercise the functions and duties of the Board.

(3) **CHILD ONLINE PROTECTION ATTORNEYS.**—Not fewer than 2 full-time Child Online Protection Attorneys shall be hired to assist in the administration of the Board.

(4) **TECHNOLOGICAL ADVISER.**—One or more technological advisers may be hired to assist with the handling of digital evidence and consult with the Child Online Protection Officers on matters concerning digital evidence and technological issues.

(5) **QUALIFICATIONS.**—

(A) **OFFICERS.**—

(i) **IN GENERAL.**—Each Child Online Protection Officer shall be an attorney duly licensed in at least 1 United States jurisdiction who has not fewer than 7 years of legal experience concerning child sexual abuse material and technology-facilitated crimes against children.

(ii) **EXPERIENCE.**—Two of the Child Online Protection Officers shall have substantial experience in the evaluation, litigation, or adjudication of matters relating to child sexual abuse material or technology-facilitated crimes against children.

(B) **ATTORNEYS.**—Each Child Online Protection Attorney shall be an attorney duly licensed in at least 1 United States jurisdiction who has not fewer than 3 years of substantial legal experience concerning child sexual abuse material and technology-facilitated crimes against children.

(C) **TECHNOLOGICAL ADVISER.**—A technological adviser shall have at least one year of specialized experience with digital forensic analysis.

(6) **COMPENSATION.**—

(A) **CHILD ONLINE PROTECTION OFFICERS.**—

(i) **DEFINITION.**—In this subparagraph, the term “senior level employee of the Federal Government” means an employee, other than an employee in the Senior Executive Service, the position of whom is classified above GS-15 of the General Schedule.

(ii) **PAY RANGE.**—Each Child Online Protection Officer shall be compensated at a rate of pay that is not less than the minimum, and not more than the maximum, rate of pay payable for senior level employees of the Federal Government, including locality pay, as applicable.

(B) **CHILD ONLINE PROTECTION ATTORNEYS.**—Each Child Online Protection Attorney shall be compensated at a rate of pay that is not more than the maximum rate of pay payable for level 10 of GS-15 of the General Schedule, including locality pay, as applicable.

(C) **TECHNOLOGICAL ADVISER.**—A technological adviser of the Board shall be compensated at a rate of pay that is not more than the maximum rate of pay payable for level 10 of GS-14 of the General Schedule, including locality pay, as applicable.

(7) **VACANCY.**—If a vacancy occurs in the position of Child Online Protection Officer, the Commission shall act expeditiously to appoint an Officer for that position.

(8) **SANCTION OR REMOVAL.**—Subject to subsection (e)(2), the Chair of the Commission or the Commission may sanction or remove a Child Online Protection Officer.

(9) **ADMINISTRATIVE SUPPORT.**—The Commission shall provide the Child Online Protection Officers and Child Online Protection Attorneys with necessary administrative support, including technological facilities, to carry out the duties of the Officers and Attorneys under this section. The Department of Justice may provide equipment for and guidance on the storage and handling of child sexual abuse material.

(10) **LOCATION OF BOARD.**—The offices and facilities of the Child Online Protection Officers and Child Online Protection Attorneys

shall be located at the headquarters or other office of the Commission.

(e) **AUTHORITY AND DUTIES OF THE BOARD.**—

(1) **FUNCTIONS.**—

(A) **OFFICERS.**—Subject to the provisions of this section and applicable regulations, the functions of the Officers of the Board shall be as follows:

(i) To render determinations on petitions that may be brought before the Officers under this section.

(ii) To ensure that petitions and responses are properly asserted and otherwise appropriate for resolution by the Board.

(iii) To manage the proceedings before the Officers and render determinations pertaining to the consideration of petitions and responses, including with respect to scheduling, discovery, evidentiary, and other matters.

(iv) To request, from participants and non-participants in a proceeding, the production of information and documents relevant to the resolution of a petition or response.

(v) To conduct hearings and conferences.

(vi) To facilitate the settlement by the parties of petitions and responses.

(vii) To impose fines as set forth in subsection (g)(24).

(viii) To provide information to the public concerning the procedures and requirements of the Board.

(ix) To maintain records of the proceedings before the Officers, certify official records of such proceedings as needed, and, as provided in subsection (g)(19)(A), make the records in such proceedings available to the public.

(x) To carry out such other duties as are set forth in this section.

(xi) When not engaged in performing the duties of the Officers set forth in this section, to perform such other duties as may be assigned by the Chair of the Commission or the Commission.

(B) **ATTORNEYS.**—Subject to the provisions of this section and applicable regulations, the functions of the Attorneys of the Board shall be as follows:

(i) To provide assistance to the Officers of the Board in the administration of the duties of those Officers under this section.

(ii) To provide assistance to complainants, providers, and members of the public with respect to the procedures and requirements of the Board.

(iii) When not engaged in performing the duties of the Attorneys set forth in this section, to perform such other duties as may be assigned by the Commission.

(C) **DESIGNATED SERVICE AGENTS.**—The Board may maintain a publicly available directory of service agents designated to receive service of petitions filed with the Board.

(2) **INDEPENDENCE IN DETERMINATIONS.**—

(A) **IN GENERAL.**—The Board shall render the determinations of the Board in individual proceedings independently on the basis of the records in the proceedings before it and in accordance with the provisions of this section, judicial precedent, and applicable regulations of the Commission.

(B) **PERFORMANCE APPRAISALS.**—Notwithstanding any other provision of law or any regulation or policy of the Commission, any performance appraisal of an Officer or Attorney of the Board may not consider the substantive result of any individual determination reached by the Board as a basis for appraisal except to the extent that result may relate to any actual or alleged violation of an ethical standard of conduct.

(3) **DIRECTION BY COMMISSION.**—Subject to paragraph (2), the Officers and Attorneys shall, in the administration of their duties, be under the supervision of the Chair of the Commission.

(4) **INCONSISTENT DUTIES BARRED.**—An Officer or Attorney of the Board may not undertake any duty that conflicts with the duties of the Officer or Attorney in connection with the Board, to include the obligation to render impartial determinations on petitions considered by the Board under this section.

(5) **RECUSAL.**—An Officer or Attorney of the Board shall recuse himself or herself from participation in any proceeding with respect to which the Officer or Attorney, as the case may be, has reason to believe that he or she has a conflict of interest.

(6) **EX PARTE COMMUNICATIONS.**—Except as may otherwise be permitted by applicable law, any party or interested owner involved in a proceeding before the Board shall refrain from ex parte communications with the Officers of the Board and the Commission relevant to the merits of such proceeding before the Board.

(7) **JUDICIAL REVIEW.**—Actions of the Officers and the Commission under this section in connection with the rendering of any determination are subject to judicial review as provided under subsection (g)(28).

(f) **CONDUCT OF PROCEEDINGS OF THE BOARD.**—

(1) **IN GENERAL.**—Proceedings of the Board shall be conducted in accordance with this section and regulations established by the Commission under this section, in addition to relevant principles of law.

(2) **RECORD.**—The Board shall maintain records documenting the proceedings before the Board.

(3) **CENTRALIZED PROCESS.**—Proceedings before the Board shall—

(A) be conducted at the offices of the Board without the requirement of in-person appearances by parties or others;

(B) take place by means of written submissions, hearings, and conferences carried out through internet-based applications and other telecommunications facilities, except that, in cases in which physical or other non-testimonial evidence material to a proceeding cannot be furnished to the Board through available telecommunications facilities, the Board may make alternative arrangements for the submission of such evidence that do not prejudice any party or interested owner; and

(C) be conducted and concluded in an expeditious manner without causing undue prejudice to any party or interested owner.

(4) **REPRESENTATION.**—

(A) **IN GENERAL.**—A party or interested owner involved in a proceeding before the Board may be, but is not required to be, represented by—

(i) an attorney; or

(ii) a law student who is qualified under applicable law governing representation by law students of parties in legal proceedings and who provides such representation on a pro bono basis.

(B) **REPRESENTATION OF VICTIMS.**—

(i) **IN GENERAL.**—A petition involving a victim under the age of 16 at the time the petition is filed shall be filed by an authorized representative, qualified organization, or a person described in subparagraph (A).

(ii) **NO REQUIREMENT FOR QUALIFIED ORGANIZATIONS TO HAVE CONTACT WITH, OR KNOWLEDGE OF, VICTIM.**—A qualified organization may submit a notification to a provider or file a petition on behalf of a victim without regard to whether the qualified organization has contact with the victim or knows the identity, location, or contact information of the victim.

(g) **PROCEDURES TO CONTEST A FAILURE TO REMOVE CHILD SEXUAL ABUSE MATERIAL OR A NOTIFICATION REPORTING CHILD SEXUAL ABUSE MATERIAL.**—

(1) **PROCEDURE TO CONTEST A FAILURE TO REMOVE.**—

(A) COMPLAINANT PETITION.—A complainant may file a petition to the Board claiming that, as applicable—

(i) the complainant submitted a complete notification to a provider concerning alleged child sexual abuse material, and that—

(I) the provider—

(aa) did not remove the alleged child sexual abuse material within the timeframe required under subsection (c)(1)(A)(i); or

(bb) incorrectly claimed that—

(AA) the alleged child sexual abuse material at issue could not be located or removed through reasonable means;

(BB) the notification was incomplete; or

(CC) the notification was duplicative under subsection (c)(2)(C)(i); and

(II) did not file a timely petition to contest the notification with the Board under paragraph (2); or

(ii) a provider is hosting alleged child sexual abuse material, does not have a designated reporting system, and the complainant was unable to serve a notification on the provider under this subsection despite reasonable efforts.

(B) ADDITIONAL CLAIM.—As applicable, a petition filed under subparagraph (A) may also claim that the alleged child sexual abuse material at issue in the petition involves redivvst hosting.

(C) TIMEFRAME.—

(i) IN GENERAL.—A petition under this paragraph shall be considered timely if it is filed within 30 days of the applicable start date, as defined under clause (ii).

(ii) APPLICABLE START DATE.—For purposes of clause (i), the term “applicable start date” means—

(I) in the case of a petition under subparagraph (A)(i) claiming that the alleged child sexual abuse material was not removed or that the provider made an incorrect claim relating to the alleged child sexual abuse material or notification, the day that the provider's option to file a petition has expired under paragraph (2)(B); and

(II) in the case of a petition under subparagraph (A)(ii) related to a notification that could not be served, the last day of the 2-week period that begins on the day on which the complainant first attempted to serve a notification on the provider involved.

(D) IDENTIFICATION OF VICTIM.—Any petition filed to the Board by the victim or an authorized representative of the victim shall include the victim's legal name. A petition filed to the Board by a qualified organization may, but is not required to, include the victim's legal name. Any petition containing the victim's legal name shall be filed under seal. The victim's legal name shall be redacted from any documents served on the provider and interested owner or made publicly available.

(E) FAILURE TO REMOVE CHILD SEXUAL ABUSE MATERIAL IN TIMELY MANNER.—A complainant may file a petition under subparagraph (A)(i) claiming that alleged child sexual abuse material was not removed even if the alleged child sexual abuse material was removed prior to the petition being filed, so long as the petition claims that the alleged child sexual abuse material was not removed within the timeframe specified in subsection (c)(1).

(2) PROCEDURE TO CONTEST A NOTIFICATION.—

(A) PROVIDER PETITION.—If a provider receives a complete notification as described in subsection (c)(2) through its designated reporting system or in accordance with subsection (c)(2)(F)(i), the provider may file a petition to the Board claiming that the provider has a good faith belief that, as applicable—

(i) the visual depiction that is the subject of the notification does not constitute child sexual abuse material;

(ii) the notification is frivolous or was submitted with an intent to harass the provider or any person;

(iii) the alleged child sexual abuse material cannot reasonably be located by the provider;

(iv) for reasons beyond the control of the provider, the provider cannot remove the alleged child sexual abuse material using reasonable means; or

(v) the notification was duplicative under subsection (c)(2)(C)(i).

(B) TIMEFRAME.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), a petition contesting a notification under this paragraph shall be considered timely if it is filed by a provider not later than 14 days after the day on which the provider receives the notification or the notification is made complete under subsection (c)(2)(D)(i).

(ii) NO DESIGNATED REPORTING SYSTEM.—Subject to clause (iii), if a provider does not have a designated reporting system, a petition contesting a notification under this paragraph shall be considered timely if it is filed by a provider not later than 7 days after the day on which the provider receives the notification or the notification is made complete under subsection (c)(2)(D)(i).

(iii) SMALL PROVIDERS.—In the case of a small provider, each of the timeframes applicable under clauses (i) and (ii) shall be increased by 48 hours.

(3) COMMENCEMENT OF PROCEEDING.—

(A) IN GENERAL.—In order to commence a proceeding under this section, a petitioning party shall, subject to such additional requirements as may be prescribed in regulations established by the Commission, file a petition with the Board, that includes a statement of claims and material facts in support of each claim in the petition. A petition may set forth more than one claim. A petition shall also include information establishing that it has been filed within the applicable timeframe.

(B) REVIEW OF PETITIONS BY CHILD ONLINE PROTECTION ATTORNEYS.—Child Online Protection Attorneys may review petitions to assess whether they are complete. The Board may permit a petitioning party to refile a defective petition. The Attorney may assist the petitioning party in making any corrections.

(C) DISMISSAL.—The Board may dismiss, with or without prejudice, any petition that fails to comply with subparagraph (A).

(4) SERVICE OF PROCESS REQUIREMENTS FOR PETITIONS.—

(A) IN GENERAL.—For purposes of petitions under paragraphs (1) and (2), the petitioning party shall, at or before the time of filing a petition, serve a copy on the other party. A corporation, partnership, or unincorporated association that is subject to suit in courts of general jurisdiction under a common name shall be served by delivering a copy of the petition to its service agent, if one has been so designated.

(B) MANNER OF SERVICE.—

(i) SERVICE BY NONDIGITAL MEANS.—Service by nondigital means may be any of the following:

(I) Personal, including delivery to a responsible person at the office of counsel.

(II) By priority mail.

(III) By third-party commercial carrier for delivery within 3 days.

(ii) SERVICE BY DIGITAL MEANS.—Service of a paper may be made by sending it by any digital means, including through a provider's designated reporting system.

(iii) WHEN SERVICE IS COMPLETED.—Service by mail or by commercial carrier is complete

3 days after the mailing or delivery to the carrier. Service by digital means is complete on filing or sending, unless the party making service is notified that the paper was not received by the party served.

(C) PROOF OF SERVICE.—A petition filed under paragraph (1) or (2) shall contain—

(i) an acknowledgment of service by the person served;

(ii) proof of service consisting of a statement by the person who made service certifying—

(I) the date and manner of service;

(II) the names of the persons served; and

(III) their mail or electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service; or

(iii) a statement indicating that service could not reasonably be completed.

(D) ATTORNEY FEES AND COSTS.—Except as otherwise provided in this subsection, all parties to a petition shall bear their own attorney fees and costs.

(5) SERVICE OF OTHER DOCUMENTS.—Documents submitted or relied upon in a proceeding, other than the petition, shall be served in accordance with regulations established by the Commission.

(6) NOTIFICATION OF RIGHT TO OPT OUT.—In order to effectuate service on a responding party, the petition shall notify the responding party of their right to opt out of the proceeding before the Board, and the consequences of opting out and not opting out, including a prominent statement that by not opting out the respondent—

(A) loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States; and

(B) waives the right to a jury trial regarding the dispute.

(7) INITIAL PROCEEDINGS.—

(A) CONFERENCE.—Within 1 week of completion of service of a petition under paragraph (4), 1 or more Officers of the Board shall hold a conference to address the matters described in subparagraphs (B) and (C).

(B) OPT-OUT PROCEDURE.—At the conference, an Officer of the Board shall explain that the responding party has a right to opt out of the proceeding before the Board, and describe the consequences of opting out and not opting out as described in paragraph (6). A responding party shall have a period of 30 days, beginning on the date of the conference, in which to provide written notice of such choice to the petitioning party and the Board. If the responding party does not submit an opt-out notice to the Board within that 30-day period, the proceeding shall be deemed an active proceeding and the responding party shall be bound by the determination in the proceeding. If the responding party opts out of the proceeding during that 30-day period, the proceeding shall be dismissed without prejudice. For purposes of any subsequent litigation or other legal proceeding, no adverse inference shall be drawn from a responding party's decision to opt out of a proceeding before the Board under this subparagraph.

(C) DISABLING ACCESS.—At the conference, except for petitions setting forth claims described in clauses (iii) and (iv) of paragraph (2)(A), an Officer of the Board shall order the provider involved to disable public and user access to the alleged child sexual abuse material at issue in the petition for the pendency of the proceeding, including judicial review as provided in subsection (g)(28), unless the Officer of the Board finds that—

(i) it is likely that the Board will find that the petition is frivolous or was filed with an intent to harass any person;

(ii) there is a probability that disabling public and user access to such alleged child

sexual abuse material will cause irreparable harm;

(iii) the balance of equities weighs in favor of preserving public and user access to the alleged child sexual abuse material; and

(iv) disabling public and user access to the alleged child sexual abuse material is contrary to the public interest.

(D) EFFECT OF FAILURE TO DISABLE ACCESS.—

(i) PROVIDER PETITION.—If the petition was filed by a provider, and the provider fails to comply with an order issued pursuant to subparagraph (B), the Board may—

(I) dismiss the petition with prejudice; and

(II) refer the matter to the Attorney General.

(ii) EFFECT OF DISMISSAL.—If a provider's petition is dismissed under clause (i)(I), the complainant may bring a petition under paragraph (1) as if the provider did not file a petition within the timeframe specified in paragraph (2)(B). For purposes of paragraph (1)(C)(ii), the applicable start date shall be the date the provider's petition was dismissed.

(iii) COMPLAINANT PETITION.—If the petition was filed by a complainant, and the provider fails to comply with an order issued pursuant to subparagraph (B), the Board—

(I) shall—

(aa) expedite resolution of the petition; and

(bb) refer the matter to the Attorney General; and

(II) may apply an adverse inference with respect to disputed facts against such provider.

(8) SCHEDULING.—Upon receipt of a complete petition and at the conclusion of the opt out procedure described in paragraph (7), the Board shall issue a schedule for the future conduct of the proceeding. A schedule issued by the Board may be amended by the Board in the interests of justice.

(9) CONFERENCES.—One or more Officers of the Board may hold a conference to address case management or discovery issues in a proceeding, which shall be noted upon the record of the proceeding and may be recorded or transcribed.

(10) PARTY SUBMISSIONS.—A proceeding of the Board may not include any formal motion practice, except that, subject to applicable regulations and procedures of the Board—

(A) the parties to the proceeding and an interested owner may make requests to the Board to address case management and discovery matters, and submit responses thereto; and

(B) the Board may request or permit parties and interested owners to make submissions addressing relevant questions of fact or law, or other matters, including matters raised sua sponte by the Officers of the Board, and offer responses thereto.

(11) DISCOVERY.—

(A) IN GENERAL.—Discovery in a proceeding shall be limited to the production of relevant information and documents, written interrogatories, and written requests for admission, as provided in regulations established by the Commission, except that—

(i) upon the request of a party, and for good cause shown, the Board may approve additional relevant discovery, on a limited basis, in particular matters, and may request specific information and documents from parties in the proceeding, consistent with the interests of justice;

(ii) upon the request of a party or interested owner, and for good cause shown, the Board may issue a protective order to limit the disclosure of documents or testimony that contain confidential information;

(iii) after providing notice and an opportunity to respond, and upon good cause

shown, the Board may apply an adverse inference with respect to disputed facts against a party or interested owner who has failed to timely provide discovery materials in response to a proper request for materials that could be relevant to such facts; and

(iv) an interested owner shall only produce or receive discovery to the extent it relates to whether the visual depiction at issue constitutes child sexual abuse material.

(B) PRIVACY.—Any alleged child sexual abuse material received by the Board or the Commission as part of a proceeding shall be filed under seal and shall remain in the care, custody, and control of the Board or the Commission. For purposes of discovery, the Board or Commission shall make the alleged child sexual abuse material reasonably available to the parties and interested owner but shall not provide copies. The privacy protections described in section 3509(d) of title 18, United States Code, shall apply to the Board, Commission, provider, complainant, and interested owner.

(12) RESPONSES.—The responding party may refute any of the claims or factual assertions made by the petitioning party, and may also claim that the petition was not filed in the applicable timeframe or is barred under subsection (h). If a complainant is the petitioning party, a provider may additionally claim in response that the notification was incomplete and could not be made complete under subsection (c)(2)(D)(i). The petitioning party may refute any responses submitted by the responding party.

(13) INTERESTED OWNER.—An individual notified under paragraph (19)(C)(ii) may, within 14 days of being so notified, file a motion to join the proceeding for the limited purpose of claiming that the visual depiction at issue does not constitute child sexual abuse material. The Board shall serve the motion on both parties. Such motion shall include a factual basis and a signed statement, submitted under penalty of perjury, indicating that the individual produced or created the visual depiction at issue. The Board shall dismiss any motion that does not include the signed statement or that was submitted by an individual who did not produce or create the visual depiction at issue. If the motion is granted, the interested owner may also claim that the notification and petition were filed with an intent to harass the interested owner. Any party may refute the claims and factual assertions made by the interested owner.

(14) EVIDENCE.—The Board may consider the following types of evidence in a proceeding, and such evidence may be admitted without application of formal rules of evidence:

(A) Documentary and other nontestimonial evidence that is relevant to the petitions or responses in the proceeding.

(B) Testimonial evidence, submitted under penalty of perjury in written form or in accordance with paragraph (15), limited to statements of the parties and nonexpert witnesses, that is relevant to the petitions or responses in a proceeding, except that, in exceptional cases, expert witness testimony or other types of testimony may be permitted by the Board for good cause shown.

(15) HEARINGS.—Unless waived by all parties, the Board shall conduct a hearing to receive oral presentations on issues of fact or law from parties and witnesses to a proceeding, including oral testimony, subject to the following:

(A) Any such hearing shall be attended by not fewer than two of the Officers of the Board.

(B) The hearing shall be noted upon the record of the proceeding and, subject to subparagraph (C), may be recorded or transcribed as deemed necessary by the Board.

(C) A recording or transcript of the hearing shall be made available to any Officer of the Board who is not in attendance.

(16) VOLUNTARY DISMISSAL.—

(A) BY PETITIONING PARTY.—Upon the written request of a petitioning party, the Board shall dismiss the petition, with or without prejudice.

(B) BY RESPONDING PARTY OR INTERESTED OWNER.—Upon written request of a responding party or interested owner, the Board shall dismiss any responses to the petition, and shall consider all claims and factual assertions in the petition to be true.

(17) FACTUAL FINDINGS.—Subject to paragraph (11)(A)(iii), the Board shall make factual findings based upon a preponderance of the evidence.

(18) DETERMINATIONS.—

(A) NATURE AND CONTENTS.—A determination rendered by the Board in a proceeding shall—

(i) be reached by a majority of the Board;

(ii) be in writing, and include an explanation of the factual and legal basis of the determination; and

(iii) include a clear statement of all fines, costs, and other relief awarded.

(B) DISSENT.—An Officer of the Board who dissents from a decision contained in a determination under subparagraph (A) may append a statement setting forth the grounds for that dissent.

(19) PUBLICATION AND DISCLOSURE.—

(A) PUBLICATION.—Each final determination of the Board shall be made available on a publicly accessible website, except that the final determination shall be redacted to protect confidential information that is the subject of a protective order under paragraph (11)(A)(ii) or information protected pursuant to paragraph (11)(B) and any other information protected from public disclosure under the Federal Trade Commission Act or any other applicable provision of law.

(B) FREEDOM OF INFORMATION ACT.—All information relating to proceedings of the Board under this section is exempt from disclosure to the public under section 552(b)(3) of title 5, except for determinations, records, and information published under subparagraph (A). Any information that is disclosed under this subparagraph shall have redacted any information that is the subject of a protective order under paragraph (11)(A)(ii) or protected pursuant to paragraph (11)(B).

(C) EFFECT OF PETITION ON NON-DISCLOSURE PERIOD.—

(i) Submission of a petition extends the non-disclosure period under subsection (c)(2)(I) for the pendency of the proceeding. The provider may submit an objection to the Board that nondisclosure is contrary to the interests of justice. The complainant may, but is not required to, respond to the objection. The Board should sustain the objection unless there is reason to believe that the circumstances in section 3486(a)(6)(B) of title 18, United States Code, exist and outweigh the interests of justice.

(ii) If the Board sustains an objection to the nondisclosure period, the provider or the Board may notify the apparent owner of the visual depiction at issue about the proceeding, and include instructions on how the owner may move to join the proceeding under paragraph (13).

(iii) If applicable, the nondisclosure period expires 120 days after the Board's determination becomes final, except it shall expire immediately upon the Board's determination becoming final if the Board finds that the visual depiction at issue is not child sexual abuse material.

(iv) The interested owner of a visual depiction at issue may not bring any legal action against any party related to the alleged child sexual abuse material until the Board's

determination is final. Once the determination is final, the interested owner of the visual depiction may pursue any legal relief available under the law, subject to subsections (h), (k), and (l).

(20) **RESPONDING PARTY'S DEFAULT.**—If the Board finds that service of the petition on the responding party could not reasonably be completed, or the responding party has failed to appear or has ceased participating in a proceeding, as demonstrated by the responding party's failure, without justifiable cause, to meet one or more deadlines or requirements set forth in the schedule adopted by the Board, the Board may enter a default determination, including the dismissal of any responses asserted by the responding party, as follows and in accordance with such other requirements as the Commission may establish by regulation:

(A) The Board shall require the petitioning party to submit relevant evidence and other information in support of the petitioning party's claims and, upon review of such evidence and any other requested submissions from the petitioning party, shall determine whether the materials so submitted are sufficient to support a finding in favor of the petitioning party under applicable law and, if so, the appropriate relief and damages, if any, to be awarded.

(B) If the Board makes an affirmative determination under subparagraph (A), the Board shall prepare a proposed default determination, and shall provide written notice to the responding party at all addresses, including electronic mail addresses, reflected in the records of the proceeding before the Board, of the pendency of a default determination by the Board and of the legal significance of such determination. Such notice shall be accompanied by the proposed default determination and shall provide that the responding party has a period of 30 days, beginning on the date of the notice, to submit any evidence or other information in opposition to the proposed default determination.

(C) If the responding party responds to the notice provided under subparagraph (B) within the 30-day period provided in such subparagraph, the Board shall consider responding party's submissions and, after allowing the petitioning party to address such submissions, maintain, or amend its proposed determination as appropriate, and the resulting determination shall not be a default determination.

(D) If the respondent fails to respond to the notice provided under subparagraph (B), the Board shall proceed to issue the default determination. Thereafter, the respondent may only challenge such determination to the extent permitted under paragraph (28).

(21) **PETITIONING PARTY OR INTERESTED OWNER'S FAILURE TO PROCEED.**—If a petitioning party or interested owner who has joined the proceeding fails to proceed, as demonstrated by the failure, without justifiable cause, to meet one or more deadlines or requirements set forth in the schedule adopted by the Board, the Board may, upon providing written notice to the petitioning party or interested owner and a period of 30 days, beginning on the date of the notice, to respond to the notice, and after considering any such response, issue a determination dismissing the claims made by the petitioning party or interested owner. The Board may order the petitioning party to pay attorney fees and costs under paragraph (26)(B), if appropriate. Thereafter, the petitioning party may only challenge such determination to the extent permitted under paragraph (28).

(22) **REQUEST FOR RECONSIDERATION.**—A party or interested owner may, within 30 days after the date on which the Board issues a determination under paragraph (18), submit to the Board a written request for recon-

sideration of, or an amendment to, such determination if the party or interested owner identifies a clear error of law or fact material to the outcome, or a technical mistake. After providing the other parties an opportunity to address such request, the Board shall either deny the request or issue an amended determination.

(23) **REVIEW BY COMMISSION.**—If the Board denies a party or interested owner a request for reconsideration of a determination under paragraph (22), the party or interested owner may, within 30 days after the date of such denial, request review of the determination by the Commission in accordance with regulations established by the Commission. After providing the other party or interested owner an opportunity to address the request, the Commission shall either deny the request for review, or remand the proceeding to the Board for reconsideration of issues specified in the remand and for issuance of an amended determination. Such amended determination shall not be subject to further consideration or review, other than under paragraph (28).

(24) **FAVORABLE RULING ON COMPLAINANT PETITION.**—

(A) **IN GENERAL.**—If the Board grants a complainant's petition filed under this section, notwithstanding any other law, the Board shall—

(i) order the provider to immediately remove the child sexual abuse material, and to permanently delete all copies of the child sexual abuse material known to and under the control of the provider unless the Board orders the provider to preserve the child sexual abuse material;

(ii) impose a fine of \$50,000 per item of child sexual abuse material covered by the determination, but if the Board finds that—

(I) the provider removed the child sexual abuse material after the period set forth in subsection (c)(1)(A)(i), but before the complainant filed a petition, such fine shall be \$25,000;

(II) the provider has engaged in recidivist hosting for the first time with respect to the child sexual abuse material at issue, such fine shall be \$100,000 per item of child sexual abuse material; or

(III) the provider has engaged in recidivist hosting of the child sexual abuse material at issue 2 or more times, such fine shall be \$200,000 per item of child sexual abuse material;

(iii) order the provider to pay reasonable costs to the complainant; and

(iv) refer any matters involving intentional or willful conduct by a provider with respect to child sexual abuse material, or recidivist hosting, to the Attorney General for prosecution under any applicable laws.

(B) **PROVIDER PAYMENT OF FINE AND COSTS.**—Notwithstanding any other law, the Board shall direct a provider to promptly pay fines and costs imposed under subparagraph (A) as follows:

(i) If the petition was filed by a victim, such fine and costs shall be paid to the victim.

(ii) If the petition was filed by an authorized representative of a victim—

(I) 30 percent of such fine shall be paid to the authorized representative and 70 percent of such fine paid to the victim; and

(II) costs shall be paid to the authorized representative.

(iii) If the petition was filed by a qualified organization—

(I) the fine shall be paid to the Reserve for Victims of Child Sexual Abuse Material as provided in section 2259B of title 18, United States Code (as amended by this title); and

(II) costs shall be paid to the qualified organization.

(25) **EFFECT OF DENIAL OF PROVIDER PETITION.**—

(A) **IN GENERAL.**—If the Board denies a provider's petition to contest a notification filed under paragraph (2), it shall order the provider to immediately remove the child sexual abuse material, and to permanently delete all copies of the child sexual abuse material known to and under the control of the provider unless the Board orders the provider to preserve the child sexual abuse material.

(B) **REFERRAL FOR FAILURE TO REMOVE MATERIAL.**—If a provider does not remove and, if applicable, permanently delete child sexual abuse material within 48 hours of the Board issuing a determination under subparagraph (A), or not later than 2 business days of the Board issuing a determination under subparagraph (A) concerning a small provider, the Board shall refer the matter to the Attorney General for prosecution under any applicable laws.

(C) **COSTS FOR FRIVOLOUS PETITION.**—If the Board finds that a provider filed a petition under paragraph (2) for a harassing or improper purpose or without reasonable basis in law or fact, the Board shall order the provider to pay the reasonable costs of the complainant.

(26) **EFFECT OF DENIAL OF COMPLAINANT'S PETITION OR FAVORABLE RULING ON PROVIDER'S PETITION.**—

(A) **RESTORATION.**—If the Board grants a provider's petition filed under paragraph (2) or if the Board denies a petition filed by the complainant under paragraph (1), the provider may restore access to any visual depiction that was at issue in the proceeding.

(B) **COSTS FOR INCOMPLETE OR FRIVOLOUS NOTIFICATION AND HARASSMENT.**—If, in granting or denying a petition as described in subparagraph (A), the Board finds that the notification contested in the petition could not be made complete under subsection (c)(2)(D), is frivolous, or is duplicative under subsection (c)(2)(C)(i), the Board may order the complainant to pay costs to the provider and any interested owner, which shall not exceed a total of \$10,000, or, if the Board finds that the complainant filed the notification with an intent to harass the provider or any person, a total of \$15,000.

(27) **CIVIL ACTION; OTHER RELIEF.**—

(A) **IN GENERAL.**—Whenever any provider or complainant fails to comply with a final determination of the Board issued under paragraph (18), the Department of Justice may commence a civil action in a district court of the United States to enforce compliance with such determination.

(B) **SAVINGS CLAUSE.**—Nothing in this section shall be construed to limit the authority of the Commission or Department of Justice under any other provision of law.

(28) **CHALLENGES TO THE DETERMINATION.**—

(A) **BASES FOR CHALLENGE.**—Not later than 45 days after the date on which the Board issues a determination or amended determination in a proceeding, or not later than 45 days after the date on which the Board completes any process of reconsideration or the Commission completes a review of the determination, whichever occurs later, a party may seek an order from a district court, located where the provider or complainant conducts business or resides, vacating, modifying, or correcting the determination of the Board in the following cases:

(i) If the determination was issued as a result of fraud, corruption, misrepresentation, or other misconduct.

(ii) If the Board exceeded its authority or failed to render a determination concerning the subject matter at issue.

(iii) In the case of a default determination or determination based on a failure to prosecute, if it is established that the default or failure was due to excusable neglect.

(B) PROCEDURE TO CHALLENGE.—

(i) NOTICE OF APPLICATION.—Notice of the application to challenge a determination of the Board shall be provided to all parties to the proceeding before the Board, in accordance with the procedures applicable to service of a motion in the court where the application is made.

(ii) STAYING OF PROCEEDINGS.—For purposes of an application under this paragraph, any judge who is authorized to issue an order to stay the proceedings in an any other action brought in the same court may issue an order, to be served with the notice of application, staying proceedings to enforce the award while the challenge is pending.

(29) FINAL DETERMINATION.—A determination of the Board shall be final on the date that all opportunities for a party or interested owner to seek reconsideration or review of a determination under paragraph (22) or (23), or for a party to challenge the determination under paragraph (28), have expired or are exhausted.

(h) EFFECT OF PROCEEDING.—

(1) SUBSEQUENT PROCEEDINGS.—The issuance of a final determination by the Board shall preclude the filing by any party of any subsequent petition that is based on the notification at issue in the final determination. This paragraph shall not limit the ability of any party to file a subsequent petition based on any other notification.

(2) DETERMINATION.—Except as provided in paragraph (1), the issuance of a final determination by the Board, including a default determination or determination based on a failure to prosecute, shall, solely with respect to the parties to such determination, preclude relitigation of any claim or response asserted and finally determined by the Board in any subsequent legal action or proceeding before any court, tribunal, or the Board, and may be relied upon for such purpose in a future action or proceeding arising from the same specific activity, subject to the following:

(A) No interested owner may relitigate any claim or response that was properly asserted and considered by the Board in any subsequent proceeding before the Board involving the same interested owner and the same child sexual abuse material.

(B) A finding by the Board that a visual depiction constitutes child sexual abuse material—

(i) may not be relitigated in any civil proceeding brought by an interested owner; and

(ii) may not be relied upon, and shall not have preclusive effect, in any other action or proceeding involving any party before any court or tribunal other than the Board.

(C) A determination by the Board shall not preclude litigation or relitigation as between the same or different parties before any court or tribunal other than the Board of the same or similar issues of fact or law in connection with allegations or responses not asserted or not finally determined by the Board.

(D) Except to the extent permitted under this subsection, any determination of the Board may not be cited or relied upon as legal precedent in any other action or proceeding before any court or tribunal, including the Board.

(3) OTHER MATERIALS IN PROCEEDING.—A submission or statement of a party, interested owner, or witness made in connection with a proceeding before the Board, including a proceeding that is dismissed, may not serve as the basis of any action or proceeding before any court or tribunal except for any legal action related to perjury or for conduct

described in subsection (k)(2). A statement of a party, interested owner, or witness may be received as evidence, in accordance with applicable rules, in any subsequent legal action or proceeding before any court, tribunal, or the Board.

(4) FAILURE TO ASSERT RESPONSE.—Except as provided in paragraph (1), the failure or inability to assert any allegation, factual claim, or response in a proceeding before the Board shall not preclude the assertion of that response in any subsequent legal action or proceeding before any court, tribunal, or the Board.

(i) ADMINISTRATION.—The Commission may issue regulations in accordance with section 553 of title 5, United States Code, to implement this section.

(j) STUDY.—

(1) IN GENERAL.—Not later than 3 years after the date on which Child Online Protection Board issues the first determination under this section, the Commission shall conduct, and report to Congress on, a study that addresses the following:

(A) The use and efficacy of the Child Online Protection Board in expediting the removal of child sexual abuse material and resolving disputes concerning alleged child sexual abuse material, including the number of proceedings the Child Online Protection Board could reasonably administer with current allocated resources.

(B) Whether adjustments to the authority of the Child Online Protection Board are necessary or advisable, including with respect to permissible claims, responses, fines, costs, and joinder by interested parties.

(C) Whether the Child Online Protection Board should be permitted to expire, be extended, or be expanded.

(D) Such other matters as the Commission believes may be pertinent concerning the Child Online Protection Board.

(2) CONSULTATION.—In conducting the study and completing the report required under paragraph (1), the Commission shall, to the extent feasible, consult with complainants, victims, and providers to include their views on the matters addressed in the study and report.

(k) LIMITED LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), a civil claim or criminal charge against the Board, a provider, a complainant, interested owner, or representative under subsection (f)(4), for distributing, receiving, accessing, or possessing child sexual abuse material for the sole and exclusive purpose of complying with the requirements of this section, or for the sole and exclusive purpose of seeking or providing legal advice in order to comply with this section, may not be brought in any Federal or State court.

(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) shall not apply to a claim against the Board, a provider, a complainant, interested owner, or representative under subsection (f)(4)—

(A) for any conduct unrelated to compliance with the requirements of this section;

(B) if the Board, provider, complainant, interested owner, or representative under subsection (f)(4) (as applicable)—

(i) engaged in intentional misconduct; or

(ii) acted, or failed to act—

(I) with actual malice; or

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

(C) in the case of a claim against a complainant, if the complainant falsely claims to be a victim, an authorized representative of a victim, or a qualified organization.

(3) MINIMIZING ACCESS.—The Board, a provider, a complainant, an interested owner, or

a representative under subsection (f)(4) shall—

(A) minimize the number of individuals that are provided access to any alleged, contested, or actual child sexual abuse material under this section;

(B) ensure that any alleged, contested, or actual child sexual abuse material is transmitted and stored in a secure manner and is not distributed to or accessed by any individual other than as needed to implement this section; and

(C) ensure that all copies of any child sexual abuse material are permanently deleted upon a request from the Board, Commission, or the Federal Bureau of Investigation.

(l) PROVIDER IMMUNITY FROM CLAIMS BASED ON REMOVAL OF VISUAL DEPICTION.—A provider shall not be liable to any person for any claim based on the provider's good faith removal of any visual depiction that is alleged to be child sexual abuse material pursuant to a notification under this section, regardless of whether the visual depiction involved is found to be child sexual abuse material by the Board. A provider shall not be liable to any person for any claim based on the provider's good faith discretionary removal of any alleged related exploitive visual depictions pursuant to a notification under this section.

(m) DISCOVERY.—Nothing in this section affects discovery, a subpoena or any other court order, or any other judicial process otherwise in accordance with Federal or State law.

(n) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to relieve a provider from any obligation imposed on the provider under section 2258A of title 18, United States Code.

(o) FUNDING.—There are authorized to be appropriated to pay the costs incurred by the Commission under this section, including the costs of establishing and maintaining the Board and its facilities, \$40,000,000 for each year during the period that begins with the year in which this Act is enacted and ends with the year in which certain subsections of this section expire under subsection (p).

(p) SUNSET.—Except for subsections (a), (h), (k), (l), (m), (n), and (q), this section shall expire 5 years after the date on which the Child Online Protection Board issues its first determination under this section.

(q) DEFINITIONS.—In this section:

(1) BOARD.—The term “Board” means the Child Online Protection Board established under subsection (d).

(2) CHILD SEXUAL ABUSE MATERIAL.—The term “child sexual abuse material” has the meaning provided in section 2256(8) of title 18, United States Code.

(3) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(4) COMPLAINANT.—The term “complainant” means—

(A) the victim appearing in the child sexual abuse material;

(B) an authorized representative of the victim appearing in the child sexual abuse material; or

(C) a qualified organization.

(5) DESIGNATED REPORTING SYSTEM.—The term “designated reporting system” means a digital means of submitting a notification to a provider under this subsection that is publicly and prominently available, easily accessible, and easy to use.

(6) HOST.—The term “host” means to store or make a visual depiction available or accessible to the public or any users through digital means or on a system or network controlled or operated by or for a provider.

(7) IDENTIFIABLE PERSON.—The term “identifiable person” means a person who is recognizable as an actual person by the person's

face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature.

(8) **INTERESTED OWNER.**—The term “interested owner” means an individual who has joined a proceeding before the Board under subsection (g)(13).

(9) **PARTY.**—The term “party” means the complainant or provider.

(10) **PROVIDER.**—The term “provider” means a provider of an interactive computer service, as that term is defined in section 230 of the Communications Act of 1934 (47 U.S.C. 230), and for purposes of subsections (k) and (l), includes any director, officer, employee, or agent of such provider.

(11) **QUALIFIED ORGANIZATION.**—The term “qualified organization” means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from tax under section 501(a) of that Code that works to address child sexual abuse material and to support victims of child sexual abuse material.

(12) **RECIDIVIST HOSTING.**—The term “recidivist hosting” means, with respect to a provider, that the provider removes child sexual abuse material pursuant to a notification or determination under this subsection, and then subsequently hosts a visual depiction that has the same hash value or other technical identifier as the child sexual abuse material that had been so removed.

(13) **RELATED EXPLOITIVE VISUAL DEPICTION.**—The term “related exploitive visual depiction” means a visual depiction of an identifiable person of any age where—

(A) such visual depiction does not constitute child sexual abuse material, but is published with child sexual abuse material depicting that person while under 18 years of age; and

(B) there is a connection between such visual depiction and the child sexual abuse material depicting that person while under 18 years of age that is readily apparent from—

(i) the content of such visual depiction and the child sexual abuse material; or

(ii) the context in which such visual depiction and the child sexual abuse material appear.

(14) **SMALL PROVIDER.**—The term “small provider” means a provider that, for the most recent calendar year, averaged less than 10,000,000 active users on a monthly basis in the United States.

(15) **VICTIM.**—

(A) **IN GENERAL.**—The term “victim” means an individual of any age who is depicted in child sexual abuse material while under 18 years of age.

(B) **ASSUMPTION OF RIGHTS.**—In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by a court, may assume the victim’s rights to submit a notification or file a petition under this section, but in no event shall an individual who produced or conspired to produce the child sexual abuse material depicting the victim be named as such representative or guardian.

(16) **VISUAL DEPICTION.**—The term “visual depiction” has the meaning provided in section 2256(5) of title 18, United States Code.

SEC. 1407. USE OF TERM “CHILD SEXUAL ABUSE MATERIAL”.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the term “child sexual abuse material” has the same legal meaning as the term “child pornography”, as that term was used in Federal statutes and case law before the date of enactment of this Act.

(b) **AMENDMENTS.**—

(1) **TITLE 5, UNITED STATES CODE.**—Chapter 65 of title 5, United States Code, is amended—

(A) in section 6502(a)(2)(B), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 6504(c)(2)(F), by striking “child pornography” and inserting “child sexual abuse material”.

(2) **HOMELAND SECURITY ACT OF 2002.**—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in section 307(b)(3)(D) (6 U.S.C. 187(b)(3)(D)), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 890A (6 U.S.C. 473)—

(i) in subsection (b)(2)(A)(ii), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subsection (e)(3)(B)(ii), by striking “child pornography” and inserting “child sexual abuse material”.

(3) **IMMIGRATION AND NATIONALITY ACT.**—Section 101(a)(43)(I) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(I)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(4) **SMALL BUSINESS JOBS ACT OF 2010.**—Section 3011(c) of the Small Business Jobs Act of 2010 (12 U.S.C. 5710(c)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(5) **BROADBAND DATA IMPROVEMENT ACT.**—Section 214(a)(2) of the Broadband Data Improvement Act (15 U.S.C. 6554(a)(2)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(6) **CAN-SPAM ACT OF 2003.**—Section 4(b)(2)(B) of the CAN-SPAM Act of 2003 (15 U.S.C. 7703(b)(2)(B)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(7) **TITLE 18, UNITED STATES CODE.**—Title 18, United States Code, is amended—

(A) in section 1956(c)(7)(D), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; and

(B) in chapter 110—

(i) in section 2251(e), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in section 2252(b)—

(I) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(iii) in section 2252A—

(I) in the section heading, by striking “**material constituting or containing child pornography**” and inserting “**child sexual abuse material**”; and

(II) in subsection (a)—

(aa) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (2)—

(AA) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) in subparagraph (B), by striking “material that contains child pornography” and inserting “child sexual abuse material”; and

(cc) in paragraph (3)(A), by striking “child pornography” and inserting “child sexual abuse material”; and

(dd) in paragraph (4)—

(AA) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”; and

(ee) in paragraph (5)—

(AA) in subparagraph (A), by striking “material that contains an image of child pornography” and inserting “item containing child sexual abuse material”; and

(BB) in subparagraph (B), by striking “material that contains an image of child pornography” and inserting “item containing child sexual abuse material”; and

(ff) in paragraph (7)—

(AA) by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) by striking the period at the end and inserting a comma;

(III) in subsection (b)—

(aa) in paragraph (1), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (2), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; and

(IV) in subsection (c)—

(aa) in paragraph (1)(A), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(cc) in the undesignated matter following paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(V) in subsection (d)(1), by striking “child pornography” and inserting “child sexual abuse material”; and

(VI) in subsection (e), by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; and

(iv) in section 2256(8)—

(I) by striking “child pornography” and inserting “child sexual abuse material”; and

(II) by striking the period at the end and inserting a semicolon;

(v) in section 2257A(h)—

(I) in paragraph (1)(A)(iii)—

(aa) by inserting a comma after “marketed”; and

(bb) by striking “such than” and inserting “such that”; and

(cc) by striking “a visual depiction that is child pornography” and inserting “child sexual abuse material”; and

(II) in paragraph (2), by striking “any visual depiction that is child pornography” and inserting “child sexual abuse material”; and

(vi) in section 2258A(g)(2)(B), by striking “visual depictions of apparent child pornography” and inserting “apparent child sexual abuse material”; and

(vii) in section 2258B—

(I) in the section heading, by striking “**certain visual depictions of apparent child pornography**” and inserting “**apparent child sexual abuse material**”; and

(II) in subsection (e)—

(aa) in the subsection heading, by striking “**CHILD PORNOGRAPHY**” each place it appears and inserting “**CHILD SEXUAL ABUSE MATERIAL**”; and

(bb) in paragraph (1), by striking “child pornography” each place it appears and inserting “child sexual abuse material”; and

(cc) in paragraph (3), by striking “child pornography” each place it appears and inserting “child sexual abuse material”; and

(dd) in paragraph (4) in the matter preceding subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(viii) in section 2258C, as amended by section 1404 of this title—

(I) in the section heading, by striking “**Use to combat child pornography of technical elements relating to reports made to NCMEC**” and inserting “**Use of technical elements from reports made to NCMEC to combat child sexual abuse material**”; and

(II) in subsection (a)—

(aa) in paragraph (2), by striking “child pornography” and inserting “child sexual abuse material”; and

(bb) in paragraph (3), by striking “the actual visual depictions of apparent child pornography” and inserting “any apparent child sexual abuse material”;

(III) in subsection (d), by striking “child pornography visual depiction” and inserting “child sexual abuse material”; and

(IV) in subsection (e), by striking “child pornography visual depiction” and inserting “child sexual abuse material”;

(ix) in section 2259, as amended by section 1403 of this title—

(I) in paragraph (b)(2)—

(aa) in the paragraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”;

(bb) in the matter preceding subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”; and

(cc) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”;

(II) in subsection (c)(2), in the matter preceding subparagraph (A), by striking “trafficking in child pornography offenses” each place the term appears and inserting “offenses for trafficking in child sexual abuse material”; and

(III) in subsection (d)(1)—

(aa) in subparagraph (A)—

(AA) by striking “child pornography” each place the term appears and inserting “child sexual abuse material”; and

(BB) by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(bb) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”; and

(cc) in subparagraph (C)—

(AA) by striking “child pornography” and inserting “child sexual abuse material”; and

(BB) by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(x) in section 2259A—

(I) in the section heading, by striking “child pornography cases” and inserting “cases involving child sexual abuse material”;

(II) in subsection (a)(3), by striking “a child pornography production offense” and inserting “an offense for production of child sexual abuse material”; and

(III) in subsection (d)(2)(B), by striking “child pornography production or trafficking offense that the defendant committed” and inserting “offense for production of child sexual abuse material or trafficking in child sexual abuse material committed by the defendant”; and

(xi) in section 2259B—

(I) in the section heading, by striking “Child pornography victims reserve” and inserting “Reserve for victims of child sexual abuse material”;

(II) in subsection (a), by striking “Child Pornography Victims Reserve” each place the term appears and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(III) in subsection (b), by striking “Child Pornography Victims Reserve” each place the term appears and inserting “Reserve for Victims of Child Sexual Abuse Material”; and

(IV) in subsection (c), by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”;

(C) in chapter 117—

(i) in section 2423(f)(3), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in section 2427—

(I) in the section heading, by striking “child pornography” and inserting “child sexual abuse material”; and

(II) by striking “child pornography” and inserting “child sexual abuse material”;

(D) in section 2516—

(i) in paragraph (1)(c), by striking “material constituting or containing child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (2), by striking “child pornography production” and inserting “production of child sexual abuse material”;

(E) in section 3014(h)(3), by striking “child pornography victims” and inserting “victims of child sexual abuse material”;

(F) in section 3509, as amended by section 1402(a) of this title—

(i) in subsection (a)(6), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subsection (m)—

(I) in the subsection heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”;

(II) in paragraph (1), by striking “property or material that constitutes child pornography” and inserting “child sexual abuse material, or property or item containing such material,”;

(III) in paragraph (2)—

(aa) in subparagraph (A)—

(AA) by striking “property or material that constitutes child pornography” and inserting “child sexual abuse material, or property or item containing such material,”; and

(BB) by striking “the property or material” and inserting “the child sexual abuse material, property, or item”; and

(bb) in subparagraph (B)—

(AA) by striking “property or material” the first place the term appears and inserting “the child sexual abuse material, property, or item”; and

(BB) by striking “the property or material” and inserting “the child sexual abuse material, property, or item”;

(IV) in paragraph (3)—

(aa) by striking “property or material that constitutes child pornography” and inserting “child sexual abuse material”;

(bb) by striking “such child pornography” and inserting “such child sexual abuse material”; and

(cc) by striking “Such property or material” and inserting “Such child sexual abuse material”; and

(G) in section 3632(d)(4)(D)(xlii), by striking “material constituting or containing child pornography” and inserting “child sexual abuse material”.

(8) TARIFF ACT OF 1930.—Section 583(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1583(a)(2)(B)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(9) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 4121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7131) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A)(ii), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (2)(A)(ii), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in subsection (e)(5)—

(i) in the paragraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”.

(10) MUSEUM AND LIBRARY SERVICES ACT.—Section 224(f) of the Museum and Library Services Act (20 U.S.C. 9134(f)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in paragraph (7)(A)—

(i) in the subparagraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”.

(11) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 3031(b)(3) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10721(b)(3)) is amended by striking “child pornography” and inserting “child sexual abuse material”.

(12) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)) is amended—

(A) in clause (i)(I)(aa), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in clause (ii), by striking “child pornography” and inserting “child sexual abuse material”.

(13) VICTIMS OF CRIME ACT OF 1984.—Section 1402(d)(6)(A) of the Victims of Crime Act of 1984 (34 U.S.C. 20101(d)(6)(A)) is amended by striking “Child Pornography Victims Reserve” and inserting “Reserve for Victims of Child Sexual Abuse Material”.

(14) VICTIMS OF CHILD ABUSE ACT OF 1990.—The Victims of Child Abuse Act of 1990 (34 U.S.C. 20301 et seq.) is amended—

(A) in section 212(4) (34 U.S.C. 20302(4)), by striking “child pornography” and inserting “child sexual abuse material”;

(B) in section 214(b) (34 U.S.C. 20304(b))—

(i) in the subsection heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(ii) by striking “child pornography” and inserting “child sexual abuse material”; and

(C) in section 226(c)(6) (34 U.S.C. 20341(c)(6)), by striking “child pornography” and inserting “child sexual abuse material”.

(15) SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.—Section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911) is amended—

(A) in paragraph (3)(B)(iii), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in paragraph (7)(G), by striking “child pornography” and inserting “child sexual abuse material”.

(16) ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006.—Section 143(b)(3) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20942(b)(3)) is amended by striking “child pornography and enticement cases” and inserting “cases involving child sexual abuse material and enticement of children”.

(17) PROTECT OUR CHILDREN ACT OF 2008.—The PROTECT Our Children Act of 2008 (34 U.S.C. 21101 et seq.) is amended—

(A) in section 101(c) (34 U.S.C. 21111(c))—

(i) in paragraph (16)—

(I) in the matter preceding subparagraph (A), by striking “child pornography trafficking” and inserting “trafficking in child sexual abuse material”;

(II) in subparagraph (A), by striking “child pornography” and inserting “child sexual abuse material”;

(III) in subparagraph (B), by striking “child pornography” and inserting “child sexual abuse material”;

(IV) in subparagraph (C), by striking “child pornography” and inserting “child sexual abuse material”; and

(V) in subparagraph (D), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (17)(A), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in section 105(e)(1)(C) (34 U.S.C. 2115(e)(1)(C)), by striking “child pornography trafficking” and inserting “trafficking in child sexual abuse material”.

(18) SOCIAL SECURITY ACT.—Section 471(a)(20)(A)(i) of the Social Security Act (42 U.S.C. 671(a)(20)(A)(i)) is amended by striking “child pornography” and inserting “offenses involving child sexual abuse material”.

(19) PRIVACY PROTECTION ACT OF 1980.—Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—

(A) in subsection (a)(1), by striking “child pornography” and inserting “child sexual abuse material”; and

(B) in subsection (b)(1), by striking “child pornography” and inserting “child sexual abuse material”.

(20) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—Section 658H(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f(c)(1)) is amended—

(A) in subparagraph (D)(iii), by striking “child pornography” and inserting “offenses relating to child sexual abuse material”; and

(B) in subparagraph (E), by striking “child pornography” and inserting “child sexual abuse material”.

(21) COMMUNICATIONS ACT OF 1934.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended—

(A) in section 223 (47 U.S.C. 223)—

(i) in subsection (a)(1)—

(I) in subparagraph (A), in the undesignated matter following clause (ii), by striking “child pornography” and inserting “which constitutes child sexual abuse material”; and

(II) in subparagraph (B), in the undesignated matter following clause (ii), by striking “child pornography” and inserting “which constitutes child sexual abuse material”; and

(ii) in subsection (d)(1), in the undesignated matter following subparagraph (B), by striking “child pornography” and inserting “that constitutes child sexual abuse material”; and

(B) in section 254(h) (47 U.S.C. 254(h))—

(i) in paragraph (5)—

(I) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in subparagraph (C)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(ii) in paragraph (6)—

(I) in subparagraph (B)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(II) in subparagraph (C)(i)(II), by striking “child pornography” and inserting “child sexual abuse material”; and

(iii) in paragraph (7)(F)—

(I) in the subparagraph heading, by striking “CHILD PORNOGRAPHY” and inserting “CHILD SEXUAL ABUSE MATERIAL”; and

(II) by striking “child pornography” and inserting “child sexual abuse material”.

(C) TABLE OF SECTIONS AMENDMENTS.—

(1) CHAPTER 110 OF TITLE 18.—The table of sections for chapter 110 of title 18, United States Code, is amended—

(A) by striking the item relating to section 2252A and inserting the following:

“2252A. Certain activities relating to child sexual abuse material.”;

(B) by striking the item relating to section 2258B and inserting the following:

“2258B. Limited liability for the reporting, storage, and handling of apparent child sexual abuse material to the National Center for Missing & Exploited Children.”;

(C) by striking the item relating to section 2258C and inserting the following:

“2258C. Use of technical elements from reports made to the CyberTipline to combat child sexual abuse material.”;

(D) by striking the item relating to section 2259A and inserting the following:

“2259A. Assessments in cases involving child sexual abuse material.”;

and

(E) by striking the item relating to section 2259B and inserting the following:

“2259B. Reserve for victims of child sexual abuse material.”.

(2) CHAPTER 117 OF TITLE 18.—The table of sections for chapter 117 of title 18, United States Code, is amended by striking the item relating to section 2427 and inserting the following:

“2427. Inclusion of offenses relating to child sexual abuse material in definition of sexual activity for which any person can be charged with a criminal offense.”.

(d) AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall amend the Federal sentencing guidelines, including application notes, to replace the terms “child pornography” and “child pornographic material” with “child sexual abuse material”.

(e) EFFECTIVE DATE.—The amendments made by this section to title 18 of the United States Code shall apply to conduct that occurred before, on, or after the date of enactment of this Act.

SEC. 1408. 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 title and the amendments made by this title, and the application of the provision or amendment to any other person or circumstance, shall not be affected.

SEC. 1409. CONTINUED APPLICABILITY OF FEDERAL, STATE, AND TRIBAL LAW.

(a) FEDERAL LAW.—Nothing in this title or the amendments made by this title, nor any rule or regulation issued pursuant to this title or the amendments made by this title, shall affect or diminish any right or remedy for a victim of child sexual abuse material or child sexual exploitation under any other Federal law, rule, or regulation, including any claim under section 2255 of title 18, United States Code, with respect to any individual or entity.

(b) STATE OR TRIBAL LAW.—Nothing in this title or the amendments made by this title, nor any rule or regulation issued pursuant to this title or the amendments made by this title, shall—

(1) preempt, diminish, or supplant any right or remedy for a victim of child sexual abuse material or child sexual exploitation under any State or Tribal common or statutory law; or

(2) prohibit the enforcement of a law governing child sexual abuse material or child sexual exploitation that is at least as protective of the rights of a victim as this title and the amendments made by this title.

SA 2012. Mr. CORNYN (for himself and Mr. KING) submitted an amend-

ment intended to be proposed to amendment SA 1911 proposed by Ms. CANTWELL (for herself, Mr. CRUZ, Ms. DUCKWORTH, and Mr. MORAN) to the bill H.R. 3935, to amend title 49, United States Code, to reauthorize and improve the Federal Aviation Administration and other civil aviation programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TERMINATION OF TAX-EXEMPT STATUS OF TERRORIST SUPPORTING ORGANIZATIONS.

(a) IN GENERAL.—Section 501(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(8) APPLICATION TO TERRORIST SUPPORTING ORGANIZATIONS.—

“(A) IN GENERAL.—For purposes of this subsection, in the case of any terrorist supporting organization—

“(i) such organization (and the designation of such organization under subparagraph (B)) shall be treated as described in paragraph (2), and

“(ii) the period of suspension described in paragraph (3) with respect to such organization shall be treated as beginning on the date that the Secretary designates such organization under subparagraph (B) and ending on the date that the Secretary rescinds such designation under subparagraph (D).

“(B) TERRORIST SUPPORTING ORGANIZATION.—For purposes of this paragraph, the term ‘terrorist supporting organization’ means any organization which is designated by the Secretary as having provided, during the 3-year period ending on the date of such designation, material support or resources (within the meaning of section 2339B of title 18, United States Code) to an organization described in paragraph (2) (determined after the application of this paragraph to such organization) in excess of a de minimis amount.

“(C) DESIGNATION PROCEDURE.—

“(i) NOTICE REQUIREMENT.—Prior to designating any organization as a terrorist supporting organization under subparagraph (B), the Secretary shall mail to the most recent mailing address provided by such organization on the organization’s annual return or notice under section 6033 (or subsequent form indicating a change of address) a written notice which includes—

“(I) a statement that the Secretary will designate such organization as a terrorist supporting organization unless the organization satisfies the requirements of subclause (I) or (II) of clause (ii),

“(II) the name of the organization or organizations with respect to which the Secretary has determined such organization provided material support or sources as described in subparagraph (B), and

“(III) a description of such material support or resources to the extent consistent with national security and law enforcement interests.

“(ii) OPPORTUNITY TO CURE.—In the case of any notice provided to an organization under clause (i), the Secretary shall, at the close of the 90-day period beginning on the date that such notice was sent, designate such organization as a terrorist supporting organization under subparagraph (B) if (and only if) such organization has not (during such period)—

“(I) demonstrated to the satisfaction of the Secretary that such organization did not provide the material support or resources referred to in subparagraph (B), or