

SEXUAL EXPLOITATION OF CHILDREN FEDERAL STATUTE SUMMARY



project safe childhood



DEPARTMENT
OF JUSTICE

CHILD EXPLOITATION
& OBSCENITY SECTION

THE FEDERAL OFFENSE			SENTENCING 1 ST TIME OFFENDERS		
<i>Statute</i>	<i>Title</i>	<i>Proscribed Conduct</i>	<i>Pre-Protect Act (4/30/03)</i>	<i>Post-Protect Act (4/30/03)</i>	<i>Post-Adam Walsh Act (7/27/06)</i>
18 U.S.C. § 2250	Failure to Register as Sex Offender	Penalizes those who are required to register based on a federal conviction, and those who are required to register based on other convictions and who travel in interstate or foreign commerce or enter/leave/reside in Indian country, and fail to register. It also provides an additional penalty for those who are required to register, fail to do so, and commit a crime of violence.			Up to 10 years imprisonment for failure to register; if the defendant fails to register and commits a crime of violence, 5 year mandatory minimum up to 30 years in addition and consecutive to any penalty for failure to register.
18 U.S.C. § 2251	Sexual Exploitation of	(a) Production of CP ; live transmission of images; travel to facilitate production;	Mandatory 10 years to 20 year max	Mandatory 15 years to 30 year	Added mandatory 30 years if child dies during

	Children	<p>(b) caretaker permitting production of CP;</p> <p>(c)(1) extraterritorial production of CP that is transported or intended to be transported to US (added by Protect Act)</p> <p>(d)(1) establishes federal jurisdiction for the transmission or transportation of images using any facility or means or interstate or foreign commerce, or where the crime was in or affecting interstate or foreign commerce (added by the Effective Child Pornography Prosecution Act)</p> <p>(2) advertising</p> <p>(e) attempt or conspiracy</p>		max	<p>commission of the offense;</p> <p>expanded list of offenses which are qualifying convictions for enhanced penalties, including section 1591 offenses and state sex trafficking of children and CP offenses.</p>
18 U.S.C. § 2251A	Selling or Buying of Children	<p>(a) Caretaker with custody and control of minor, selling or transferring custody, (or offering) (1) with knowledge child will be used to produce visual depictions of minors engaged in sexually explicit conduct or (2) with intent to promote minor used in production of CP or minor assisting another to engage in production;</p> <p>(b) Purchasing or obtaining custody (or offering) for producing visual depictions of minors engaged in sexually explicit conduct or (2) with intent to promote minor used in production of CP or minor assisting another to engage in production.</p> <p>(When either actor traveled/transported in interstate/foreign commerce, or any</p>	Mandatory 20 years to maximum of life	Mandatory 30 years to maximum of life	unchanged

		offer was communicated/transported in interstate/foreign commerce by any means including computer & mail or in any territory/possession of the US).			
18 U.S.C. § 2252	Certain Activities Relating to Material Involving the Sexual Exploitation of Minors	(a)(1), (2) The interstate (or foreign) transportation, shipping, mailing, distribution and receipt of visual depictions of minors engaged in sexually explicit conduct.	Not more than 15 years	Mandatory 5 years to maximum 20 years	Added an expanded list of offenses which are qualifying convictions for enhanced penalties, including section 1591 offenses and state child sex-trafficking offenses.
		(3)(A), (B) Knowingly sells or possesses with intent to sell any visual depiction of minors engaged in sexually explicit conduct (either in special maritime/territorial jurisdiction, on any land owned/leased or under control of USG or the depiction has traveled in interstate or foreign commerce or was produced using materials which have been so transported including by computer).			
		(b)(1) attempts or conspires to commit (a)(1), (2), (3).			
		(4)(A), (B) Possession of, or access with intent to view, visual depictions of minors engaged in sexually explicit conduct (either in special maritime/territorial jurisdiction, on any land owned/leased or under control of USG or the depiction has traveled in interstate or foreign commerce or was produced using materials which have been so	Not more than 5 years	Not more than 10 years	unchanged

		transported including by computer). (b)(2) attempt or conspires to commit.			
18 U.S.C. § 2252A	Certain Activities Relating to Material Constituting or Containing CP	(a)(1), (2) The interstate (or foreign) transportation, shipping, mailing, distribution and receipt of CP (b)(1) attempts or conspires.	Not more than 15 years	Mandatory 5 years to maximum 20 years	Added an expanded list of offenses which are qualifying convictions for enhanced penalties, including section 1591 offenses and state child sex-trafficking offenses.
		(a)(3) Knowingly reproduces any CP for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; (b)(1) attempts or conspires.	Not more than 15 years	Mandatory 5 years to maximum 20 years	unchanged
		(a)(3)(B) Pandering: Knowingly advertises, promotes, presents, distributes, or solicits through the mails, or in interstate/foreign commerce by any means, including computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that is contains (i) an obscene visual depiction of a minor engaging in sexually explicit conduct or (ii) a visual depiction of a minor engaging in sexually explicit conduct; (b)(1) attempts or conspires.		Mandatory 5 years to maximum 20 years	unchanged

<p>(a)(4)(A), (B) Knowingly sells or possesses with intent to sell CP (either in special maritime/territorial jurisdiction, on any land owned/leased or under control of USG or the depiction has traveled in interstate or foreign commerce or was produced using materials which have been so transported including by computer); (b)(1) attempts or conspires.</p>	<p>Not more than 15 years</p>	<p>Mandatory 5 years to maximum 20 years</p>	<p>unchanged</p>
<p>(a)(5)(A), (B) Possession of CP, or access with intent to view (either in special maritime/territorial jurisdiction, on any land owned/leased or under control of USG or the depiction has traveled in interstate or foreign commerce or was produced using materials which have been so transported including by computer); (b)(2) attempts or conspires.</p>	<p>Not more than 5 years</p>	<p>Not more than 10 years</p>	<p>unchanged</p>
<p>(a)(6)(A), (B), (C) Knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct (with interstate nexus); (b)(1) attempts or conspires</p>		<p>Mandatory 5 years to 20 years</p>	<p>Unchanged</p>

		(a)(7) Morphed images ; knowingly producing with intent to distribute, or distributes, by any means, including a computer, in or affecting interstate or foreign commerce, CP that is an adapted or modified depiction of an identifiable minor.			Fined and/or imprisoned, not more than 15 years
18 U.S.C. § 2252A(g)	Child Exploitation Enterprise	Violating § 1591, § 1201 (if the victim is a minor), chapter 109A (if the victim is a minor), chapter 110 (except §§ 2257 and 2257A), or chapter 117 (if the victim is a minor) as part of a series of violations involving three or more separate incidents and more than one victim, and involving three or more other offenders.			Mandatory 20 years up to life in prison
18 U.S.C. § 2252B	Misleading Domain Names on the Internet	(a) Knowingly using a misleading domain name on Internet to deceive person into viewing obscenity.		Not more than 2 years	unchanged
		(b) Knowingly using a misleading domain name on Internet to deceive a minor into viewing material that is harmful to minors.		Not more than 4 years	Not more than 10 years
18 U.S.C. § 2252C	Misleading Words or Images on the Internet	Knowingly embedding words or images into the source code of a website with the intent to deceive a person into viewing obscenity, or to deceive a minor into viewing material harmful to minors			Deceiving a person into viewing obscenity: up to 10 years imprisonment; Deceiving a minor into viewing material

					harmful to minors: up to 20 years imprisonment
18 U.S.C. § 2260A	Increased Penalties for Registered Sex Offenders	Additional term of imprisonment for registered sex offenders who commit a qualifying offense, which are violations of §§ 1201 involving a minor, 1466A, 1470, 1591, 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425).			10 years in addition and consecutive to the punishment for the qualifying offense
18 U.S.C. § 2422	Coercion and Enticement	(a) Knowingly persuades, induces . . . any individual to travel in interstate or foreign commerce for purposes of prostitution or any illegal sexual activity. Includes attempt.	Not more than 10 years	Not more than 20 years	unchanged
		(b) By use of mail or any means of interstate or foreign commerce (or special maritime/territorial jurisdiction) knowingly persuades, induces . . . a minor to engage in prostitution or any illegal sexual activity. Includes attempt.	Not more than 15 years	Mandatory 5 years to maximum 30 years	Mandatory 10 years up to life imprisonment
18 U.S.C. § 2423	Transportation of Minors	(a) Knowingly transports a minor in interstate or foreign commerce (or in any territory/possession of US) with intent that minor engage in prostitution or any illegal sexual activity; (e) attempts and conspires	Not more than 15 years	Mandatory 5 years to maximum 30 years	Mandatory 10 years up to life imprisonment
		(b) <i>Pre-Protect Act</i> : Interstate or foreign travel to minor to engage in	Not more than 15 years	Section replaced with new	unchanged

		illegal sex act as defined by 2246 or Chapter 109A; (e) attempts and conspires		subsection (b)	
		(b) <i>Post-Protect Act</i> : Interstate or Foreign travel to minor for purposes of engaging in any illicit sexual conduct ; (e) attempts and conspires		Not more than 30 years; added by Protect Act	unchanged
		(c) <i>Post-Protect Act</i> : Any US citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct with another person; (e) attempts and conspires			
		(d) <i>Post-Protect Act</i> : Whoever for purposes of commercial/private financial gain arranges, induces, procures or facilitates the travel of a person knowing that such a person is traveling in interstate/foreign commerce for purpose of engaging in illicit sexual conduct; (e) attempt and conspires			
18 U.S.C. § 1591	Sex Trafficking of Children or by force, fraud or coercion	In or affecting interstate commerce knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person or benefits financially or by receiving anything of value from participation in a venture described above knowing that force, fraud, or coercion . . . will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18	If force, fraud, or coercion was used or if the victim is < 14, any term of years or for life; if victim is between 14 and 18, not more than 20 years	Unchanged if victim is between 14 and 18, not more than 40 years	If force, fraud, or coercion was used or if the victim is < 14, mandatory 15 years up to life; if victim is between 14 and 18, mandatory 10 years up to

		years and will be caused to engage in a commercial sex act . . .			life
18 U.S.C. § 3559 (f)	Mandatory Minimum Terms of Imprisonment for Violent Crimes Against Children	Any person convicted of a crime of violence against a person who is under 18 will be sentenced according to these guidelines unless a greater mandatory minimum is provided by the statute.			(1) Mandatory 30 years if the crime results in death, (2) Mandatory 25 years for a crime under kidnapping, under §1201 or maiming, under § 114, (3) mandatory 10 years for a crime resulting in serious bodily injury or use of a dangerous weapon.
18 U.S.C. § 3283	Statute of Limitations for Offenses Against Children	No statute of limitations during the life of the child or for 10 years after the offense, whichever is longer.			Effective Jan. 5, 2006
18 U.S.C. § 3299	Statute of Limitations for Child Abduction and Sex Offenses	No statute of limitations for an offense under §1201 (involving a minor) and a felony under chapter 109A, 110 (except for §§ 2257 and 2257A), 117, or § 1591.			Effective July 27, 2006

18 U.S.C. § 3563(a) (8)	Mandatory Conditions of Probation	Compliance with the requirements of the Sex Offender Registration and Notification Act shall be provided as an explicit condition of probation.			Effective July 27, 2006
18 U.S.C. § 3583(d)	Inclusion of a term of supervised release after imprisonment	Compliance with the requirements of the Sex Offender Registration and Notification Act shall be provided as an explicit condition of supervised release for persons required to register.			Effective July 27, 2006
18 U.S.C. § 3583(k)	Inclusion of a term of supervised release after imprisonment	If convicted of certain child exploitation crimes, defendant is subject to mandatory five year term and up to life term of supervised release.			Effective July 27, 2006
18 U.S.C. § 3509(m)	Prohibition on reproduction of CP	CP at issue shall remain in the care, custody, and control of the Government or the court. The Defense will not be allowed to copy, photograph, or duplicate any material that constitutes CP so long as it is made reasonably available to the defendant. The material will be considered "reasonable available" if the defendant, his or her attorney, or an individual the defendant may qualify as an expert, is given ample opportunity for inspection, viewing, and examination at a Government facility.			Effective July 27, 2006