

# NDAA VOYEURISM COMPILATION

(Last updated July 2010)

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## **ALABAMA**

### **Ala. Code § 13A-7-2 (2010). CRIMINAL TRESPASS; FIRST DEGREE.**

(a) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a dwelling.

(b) Criminal trespass in the first degree is a Class A misdemeanor.

### **Ala. Code § 13A-7-3 (2010). CRIMINAL TRESPASS; SECOND DEGREE.**

(a) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in a building or upon real property which is fenced or enclosed in a manner designed to exclude intruders.

(b) Criminal trespass in the second degree is a Class C misdemeanor.

### **Ala. Code § 13A-7-4 (2010). CRIMINAL TRESPASS; THIRD DEGREE.**

(a) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.

(b) Criminal trespass in the third degree is a violation.

## **ALASKA**

### **Alaska Stat. § 11.61.123 (2010). INDECENT VIEWING OR PHOTOGRAPHY.**

(a) A person commits the crime of indecent viewing or photography if, in the state, the person knowingly views, or produces a picture of, the private exposure of the genitals, anus, or female breast of another person and the view or production is without the knowledge or consent of

(1) the parent or guardian of the person viewed, or who is shown in the picture, if the person who is viewed or shown is under 16 years of age; and

(2) the person viewed or shown in the picture, if the person viewed or shown is at least 13 years of age.

(b) Each viewing of a person, and each production of a picture of a person, whose genitals, anus, or female breast are viewed or are shown in a picture constitutes a separate violation of this section.

(c) This section does not apply to viewing or photography conducted by a law enforcement agency for a law enforcement purpose.

(d) In a prosecution under this section, it is an affirmative defense that the viewing or photography was conducted as a security surveillance system, notice of the viewing or photography was posted, and any viewing or use of pictures produced is done only in the interest of crime prevention or prosecution.

(e) In this section,

(1) "picture" means a film, photograph, negative, slide, book, newspaper, or magazine, whether in print, electronic, magnetic, or digital format; and

(2) "private exposure" means that a person has exposed the person's body or part of the body in a place, and under circumstances, that the person reasonably believed would not result in the person's body or body parts being (A) viewed by the defendant; or (B) produced in a picture; "private exposure" does not include the exposure of a person's body or body parts in a law enforcement facility, correctional facility, designated treatment facility, or a juvenile detention facility; in this paragraph, "correctional facility" has the meaning given in AS 33.30.901, "designated treatment facility" has the meaning given in AS 47.30.915, and "juvenile detention facility" has the meaning given in AS 47.12.990.

(f) Indecent viewing or photography is a

(1) class C felony if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, a minor;

(2) class A misdemeanor if the person viewed or shown in a picture was, at the time of the viewing or production of the picture, an adult.

## **ARIZONA**

### **Ariz. Rev. Stat. § 13-1424 (2010). VOYEURISM; CLASSIFICATION.**

A. It is unlawful to knowingly invade the privacy of another person without the knowledge of the other person for the purpose of sexual stimulation.

B. It is unlawful for a person to disclose, display, distribute or publish a photograph, videotape, film or digital recording that is made in violation of subsection A of this section without the consent or knowledge of the person depicted.

C. For the purposes of this section, a person's privacy is invaded if both of the following apply:

1. The person has a reasonable expectation that the person will not be photographed, videotaped, filmed, digitally recorded or otherwise viewed or recorded.

2. The person is photographed, videotaped, filmed, digitally recorded or otherwise viewed, with or without a device, either:

(a) While the person is in a state of undress or partial dress.

(b) While the person is engaged in sexual intercourse or sexual contact.

(c) While the person is urinating or defecating.

(d) In a manner that directly or indirectly captures or allows the viewing of the person's genitalia, buttock or female breast, whether clothed or unclothed, that is not otherwise visible to the public.

D. This section does not apply to any of the following:

1. Photographing, videotaping, filming or digitally recording for security purposes if notice of the use of the photographing, videotaping, filming or digital recording equipment is clearly posted in the location and the location is one in which the person has a reasonable expectation of privacy.

2. Photographing, videotaping, filming or digitally recording by correctional officials for security reasons or in connection with the investigation of alleged misconduct of persons on the premises of a jail or prison.

3. Photographing, videotaping, filming or digitally recording by law enforcement officers pursuant to an investigation, which is otherwise lawful.

4. The use of a child monitoring device as defined in section 13-3001.

E. A violation of subsection A or B of this section is a class 5 felony, except that a violation of subsection B of this section is a class 4 felony if the person depicted is recognizable.

## **ARKANSAS**

### **Ark. Code Ann. § 5-16-101 (2010). CRIME OF VIDEO VOYEURISM.**

(a) It is unlawful to use any camera, videotape, photo-optical, photoelectric, or any other image recording device for the purpose of secretly observing, viewing, photographing, filming, or videotaping a person present in a residence, place of business, school, or other structure, or any room or particular location within that structure, if that person:

(1) Is in a private area out of public view;

(2) Has a reasonable expectation of privacy; and

(3) Has not consented to the observation.



(b) It is unlawful to knowingly use a camcorder, motion picture camera, photographic camera of any type, or other equipment that is concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or view by electronic means a person:

(1) For the purpose of viewing any portion of the person's body that is covered with clothing and for which the person has a reasonable expectation of privacy;

(2) Without the knowledge or consent of the person being videotaped, filmed, photographed, recorded, or viewed by electronic means; and

(3) Under circumstances in which the person being videotaped, filmed, photographed, recorded, or viewed by electronic means has a reasonable expectation of privacy.

(c) (1) A violation of subsection (a) of this section is a Class D felony.

(2) (A) A violation of subsection (b) of this section is a Class B misdemeanor.

(B) However, a violation of subsection (b) of this section is a Class A misdemeanor if:

(i) The person who created the video recording, film, or photo obtained as described in subsection (b) distributed or transmitted it to another person; or

(ii) The person who created the video recording, film, or photo obtained as described in subsection (b) posted it in a format accessible by another person via the Internet.

(d) The provisions of this section do not apply to any of the following:

(1) Video recording or monitoring conducted under a court order from a court of competent jurisdiction;

(2) Security monitoring operated by or at the direction of an occupant of a residence;

(3) Security monitoring operated by or at the direction of the owner or administrator of a place of business, school, or other structure;

(4) Security monitoring operated in a motor vehicle used for public transit;

(5) Security monitoring and observation associated with a correctional facility, regardless of the location of the monitoring equipment;

(6) Video recording or monitoring conducted by a law enforcement officer within the official scope of his or her duty; or

(7) Videotaping under § 12-18-615(b).

### **Ark. Code Ann. § 5-16-102 (2010). VOYEURISM.**

(a) As used in this section:

(1) "Nude or partially nude" means any person who has less than a fully opaque covering over the genitals, pubic area, buttocks, or breast of a female;

(2) "Private place" means a place where a person may reasonably expect to be safe from being observed without his or her knowledge and consent; and

(3) "Public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility where a good, service, facility, privilege, advantage, or accommodation is offered, sold, or otherwise made available to the public.

(b) A person commits the offense of voyeurism if for the purpose of sexual arousal or gratification, he or she knowingly:

(1) Without the consent of each person who is present in the private place, looks into a private place that is, or is part of, a public accommodation and in which a person may reasonably be expected to be nude or partially nude; or

(2) Enters another person's private property without the other person's consent and looks into any person's dwelling unit if all of the following apply:

(A) The person looks into the dwelling with the intent to intrude upon or interfere with a person's privacy;

(B) The person looks into a part of the dwelling in which an individual is present;

(C) The individual present has a reasonable expectation of privacy in that part of the dwelling; and

(D) The individual present does not consent to the person's looking into that part of the dwelling.

(c) (1) Except as provided in subdivision (c)(2) of this section, a violation of this section is a Class A misdemeanor.

(2) A violation of this section is a Class D felony if:

(A) A victim is under seventeen (17) years of age; and

(B) The person who commits the offense holds a position of trust or authority over the victim.

## **CALIFORNIA**

### **Cal. Penal Code § 647 (2010). DISORDERLY CONDUCT; RESTRICTIONS ON PROBATION.**

Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) When a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant.

(j)

(1) Any person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, or camcorder, the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside. This subdivision shall not apply to those areas of a private business used to count currency or other negotiable instruments.

(2) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(3)

(A) Any person who uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person.

(B) Neither of the following is a defense to the crime specified in this paragraph:

(i) The defendant was a cohabitant, landlord, tenant, cotenant, employer, employee, or business partner or associate of the victim, or an agent of any of these.

(ii) The victim was not in a state of full or partial undress.

(k) In any accusatory pleading charging a violation of subdivision (b), if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading. If the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work

release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each of these previous convictions shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

## **COLORADO**

### **Colo. Rev. Stat. § 18-3-404 (2009). UNLAWFUL SEXUAL CONTACT.**

(1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

(a) The actor knows that the victim does not consent; or

(b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

(c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or

(d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or

(e) Repealed.

(f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or

(g) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

(1.7) [Repealed].

(2) (a) Unlawful sexual contact is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501 (3).

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), unlawful sexual contact is a class 4 felony if the actor compels the victim to submit by use of such force, intimidation, or threat as specified in section 18-3-402 (4) (a), (4) (b), or (4) (c) or if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section.

(3) If a defendant is convicted of the class 4 felony of unlawful sexual contact pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406; except that this subsection (3) shall not apply if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section.

### **Colo. Rev. Stat. § 18-7-801 (2009). CRIMINAL INVASION OF PRIVACY.**

(1) A person who knowingly OBSERVES OR takes a photograph of another person's intimate parts, as defined in section 18-3-401 (2), without that person's consent, in a situation where the person OBSERVED OR photographed has a reasonable expectation of privacy, commits criminal invasion of privacy.

(2) Criminal invasion of privacy is a class 2 misdemeanor.

(3) For the purposes of this section, "photograph" includes a photograph, motion picture, videotape, LIVE FEED, print, negative, slide, or other mechanically, electronically, digitally, or chemically reproduced visual material.

## **CONNECTICUT**

### **Conn. Gen. Stat. § 53a-189a (2010). VOYEURISM: CLASS D FELONY.**

(a) A person is guilty of voyeurism when, (1) with malice, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy, or (2) with intent to arouse or satisfy the sexual desire of such person or any other person, such person knowingly photographs, films, videotapes or otherwise records the image of another person (A) without the knowledge and consent of such other person, (B) while such other person is not in plain view, and (C) under circumstances where such other person has a reasonable expectation of privacy.

(b) Voyeurism is a class D felony.

### **Conn. Gen. Stat. § 53a-189b (2010). DISSEMINATING VOYEURISTIC MATERIAL: CLASS D FELONY.**

(a) A person is guilty of disseminating voyeuristic material when such person disseminates a photograph, film, videotape or other recorded image of another person without the consent of such other person and knowing that such photograph, film, videotape or image was taken, made or recorded in violation of section 53a-189a.

(b) Disseminating voyeuristic material is a class D felony.

## **DELAWARE**

### **Del. Code Ann. tit. 11, § 820 (2010). TRESPASSING WITH INTENT TO PEER OR PEEP INTO A WINDOW OR DOOR OF ANOTHER; CLASS B MISDEMEANOR.**

A person is guilty of trespassing with intent to peer or peep into a window or door of another when the person knowingly enters upon the occupied property or premises of another utilized as a dwelling, with intent to peer or peep into the window or door of such property or premises and who, while on such property or premises, otherwise acts in a manner commonly referred to as "Peeping Tom." Any person violating this section may be referred by the court to the Delaware Psychiatric Center for examination and for treatment. Justices of the peace shall have concurrent jurisdiction of violations of this section.

Trespassing with intent to peer or peep into a window or door of another is a class B misdemeanor.

## **DISTRICT OF COLUMBIA**

### **D.C. CODE § 22-1321 (2010). DISORDERLY CONDUCT [FORMERLY § 22-1121].**

Whoever, with intent to provoke a breach of the peace, or under circumstances such that a breach of the peace may be occasioned thereby: (1) acts in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to others; (2) congregates with others on a public street and refuses to move on when ordered by the police; (3) shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any considerable number of persons; (4) interferes with any person in any place by jostling against such person or unnecessarily crowding such person or by placing a hand in the proximity of such person's pocketbook, or handbag; or (5) causes a disturbance in any streetcar, railroad car, omnibus, or other public conveyance, by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees, shall be fined not more than \$ 250 or imprisoned not more than 90 days, or both.

### **D.C. CODE § 22-3531 (2010). DEFINITIONS; PROHIBITED "PEEPING TOM" ACTIVITIES; PERMITTED SURVEILLANCE ACTIVITIES; ENFORCEMENT AND PENALTY.**

(a) For the purposes of this section, the term:

(1) "Electronic device" means any electronic, mechanical, or digital equipment that captures visual or aural images, including cameras, computers, tape recorders, video recorders, and cellular telephones.

(2) "Private area" means the naked or undergarment-clad genitals, pubic area, anus, or buttocks, or female breast below the top of the areola.

(b) Except as provided in subsection (e) of this section, it is unlawful for any person to occupy a hidden observation post or to install or maintain a peephole, mirror, or any electronic device for the purpose of secretly or surreptitiously observing an individual who is:

(1) Using a bathroom or rest room;

(2) Totally or partially undressed or changing clothes; or

(3) Engaging in sexual activity.

(c) (1) Except as provided in subsection (e) of this section, it is unlawful for a person to electronically record, without the express and informed consent of the individual being recorded, an individual who is:

(A) Using a bathroom or rest room;

(B) Totally or partially undressed or changing clothes; or



(C) Engaging in sexual activity.

(2) Express and informed consent is only required when the individual engaged in these activities has a reasonable expectation of privacy.

(d) Except as provided in subsection (e) of this section, it is unlawful for a person to intentionally capture an image of a private area of an individual, under circumstances in which the individual has a reasonable expectation of privacy, without the individual's express and informed consent.

(e) This section does not prohibit the following:

(1) Any lawful law enforcement, correctional, or intelligence observation or surveillance;

(2) Security monitoring in one's own home;

(3) Security monitoring in any building where there are signs prominently displayed informing persons that the entire premises or designated portions of the premises are under surveillance; or

(4) Any electronic recording of a medical procedure which is conducted under circumstances where the patient is unable to give consent.

(f) (1) A person who violates subsection (b), (c), or (d) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$ 1,000 or imprisoned for not more than 1 year, or both.

(2) A person who distributes or disseminates, or attempts to distribute or disseminate, directly or indirectly, by any means, a photograph, film, videotape, audiotape, compact disc, digital video disc, or any other image or series of images or sounds or series of sounds that the person knows or has reason to know were taken in violation of subsection (b), (c), or (d) of this section is guilty of a felony and, upon conviction, shall be fined not more than \$ 5,000 or imprisoned for not more than 5 years, or both.

(g) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute a violation of subsection (b), (c), or (d) of this section for which the penalty is set forth in subsection (f)(1) of this section.

## **FLORIDA**

### **Fla. Stat. Ann. § 810.14 (2010). VOYEURISM PROHIBITED; PENALTIES.**

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent, secretly observes another person when the other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.

(2) A person who violates this section commits a misdemeanor of the first degree for the first violation, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who violates this section and who has been previously convicted or adjudicated delinquent two or more times of any violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For purposes of this section, a person has been previously convicted or adjudicated delinquent of a violation of this section if the violation resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense.

**Fla. Stat. Ann. § 810.145 (2010). VIDEO VOYEURISM.**

(1) As used in this section, the term:

(a) "Broadcast" means electronically transmitting a visual image with the intent that it be viewed by another person.

(b) "Imaging device" means any mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting visual images of another person.

(c) "Place and time when a person has a reasonable expectation of privacy" means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person's undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a bathroom, changing room, fitting room, dressing room, or tanning booth.

(d) "Privately exposing the body" means exposing a sexual organ.

(2) A person commits the offense of video voyeurism if that person:

(a) For his or her own amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person, intentionally uses or installs an imaging device to secretly view, broadcast, or record a person, without that person's knowledge and consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy;

(b) For the amusement, entertainment, sexual arousal, gratification, or profit of another, or on behalf of another, intentionally permits the use or installation of an imaging device to secretly view, broadcast, or record a person, without that person's knowledge and consent, who is dressing, undressing, or privately exposing the body, at a place and time when that person has a reasonable expectation of privacy; or

(c) For the amusement, entertainment, sexual arousal, gratification, or profit of oneself or another, or on behalf of oneself or another, intentionally uses an imaging device to secretly view, broadcast, or record under or through the clothing being worn by another person, without that person's knowledge and consent, for the purpose of viewing the body of, or the undergarments worn by, that person.

(3) A person commits the offense of video voyeurism dissemination if that person, knowing or having reason to believe that an image was created in a manner described in this section,

intentionally disseminates, distributes, or transfers the image to another person for the purpose of amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.

(4) A person commits the offense of commercial video voyeurism dissemination if that person:

(a) Knowing or having reason to believe that an image was created in a manner described in this section, sells the image for consideration to another person; or

(b) Having created the image in a manner described in this section, disseminates, distributes, or transfers the image to another person for that person to sell the image to others.

(5) This section does not apply to any:

(a) Law enforcement agency conducting surveillance for a law enforcement purpose;

(b) Security system when a written notice is conspicuously posted on the premises stating that a video surveillance system has been installed for the purpose of security for the premises;

(c) Video surveillance device that is installed in such a manner that the presence of the device is clearly and immediately obvious; or

(d) Dissemination, distribution, or transfer of images subject to this section by a provider of an electronic communication service as defined in 18 U.S.C. s. 2510(15), or a provider of a remote computing service as defined in 18 U.S.C. s. 2711(2). For purposes of this section, the exceptions to the definition of "electronic communication" set forth in 18 U.S.C. s. 2510(12)(a), (b), (c), and (d) do not apply, but are included within the definition of the term.

(6) Except as provided in subsections (7) and (8), a person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) A person who violates this section and who has previously been convicted of or adjudicated delinquent for any violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) (a) A person who is:

1. Eighteen years of age or older who is responsible for the welfare of a child younger than 16 years of age, regardless of whether the person knows or has reason to know the age of the child, and who commits an offense under this section against that child;

2. Eighteen years of age or older who is employed at a private school as defined in s. 1002.01; a school as defined in s. 1003.01; or a voluntary prekindergarten education program as described in s. 1002.53(3)(a), (b), or (c) and who commits an offense under this section against a student of the private school, school, or voluntary prekindergarten education program; or

3. Twenty-four years of age or older who commits an offense under this section against a child younger than 16 years of age, regardless of whether the person knows or has reason to know the age of the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who violates this subsection and who has previously been convicted of or adjudicated delinquent for any violation of this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) For purposes of this section, a person has previously been convicted of or adjudicated delinquent for a violation of this section if the violation resulted in a conviction that was sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense.

## **GEORGIA**

### **Ga. Code Ann. § 16-11-61 (2010). PEEPING TOMS.**

(a) It shall be unlawful for any person to be a "peeping Tom" on or about the premises of another or to go about or upon the premises of another for the purpose of becoming a "peeping Tom."

(b) As used in this Code section, the term "peeping Tom" means a person who peeps through windows or doors, or other like places, on or about the premises of another for the purpose of spying upon or invading the privacy of the persons spied upon and the doing of any other acts of a similar nature which invade the privacy of such persons.

## **HAWAII**

### **Haw. Rev. Stat. Ann. § 711-1110.9 (2010). VIOLATION OF PRIVACY IN THE FIRST DEGREE.**

(1) A person commits the offense of violation of privacy in the first degree if, except in the execution of a public duty or as authorized by law, the person intentionally or knowingly installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity in that place.

(2) Violation of privacy in the first degree is a class C felony. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.

### **Haw. Rev. Stat. Ann. § 711-1111 (2010). VIOLATION OF PRIVACY IN THE SECOND DEGREE.**

(1) A person commits the offense of violation of privacy in the second degree if, except in the execution of a public duty or as authorized by law, the person intentionally:

(a) Trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place;

(b) Peers or peeps into a window or other opening of a dwelling or other structure adapted for sojourn or overnight accommodations for the purpose of spying on the occupant thereof or invading the privacy of another person with a lewd or unlawful purpose, under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed;

(c) Trespasses on property for the sexual gratification of the actor;

(d) Installs or uses, or both, in any private place, without consent of the person or persons entitled to privacy therein, any means or device for observing, recording, amplifying, or broadcasting sounds or events in that place, including another person in a stage of undress or sexual activity;

(e) Installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein;

(f) Covertly records or broadcasts an image of another person's intimate area underneath clothing, by use of any device, and that image is taken while that person is in a public place and without that person's consent;

(g) Intercepts, without the consent of the sender or receiver, a message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately; but this paragraph does not apply to:

(i) Overhearing of messages through a regularly installed instrument on a telephone party line or an extension; or

(ii) Interception by the telephone company, electronic mail account provider, or telephone or electronic mail subscriber incident to enforcement of regulations limiting use of the facilities or incident to other operation and use;

(h) Divulges, without the consent of the sender or the receiver, the existence or contents of any message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately, if the accused knows that the message or photographic image was unlawfully intercepted or if the accused learned of the message or photographic image in the course of employment with an agency engaged in transmitting it; or

(i) Knowingly possesses materials created under circumstances prohibited in section 711-1110.9.

(2) This section shall not apply to any dissemination, distribution, or transfer of images subject to this section by an electronic communication service provider or remote storage service in the ordinary course of its business. For the purpose of this subsection:

"Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

"Electronic communication service provider" means any person engaged in the offering or sale of electronic communication services to the public.

"Remote storage service" means the provision to the public of computer storage or processing services by means of an electronic communication system.

"Electronic communication system" means any wire, radio, electromagnetic, photo-optical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications, including e-mail, web hosting, multimedia messaging services, and remote storage services offered by an electronic communication service provider.

(3) For the purposes of this section:

"Intimate areas" means any portion of a person's underwear, pubic area, anus, buttocks, vulva, genitals, or female breast.

"Intimate areas underneath clothing" does not include intimate areas visible through a person's clothing or intimate areas exposed in public.

"Public place" means an area generally open to the public, regardless of whether it is privately owned, and includes but is not limited to streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, buses, tunnels, buildings, stores, and restaurants.

(4) Violation of privacy in the second degree is a misdemeanor. In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this section.

## **IDAHO**

### **Idaho Code Ann. § 18-6609 (2010). CRIME OF VIDEO VOYEURISM.**

(1) As used in this section:

(a) "Broadcast" means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons.

(b) "Disseminate" means to make available by any means to any person.

(c) "Imaging device" means any instrument capable of recording, storing, viewing or transmitting visual images.

(d) "Intimate areas" means the buttocks, genitals or genital areas of males or females, and the breast area of females.

(e) "Person" means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof.

(f) "Place where a person has a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he could undress, be undressed or engage in sexual activity in privacy, without concern that he is being viewed, photographed, filmed or otherwise recorded by an imaging device; or

(ii) A place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or

(iii) Any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas.

(g) "Publish" means to:

(i) Disseminate with the intent that such image or images be made available by any means to any person; or

(ii) Disseminate with the intent that such images be sold by another person; or

(iii) Post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

(iv) Disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible by any means and to make such image or images available to the public.

(h) "Sell" means to disseminate to another person, or to publish, in exchange for something of value.

(2) A person is guilty of video voyeurism when, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other person:

(a) He uses, installs or permits the use or installation of an imaging device at a place where a person would have a reasonable expectation of privacy, without the knowledge or consent of the person using such place; or

(b) He intentionally disseminates, publishes or sells any image or images of the intimate areas of another person or persons without the consent of such other person or persons and with knowledge that such image or images were obtained with the intent set forth above.

(3) A violation of this section is a felony.

# **ILLINOIS**

## **720 Ill. Comp. Stat. 5/26-4 (2010). UNAUTHORIZED VIDEO RECORDING AND LIVE VIDEO TRANSMISSION.**

Sec. 26-4. Unauthorized video recording and live video transmission. (a) It is unlawful for any person to knowingly make a video record or transmit live video of another person without that person's consent in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom.

(a-5) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-6) It is unlawful for any person to knowingly make a video record or transmit live video of another person in that other person's residence without that person's consent when the recording or transmission is made outside that person's residence by use of an audio or video device that records or transmits from a remote location.

(a-10) It is unlawful for any person to knowingly make a video record or transmit live video of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

(a-15) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video in a restroom, tanning bed, tanning salon, locker room, changing room, or hotel bedroom with the intent to make a video record or transmit live video of another person without that person's consent.

(a-20) It is unlawful for any person to place or cause to be placed a device that makes a video record or transmits a live video with the intent to make a video record or transmit live video of another person in that other person's residence without that person's consent.

(a-25) It is unlawful for any person to, by any means, knowingly disseminate, or permit to be disseminated, a video record or live video that he or she knows to have been made or transmitted in violation of (a), (a-5), (a-6), (a-10), (a-15), or (a-20).

(b) Exemptions. The following activities shall be exempt from the provisions of this Section:

(1) The making of a video record or transmission of live video by law enforcement officers pursuant to a criminal investigation, which is otherwise lawful;

(2) The making of a video record or transmission of live video by correctional officials for security reasons or for investigation of alleged misconduct involving a person committed to the Department of Corrections.

(3) The making of a video record or transmission of live video in a locker room by a reporter or news medium, as those terms are defined in Section 8-902 of the Code of Civil Procedure [735 ILCS 5/8-902], where the reporter or news medium has been granted access to the locker room by an appropriate authority for the purpose of conducting interviews.



(c) The provisions of this Section do not apply to any sound recording or transmission of an oral conversation made as the result of the making of a video record or transmission of live video, and to which Article 14 of this Code [720 ILCS 5/14-1 et seq.] applies.

(d) Sentence.

(1) A violation of subsection (a-10), (a-15), or (a-20) is a Class A misdemeanor.

(2) A violation of subsection (a), (a-5), or (a-6) is a Class 4 felony.

(3) A violation of subsection (a-25) is a Class 3 felony.

(4) A violation of subsection (a), (a-5), (a-6), (a-10), (a-15) or (a-20) is a Class 3 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act [730 ILCS 150/1 et seq.].

(5) A violation of subsection (a-25) is a Class 2 felony if the victim is a person under 18 years of age or if the violation is committed by an individual who is required to register as a sex offender under the Sex Offender Registration Act.

(e) For purposes of this Section:

(1) "Residence" includes a rental dwelling, but does not include stairwells, corridors, laundry facilities, or additional areas in which the general public has access.

(2) "Video record" means and includes any videotape, photograph, film, or other electronic or digital recording of a still or moving visual image; and "live video" means and includes any real-time or contemporaneous electronic or digital transmission of a still or moving visual image.

### **720 Ill. Comp. Stat. 5/26-1 (2010). ELEMENTS OF THE OFFENSE.**

(a) A person commits disorderly conduct when he knowingly:

(1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(2) Transmits or causes to be transmitted in any manner to the fire department of any city, town, village or fire protection district a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(3) Transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place that its explosion or release would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in such place; or

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense will be committed, is being committed, or has been committed; or

(5) Enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(6) While acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(7) Transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the "Abused and Neglected Child Reporting Act"; or

(8) Transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act or the MR/DD Community Care Act; or

(9) Transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that such assistance is required; or

(10) Transmits or causes to be transmitted a false report under Article II of "An Act in relation to victims of violence and abuse", approved September 16, 1984, as amended; or

(11) Transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting such a report is necessary for the safety and welfare of the public; or

(12) Calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency; or

(13) Transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session.

(b) Sentence. A violation of subsection (a)(1) of this Section is a Class C misdemeanor. A violation of subsection (a)(5), (a)(11), or (a)(12) of this Section is a Class A misdemeanor. A violation of subsection (a)(8) or (a)(10) of this Section is a Class B misdemeanor. A violation of subsection (a)(2), (a)(4), (a)(7), (a)(9), or (a)(13) of this Section is a Class 4 felony. A violation of subsection (a)(3) of this Section is a Class 3 felony, for which a fine of not less than \$ 3,000 and no more than \$ 10,000 shall be assessed in addition to any other penalty imposed.

A violation of subsection (a)(6) of this Section is a Business Offense and shall be punished by a fine not to exceed \$ 3,000. A second or subsequent violation of subsection (a)(7), (a)(11), or (a)(12) of this Section is a Class 4 felony. A third or subsequent violation of subsection (a)(5) of this Section is a Class 4 felony.

(c) In addition to any other sentence that may be imposed, a court shall order any person convicted of disorderly conduct to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. In addition, whenever any person is placed on supervision for an alleged offense under this Section, the supervision shall be conditioned upon the performance of the community service.

This subsection does not apply when the court imposes a sentence of incarceration.

(d) In addition to any other sentence that may be imposed, the court shall order any person convicted of disorderly conduct under paragraph (3) of subsection (a) involving a false alarm of a threat that a bomb or explosive device has been placed in a school to reimburse the unit of government that employs the emergency response officer or officers that were dispatched to the school for the cost of the search for a bomb or explosive device. For the purposes of this Section, "emergency response" means any incident requiring a response by a police officer, a firefighter, a State Fire Marshal employee, or an ambulance.

(Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09; 96-772, eff. 1-1-10; revised 9-25-09.)

## **INDIANA**

### **Ind. Code Ann. § 35-45-4-5 (2010). VOYEURISM.**

(a) A person:

(1) who:

(A) peeps; or

(B) goes upon the land of another with the intent to peep;

into an occupied dwelling of another person; or

(2) who peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

(A) restrooms;

(B) baths;

(C) showers; and

(D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if:

(1) it is knowingly or intentionally committed by means of a camera, a video camera, or any other type of video recording device; or

(2) the person who commits the offense has a prior unrelated conviction:

(A) under this section; or

(B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(c) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.

## **IOWA**

### **Iowa Code § 709.21 (2010). INVASION OF PRIVACY -- NUDITY.**

1. A person who knowingly views, photographs, or films another person, for the purpose of arousing or gratifying the sexual desire of any person, commits invasion of privacy if all of the following apply:

a. The other person does not have knowledge about and does not consent or is unable to consent to being viewed, photographed, or filmed.

b. The other person is in a state of full or partial nudity.

c. The other person has a reasonable expectation of privacy while in a state of full or partial nudity.

2. As used in this section:

a. "Full or partial nudity" means the showing of any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of a female, with less than fully opaque covering.

b. "Photographs or films" means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person.

3. A person who violates this section commits a serious misdemeanor.

## **KANSAS**

### **Kan. Stat. Ann. § 21-4001 (2009). EAVESDROPPING.**

[REPEALED on and after July 1, 2011]

(a) Eavesdropping is knowingly and without lawful authority:

(1) Entering into a private place with intent to listen surreptitiously to private conversations or to observe the personal conduct of any other person or persons therein;

(2) installing or using outside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein;

(3) installing or using any device or equipment for the interception of any telephone, telegraph or other wire communication without the consent of the person in possession or control of the facilities for such wire communication; or

(4) installing or using a concealed camcorder, motion picture camera or photographic camera of any type, to secretly videotape, film, photograph or record by electronic means, another, identifiable person under or through the clothing being worn by that other person or another, identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

(b) A "private place" within the meaning of this section is a place where one may reasonably expect to be safe from uninvited intrusion or surveillance, but does not include a place to which the public has lawful access.

(c) It shall not be unlawful for an operator of a switchboard, or any officer, employee, or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility.

(d) Eavesdropping is a class A nonperson misdemeanor.

## **KENTUCKY**

### **Ky. Rev. Stat. Ann. § 531.090 (2010). VOYEURISM.**

(1) A person is guilty of voyeurism when:

(a) He or she intentionally:

1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; or

2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; or

3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, or nipple of the female breast of another person without the person's consent; and

(b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) A law enforcement officer during a lawful criminal investigation; or

(b) An employee of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility whose actions have been authorized for security or investigative purposes.

(3) Unless objected to by the victim or victims of voyeurism, the court on its own motion or on motion of the Commonwealth's attorney shall:

(a) Order the sealing of all photographs, film, videotapes, or other images that are introduced into evidence during a prosecution under this section or are in the possession of law enforcement, the prosecution, or the court as the result of a prosecution under this section; and

(b) At the conclusion of a prosecution under this section, unless required for additional prosecutions, order the destruction of all of the photographs, film, videotapes, or other images that are in possession of law enforcement, the prosecution, or the court.

(4) Voyeurism is a Class A misdemeanor.

### **Ky. Rev. Stat. Ann. § 531.100 (2010). VIDEO VOYEURISM.**

(1) A person is guilty of video voyeurism when he or she intentionally:

(a) Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; and

(b) Uses or divulges any image so obtained for consideration; or

(c) Distributes any image so obtained by live or recorded visual medium, electronic mail, the Internet, or a commercial on-line service.

(2) Video voyeurism is a Class D felony.

**Ky. Rev. Stat. Ann. § 531.110 (2010). SEALING AND DESTRUCTION OF IMAGES IN CASES OF VIDEO VOYEURISM.**

Unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on motion of the attorney for the Commonwealth shall:

(1) Order all photographs, film, videotapes, or other images that are introduced into evidence or are in the possession of law enforcement, the prosecution, or the court to be sealed; and

(2) At the conclusion of the case, unless required for additional prosecutions, order all of the photographs, film, videotapes, or other images that are in the possession of law enforcement, the prosecution, or the court to be destroyed.

**LOUISIANA**

**La. Rev. Stat. Ann. § 14:283.1 (2010). VOYEURISM: PENALTIES.**

A. Voyeurism is the viewing, observing, spying upon, or invading the privacy of a person by looking through the doors, windows, or other openings of a private residence without the consent of the victim who has a reasonable expectation of privacy for the purpose of arousing or gratifying the sexual desires of the offender.

B. (1) Whoever commits the crime of voyeurism, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

**La. Rev. Stat. Ann. § 14:283 (2010). VIDEO VOYEURISM; PENALTIES.**

A. Video voyeurism is:

(1) The use of any camera, videotape, photo-optical, photo-electric, or any other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the observing, viewing, photographing, filming, or videotaping and it is for a lewd or lascivious purpose; or

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

B. (1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever commits the crime of video voyeurism shall, upon a first conviction thereof, be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.

(4) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years without benefit of parole, probation, or suspension of sentence.

C. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

D. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

E. Any evidence resulting from the commission of video voyeurism shall be contraband.

F. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541(14.1). Whoever commits the crime of video voyeurism shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

**La. Rev. Stat. Ann. § 14:1845 (2010). PROTECTION OF PRIVACY OF A VICTIM WHEN EVIDENCE PERTAINS TO CHILD PORNOGRAPHY, VIDEO VOYEURISM, OR OBSCENITY.**

A. Notwithstanding any other law to the contrary, after the institution of prosecution under any statute listed in R.S. 46:1844(W)(2), or any other criminal law, the district attorney may file a motion for a contradictory hearing, with the defendant, to determine whether the court should issue an order to protect the privacy of the victim by limiting access to child pornography evidence, video voyeurism evidence, or involuntary obscenity evidence obtained in the



investigation of the offense. The victim may request the district attorney to file the motion. The court may order the hearing on its own motion.

B. For purposes of this Section:

(1) "Child pornography evidence" means evidence tending to prove pornography involving a juvenile as defined in R.S. 14:81.1.

(2) "Involuntary obscenity evidence" means any evidence tending to prove the conduct proscribed in R.S. 14:106(A)(2)(b) that is unlawfully possessed.

(3) "Stored data" means data, which although not a tangible visual depiction, may be used to render a tangible visual depiction through the use of an appropriate device or process. Stored data shall include but is not limited to digital or analog data stored on any of the following mediums: film, videotape, tape, hard disk, floppy disk, magnetic tape, electro-optical disk, CD, DVD, semiconductor memory, memory stick, Read-Only Memory, flash memory and any other form of physical, electric, magnetic, electromagnetic, optical or electro-optical media.

(4) "Video voyeurism evidence" means any evidence tending to prove video voyeurism as defined in R.S. 14:283.

(5) A "victim" is any person who appears in any evidence defined in Paragraph (1), (2), (3), or (4) of this Subsection.

C. At the hearing, the court shall inspect only tangible visual depictions, and any stored data which may be used to create a tangible visual depiction obtained during the investigation of the offense. The court may view the evidence in camera.

D. If the court finds probable cause that the evidence tends to prove child pornography, video voyeurism, or involuntary obscenity and that it is in the interest of justice to take action to protect the privacy of a victim, it shall issue an order to limit access to the evidence and copies thereof. The order shall remain in effect until modified or rescinded by a court of competent jurisdiction.

E. The court, upon motion of the district attorney, after a contradictory hearing with the defendant, may order the destruction of the evidence tending to prove child pornography, video voyeurism, or involuntary obscenity.

F. When making a ruling pursuant to the provisions of this Chapter, the court shall:

(1) Consider the legislative intent expressed in R.S. 46:1841.

(2) Balance the following interests:

(a) The right of government to exercise the police power to promote, protect, and preserve the general welfare, safety, health, peace, and good order of the public by proscribing criminal behavior and providing punishment therefor.

(b) The right of a person charged with a crime to have a fair, impartial, and public trial.

(c) The right of the public to know.

(d) The right of an individual to own private property and not be deprived thereof without due process.

(e) The right of a person to privacy.

(f) The freedom of speech rights of the media and the public.

## **MAINE**

### **ME. REV. STAT. ANN. TIT. 17-A, § 511 (2009). VIOLATION OF PRIVACY.**

1. A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, that person intentionally:

A. Commits a civil trespass on property with the intent to overhear or observe any person in a private place;

B. Installs or uses in a private place without the consent of the person or persons entitled to privacy in that place, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place;

C. Installs or uses outside a private place without the consent of the person or persons entitled to privacy therein, any device for hearing, recording, amplifying or broadcasting sounds originating in that place that would not ordinarily be audible or comprehensible outside that place; or

D. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance.

1-A. It is a defense to a prosecution under subsection 1, paragraph D that the person subject to surveillance had in fact attained 14 years of age and had consented to the visual surveillance.

2. As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance, including, but not limited to, changing or dressing rooms, bathrooms and similar places.

3. Violation of privacy is a Class D crime.

# **MARYLAND**

## **Md. Code Ann., Crim. Law § 3-902 (2010). VISUAL SURVEILLANCE WITH PRURIENT INTENT.**

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Camera" includes any electronic device that can be used surreptitiously to observe an individual.

(3) "Female breast" means a portion of the female breast below the top of the areola.

(4) "Private area of an individual" means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual.

(5) (i) "Private place" means a room in which a person can reasonably be expected to fully or partially disrobe and has a reasonable expectation of privacy, in:

1. an office, business, or store;
2. a recreational facility;
3. a restaurant or tavern;
4. a hotel, motel, or other lodging facility;
5. a theater or sports arena;
6. a school or other educational institution;
7. a bank or other financial institution;
8. any part of a day care home used for the care and custody of a child; or
9. another place of public use or accommodation.

(ii) "Private place" includes a tanning room, dressing room, bedroom, or restroom.

(6) (i) "Visual surveillance" means the deliberate, surreptitious observation of an individual by any means.

(ii) "Visual surveillance" includes surveillance by:

1. direct sight;
2. the use of mirrors; or

3. the use of cameras.

(iii) "Visual surveillance" does not include a casual, momentary, or unintentional observation of an individual.

(b) Scope of section. -- This section does not apply to a person who without prurient intent:

(1) conducts filming by or for the print or broadcast media;

(2) conducts or procures another to conduct visual surveillance of an individual to protect property or public safety or prevent crime; or

(3) conducts visual surveillance and:

(i) holds a license issued under Title 13 or Title 19 of the Business Occupations and Professions Article; and

(ii) is acting within the scope of the person's occupation.

(c) Prohibited. -- A person may not with prurient intent conduct or procure another to conduct visual surveillance of:

(1) an individual in a private place without the consent of that individual; or

(2) the private area of an individual by use of a camera without the consent of the individual under circumstances in which a reasonable person would believe that the private area of the individual would not be visible to the public, regardless of whether the individual is in a public or private place.

(d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 2,500 or both.

(e) Civil action. --

(1) An individual who was under visual surveillance in violation of this section has a civil cause of action against any person who conducted or procured another to conduct the visual surveillance.

(2) In an action under this subsection, the court may award actual damages and reasonable attorney's fees.

(f) Other remedies. -- This section does not affect any legal or equitable right or remedy otherwise provided by law.

(g) Effect of section. -- This section does not affect the application of § 3-901 of this subtitle.

# **MASSACHUSETTS**

## **Mass. Ann. Laws ch. 272, § 105 (2010). ELECTRONIC RECORDING OR SURVEILLANCE OF NUDE OR PARTIALLY NUDE PERSON.**

(a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Electronically surveils" or "electronically surveilled", to view, obtain or record a person's visual image by the use or aid of a camera, cellular or other wireless communication device, computer, television or other electronic device.

"Partially nude", the exposure of the human genitals, buttocks, pubic area or female breast below a point immediately above the top of the areola.

(b) Whoever willfully photographs, videotapes or electronically surveils another person who is nude or partially nude, with the intent to secretly conduct or hide such activity, when the other person in such place and circumstance would have a reasonable expectation of privacy in not being so photographed, videotaped or electronically surveilled, and without that person's knowledge and consent, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever willfully disseminates the visual image of another person who is nude or partially nude, with knowledge that such visual image was unlawfully obtained in violation of subsection (b) and without consent of the person so depicted, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or in the state prison for not more than 5 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) This section shall not apply to a merchant that electronically surveils a customer changing room, provided that signage warning customers of the merchant's surveillance activity is conspicuously posted at all entrances and in the interior of any changing room electronically surveilled.

(e) This section shall not apply to a law enforcement officer acting within the scope of the officer's authority under applicable law, or by an order or warrant issued by a court.

(f) A sheriff, deputy sheriff or police officer may arrest without a warrant, a person whom he has probable cause to believe has violated this section.

(g) A photograph, videotape or other recorded visual image, depicting a person who is nude or partially nude that is part of any court record arising from a prosecution under this section, shall not be open to public inspection and shall only be made available by court personnel to a law enforcement officer, prosecuting attorney, defendant's attorney, defendant, or victim connected to such prosecution for inspection, unless otherwise ordered by the court.

(h) In a prosecution under this section, a justice of the superior court or district court may issue appropriate orders to restrain or prevent the unlawful dissemination of a person's visual image in violation of this section.

## **MICHIGAN**

### **MICH. COMP. LAWS § 750.167 (2010). "DISORDERLY PERSON" DEFINED; SUBSEQUENT VIOLATIONS BY PERSON CONVICTED OF REFUSING OR NEGLECTING TO SUPPORT FAMILY.**

Sec. 167. (1) A person is a disorderly person if the person is any of the following:

- (a) A person of sufficient ability who refuses or neglects to support his or her family.
- (b) A common prostitute.
- (c) A window peeper.
- (d) A person who engages in an illegal occupation or business.
- (e) A person who is intoxicated in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance.
- (f) A person who is engaged in indecent or obscene conduct in a public place.
- (g) A vagrant.
- (h) A person found begging in a public place.
- (i) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged, or allowed.
- (j) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.
- (k) A person who loiters in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances.

- (1) A person who is found jostling or roughly crowding people unnecessarily in a public place.
- (2) When a person, who has been convicted of refusing or neglecting to support his or her family under this section, is then charged with subsequent violations within a period of 2 years, that person shall be prosecuted as a second offender, or third and subsequent offender, as provided in section 168, if the family of that person is then receiving public relief or support.

## **MINNESOTA**

### **MINN. STAT. § 609.746 (2009). INTERFERENCE WITH PRIVACY.**

Subdivision 1. Surreptitious intrusion; observation device.

(a) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a gross misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a gross misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a gross misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$5,000, or both, if the person:

(1) violates this subdivision after a previous conviction under this subdivision or section 609.749; or

(2) violates this subdivision against a minor under the age of 18, knowing or having reason to know that the minor is present.

(f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

Subd. 2.

[Repealed, 1993 c 326 art 2 s 34]

Subd. 3.

[Repealed, 1993 c 326 art 2 s 34]

## **MISSISSIPPI**

### **MISS. CODE ANN. § 97-29-61 (2010). VOYEURISM; TRESPASS BY "PEEPING TOM."**

Any person who enters upon real property whether the original entry is legal or not, and thereafter pries or peeps through a window or other opening in a dwelling or other building structure for the lewd, licentious and indecent purpose of spying upon the occupants thereof, shall be guilty of a felonious trespass; and upon conviction, shall be imprisoned in the state penitentiary not more than five (5) years.

## **MISSOURI**

### **MO. REV. STAT. § 565.250 (2010). DEFINITIONS.**

As used in sections 565.250 to 565.257, the following terms mean:

(1) "Full or partial nudity", the showing of all or any part of the human genitals or pubic area or buttock, or any part of the nipple of the breast of any female person, with less than a fully opaque covering;

(2) "Photographs" or "films", the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(3) "Place where a person would have a reasonable expectation of privacy", any place where a reasonable person would believe that a person could disrobe in privacy, without being concerned that the person's undressing was being viewed, photographed or filmed by another;

(4) "Prior invasion of privacy offender", a person who previously has pleaded or been found guilty of the crime of invasion of privacy;

(5) "Same course of conduct", more than one person has been filmed in full or partial nudity under the same or similar circumstances pursuant to one scheme or course of conduct, whether at the same or different times;



(6) "Views", the looking upon of another person, with the unaided eye or with any device designed or intended to improve visual acuity, for the purpose of arousing or gratifying the sexual desire of any person.

**MO. REV. STAT. § 565.252 (2010). INVASION OF PRIVACY, FIRST DEGREE, PENALTY.**

1. A person commits the crime of invasion of privacy in the first degree if such person:

(1) Knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer; or

(2) Knowingly disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of subdivision (1) of this subsection or in violation of section 565.253.

2. Invasion of privacy in the first degree is a class D felony.

**MO. REV. STAT. § 565.253 (2010). CRIME OF INVASION OF PRIVACY, SECOND DEGREE, PENALTIES.**

1. A person commits the crime of invasion of privacy in the second degree if:

(1) Such person knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy; or

(2) Such person knowingly uses a concealed camcorder or photographic camera of any type to secretly videotape, photograph, or record by electronic means another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

2. Invasion of privacy in the second degree pursuant to subdivision (1) of subsection 1 of this section is a class A misdemeanor; unless more than one person is viewed, photographed or filmed in full or partial nudity in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class D felony. Invasion of privacy in the second degree pursuant to subdivision (2) of subsection 1 of this section is a class A misdemeanor; unless more than one person is secretly videotaped, photographed or recorded in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class C felony. Prior pleas or findings

of guilt shall be pled and proven in the same manner required by the provisions of section 558.021, RSMo.

**MO. REV. STAT. § 565.255 (2010). TIME LIMITATION TO PROSECUTE.**

Notwithstanding the provisions of section 556.036, RSMo, either misdemeanor or felony prosecutions under sections 565.250 to 565.257 shall be commenced within the following periods of limitation:

- (1) Three years from the date the viewing, photographing or filming occurred; or
- (2) If the person who was viewed, photographed or filmed did not realize at the time that he was being viewed, photographed or filmed, within three years of the time the person who was viewed or in the photograph or film first learns that he was viewed, photographed or filmed.

**MONTANA**

**MONT. CODE ANN. § 45-5-223 (2010). SURREPTITIOUS VISUAL OBSERVATION OR RECORDATION -- PLACE OF RESIDENCE -- PUBLIC ESTABLISHMENT -- EXCEPTIONS.**

(1) A person commits the offense of surreptitious visual observation or recordation in a place of residence if a person purposely or knowingly hides, waits, or otherwise loiters in the vicinity of a private dwelling house, apartment, or other place of residence for the purpose of:

- (a) watching, gazing at, or looking upon any occupant in the residence in a surreptitious manner; or
- (b) by means of an electronic or mechanical recording device, surreptitiously recording the visual image of any occupant in the residence.

(2) An owner, manager, or employee of a business or a landlord who knowingly surreptitiously records a visual image of a person in a restroom, washroom, shower, bedroom, fitting room, or other room used by a customer, guest, tenant, or member of the public to, with a reasonable expectation of privacy, change or try on clothes, bathe, perform intimate bodily functions, or appear nude or partially nude or in underclothes commits the offense of surreptitious visual recordation in a public establishment.

(3) Subsections (1) and (2) do not apply to a law enforcement officer, an agent or employee of an insurer, or a private investigator licensed pursuant to 37-60-301 or to any person engaged in fraud detection, prevention, or prosecution pursuant to 2-15-2015 or 39-71-211 while the officer, agent, employee, or private investigator is acting in the course and scope of employment for legitimate investigative purposes.

(4) (a) A person convicted of the offense of surreptitious visual observation or recordation in a place of residence shall be fined an amount not to exceed \$ 500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined

an amount not to exceed \$ 1,000 or be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed \$ 10,000 or be incarcerated for a term not to exceed 5 years, or both.

(b) A person convicted of the offense of surreptitious visual recordation in a public establishment shall be fined an amount not to exceed \$ 1,000 or incarcerated for a term not to exceed 6 months, or both, if the victim was an adult and shall be fined an amount not to exceed \$ 5,000 or incarcerated for a term not to exceed 2 years, or both, if the victim was a minor."

## **NEBRASKA**

### **NEB. REV. STAT. ANN. § 20-203 (2010). INVASION OF PRIVACY; TRESPASS OR INTRUDE UPON A PERSON'S SOLITUDE.**

Any person, firm, or corporation that trespasses or intrudes upon any natural person in his or her place of solitude or seclusion, if the intrusion would be highly offensive to a reasonable person, shall be liable for invasion of privacy.

### **NEB. REV. STAT. ANN. § 28-311.08 (2010). UNLAWFUL INTRUSION; PENALTY.**

(1) It shall be unlawful for any person to knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion.

(2) For purposes of this section:

(a) Intrude means the viewing or recording, either by video, audio, or other electronic means, of a person in a state of undress; and

(b) Place of solitude or seclusion means a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

(3) Violation of this section is a Class III misdemeanor unless the victim is under the age of eighteen in which case a violation is a Class II misdemeanor. Lack of knowledge as to the victim's age is not a defense to the enhanced penalty under this section.

## **NEVADA**

### **NEV. REV. STAT. ANN. § 200.603 (2010). PEERING, PEEPING OR SPYING THROUGH WINDOW, DOOR OR OTHER OPENING OF DWELLING OF ANOTHER; PENALTIES.**

1. A person shall not knowingly enter upon the property or premises of another or upon the property or premises owned by him or her and leased or rented to another with the intent to surreptitiously conceal himself or herself on the property or premises and peer, peep or spy through a window, door or other opening of a building or structure that is used as a dwelling on the property or premises.

2. A person who violates subsection 1 is guilty of:

(a) If the person is in possession of a deadly weapon at the time of the violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

(b) If the person is not in possession of a deadly weapon at the time of the violation, but is in possession of a photographic or digital camera, video camera or other device capable of recording images or sound at the time of the violation, a gross misdemeanor.

(c) If the person is not in possession of a deadly weapon or a photographic or digital camera, video camera or other device capable of recording images or sound at the time of the violation, a misdemeanor.

3. This section does not apply to:

(a) A law enforcement officer conducting a criminal investigation or surveillance;

(b) A building inspector, building official or other similar authority employed by a governmental body while performing his or her duties; or

(c) An employee of a public utility while performing his or her duties.

### **NEV. REV. STAT. ANN. § 200.604 (2010). CAPTURING IMAGE OF PRIVATE AREA OF ANOTHER PERSON; DISTRIBUTING, DISCLOSING, DISPLAYING, TRANSMITTING OR PUBLISHING IMAGE OF PRIVATE AREA OF ANOTHER PERSON; PENALTIES; EXCEPTIONS; CONFIDENTIALITY OF IMAGE.**

1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

(a) Without the consent of the other person; and

(b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. A person who violates this section:

(a) For a first offense, is guilty of a gross misdemeanor.

(b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

(a) Court records;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

(a) As necessary for the purposes of investigation and prosecution of the violation;

(b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and

(c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and

(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:

(1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

## **NEW HAMPSHIRE**

### **N.H. REV. STAT. ANN. § 644:9 (2010). VIOLATION OF PRIVACY.**

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or a person's body underneath that person's clothing; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting images or sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

II. As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance including public restrooms, locker rooms, the interior of one's dwelling place, or any place where a person's private body parts including genitalia, buttocks, or female breasts may be exposed.

III. A person is guilty of a class A misdemeanor if that person knowingly disseminates or causes the dissemination of any photograph or video recording of himself or herself engaging in sexual activity with another person without the express consent of the other person or persons who

appear in the photograph or videotape. In this paragraph, "disseminate" and "sexual activity" shall have the same meaning as in RSA 649-A:2.

III-a. A person is guilty of a misdemeanor if, for the purpose of arousing or gratifying the person's sexual desire, he or she knowingly views another person, without that person's knowledge or consent, in a place where one would have a reasonable expectation of privacy. For purposes of this paragraph, "views" means looking at another person with the unaided eye or any device intended to improve visual acuity.

IV. A person is guilty of a misdemeanor if such person knowingly enters any residential curtilage, as defined in RSA 627:9, I, or any other private place as defined in paragraph II of this section, without lawful authority and looks into the residential structure thereon or other private place with no legitimate purpose.

V. Paragraphs I and II shall not be construed to impair or limit any otherwise lawful activities of law enforcement personnel, nor are paragraphs I and II intended to limit employees of governmental agencies or other entities, public or private, who, in the course and scope of their employment and supported by articulable suspicion, attempt to capture any type of visual image, sound recording, or other physical impression of a person during an investigation, surveillance, or monitoring of conduct to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, a suspected fraudulent insurance claim, or any other suspected fraudulent conduct or activity involving a violation of law, or pattern of business practices adversely affecting the public health or safety.

## **NEW JERSEY**

### **N.J. STAT. ANN. § 2C:14-9 (2010). INVASION OF PRIVACY, DEGREE OF CRIME; DEFENSES, PRIVILEGES.**

a. An actor commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, and under circumstances in which a reasonable person would know that another may expose intimate parts or may engage in sexual penetration or sexual contact, he observes another person without that person's consent and under circumstances in which a reasonable person would not expect to be observed.

b. An actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so, he photographs, films, videotapes, records, or otherwise reproduces in any manner, the image of another person whose intimate parts are exposed or who is engaged in an act of sexual penetration or sexual contact, without that person's consent and under circumstances in which a reasonable person would not expect to be observed.

c. An actor commits a crime of the third degree if, knowing that he is not licensed or privileged to do so, he discloses any photograph, film, videotape, recording or any other reproduction of the image of another person whose intimate parts are exposed or who is engaged in an act of sexual penetration or sexual contact, unless that person has consented to such disclosure. For purposes of this subsection, "disclose" means sell, manufacture, give, provide, lend, trade, mail, deliver,

transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise or offer. Notwithstanding the provisions of subsection b. of N.J.S. 2C:43-3, a fine not to exceed \$ 30,000 may be imposed for a violation of this subsection.

d. It is an affirmative defense to a crime under this section that:

(1) the actor posted or otherwise provided prior notice to the person of the actor's intent to engage in the conduct specified in subsection a., b., or c., and

(2) the actor acted with a lawful purpose.

e. (1) It shall not be a violation of subsection a. or b. to observe another person in the access way, foyer or entrance to a fitting room or dressing room operated by a retail establishment or to photograph, film, videotape, record or otherwise reproduce the image of such person, if the actor conspicuously posts at the entrance to the fitting room or dressing room prior notice of his intent to make the observations, photographs, films, videotapes, recordings or other reproductions.

(2) It shall be a violation of subsection c. to disclose in any manner any such photograph, film, videotape or recording of another person using a fitting room or dressing room except under the following circumstances:

(a) to law enforcement officers in connection with a criminal prosecution;

(b) pursuant to subpoena or court order for use in a legal proceeding; or

(c) to a co-worker, manager or supervisor acting within the scope of his employment.

f. It shall be a violation of subsection a. or b. to observe another person in a private dressing stall of a fitting room or dressing room operated by a retail establishment or to photograph, film, videotape, record or otherwise reproduce the image of another person in a private dressing stall of a fitting room or dressing room.

g. For purposes of this act, a law enforcement officer, or a corrections officer or guard in a correctional facility or jail, who is engaged in the official performance of his duties shall be deemed to be licensed or privileged to make and to disclose observations, photographs, films, videotapes, recordings or any other reproductions.

h. Notwithstanding the provisions of N.J.S. 2C:1-8 or any other provisions of law, a conviction arising under subsection b. of this section shall not merge with a conviction under subsection c. of this section, nor shall a conviction under subsection c. merge with a conviction under subsection b.

### **N.J. STAT. ANN. § 2C:18-3 (2010). UNLICENSED ENTRY OF STRUCTURES; DEFIANT TRESPASSER; PEERING INTO DWELLING PLACES; DEFENSES.**

a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility, structure, or separately secured or occupied portion thereof, or in or upon utility company property. An offense under this subsection is a crime of the fourth degree if it is committed in a



school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility, power generation facility, waste treatment facility, public sewage facility, water treatment facility, public water facility, nuclear electric generating plant or any facility which stores, generates or handles any hazardous chemical or chemical compounds. An offense under this subsection is a crime of the fourth degree if it is committed in or upon utility company property. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places. A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

## **NEW MEXICO**

### **N.M. STAT. ANN. § 30-9-20 (2010). VOYEURISM PROHIBITED; PENALTIES.**

A. Voyeurism consists of intentionally using the unaided eye to view or intentionally using an instrumentality to view, photograph, videotape, film, webcast or record the intimate areas of another person without the knowledge and consent of that person:

(1) while the person is in the interior of a bedroom, bathroom, changing room, fitting room, dressing room or tanning booth or the interior of any other area in which the person has a reasonable expectation of privacy; or

(2) under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

B. Whoever commits voyeurism is guilty of a misdemeanor, except if the victim is less than eighteen years of age, the offender is guilty of a fourth degree felony.

C. As used in this section:

(1) "intimate areas" means the primary genital area, groin, buttocks, anus or breasts or the undergarments that cover those areas; and

(2) "instrumentality" means a periscope, telescope, binoculars, camcorder, computer, motion picture camera, digital camera, telephone camera, photographic camera or electronic device of any type.

## **NEW YORK**

### **N.Y. PENAL LAW § 250.45 (2010). UNLAWFUL SURVEILLANCE IN THE SECOND DEGREE.**

A person is guilty of unlawful surveillance in the second degree when:

1. For his or her own, or another person's amusement, entertainment, or profit, or for the purpose of degrading or abusing a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent [fig 1] ; or

2. For his or her own, or another person's sexual arousal or sexual gratification, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent [fig 1] ; or

3. (a) For no legitimate purpose, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a motel, hotel or inn, without such person's knowledge or consent.

(b) For the purposes of this subdivision, when a person uses or installs, or permits the utilization or installation of an imaging device in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a hotel, motel or inn, there is a rebuttable presumption that such person did so for no legitimate purpose [fig 1] ; or

4. Without the knowledge or consent of a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record, under the clothing being worn by such person, the sexual or other intimate parts of such person.

Unlawful surveillance in the second degree is a class E felony.

**N.Y. PENAL LAW § 250.50 (2010). UNLAWFUL SURVEILLANCE IN THE FIRST DEGREE.**

A person is guilty of unlawful surveillance in the first degree when he or she commits the crime of unlawful surveillance in the second degree and has been previously convicted within the past ten years of unlawful surveillance in the first or second degree.

Unlawful surveillance in the first degree is a class D felony.

**N.Y. PENAL LAW § 250.55 (2010). DISSEMINATION OF AN UNLAWFUL SURVEILLANCE IMAGE IN THE SECOND DEGREE.**

A person is guilty of dissemination of an unlawful surveillance image in the second degree when he or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, intentionally disseminates such image or images.

Dissemination of an unlawful surveillance image in the second degree is a class A misdemeanor.

**N.Y. PENAL LAW § 250.60 (2010). DISSEMINATION OF AN UNLAWFUL SURVEILLANCE IMAGE IN THE FIRST DEGREE.**

A person is guilty of dissemination of an unlawful surveillance image in the first degree when:

1. He or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, sells or publishes such image or images [fig 1] ; or
2. Having created a surveillance image in violation of section 250.45 or 250.50 of this article, or in violation of the law in any other jurisdiction which includes all of the essential elements of either such crime, or having acted as an accomplice to such crime, or acting as an agent to the person who committed such crime, he or she intentionally disseminates such unlawfully created image [fig 1] ; or

3. He or she commits the crime of dissemination of an unlawful surveillance image in the second degree and has been previously convicted within the past ten years of dissemination of an unlawful surveillance image in the first or second degree.

Dissemination of an unlawful surveillance image in the first degree is a class E felony.

**N.Y. GEN. BUS. LAW § 395-B (2010). UNLAWFULLY INSTALLING OR MAINTAINING A TWO-WAY MIRROR OR OTHER VIEWING DEVICE.**

1. As used in this section, the phrase "two-way mirror or other viewing device" shall mean a mirror, peep hole, mechanical viewing device, camera or any other instrument or method that can be utilized to surreptitiously observe a person.

2. A person is guilty of unlawfully installing or maintaining a two-way mirror or other viewing device when, being the owner or manager of any premises, he knowingly permits or allows such a device to be installed or maintained in or upon such premises, for the purpose of surreptitiously observing the interior of any fitting room, restroom, toilet, bathroom, washroom, shower, or any room assigned to guests or patrons in a motel, hotel or inn.

2-a. A person is guilty of unlawfully installing or maintaining a video recording device when, being the owner or manager of any premises, he knowingly permits or allows such a device to be installed or maintained in or upon such premises, for purpose of surreptitiously recording a visual image of the interior of any fitting room, restroom, toilet, bathroom, washroom, shower, or any other room assigned to guests or patrons in a motel, hotel or inn.

3. a. The provisions of this section shall not apply with respect to premises which comprise, or are a part of any

(i) public correctional or custodial facility, or public or private medical facility which is used for the treatment of persons pursuant to medical directive, or

(ii) public or private treatment facility which is used for the treatment of persons who are committed or are voluntarily confined to such facility or are voluntarily receiving treatment thereat, or

(iii) facility operated by any federal, state or local law enforcement agency, or

(iv) private dwelling.

b. The provisions of this section shall further not apply with respect to any fitting room, otherwise subject to the provisions of this section, wherein the person who is the owner or manager of such premises has caused written notice to be conspicuously posted at the entrance to the fitting room stating that a two-way mirror or other viewing device has been installed for the purpose of observing the interior of such room. In cities with a population of one million or more, the written notice shall be in both English and Spanish.

4. Whenever there shall be a violation of this section, an application may also be made by the attorney general in the name of the people of the state of New York or by the corporation counsel for any city or by the appropriate attorney of any other political subdivision as shall be designated by the governing body of such political subdivision to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such

court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In connection with any such proposed application, the attorney general, corporation counsel or other appropriate attorney, as the case may be, is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

5. A violation of the provisions of this section shall constitute a violation, and upon conviction thereof shall be punishable by a term of imprisonment not to exceed fifteen days, or by a fine of not more than three hundred dollars, or by both such fine and imprisonment, except that a violation of subdivision two-a of this section shall constitute a felony. In addition, a violation of the provisions of this section shall be punishable by a civil penalty of not more than three hundred dollars recoverable in an action by the attorney general in the name of the people of the state or by the corporation counsel for any city or by the appropriate attorney of any other political subdivision as shall be designated by the governing body of such political subdivision. Each unlawfully installed or maintained mirror or viewing or recording device shall constitute a separate and distinct violation.

## **NORTH CAROLINA**

### **N.C. GEN. STAT. § 14-202 (2010). SECRETLY PEEPING INTO ROOM OCCUPIED BY ANOTHER PERSON.**

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class 1 misdemeanor.

(b) For purposes of this section:

(1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.

(2) The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

(d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another

person in that room for the purpose of arousing or gratifying the sexual desire of any person shall be guilty of a Class I felony.

(e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class I felony.

(f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture the image of another without their consent shall be guilty of a Class I felony.

(g) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section shall be guilty of a Class I felony.

(h) Any person who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of this section shall be guilty of a Class H felony if the dissemination is without the consent of the person in the photographic image.

(i) A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher. A second or subsequent conviction for a Class 1 misdemeanor shall be punished as a Class A1 misdemeanor. A second or subsequent conviction for a Class A1 misdemeanor shall be punished as a Class I felony.

(j) If the defendant is placed on probation as a result of violation of this section:

(1) For a first conviction under this section, the judge may impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(2) For a second or subsequent conviction under this section, the judge shall impose a requirement that the defendant obtain a psychological evaluation and comply with any treatment recommended as a result of that evaluation.

(k) Any person whose image is captured or disseminated in violation of this section has a civil cause of action against any person who captured or disseminated the image or procured any other person to capture or disseminate the image and is entitled to recover from those persons actual damages, punitive damages, reasonable attorneys' fees and other litigation costs reasonably incurred.

(l) When a person violates subsection (d), (e), (f), (g), or (h) of this section, or is convicted of a second or subsequent violation of subsection (a), (a1), or (c) of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register.

(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do not apply to:

(1) Law enforcement officers while discharging or attempting to discharge their official duties; or

(2) Personnel of the Department of Correction or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department or the local confinement facility.

(n) This section does not affect the legal activities of those who are licensed pursuant to Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Systems, of the General Statutes, who are legally engaged in the discharge of their official duties within their respective professions, and who are not engaging in activities for an improper purpose as described in this section.

## **NORTH DAKOTA**

### **N.D. CENT. CODE § 12.1-20-12.2 (2010). SURREPTITIOUS INTRUSION.**

1. An individual, with the intent to arouse, appeal to, or gratify that individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that individual does any of the following:

a. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another.

b. With intent to intrude upon or interfere with the privacy of another, enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another.

c. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously gazes, stares, or peeps in the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.

d. With intent to intrude upon or interfere with the privacy of the occupant, surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a tanning booth, a sleeping room in a hotel, or other place where a reasonable individual would have an expectation of privacy and has exposed or is likely to expose that individual's intimate parts or has removed the clothing covering the immediate area of the intimate parts.

2. A person is guilty of a class C felony if the person violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.1, or after being required to register under section 12.1-32-15.

## **N.D. CENT. CODE § 12.1-30-01 (2010). DISORDERLY CONDUCT.**

1. An individual is guilty of a class B misdemeanor if, with intent to harass, annoy, or alarm another person or in reckless disregard of the fact that another person is harassed, annoyed, or alarmed by the individual's behavior, the individual:

- a. Engages in fighting, or in violent, tumultuous, or threatening behavior;
- b. Makes unreasonable noise;
- c. In a public place, uses abusive or obscene language, knowingly exposes that individual's penis, vulva, or anus, or makes an obscene gesture;
- d. Obstructs vehicular or pedestrian traffic or the use of a public facility;
- e. Persistently follows a person in or about a public place or places;
- f. While loitering in a public place for the purpose of soliciting sexual contact, the individual solicits the contact;
- g. Creates a hazardous, physically offensive, or seriously alarming condition by any act that serves no legitimate purpose; or
- h. Engages in harassing conduct by means of intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person.

2. This section does not apply to constitutionally protected activity. If an individual claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

## **OHIO**

### **OHIO REV. CODE ANN. § 2907.08 (2010). VOYEURISM.**

(A) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(B) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(C) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, otherwise record, or spy or eavesdrop upon the other person in a state of nudity if the other person is a minor.



(D) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

(E) (1) Whoever violates this section is guilty of voyeurism.

(2) A violation of division (A) of this section is a misdemeanor of the third degree.

(3) A violation of division (B) of this section is a misdemeanor of the second degree.

(4) A violation of division (D) of this section is a misdemeanor of the first degree.

(5) A violation of division (C) of this section is a felony of the fifth degree.

## **OKLAHOMA**

### **OKLA. STAT. ANN. TIT. 21, § 1171 (2010). PEEPING TOM--USE OF PHOTOGRAPHIC, ELECTRONIC OR VIDEO EQUIPMENT--OFFENSES AND PUNISHMENT—DEFINITION.**

A. Every person who hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building, any other place of residence, or in the vicinity of any locker room, dressing room, restroom or any other place where a person has a right to a reasonable expectation of privacy, with the unlawful and willful intent to watch, gaze, or look upon any person in a clandestine manner, shall, upon conviction, be guilty of a misdemeanor. The violator shall be punished by imprisonment in the county jail for a term of not more than one (1) year, or by a fine not to exceed Five Thousand Dollars (\$ 5,000.00), or by both such fine and imprisonment.

B. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and willful intent to view, watch, gaze or look upon any person without the knowledge and consent of such person when the person viewed is in a place where there is a right to a reasonable expectation of privacy, or who publishes or distributes any image obtained from such act, shall, upon conviction, be guilty of a felony. The violator shall be punished by imprisonment in the custody of the Department of Corrections for a term of not more than five (5) years, or by a fine not exceeding Five Thousand Dollars (\$ 5,000.00), or by both such fine and imprisonment.

C. Every person who uses photographic, electronic or video equipment in a clandestine manner for any illegal, illegitimate, prurient, lewd or lascivious purpose with the unlawful and willful intent to view, watch, gaze or look upon any person and capture an image of a private area of a person without the knowledge and consent of such person and knowingly does so under circumstances in which a reasonable person would believe that the private area of the person would not be visible to the public, regardless of whether the person is in a public or private place shall, upon conviction, be guilty of a misdemeanor. The violator shall be punished by

imprisonment in the county jail for a term of not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$ 5,000.00), or by both such fine and imprisonment.

D. As used in this section, the phrase "private area of the person" means the naked or undergarment-clad genitals, pubic area, buttocks, or any portion of the areola of the female breast of that individual.

## **OREGON**

### **OR. REV. STAT. § 163.700 (2010). INVASION OF PERSONAL PRIVACY.**

(1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy if:

(a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the person being recorded; and

(B) At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy; or

(b)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is in a location to observe another person in a state of nudity without the consent of the other person; and

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy.

(2) As used in this section:

(a) "Makes or records a photograph, motion picture, videotape or other visual recording" includes, but is not limited to, making or recording or employing, authorizing, permitting, compelling or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

(b) "Nudity" means any part of the uncovered, or less than opaquely covered,:

(A) Genitals;

(B) Pubic area; or

(C) Female breast below a point immediately above the top of the areola.

(c) "Places and circumstances where the person has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(d) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

(3) Invasion of personal privacy is a Class A misdemeanor.

## **PENNSYLVANIA**

### **18 PA. CONS. STAT. ANN. § 7507.1 (2010). INVASION OF PRIVACY.**

(a) OFFENSE DEFINED.-- Except as set forth in subsection (d), a person commits the offense of invasion of privacy if he, for the purpose of arousing or gratifying the sexual desire of any person, knowingly does any of the following:

(1) Views, photographs, videotapes, electronically depicts, films or otherwise records another person without that person's knowledge and consent while that person is in a state of full or partial nudity and is in a place where that person would have a reasonable expectation of privacy.

(2) Photographs, videotapes, electronically depicts, films or otherwise records or personally views the intimate parts, whether or not covered by clothing, of another person without that person's knowledge and consent and which intimate parts that person does not intend to be visible by normal public observation.

(3) Transfers or transmits an image obtained in violation of paragraph (1) or (2) by live or recorded telephone message, electronic mail or the Internet or by any other transfer of the medium on which the image is stored.

(A.1) SEPARATE VIOLATIONS.-- A separate violation of this section shall occur:

(1) for each victim of an offense under subsection (a) under the same or similar circumstances pursuant to one scheme or course of conduct whether at the same or different times; or

(2) if a person is a victim of an offense under subsection (a) on more than one occasion during a separate course of conduct either individually or otherwise.

(b) GRADING.-- Invasion of privacy is a misdemeanor of the second degree if there is more than one violation. Otherwise, a violation of this section is a misdemeanor of the third degree.

(c) COMMENCEMENT OF PROSECUTION.-- Notwithstanding the provisions of 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal proceedings), a prosecution under this section must be commenced within the following periods of limitation:

(1) two years from the date the offense occurred; or

(2) if the victim did not realize at the time that there was an offense, within three years of the time the victim first learns of the offense.

(d) EXCEPTIONS.-- Subsection (a) shall not apply if the conduct proscribed by subsection (a) is done by any of the following:

(1) Law enforcement officers during a lawful criminal investigation.

(2) Law enforcement officers or by personnel of the Department of Corrections or a local correctional facility, prison or jail for security purposes or during investigation of alleged misconduct by a person in the custody of the department or local authorities.

(e) DEFINITIONS.-- As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Full or partial nudity." Display of all or any part of the human genitals or pubic area or buttocks, or any part of the nipple of the breast of any female person, with less than a fully opaque covering.

"Intimate part." Any part of:

(1) the human genitals, pubic area or buttocks; and

(2) the nipple of a female breast.

"Photographs" or "films." Making any photograph, motion picture film, videotape or any other recording or transmission of the image of a person.

"Place where a person would have a reasonable expectation of privacy." A location where a reasonable person would believe that he could disrobe in privacy without being concerned that his undressing was being viewed, photographed or filmed by another.

"Views." Looking upon another person with the unaided eye or with any device designed or intended to improve visual acuity.

## **RHODE ISLAND**

### **R.I. GEN. LAWS § 11-45-1 (2010). DISORDERLY CONDUCT.**

(a) A person commits disorderly conduct if he or she intentionally, knowingly, or recklessly:

(1) Engages in fighting or threatening, or in violent or tumultuous behavior;

(2) In a public place or near a private residence that he or she has no right to occupy, disturbs another person by making loud and unreasonable noise which under the circumstances would disturb a person of average sensibilities;

(3) Directs at another person in a public place offensive words which are likely to provoke a violent reaction on the part of the average person so addressed;

(4) Alone or with others, obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access or any other place ordinarily used for the passage of persons, vehicles, or conveyances;

(5) Engages in conduct which obstructs or interferes physically with a lawful meeting, procession, or gathering;

(6) Enters upon the property of another and for a lascivious purpose looks into an occupied dwelling or other building on the property through a window or other opening; or

(7) Who without the knowledge or consent of the individual, looks for a lascivious purpose through a window, or any other opening into an area in which another would have a reasonable expectation of privacy, including, but not limited to, a restroom, locker room, shower, changing room, dressing room, bedroom, or any other such private area, notwithstanding any property rights the individual may have in the location in which the private area is located.

(8) [Deleted by P.L. 2008, ch. 183, § 1].

(b) Any person, including a police officer, may be a complainant for the purposes of instituting action for any violation of this section.

(c) Any person found guilty of the crime of disorderly conduct shall be imprisoned for a term of not more than six (6) months, or fined not more than five hundred dollars (\$ 500), or both.

(d) In no event shall subdivisions (a)(2) -- (5) of this section be construed to prevent lawful picketing or lawful demonstrations including, but not limited to, those relating to a labor dispute.

### **R.I. GEN. LAWS § 11-64-2 (2010). VIDEO VOYEURISM.**

(1) A person is guilty of video voyeurism when, for the purpose of sexual arousal, gratification or stimulation, such person:

(a) Uses, installs or permits the use or installation of an imaging device to capture, record, store or transmit visual images of the intimate areas of another person without that other person's knowledge and consent, and under circumstances in which that other person would have a reasonable expectation of privacy.

(b) Intentionally, and with knowledge that the image was obtained in violation of subsection (a), disseminates, publishes, or sells such image of the captured representation of another person

or persons depicted in the representation or reproduction, and who did not consent to the dissemination, publication or sale.

(2) A person is also guilty of video voyeurism when that person, for the purpose of sexual arousal, gratification or stimulation, looks into an occupied dwelling or other building by use of an imaging device that provides images of the interior of a dwelling.

(3) A person found guilty of the crime of video voyeurism shall be imprisoned for not more than three (3) years in jail and/or fined not more than five thousand dollars (\$ 5000).

## **R.I. GEN. LAWS § 5-63.1-1 (2010). DEFINITIONS.**

As used in this chapter:

(1) "Former patient" is a person who obtained a professional consultation or diagnostic or therapeutic service from a mental health professional within two (2) years prior to sexual contact with the mental health professional.

(2) "Mental health professional" includes a licensed, an unlicensed, a certified, or an uncertified or an in-training:

(i) Marriage and family therapist;

(ii) Mental health counselor;

(iii) Psychiatric nurse;

(iv) Psychiatrist;

(v) Psychologist;

(vi) Social worker;

(vii) Chemical dependency professional; or

(viii) Any mental health or human service professional, or any other person licensed or unlicensed, certified or uncertified rendering or offering to render services for the purpose of treating, diagnosing or assessing mental or emotional disorders or distress, modifying behaviors, or alleviating problems pertaining to interpersonal relationships, work and life adjustment, and personal effectiveness which are caused by mental or emotional disorders or distress.

(3) "Patient" is a person who obtains a professional consultation or diagnostic or therapeutic service from a mental health professional.

(4) (i) "Sexual abuse reporter" includes any mental health professional who has reasonable cause to believe that a patient or former patient of another mental health professional is having or has had sexual contact with that professional.

(ii) "Sexual abuse reporter" does not include state employees who are exempted from the reporting requirements of § 5-63.1-2.

(5) (i) "Sexual contact" means any of the following, whether or not occurring with the consent of a patient or former patient:

(A) Sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, into the genital or anal openings of the patient's or former patient's body by any part of the mental health professional's body or any object used by the mental health professional for that purpose, or any intrusion, however slight, into the genital or anal openings of the mental health professional's body by any part of the patient's or former patient's body or by any object used by the patient or former patient for that purpose, if consented to by the mental health professional;

(B) Sustained kissing of the mouth or kissing or intentional touching by the mental health professional of the patient's or former patient's genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts; or sustained kissing of the mouth or kissing or intentional touching by the patient or former patient of the mental health professional's genital area, groin, inner thigh, buttocks, or breast or the clothing covering any of these body parts if the mental health professional consents to the kissing or intentional touching;

(C) Exhibition by the mental health professional in view of the patient or former patient of the mental health professional's genital area, groin, inner thigh, buttocks, or breast; Voyeurism by the mental health professional in the form of viewing the patient's or former patient's genital area, groin, inner thigh, buttocks, or breast;

(D) Using the influence inherent in the mental health professional-patient or mental health professional-former patient relationship to induce the patient or former patient to engage in sexual contact with a third party.

(ii) "Sexual contact" does not include conduct described in the definition of sexual contact that is in accordance with practices generally recognized as legitimate by the mental health professions, casual social contact not intended to be sexual in character, inadvertent touching, or conduct by a child protective investigator acting pursuant to chapter 11 of title 40.

(6) "Subject" means the mental health professional named in a report as being suspected of having sexual contact with a patient or former patient or who has been determined to have engaged in sexual contact with a patient or former patient.

## **SOUTH CAROLINA**

### **S.C. CODE ANN. § 16-17-470 (2009). Eavesdropping, peeping, voyeurism.**

(A) It is unlawful for a person to be an eavesdropper or a peeping tom on or about the premises of another or to go upon the premises of another for the purpose of becoming an eavesdropper or a peeping tom. The term "peeping tom", as used in this section, is defined as a person who peeps through windows, doors, or other like places, on or about the premises of another, for the purpose of spying upon or invading the privacy of the persons spied upon and any other conduct of a similar nature, that tends to invade the privacy of others. The term " peeping tom" also includes

any person who employs the use of video or audio equipment for the purposes set forth in this section. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both.

(B) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person, without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy. A person who violates the provisions of this subsection:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both; or

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than five years, or both.

(C) A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

(D) As used in this section:

(1) "Place where a person would have a reasonable expectation of privacy" means:

(a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or

(b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

(2) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.

(3) "View" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(E) The provisions of subsection (A) do not apply to:

(1) viewing, photographing, videotaping, or filming by personnel of the Department of Corrections or of a county, municipal, or local jail or detention center or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department of Corrections or a county, municipal, or local jail or detention center or correctional facility;



(2) security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments;

(3) any official law enforcement activities conducted pursuant to Section 16-17-480;

(4) private detectives and investigators conducting surveillance in the ordinary course of business;  
or

(5) any bona fide news gathering activities.

(F) In addition to any other punishment prescribed by this section or other provision of law, a person procuring photographs, audio recordings, video recordings, digital electronic files, or films in violation of this section shall immediately forfeit all items. These items must be destroyed when no longer required for evidentiary purposes.

## **SOUTH DAKOTA**

### **S.D. CODIFIED LAWS § 22-21-1 (2010). Unlawful surveillance – Penalty.**

Any person who, except as authorized by law:

(1) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or

(2) Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in such place, or uses any such unauthorized installation; is guilty of a Class 1 misdemeanor. Subdivision (2) shall not apply to law enforcement officers, or to those acting under their direction, while engaged in the performance of their lawful duties.

### **S.D. CODIFIED LAWS § 22-21-3 (2010). Unlawful peeking -- Penalty.**

No person may enter the private property of another and peek in the door or window of any inhabited building or structure located thereon, without having lawful purpose with the owner or occupant thereof. A violation of this section is a Class 1 misdemeanor.

### **S.D. CODIFIED LAWS § 22-21-4 (2010). Taking pictures without consent -- Violation as misdemeanor.**

No person may use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, any other person without clothing, or any other person under or through the clothing being worn by that other person, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other

person, under circumstances in which the other person has a reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor.

## **TENNESSEE**

### **TENN. CODE ANN. § 39-13-605 (2010). Unlawful photographing in violation of privacy.**

(a) It is an offense for a person to knowingly photograph, or cause to be photographed an individual, when the individual has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian, if the photograph:

(1) Would offend or embarrass an ordinary person if such person appeared in the photograph; and

(2) Was taken for the purpose of sexual arousal or gratification of the defendant.

(b) As used in this section, unless the context otherwise requires, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission of any individual.

(c) All photographs taken in violation of this section shall be confiscated and, after their use as evidence, destroyed.

(d) (1) A violation of this section is a Class A misdemeanor.

(2) If the defendant disseminates or permits the dissemination of the photograph to any other person, a violation of this section is a Class E felony.

### **TENN. CODE ANN. § 39-13-607 (2010). Observation without consent.**

(a) It is an offense for a person to knowingly spy upon, observe or otherwise view an individual, when the individual is in a place where there is a reasonable expectation of privacy, without the prior effective consent of the individual, if the viewing:

(1) Would offend or embarrass an ordinary person if the person knew the person was being viewed; and

(2) Was for the purpose of sexual arousal or gratification of the defendant.

(b) It is not a defense to a violation of this section that the defendant was lawfully on the premises where the offense occurred.

(c) If the person being viewed is a minor, this section is violated regardless of whether the minor or the minor's parent or guardian consented to the viewing.

(d) A violation of this section is a Class A misdemeanor.

## **TEXAS**

### **TEX. PENAL CODE ANN. § 21.15 (2010). Improper Photography or Visual Recording.**

(a) In this section, "promote" has the meaning assigned by Section 43.21.

(b) A person commits an offense if the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is not a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to arouse or gratify the sexual desire of any person;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is a bathroom or private dressing room:

(A) without the other person's consent; and

(B) with intent to:

(i) invade the privacy of the other person; or

(ii) arouse or gratify the sexual desire of any person; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(e) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or transmitted is not sufficient to establish the person's consent under that subdivision.

### **TEX. PENAL CODE ANN. § 42.01(2010). Disorderly Conduct.**

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.

(e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

## **UTAH**

### **UTAH CODE ANN. § 76-9-402 (2010). Privacy violation.**

(1) A person is guilty of privacy violation if, except as authorized by law, he:

(a) Trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place; or

(b) Installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying, or broadcasting sounds or events in the place or uses any such unauthorized installation; or

(c) Installs or uses outside of a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in the place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there.

(2) Privacy violation is a class B misdemeanor.

### **UTAH CODE ANN. § 76-9-702.7 (2010). Voyeurism offenses -- Penalties.**

(1) A person is guilty of voyeurism who intentionally uses a camcorder, motion picture camera, photographic camera of any type, or other equipment that is concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or view by electronic means an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of Subsection (1) committed against a child under 14 years of age is a third degree felony.

(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.

(4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:

(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.

## **VERMONT**

### **VT. STAT. ANN. TIT. 13, § 2605 (2010). Voyeurism.**

(a) As used in this section:

(1) "Bona fide private investigator or bona fide security guard" means an individual lawfully providing services, whether licensed or unlicensed, pursuant to sections 3151 and 3151a of Title 26.

(2) "Female breast" means any portion of the female breast below the top of the areola.

(3) "Circumstances in which a person has a reasonable expectation of privacy" means circumstances in which a reasonable person would believe that his or her intimate areas would not be visible to the public, regardless of whether that person is in a public or private area. THIS DEFINITION INCLUDES CIRCUMSTANCES IN WHICH A PERSON KNOWINGLY DISROBES IN FRONT OF ANOTHER, BUT DOES NOT EXPECT NOR GIVE CONSENT FOR THE OTHER PERSON TO PHOTOGRAPH, FILM, OR RECORD HIS OR HER INTIMATE AREAS.

(4) "Intimate areas" means the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of a person.

(5) "Place where a person has a reasonable expectation of privacy" means:

(A) a place in which a reasonable person would believe that he or she could disrobe in privacy, without his or her undressing being viewed by another; or

(B) a place in which a reasonable person would expect to be safe from unwanted intrusion or surveillance.

(6) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.

(7) "View" means the intentional looking upon another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or a device designed or intended to improve visual acuity.

(b) No person shall intentionally view, photograph, film, or record in any format:

(1) the intimate areas of another person without that person's knowledge and consent while the person being viewed, photographed, filmed, or recorded is in a place where he or she would have a reasonable expectation of privacy; or

(2) the intimate areas of another person without that person's knowledge and consent and under circumstances in which the person has a reasonable expectation of privacy.

(c) No person shall DISPLAY OR DISCLOSE TO A THIRD PARTY any image recorded in violation of subsection (b), (D), OR (E) of this section.

(d) No person shall intentionally conduct surveillance or intentionally photograph, film, or record in any format a person without that person's knowledge and consent while the person being surveilled, photographed, filmed, or recorded is in a place where he or she would have a reasonable expectation of privacy within a home or residence. Bona fide private investigators and bona fide security guards engaged in otherwise lawful activities within the scope of their employment are exempt from this subsection.

(e) NO PERSON SHALL INTENTIONALLY PHOTOGRAPH, FILM, OR RECORD IN ANY FORMAT A PERSON WITHOUT THAT PERSON'S KNOWLEDGE AND CONSENT WHILE THAT PERSON IS IN A PLACE WHERE A PERSON HAS A REASONABLE EXPECTATION OF PRIVACY AND THAT PERSON IS ENGAGED IN A SEXUAL ACT AS DEFINED IN SECTION 3251 OF THIS TITLE.

(F) This section shall apply to a person who intentionally views, photographs, films, or records the intimate areas of a person as part of a security or theft prevention policy or program at a place of business.

(G) This section shall not apply to:

(1) a law enforcement officer conducting official law enforcement activities in accordance with state and federal law; or

(2) official activities of the department of corrections, a law enforcement agency, the agency of human services, or a court for security purposes or during the investigation of alleged misconduct by a person in the custody of the department of corrections, a law enforcement agency, the agency of human services, or a court.

(H) This section is not intended to infringe upon the freedom of the press to gather and disseminate news as guaranteed by the First Amendment to the - Constitution of the United States.

(I) It shall be an affirmative defense to a violation of subsection (b) of this section that the defendant was a bona fide private investigator or bona fide security guard conducting surveillance in the ordinary course of business, and the violation was unintentional and incidental to otherwise legal surveillance. However, an unintentional and incidental violation of subsection (b) of this section shall not be a defense to a violation of subsection (c).

(J) For a first offense, a person who violates subsection (b), (d), OR (E) of this section shall be imprisoned not more than two years or fined not more than \$ 1,000.00, or both. For a second or subsequent offense, a person who violates subsection (b), (d), OR (E) of this section shall be imprisoned not more than three years or fined not more than \$ 5,000.00, or both. A person who violates subsection (c) of this section shall be imprisoned not more than five years or fined not more than \$ 5,000.00, or both.

## **VIRGINIA**

### **VA. CODE ANN. § 18.2-130 (2010). Peeping or spying into dwelling or enclosure.**

A. It shall be unlawful for any person to enter upon the property of another and secretly or furtively peep, spy or attempt to peep or spy into or through a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy.

B. It shall be unlawful for any person to use a peephole or other aperture to secretly or furtively peep, spy or attempt to peep or spy into a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location or enclosure for the purpose of viewing any nonconsenting person who is totally nude, clad in undergarments, or in a state of undress exposing the genitals, pubic area, buttocks or female breast and the circumstances are such that the person would otherwise have a reasonable expectation of privacy.

C. The provisions of this section shall not apply to a lawful criminal investigation or a correctional official or local or regional jail official conducting surveillance for security purposes or during an investigation of alleged misconduct involving a person committed to the Department of Corrections or to a local or regional jail.

D. As used in this section, "peephole" means any hole, crack or other similar opening through which a person can see.

E. A violation of this section is a Class 1 misdemeanor.

### **VA. CODE ANN. § 18.2-386.1 (2010). Unlawful filming, videotaping or photographing of another; penalty.**



A. It shall be unlawful for any person to knowingly and intentionally videotape, photograph, or film any nonconsenting person or create any videographic or still image record by any means whatsoever of the nonconsenting person if (i) that person is totally nude, clad in undergarments, or in a state of undress so as to expose the genitals, pubic area, buttocks or female breast in a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location; or (ii) the videotape, photograph, film or videographic or still image record is created by placing the lens or image-gathering component of the recording device in a position directly beneath or between a person's legs for the purpose of capturing an image of the person's intimate parts or undergarments covering those intimate parts when the intimate parts or undergarments would not otherwise be visible to the general public; and when the circumstances set forth in clause (i) or (ii) are otherwise such that the person being videotaped, photographed, filmed or otherwise recorded would have a reasonable expectation of privacy.

B. The provisions of this section shall not apply to filming, videotaping or photographing or other still image or videographic recording by (i) law-enforcement officers pursuant to a criminal investigation which is otherwise lawful or (ii) correctional officials and local or regional jail officials for security purposes or for investigations of alleged misconduct involving a person committed to the Department of Corrections or to a local or regional jail, or to any sound recording of an oral conversation made as a result of any videotaping or filming pursuant to Chapter 6 (§ 19.2-61 et seq.) of Title 19.2.

C. A violation of subsection A shall be punishable as a Class 1 misdemeanor.

D. A violation of subsection A involving a nonconsenting person under the age of 18 shall be punishable as a Class 6 felony.

E. Where it is alleged in the warrant, information, or indictment on which the person is convicted and found by the court or jury trying the case that the person has previously been convicted within the 10-year period immediately preceding the offense charged of two or more of the offenses specified in this section, each such offense occurring on a different date, and when such offenses were not part of a common act, transaction, or scheme, and such person has been at liberty as defined in § 53.1-151 between each conviction, he shall be guilty of a Class 6 felony.

## **WASHINGTON**

### **WASH. REV. CODE ANN. § 9A.44.115 (2010). Voyeurism.**

(1) As used in this section:

(a) "Intimate areas" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view;

(b) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person;

(c) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(d) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(2) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(a) Another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(b) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(3) Voyeurism is a class C felony.

(4) This section does not apply to viewing, photographing, or filming by personnel of the department of corrections or of a local jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

(5) If a person is convicted of a violation of this section, the court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this section.

## **WEST VIRGINIA**

### **W. VA. CODE ANN. § 61-8-28 (2010). Criminal invasion of privacy; penalties.**

(a) For the purposes of this section, the words or terms defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context:

(1) "A person fully or partially nude" means a male or female who is either clothed or unclothed so that: (A) All or any part of his or her genitals, pubic area or buttocks is visible; or (B) in the case of a female only, a part of a nipple of her breast is visible and is without a fully opaque covering;

(2) "To visually portray" a person means to create a reproducible image of that person by means of:

(A) A photograph;

(B) A motion picture;

(C) A video tape;

(D) A digital recording; or

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person; and

(3) "Place where a reasonable person would have an expectation of privacy" means a place where a reasonable person would believe that he or she could, in privacy, be fully or partially nude without expecting that the act of exposing his or her body was being visually portrayed by another person.

(b) It is unlawful for a person to knowingly visually portray another person without that other person's knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than five thousand dollars, or both.

(c) Any person who displays or distributes visual images of another person with knowledge that said visual images were obtained in violation of subsection (b) of this section is guilty of a misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than five thousand dollars, or both.

(d) A person who is convicted of a second or subsequent violation of subsection (b) or (c) of this section is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one year nor more than five years or fined not more than ten thousand dollars, or both.

## **WISCONSIN**

### **WIS. STAT. ANN. § 942.08 (2010). Invasion of privacy.**

(1) In this section:

(a) "Nude or partially nude person" means any human being who has less than fully and opaquely covered genitals, pubic area or buttocks, any female human being who has less than a fully

opaque covering over any portion of a breast below the top of the nipple, or any male human being with covered genitals in a discernibly turgid state.

(b) "Private place" means a place where a person may reasonably expect to be safe from being observed without his or her knowledge and consent.

(c) "Surveillance device" means any device, instrument, apparatus, implement, mechanism or contrivance used, designed to be used or primarily intended to be used to observe the activities of a person. "Surveillance device" includes a peephole.

(2) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Knowingly installs a surveillance device in any private place, or uses a surveillance device that has been installed in a private place, with the intent to observe any nude or partially nude person without the consent of the person observed.

(b) For the purpose of sexual arousal or gratification and without the consent of each person who is present in the private place, looks into a private place that is, or is part of, a public accommodation, as defined in s. 134.48 (1) (b), and in which a person may reasonably be expected to be nude or partially nude.

(c) For the purpose of sexual arousal or gratification, looks into a private place that is, or is part of, a public accommodation, as defined in s. 134.48 (1) (b), and in which a person may reasonably be expected to be nude or partially nude but in which no person is present.

(d) Enters another persons private property without that persons consent or enters an enclosed or unenclosed common area of a multiunit dwelling or condominium and looks into any individuals dwelling unit if all of the following apply:

1. The actor looks into the dwelling unit for the purpose of sexual arousal or gratification and with the intent to intrude upon or interfere with an individuals privacy.
2. The actor looks into a part of the dwelling unit in which an individual is present.
3. The individual has a reasonable expectation of privacy in that part of the dwelling unit.
4. The individual does not consent to the actor looking into that part of the dwelling.

### **WIS. STAT. ANN. § 942.09 (2010). Representations depicting nudity.**

(1) In this section:

(a) "Captures a representation" means takes a photograph, makes a motion picture, videotape, or other visual representation, or records or stores in any medium data that represents a visual image.

(am) "Nude or partially nude person" has the meaning given in s. 942.08 (1) (a) (b) "Nudity" has the meaning given in s. 948.11 (1) (d) (c) "Representation" means a photograph, exposed film, motion picture, videotape, other visual representation, or data that represents a visual image.

(2) (am) Whoever does any of the following is guilty of a Class I felony:

1. Captures a representation that depicts nudity without the knowledge and consent of the person who is depicted nude while that person is nude in a circumstance in which he or she has a reasonable expectation of privacy, if the person knows or has reason to know that the person who is depicted nude does not know of and consent to the capture of the representation.
2. Makes a reproduction of a representation that the person knows or has reason to know was captured in violation of subd. 1. and that depicts the nudity depicted in the representation captured in violation of subd. 1., if the person depicted nude in the reproduction did not consent to the making of the reproduction.
3. Possesses, distributes, or exhibits a representation that was captured in violation of subd. 1. or a reproduction made in violation of subd. 2., if the person knows or has reason to know that the representation was captured in violation of subd. 1. or the reproduction was made in violation of subd. 2., and if the person who is depicted nude in the representation or reproduction did not consent to the possession, distribution, or exhibition.

(bm) Notwithstanding par. (am), if the person depicted nude in a representation or reproduction is a child and the capture, possession, exhibition, or distribution of the representation, or making, possession, exhibition, or distribution of the reproduction, does not violate s. 948.05 or 948.12, a parent, guardian, or legal custodian of the child may do any of the following:

1. Capture and possess the representation or make and possess the reproduction depicting the child.
2. Distribute or exhibit a representation captured or possessed under subd. 1., or distribute or exhibit a reproduction made or possessed under subd. 1., if the distribution or exhibition is not for commercial purposes.

(cm) This subsection does not apply to a person who receives a representation or reproduction depicting a child from a parent, guardian, or legal custodian of the child under par. (bm) 2., if the possession, exhibition, or distribution is not for commercial purposes.

(5) (a) Whoever, while present in a locker room, intentionally captures a representation of a nude or partially nude person while the person is nude or partially nude in the locker room is guilty of a Class B misdemeanor. This paragraph does not apply if the person consents to the capture of the representation and one of the following applies:

1. The person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent.
2. The persons parent, guardian, or legal custodian consents to the capture of the representation.

(b)

1. Whoever intentionally does any of the following is guilty of a Class A misdemeanor:

- a. Captures a representation of a nude or partially nude person while the actor is present in, and the person is nude or partially nude in, the locker room and exhibits or distributes the representation to another.
  - b. Transmits or broadcasts an image of a nude or partially nude person from a locker room while the person is nude or partially nude in the locker room.
2. This paragraph does not apply if the person consents to the exhibition or distribution of the representation or the transmission or broadcast of the image and one of the following applies:
- a. The person is, or the actor reasonably believes that the person is, 18 years of age or over when the person gives his or her consent.
  - b. The persons parent, guardian, or legal custodian consents to the exhibition, distribution, transmission, or broadcast.

**WIS. STAT. ANN. § 947.01 (2010). Disorderly conduct.**

Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor.

**WYOMING**

**WYO. STAT. ANN. § 6-4-304 (2010). Voyeurism; penalties.**

(a) A person is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both, if he, without the consent of the person being viewed, commits the crime of voyeurism by looking in a clandestine, surreptitious, prying or secretive nature into an enclosed area where the person being viewed has a reasonable expectation of privacy, including, but not limited to:

- (i) Restrooms;
- (ii) Baths;
- (iii) Showers; or
- (iv) Dressing or fitting rooms.

(b) A person is guilty of a felony punishable by imprisonment for not more than two (2) years, a fine of not more than five thousand dollars (\$5,000.00), or both, if he:

- (i) Commits the offense specified in subsection (a) of this section by knowingly or intentionally capturing an image by means of a camera, a video camera or any other image recording device; or

(ii) Uses a camera, video camera or any other image recording device for the purpose of observing, viewing, photographing, filming or videotaping another person under the clothing being worn by the other person where that other person has not consented to the observing, viewing, photographing, filming or videotaping.

# FEDERAL LEGISLATION/ U.S. TERRITORIES

## FEDERAL LEGISLATION

### **18 U.S.C.S. § 1801 (2010). Video voyeurism.**

(a) Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be fined under this title or imprisoned not more than one year, or both.

(b) In this section--

(1) the term "capture", with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

(2) the term "broadcast" means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

(3) the term "a private area of the individual" means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;

(4) the term "female breast" means any portion of the female breast below the top of the areola; and

(5) the term "under circumstances in which that individual has a reasonable expectation of privacy" means--

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

(c) This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.

### **ADAM WALSH CHILD PROTECTION AND SAFETY ACT, PUB. L NO. 109-248, 120 STAT 587 (2006) (codified in scattered sections of 18 U.S.C.).**

PUBLIC LAW 109-248 [H.R. 4472]

JUL. 27, 2006

ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006

109 P.L. 248; 120 Stat. 587; 2006 Enacted H.R. 4472; 109 Enacted H.R. 4472

BILL TRACKING REPORT: 109 Bill Tracking H.R. 4472

FULL TEXT VERSION(S) OF BILL: 109 H.R. 4472

CIS LEGIS. HISTORY DOCUMENT: 109 CIS Legis. Hist. P.L. 248

An Act

To protect children from sexual exploitation and violent crime, to prevent child abuse and child pornography, to promote Internet safety, and to honor the memory of Adam Walsh and other child crime victims.

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

[\*1] SECTION 1. <42 USC 16901 note> SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Adam Walsh Child Protection and Safety Act of 2006".

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. In recognition of John and Reve Walsh on the occasion of the 25th anniversary of Adam Walsh's abduction and murder.

TITLE I--SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Sec. 101. Short title.

Sec. 102. Declaration of purpose.

Sec. 103. Establishment of program.

Subtitle A--Sex Offender Registration and Notification

Sec. 111. Relevant definitions, including Amie Zyla expansion of sex offender definition and expanded inclusion of child predators.

Sec. 112. Registry requirements for jurisdictions.

Sec. 113. Registry requirements for sex offenders.

Sec. 114. Information required in registration.

Sec. 115. Duration of registration requirement.

Sec. 116. Periodic in person verification.

Sec. 117. Duty to notify sex offenders of registration requirements and to register.

Sec. 118. Public access to sex offender information through the Internet.

Sec. 119. National Sex Offender Registry.

Sec. 120. Dru Sjodin National Sex Offender Public Website.

Sec. 121. Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program.

Sec. 122. Actions to be taken when sex offender fails to comply.

Sec. 123. Development and availability of registry management and website software.

Sec. 124. Period for implementation by jurisdictions.

Sec. 125. Failure of jurisdiction to comply.



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Sec. 632. Fugitive safe surrender.

- Sec. 633. National registry of substantiated cases of child abuse.
- Sec. 634. Comprehensive examination of sex offender issues.
- Sec. 635. Annual report on enforcement of registration requirements.
- Sec. 636. Government Accountability Office studies on feasibility of using driver's license registration processes as additional registration requirements for sex offenders.
- Sec. 637. Sex offender risk classification study.
- Sec. 638. Study of the effectiveness of restricting the activities of sex offenders to reduce the occurrence of repeat offenses.
- Sec. 639. The justice for Crime Victims Family Act.

TITLE VII--INTERNET SAFETY ACT

- Sec. 701. Child exploitation enterprises.
- Sec. 702. Increased penalties for registered sex offenders.
- Sec. 703. Deception by embedded words or images.
- Sec. 704. Additional prosecutors for offenses relating to the sexual exploitation of children.
- Sec. 705. Additional computer-related resources.
- Sec. 706. Additional ICAC Task Forces.
- Sec. 707. Masha's Law.

[\*2] Sec. 2. IN RECOGNITION OF JOHN AND REVE WALSH ON THE OCCASION OF THE 25TH ANNIVERSARY OF ADAM WALSH'S ABDUCTION AND MURDER.

(a) Adam Walsh's Abduction and Murder.--On July 27, 1981, in Hollywood, Florida, 6-year-old Adam Walsh was abducted at a mall. Two weeks later, some of Adam's remains were discovered in a canal more than 100 miles from his home.

(b) John and Reve Walsh's Commitment to the Safety of Children.--Since the abduction and murder of their son Adam, both John and Reve Walsh have dedicated themselves to protecting children from child predators, preventing attacks on our children, and bringing child predators to justice. Their commitment has saved the lives of numerous children. Congress, and the American people, honor John and Reve Walsh for their dedication to the well-being and safety of America's children.

[\*\*590] TITLE I--SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

[\*101] Sec. 101. <42 USC 16901 note> SHORT TITLE.

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

[\*102] Sec. 102. <42 USC 16901> DECLARATION OF PURPOSE.

In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators against the victims listed below, Congress in this Act establishes a comprehensive national system for the registration of those offenders:

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

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

- (3) Pam Lychner, who was 31 years old, was attacked by a career offender in Houston, Texas.
- (4) Jetseta Gage, who was 10 years old, was kidnapped, sexually assaulted, and murdered in 2005, in Cedar Rapids, Iowa.
- (5) Dru Sjodin, who was 22 years old, was sexually assaulted and murdered in 2003, in North Dakota.
- (6) Jessica Lunsford, who was 9 years old, was abducted, sexually assaulted, buried alive, and murdered in 2005, in Homosassa, Florida.
- (7) Sarah Lunde, who was 13 years old, was strangled and murdered in 2005, in Ruskin, Florida.
- (8) Amie Zyla, who was 8 years old, was sexually assaulted in 1996 by a juvenile offender in Waukesha, Wisconsin, and has become an advocate for child victims and protection of children from juvenile sex offenders.
- (9) Christy Ann Fornoff, who was 13 years old, was abducted, sexually assaulted, and murdered in 1984, in Tempe, Arizona.
- (10) Alexandra Nicole Zapp, who was 30 years old, was brutally attacked and murdered in a public restroom by a repeat sex offender in 2002, in Bridgewater, Massachusetts.
- (11) Polly Klaas, who was 12 years old, was abducted, sexually assaulted, and murdered in 1993 by a career offender in California.
- (12) Jimmy Ryce, who was 9 years old, was kidnapped and murdered in Florida on September 11, 1995.
- (13) Carlie Brucia, who was 11 years old, was abducted and murdered in Florida in February, 2004.
- (14) Amanda Brown, who was 7 years old, was abducted and murdered in Florida in 1998.
- (15) Elizabeth Smart, who was 14 years old, was abducted in Salt Lake City, Utah in June 2002.
- (16) Molly Bish, who was 16 years old, was abducted in 2000 while working as a lifeguard in Warren, Massachusetts, where her remains were found 3 years later.
- [\*\*591] (17) Samantha Runnion, who was 5 years old, was abducted, sexually assaulted, and murdered in California on July 15, 2002.

[\*103] Sec. 103. <42 USC 16902> ESTABLISHMENT OF PROGRAM.

This Act establishes the Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Program.

Subtitle A--Sex Offender Registration and Notification

National Center for Prosecution of Child Abuse  
National District Attorneys Association

[\*111] Sec. 111. <42 USC 16911> RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA EXPANSION OF SEX OFFENDER DEFINITION AND EXPANDED INCLUSION OF CHILD PREDATORS.

In this title the following definitions apply:

(1) Sex offender.-- The term "sex offender" means an individual who was convicted of a sex offense.

(2) Tier i sex offender.-- The term "tier I sex offender" means a sex offender other than a tier II or tier III sex offender.

(3) Tier ii sex offender.-- The term "tier II sex offender" means a sex offender other than a tier III sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:

(i) sex trafficking (as described in section 1591 of title 18, United States Code);

(ii) coercion and enticement (as described in section 2422(b) of title 18, United States Code);

(iii) transportation with intent to engage in criminal sexual activity (as described in section 2423(a) of title 18, United States Code);

(iv) abusive sexual contact (as described in section 2244 of title 18, United States Code);

(B) involves--

(i) use of a minor in a sexual performance;

(ii) solicitation of a minor to practice prostitution; or

(iii) production or distribution of child pornography; or

(C) occurs after the offender becomes a tier I sex offender.

(4) Tier iii sex offender.-- The term "tier III sex offender" means a sex offender whose offense is punishable by imprisonment for more than 1 year and--

(A) is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

(i) aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code); or

(ii) abusive sexual contact (as described in section 2244 of title 18, United States Code) against a minor who has not attained the age of 13 years;

[\*\*592] (B) involves kidnapping of a minor (unless committed by a parent or guardian); or

(C) occurs after the offender becomes a tier II sex offender.

(5) Amie zyla expansion of sex offense definition.----

(A) Generally.--Except as limited by subparagraph (B) or (C), the term "sex offense" means--

(i) a criminal offense that has an element involving a sexual act or sexual contact with another;

(ii) a criminal offense that is a specified offense against a minor;

(iii) a Federal offense (including an offense prosecuted under section 1152 or 1153 of title 18, United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18, United States Code;

(iv) a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note); or

(v) an attempt or conspiracy to commit an offense described in clauses (i) through (iv).

(B) Foreign convictions.--A foreign conviction is not a sex offense for the purposes of this title if it was not obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established under section 112.

(C) Offenses involving consensual sexual conduct.--An offense involving consensual sexual conduct is not a sex offense for the purposes of this title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.

(6) Criminal offense.-- The term "criminal offense" means a State, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note)) or other criminal offense.

(7) Expansion of definition of "specified offense against a minor" to include all offenses by child predators.-- The term "specified offense against a minor" means an offense against a minor that involves any of the following:

(A) An offense (unless committed by a parent or guardian) involving kidnapping.

(B) An offense (unless committed by a parent or guardian) involving false imprisonment.

(C) Solicitation to engage in sexual conduct.

(D) Use in a sexual performance.

(E) Solicitation to practice prostitution.

(F) Video voyeurism as described in section 1801 of title 18, United States Code.

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

(H) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(I) Any conduct that by its nature is a sex offense against a minor.

[\*\*593] (8) Convicted as including certain juvenile adjudications.-- The term "convicted" or a variant thereof, used with respect to a sex offense, includes adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

(9) Sex offender registry.-- The term "sex offender registry" means a registry of sex offenders, and a notification program, maintained by a jurisdiction.

(10) Jurisdiction.-- The term "jurisdiction" means any of the following:

(A) A State.

(B) The District of Columbia.

(C) The Commonwealth of Puerto Rico.

(D) Guam.

(E) American Samoa.

(F) The Northern Mariana Islands.

(G) The United States Virgin Islands.

(H) To the extent provided and subject to the requirements of section 127, a federally recognized Indian tribe.

(11) Student.-- The term "student" means an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.

(12) Employee.-- The term "employee" includes an individual who is self-employed or works for any other entity, whether compensated or not.

(13) Resides.-- The term "resides" means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

(14) Minor.-- The term "minor" means an individual who has not attained the age of 18 years.

[\*112] Sec. 112. <42 USC 16912> REGISTRY REQUIREMENTS FOR JURISDICTIONS.

(a) Jurisdiction To Maintain a Registry.--Each jurisdiction shall maintain a jurisdiction-wide sex offender registry conforming to the requirements of this title.

(b) Guidelines and Regulations.--The Attorney General shall issue guidelines and regulations to interpret and implement this title.

[\*113] Sec. 113. <42 USC 16913> REGISTRY REQUIREMENTS FOR SEX OFFENDERS.

(a) In General.--A sex offender shall register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student. For initial registration purposes only, a sex offender shall also register in the jurisdiction in which convicted if such jurisdiction is different from the jurisdiction of residence.

(b) Initial Registration.--The sex offender shall initially register--

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

[\*\*594] (2) not later than 3 business days after being sentenced for that offense, if the sex offender is not sentenced to a term of imprisonment.

(c) Keeping the Registration Current.--A sex offender shall, not later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least 1 jurisdiction involved pursuant to subsection (a) and inform that jurisdiction of all changes in the information required for that offender in the sex offender registry. That jurisdiction shall immediately provide that information to all other jurisdictions in which the offender is required to register.

(d) Initial Registration of Sex Offenders Unable To Comply With Subsection (b) .--The Attorney General shall have the authority to specify the applicability of the requirements of this title to sex offenders convicted before the enactment of this Act or its implementation in a particular jurisdiction, and to prescribe rules for the registration of any such sex offenders and for other categories of sex offenders who are unable to comply with subsection (b).

(e) State Penalty for Failure To Comply.--Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of this title.

[\*114] Sec. 114. <42 USC 16914> INFORMATION REQUIRED IN REGISTRATION.

(a) Provided by the Offender.--The sex offender shall provide the following information to the appropriate official for inclusion in the sex offender registry:

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

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

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



(4) The name and address of any place where the sex offender is an employee or will be an employee.

(5) The name and address of any place where the sex offender is a student or will be a student.

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

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

(b) Provided by the Jurisdiction.--The jurisdiction in which the sex offender registers shall ensure that the following information is included in the registry for that sex offender:

(1) A physical description of the sex offender.

(2) The text of the provision of law defining the criminal offense for which the sex offender is registered.

(3) The criminal history of the sex offender, including the date of all arrests and convictions; the status of parole, probation, or supervised release; registration status; and the existence of any outstanding arrest warrants for the sex offender.

(4) A current photograph of the sex offender.

(5) A set of fingerprints and palm prints of the sex offender.

(6) A DNA sample of the sex offender.

(7) A photocopy of a valid driver's license or identification card issued to the sex offender by a jurisdiction.

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

[\*\*595] [\*115] Sec. 115. <42 USC 16915> DURATION OF REGISTRATION REQUIREMENT.

(a) Full Registration Period.--A sex offender shall keep the registration current for the full registration period (excluding any time the sex offender is in custody or civilly committed) unless the offender is allowed a reduction under subsection (b). The full registration period is--

(1) 15 years, if the offender is a tier I sex offender;

(2) 25 years, if the offender is a tier II sex offender; and

(3) the life of the offender, if the offender is a tier III sex offender.

(b) Reduced Period for Clean Record.--

(1) Clean record.-- The full registration period shall be reduced as described in paragraph (3) for a sex offender who maintains a clean record for the period described in paragraph (2) by--

(A) not being convicted of any offense for which imprisonment for more than 1 year may be imposed;

(B) not being convicted of any sex offense;

(C) successfully completing any periods of supervised release, probation, and parole; and

(D) successfully completing of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General.

(2) Period.-- In the case of--

(A) a tier I sex offender, the period during which the clean record shall be maintained is 10 years; and

(B) a tier III sex offender adjudicated delinquent for the offense which required registration in a sex registry under this title, the period during which the clean record shall be maintained is 25 years.

(3) Reduction.-- In the case of--

(A) a tier I sex offender, the reduction is 5 years;

(B) a tier III sex offender adjudicated delinquent, the reduction is from life to that period for which the clean record under paragraph (2) is maintained.

[\*116] Sec. 116. <42 USC 16916> PERIODIC IN PERSON VERIFICATION.

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than--

(1) each year, if the offender is a tier I sex offender;

(2) every 6 months, if the offender is a tier II sex offender; and

(3) every 3 months, if the offender is a tier III sex offender.

[\*117] Sec. 117. <42 USC 16917> DUTY TO NOTIFY SEX OFFENDERS OF REGISTRATION REQUIREMENTS AND TO REGISTER.

(a) In General.--An appropriate official shall, shortly before release of the sex offender from custody, or, if the sex offender is not in custody, immediately after the sentencing of the sex offender, for the offense giving rise to the duty to register--

(1) inform the sex offender of the duties of a sex offender under this title and explain those duties;

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

[\*\*596] (3) ensure that the sex offender is registered.

(b) Notification of Sex Offenders Who Cannot Comply With Subsection ( a).--The Attorney General shall prescribe rules for the notification of sex offenders who cannot be registered in accordance with subsection (a).

[\*118] Sec. 118. <42 USC 16918> PUBLIC ACCESS TO SEX OFFENDER INFORMATION THROUGH THE INTERNET.

(a) In General.--Except as provided in this section, each jurisdiction shall make available on the Internet, in a manner that is readily accessible to all jurisdictions and to the public, all information about each sex offender in the registry. The jurisdiction shall maintain the Internet site in a manner that will permit the public to obtain relevant information for each sex offender by a single query for any given zip code or geographic radius set by the user. The jurisdiction shall also include in the design of its Internet site all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General.

(b) Mandatory Exemptions.--A jurisdiction shall exempt from disclosure--

- (1) the identity of any victim of a sex offense;
- (2) the Social Security number of the sex offender;
- (3) any reference to arrests of the sex offender that did not result in conviction; and
- (4) any other information exempted from disclosure by the Attorney General.

(c) Optional Exemptions.--A jurisdiction may exempt from disclosure--

- (1) any information about a tier I sex offender convicted of an offense other than a specified offense against a minor;
- (2) the name of an employer of the sex offender;
- (3) the name of an educational institution where the sex offender is a student; and
- (4) any other information exempted from disclosure by the Attorney General.

(d) Links.--The site shall include, to the extent practicable, links to sex offender safety and education resources.

(e) Correction of Errors.--The site shall include instructions on how to seek correction of information that an individual contends is erroneous.

(f) Warning.--The site shall include a warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or

residing or working at any reported address. The warning shall note that any such action could result in civil or criminal penalties.

[\*119] Sec. 119. <42 USC 16919> NATIONAL SEX OFFENDER REGISTRY.

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

(b) Electronic Forwarding.--The Attorney General shall ensure (through the National Sex Offender Registry or otherwise) that updated information about a sex offender is immediately transmitted by electronic forwarding to all relevant jurisdictions.

[\*\*597] [\*120] Sec. 120. <42 USC 16920> DRU SJODIN NATIONAL SEX OFFENDER PUBLIC WEBSITE.

(a) Establishment.--There is established the Dru Sjodin National Sex Offender Public Website (hereinafter in this section referred to as the "Website"), which the Attorney General shall maintain.

(b) Information To Be Provided.--The Website shall include relevant information for each sex offender and other person listed on a jurisdiction's Internet site. The Website shall allow the public to obtain relevant information for each sex offender by a single query for any given zip code or geographical radius set by the user in a form and with such limitations as may be established by the Attorney General and shall have such other field search capabilities as the Attorney General may provide.

[\*121] Sec. 121. <42 USC 16921> MEGAN NICOLE KANKA AND ALEXANDRA NICOLE ZAPP COMMUNITY NOTIFICATION PROGRAM.

(a) Establishment of Program.--There is established the Megan Nicole Kanka and Alexandra Nicole Zapp Community Notification Program (hereinafter in this section referred to as the "Program").

(b) Program Notification.--Except as provided in subsection (c), immediately after a sex offender registers or updates a registration, an appropriate official in the jurisdiction shall provide the information in the registry (other than information exempted from disclosure by the Attorney General) about that offender to the following:

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

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

(3) Each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs.

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

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

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

(7) Any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction.

(c) Frequency.--Notwithstanding subsection (b), an organization or individual described in subsection (b)(6) or (b)(7) may opt to receive the notification described in that subsection no less frequently than once every five business days.

[\*122] Sec. 122. <42 USC 16922> ACTIONS TO BE TAKEN WHEN SEX OFFENDER FAILS TO COMPLY.

An appropriate official shall notify the Attorney General and appropriate law enforcement agencies of any failure by a sex offender to comply with the requirements of a registry and revise [\*598] the jurisdiction's registry to reflect the nature of that failure. The appropriate official, the Attorney General, and each such law enforcement agency shall take any appropriate action to ensure compliance.

[\*123] Sec. 123. <42 USC 16923> DEVELOPMENT AND AVAILABILITY OF REGISTRY MANAGEMENT AND WEBSITE SOFTWARE.

(a) Duty To Develop and Support.--The Attorney General shall, in consultation with the jurisdictions, develop and support software to enable jurisdictions to establish and operate uniform sex offender registries and Internet sites.

(b) Criteria.--The software should facilitate--

(1) immediate exchange of information among jurisdictions;

(2) public access over the Internet to appropriate information, including the number of registered sex offenders in each jurisdiction on a current basis;

(3) full compliance with the requirements of this title; and

(4) communication of information to community notification program participants as required under section 121.

(c) Deadline.--The Attorney General shall make the first complete edition of this software available to jurisdictions within 2 years of the date of the enactment of this Act.

[\*124] Sec. 124. <42 USC 16924> PERIOD FOR IMPLEMENTATION BY JURISDICTIONS.

(a) Deadline.--Each jurisdiction shall implement this title before the later of--

(1) 3 years after the date of the enactment of this Act; and

(2) 1 year after the date on which the software described in section 123 is available.

(b) Extensions.--The Attorney General may authorize up to two 1-year extensions of the deadline.

[\*125] Sec. 125. <42 USC 16925> FAILURE OF JURISDICTION TO COMPLY.

(a) In General.--For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this title shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(b) State Constitutionality.--

(1) In general.-- When evaluating whether a jurisdiction has substantially implemented this title, the Attorney General shall consider whether the jurisdiction is unable to substantially implement this title because of a demonstrated inability to implement certain provisions that would place the jurisdiction in violation of its constitution, as determined by a ruling of the jurisdiction's highest court.

(2) Efforts.-- If the circumstances arise under paragraph (1), then the Attorney General and the jurisdiction shall make good faith efforts to accomplish substantial implementation of this title and to reconcile any conflicts between this title and the jurisdiction's constitution. In considering whether compliance with the requirements of this title would likely violate the jurisdiction's constitution or an interpretation thereof by the jurisdiction's highest court, the Attorney General [\*\*599] shall consult with the chief executive and chief legal officer of the jurisdiction concerning the jurisdiction's interpretation of the jurisdiction's constitution and rulings thereon by the jurisdiction's highest court.

(3) Alternative procedures.-- If the jurisdiction is unable to substantially implement this title because of a limitation imposed by the jurisdiction's constitution, the Attorney General may determine that the jurisdiction is in compliance with this Act if the jurisdiction has made, or is in the process of implementing reasonable alternative procedures or accommodations, which are consistent with the purposes of this Act.

(4) Funding reduction.-- If a jurisdiction does not comply with paragraph (3), then the jurisdiction shall be subject to a funding reduction as specified in subsection (a).

(c) Reallocation.--Amounts not allocated under a program referred to in this section to a jurisdiction for failure to substantially implement this title shall be reallocated under that program to jurisdictions that have not failed to substantially implement this title or may be reallocated to a jurisdiction from which they were withheld to be used solely for the purpose of implementing this title.

(d) Rule of Construction.--The provisions of this title that are cast as directions to jurisdictions or their officials constitute, in relation to States, only conditions required to avoid the reduction of Federal funding under this section.

[\*126] Sec. 126. <42 USC 16926> SEX OFFENDER MANAGEMENT ASSISTANCE (SOMA) PROGRAM.

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

(b) Application.--The chief executive of a jurisdiction desiring a grant under this section shall, on an annual basis, submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(c) Bonus Payments for Prompt Compliance.--A jurisdiction that, as determined by the Attorney General, has substantially implemented this title not later than 2 years after the date of the enactment of this Act is eligible for a bonus payment. The Attorney General may make such a payment under the SOMA program for the first fiscal year beginning after that determination. The amount of the payment shall be--

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

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

(d) Authorization of Appropriations.--In addition to any amounts otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to the Attorney General, to be available only for the SOMA program, for fiscal years 2007 through 2009.

[\*127] Sec. 127. <42 USC 16927> ELECTION BY INDIAN TRIBES.

(a) Election.--

[\*\*600] (1) In general.-- A federally recognized Indian tribe may, by resolution or other enactment of the tribal council or comparable governmental body--

(A) elect to carry out this subtitle as a jurisdiction subject to its provisions; or

(B) elect to delegate its functions under this subtitle to another jurisdiction or jurisdictions within which the territory of the tribe is located and to provide access to its territory and such other cooperation and assistance as may be needed to enable such other jurisdiction or jurisdictions to carry out and enforce the requirements of this subtitle.

(2) Imputed election in certain cases.-- A tribe shall be treated as if it had made the election described in paragraph (1)(B) if--

(A) it is a tribe subject to the law enforcement jurisdiction of a State under section 1162 of title 18, United States Code;

(B) the tribe does not make an election under paragraph (1) within 1 year of the enactment of this Act or rescinds an election under paragraph (1)(A); or

(C) the Attorney General determines that the tribe has not substantially implemented the requirements of this subtitle and is not likely to become capable of doing so within a reasonable amount of time.

(b) Cooperation Between Tribal Authorities and Other Jurisdictions.--

(1) Nonduplication.-- A tribe subject to this subtitle is not required to duplicate functions under this subtitle which are fully carried out by another jurisdiction or jurisdictions within which the territory of the tribe is located.

(2) Cooperative agreements.-- A tribe may, through cooperative agreements with such a jurisdiction or jurisdictions--

(A) arrange for the tribe to carry out any function of such a jurisdiction under this subtitle with respect to sex offenders subject to the tribe's jurisdiction; and

(B) arrange for such a jurisdiction to carry out any function of the tribe under this subtitle with respect to sex offenders subject to the tribe's jurisdiction.

[\*128] Sec. 128. <42 USC 16928> REGISTRATION OF SEX OFFENDERS ENTERING THE UNITED STATES.

The Attorney General, in consultation with the Secretary of State and the Secretary of Homeland Security, shall establish and maintain a system for informing the relevant jurisdictions about persons entering the United States who are required to register under this title. The Secretary of State and the Secretary of Homeland Security shall provide such information and carry out such functions as the Attorney General may direct in the operation of the system.

[\*129] Sec. 129. REPEAL OF PREDECESSOR SEX OFFENDER PROGRAM.

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

[\*\*601] (b) <42 USC 14071 note> Effective Date.--Notwithstanding any other provision of this Act, this section shall take effect on the date of the deadline determined in accordance with section 124(a).

[\*130] Sec. 130. LIMITATION ON LIABILITY FOR THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

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

"(g) Limitation on Liability.--

"(1) In general.-- Except as provided in paragraphs (2) and (3), the National Center for Missing and Exploited Children, including any of its directors, officers, employees, or agents, is not liable



in any civil or criminal action arising from the performance of its CyberTipline responsibilities and functions, as defined by this section, or from its efforts to identify child victims.

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

"(3) Ordinary business activities.-- Paragraph (1) does not apply to an act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management."

[\*131] Sec. 131. <42 USC 16929> IMMUNITY FOR GOOD FAITH CONDUCT.

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

Subtitle B--Improving Federal Criminal Law Enforcement To Ensure Sex Offender Compliance With Registration and Notification Requirements and Protection of Children From Violent Predators

[\*141] Sec. 141. AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO SEX OFFENDER REGISTRATION.

(a) Criminal Penalties for Nonregistration.--

(1) In general.-- Part I of title 18, United States Code, is amended by inserting after chapter 109A the following:

[\*\*602] "CHAPTER 109B--SEX OFFENDER AND CRIMES AGAINST CHILDREN  
REGISTRY

"Sec.

"2250. Failure to register.

"Sec. 2250. Failure to register

"(a) In General.--Whoever--

"(1) is required to register under the Sex Offender Registration and Notification Act;

"(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

"(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

"(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act; shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) Affirmative Defense.--In a prosecution for a violation under subsection (a), it is an affirmative defense that--

"(1) uncontrollable circumstances prevented the individual from complying;

"(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

"(3) the individual complied as soon as such circumstances ceased to exist.

"(c) Crime of Violence.--

"(1) In general.-- An individual described in subsection (a) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States shall be imprisoned for not less than 5 years and not more than 30 years.

"(2) Additional punishment.-- The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a)."

(2) Clerical amendment.-- The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 109A the following:  
"109B. Sex offender and crimes against children registry ..... 2250".

(b) <28 USC 994 note> Directive to the United States Sentencing Commission.--In promulgating guidelines for use of a sentencing court in determining the sentence to be imposed for the offense specified in subsection (a), the United States Sentencing Commission shall consider the following matters, in addition to the matters specified in section 994 of title 28, United States Code:

(1) Whether the person committed another sex offense in connection with, or during, the period for which the person failed to register.

[\*\*603] (2) Whether the person committed an offense against a minor in connection with, or during, the period for which the person failed to register.

(3) Whether the person voluntarily attempted to correct the failure to register.

(4) The seriousness of the offense which gave rise to the requirement to register, including whether such offense is a tier I, tier II, or tier III offense, as those terms are defined in section 111.

(5) Whether the person has been convicted or adjudicated delinquent for any offense other than the offense which gave rise to the requirement to register.

(c) False Statement Offense.--Section 1001(a) of title 18, United States Code, is amended by adding at the end the following: "If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years."

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

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

(e) Supervised Release.--Section 3583 of title 18, United States Code, is amended--

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

(2) in subsection (k)--

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

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

(C) by adding at the end the following: "If a defendant required to register under the Sex Offender Registration and Notification Act commits any criminal offense under chapter 109A, 110, or 117, or section 1201 or 1591, for which imprisonment for a term longer than 1 year can be imposed, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment under subsection (e)(3) without regard to the exception contained therein. Such term shall be not less than 5 years."

(f) Duties of the Bureau of Prisons.--Paragraph (3) of section 4042(c) of title 18, United States Code, is amended to read as follows:

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

(g) Conforming Amendments To Cross-References.--Section 4042(c) of title 18, United States Code, is amended--

[\*\*604] (1) in paragraph (1), by striking "(4)" and inserting "(3), or any other person in a category specified by the Attorney General,"; and

(2) in paragraph (2)--

(A) in the first sentence, by striking "shall be subject to a registration requirement as a sex offender" and inserting "shall register as required by the Sex Offender Registration and Notification Act"; and

(B) in the fourth sentence, by striking "(4)" and inserting "(3)".

(h) Conforming Repeal of Deadwood.--Paragraph (4) of section 4042(c) of title 18, United States Code, is repealed.

(i) <10 USC 951 note> Military Offenses.--

(1) Section 115(a)(8)(C)(i) of Public Law 105-119 ( 111 Stat. 2466) is amended by striking "which encompass" and all that follows through "and (B))" and inserting "which are sex offenses as that term is defined in the Sex Offender Registration and Notification Act".

(2) Section 115(a)(8)(C)(iii) of Public Law 105-119 ( 111 Stat. 2466; 10 U.S.C. 951 note) is amended by striking "the amendments made by subparagraphs (A) and (B)" and inserting "the Sex Offender Registration and Notification Act".

(j) Conforming Amendment Relating To Parole.--Section 4209(a) of title 18, United States Code, is amended in the second sentence by striking "described" and all that follows through the end of the sentence and inserting "required to register under the Sex Offender Registration and Notification Act that the person comply with the requirements of that Act.".

[\*142] Sec. 142. <42 USC 16941> FEDERAL ASSISTANCE WITH RESPECT TO VIOLATIONS OF REGISTRATION REQUIREMENTS.

(a) In General.--The Attorney General shall use the resources of Federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements. For the purposes of section 566(e)(1)(B) of title 28, United States Code, a sex offender who violates a sex offender registration requirement shall be deemed a fugitive.

(b) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to implement this section.

[\*143] Sec. 143. <42 USC 16942> PROJECT SAFE CHILDHOOD.

(a) Establishment of Program.--Not later than 6 months after the date of enactment of this Act, the Attorney General shall create and maintain a Project Safe Childhood program in accordance with this section.

(b) Initial Implementation.--Except as authorized under subsection (c), funds authorized under this section may only be used for the following 5 purposes:

(1) Integrated Federal, State, and local efforts to investigate and prosecute child exploitation cases, including--

(A) the partnership by each United States Attorney with each Internet Crimes Against Children Task Force that is a part of the Internet Crimes Against Children Task Force Program

authorized and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) (referred to in this [\*\*605] section as the "ICAC Task Force Program") that exists within the district of such attorney;

(B) the partnership by each United States Attorney with other Federal, State, and local law enforcement partners working in the district of such attorney to implement the program described in subsection (a);

(C) the development by each United States Attorney of a district-specific strategic plan to coordinate the investigation and prosecution of child exploitation crimes;

(D) efforts to identify and rescue victims of child exploitation crimes; and

(E) local training, educational, and awareness programs of such crimes.

(2) Major case coordination by the Department of Justice (or other Federal agencies as appropriate), including specific integration or cooperation, as appropriate, of--

(A) the Child Exploitation and Obscenity Section within the Department of Justice;

(B) the Innocent Images Unit of the Federal Bureau of Investigation;

(C) any task forces established in connection with the Project Safe Childhood program set forth under subsection (a); and

(D) the High Tech Investigative Unit within the Criminal Division of the Department of Justice.

(3) Increased Federal involvement in child pornography and enticement cases by providing additional investigative tools and increased penalties under Federal law.

(4) Training of Federal, State, and local law enforcement through programs facilitated by--

(A) the National Center for Missing and Exploited Children;

(B) the ICAC Task Force Program; and

(C) any other ongoing program regarding the investigation and prosecution of computer-facilitated crimes against children, including training and coordination regarding leads from--

(i) Federal law enforcement operations; and

(ii) the CyberTipline and Child Victim-Identification programs managed and maintained by the National Center for Missing and Exploited Children.

(5) Community awareness and educational programs through partnerships to provide national public awareness and educational programs through--

(A) the National Center for Missing and Exploited Children;

(B) the ICAC Task Force Program; and

(C) any other ongoing programs that--

(i) raises national awareness about the threat of online sexual predators; or

(ii) provides information to parents and children seeking to report possible violations of computer-facilitated crimes against children.

(c) Expansion of Project Safe Childhood.--Notwithstanding subsection (b), funds authorized under this section may be also be used for the following purposes:

[\*\*606] (1) The addition of not less than 8 Assistant United States Attorneys at the Department of Justice dedicated to the prosecution of cases in connection with the Project Safe Childhood program set forth under subsection (a).

(2) The creation, development, training, and deployment of not less than 10 new Internet Crimes Against Children task forces within the ICAC Task Force Program consisting of Federal, State, and local law enforcement personnel dedicated to the Project Safe Childhood program set forth under subsection (a), and the enhancement of the forensic capacities of existing Internet Crimes Against Children task forces.

(3) The development and enhancement by the Federal Bureau of Investigation of the Innocent Images task forces.

(4) Such other additional and related purposes as the Attorney General determines appropriate.

(d) Authorization of Appropriations.--For the purpose of carrying out this section, there are authorized to be appropriated--

(1) for the activities described under subsection (b)--

(A) \$ 18,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the 5 succeeding fiscal years; and

(2) for the activities described under subsection (c)--

(A) for fiscal year 2007--

(i) \$ 15,000,000 for the activities under paragraph (1);

(ii) \$ 10,000,000 for activities under paragraph (2); and

(iii) \$ 4,000,000 for activities under paragraph (3); and

(B) such sums as may be necessary for each of the 5 succeeding fiscal years.

[\*144] Sec. 144. <42 USC 16943> FEDERAL ASSISTANCE IN IDENTIFICATION AND LOCATION OF SEX OFFENDERS RELOCATED AS A RESULT OF A MAJOR DISASTER.

The Attorney General shall provide assistance to jurisdictions in the identification and location of a sex offender relocated as a result of a major disaster.

[\*145] Sec. 145. <42 USC 16944> EXPANSION OF TRAINING AND TECHNOLOGY EFFORTS.

(a) Training.--The Attorney General shall--

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

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

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

(4) develop and distribute, for personnel listed in paragraph (3), information regarding multidisciplinary approaches to [\*\*607] holding offenders accountable to the terms of their probation, parole, and sex offender registration laws; and

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

(b) Technology.--The Attorney General shall--

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

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

(c) Report.--Not later than July 1, 2007, the Attorney General, shall submit to Congress a report on the activities carried out under this section. The report shall include any recommendations that the Attorney General considers appropriate.

(d) Authorization of Appropriations.--There are authorized to be appropriated to the Attorney General, for fiscal year 2007--

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

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

[\*146] Sec. 146. <42 USC 16945> OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING.

(a) Establishment.--There is established within the Department of Justice, under the general authority of the Attorney General, an Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (hereinafter in this section referred to as the "SMART Office").

(b) Director.--The SMART Office shall be headed by a Director who shall be appointed by the President. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the SMART Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement.

(c) Duties and Functions.--The SMART Office is authorized to--

(1) administer the standards for the sex offender registration and notification program set forth in this Act;

(2) administer grant programs relating to sex offender registration and notification authorized by this Act and other grant programs authorized by this Act as directed by the Attorney General;

(3) cooperate with and provide technical assistance to States, units of local government, tribal governments, and other public and private entities involved in activities related to sex offender registration or notification or to other measures for the protection of children or other members of the public from sexual abuse or exploitation; and

(4) perform such other functions as the Attorney General may delegate.

[\*\*608] Subtitle C--Access to Information and Resources Needed To Ensure That Children Are Not Attacked or Abused

[\*151] Sec. 151. <42 USC 16961> ACCESS TO NATIONAL CRIME INFORMATION DATABASES.

(a) In General.--Notwithstanding any other provision of law, the Attorney General shall ensure access to the national crime information databases (as defined in section 534 of title 28, United States Code) by--

(1) the National Center for Missing and Exploited Children, to be used only within the scope of the Center's duties and responsibilities under Federal law to assist or support law enforcement agencies in administration of criminal justice functions; and

(2) governmental social service agencies with child protection responsibilities, to be used by such agencies only in investigating or responding to reports of child abuse, neglect, or exploitation.

(b) Conditions of Access.--The access provided under this section, and associated rules of dissemination, shall be--

(1) defined by the Attorney General; and



(2) limited to personnel of the Center or such agencies that have met all requirements set by the Attorney General, including training, certification, and background screening.

[\*152] Sec. 152. REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK NATIONAL CRIME INFORMATION DATABASES AND STATE CHILD ABUSE REGISTRIES; SUSPENSION AND SUBSEQUENT ELIMINATION OF OPT-OUT.

(a) Requirement To Complete Background Checks Before Approval of Any Foster or Adoptive Placement and To Check National Crime Information Databases and State Child Abuse Registries; Suspension of Opt-Out.--

(1) Requirement to check national crime information databases and state child abuse registries.-  
- Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended--

(A) in subparagraph (A)--

(i) in the matter preceding clause (I)--

(I) by inserting ", including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code)," after "criminal records checks"; and

(II) by striking "on whose behalf foster care maintenance payments or adoption assistance payments are to be made" and inserting "regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child"; and

(ii) in each of clauses (i) and (ii), by inserting "involving a child on whose behalf such payments are to be so made" after "in any case"; and

(B) by adding at the end the following:

[\*\*609] "(C) provides that the State shall--

"(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

"(ii) comply with any request described in clause (i) that is received from another State; and

"(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;"

(2) Suspension of opt-out.-- Section 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B)) is amended--

(A) by inserting ", on or before September 30, 2005," after "plan if"; and

(B) by inserting ", on or before such date," after "or if".

(b) Elimination of Opt-Out.--Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)), as amended by subsection (a) of this section, is amended--

(1) in subparagraph (A), in the matter preceding clause (i), by striking "unless an election provided for in subparagraph (B) is made with respect to the State,"; and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(c) <42 USC 671 note> Effective Date.--

(1) General.-- The amendments made by subsection (a) shall take effect on October 1, 2006, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(2) Elimination of opt-out.-- The amendments made by subsection (b) shall take effect on October 1, 2008, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(3) Delay permitted if state legislation required.-- If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under section 471 of the Social Security Act to meet the additional requirements imposed by the amendments made by a subsection of this section, the plan shall not be regarded as failing to meet [\*\*610] any of the additional requirements before the first day of the first calendar quarter beginning after the first regular session of the State legislature that begins after the otherwise applicable effective date of the amendments. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

[\*153] Sec. 153. <42 USC 16962> SCHOOLS SAFE ACT.

(a) Short Title.--This section may be cited as the "Schools Safely Acquiring Faculty Excellence Act of 2006".

(b) In General.--The Attorney General of the United States shall, upon request of the chief executive officer of a State, conduct fingerprint-based checks of the national crime information databases (as defined in section 534(f)(3)(A) of title 28, United States Code as redesignated under subsection (e)) pursuant to a request submitted by--

(1) a child welfare agency for the purpose of--

(A) conducting a background check required under section 471(a)(20) of the Social Security Act on individuals under consideration as prospective foster or adoptive parents; or

(B) an investigation relating to an incident of abuse or neglect of a minor; or

(2) a private or public elementary school, a private or public secondary school, a local educational agency, or State educational agency in that State, on individuals employed by, under consideration for employment by, or otherwise in a position in which the individual would work with or around children in the school or agency.

(c) Fingerprint-Based Check.--Where possible, the check shall include a fingerprint-based check of State criminal history databases.

(d) Fees.--The Attorney General and the States may charge any applicable fees for the checks.

(e) Protection of Information.--An individual having information derived as a result of a check under subsection (b) may release that information only to appropriate officers of child welfare agencies, public or private elementary or secondary schools, or educational agencies or other persons authorized by law to receive that information.

(f) Criminal Penalties.--An individual who knowingly exceeds the authority in subsection (b), or knowingly releases information in violation of subsection (e), shall be imprisoned not more than 10 years or fined under title 18, United States Code, or both.

(g) Child Welfare Agency Defined.--In this section, the term "child welfare agency" means--

(1) the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act; and

(2) any other public agency, or any other private agency under contract with the State or local agency responsible for administering the plan under part B or part E of title IV of the Social Security Act, that is responsible for the licensing or approval of foster or adoptive parents.

(h) Definition of Education Terms.--In this section, the terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given [\*\*611] to those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(i) Technical Correction.--Section 534 of title 28, United States Code, is amended by redesignating the second subsection (e) as subsection (f).

[\*154] Sec. 154. MISSING CHILD REPORTING REQUIREMENTS.

(a) In General.--Section 3702 of the Crime Control Act of 1990 (42 U.S.C. 5780) is amended--

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following:

"(2) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system or the National Crime Information Center computer database based solely on the age of the person; and"; and

(3) in paragraph (3), as redesignated, by striking "immediately" and inserting "within 2 hours of receipt".

(b) Definitions.--Section 403(1) of the Comprehensive Crime Control Act of 1984 (42 U.S.C. 5772) is amended by striking "if" through subparagraph (B) and inserting a semicolon.

[\*155] Sec. 155. DNA FINGERPRINTING.

The first sentence of section 3(a)(1)(A) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(a)(1)(A)) is amended by striking "arrested" and inserting "arrested, facing charges, or convicted".

## TITLE II--FEDERAL CRIMINAL LAW ENHANCEMENTS NEEDED TO PROTECT CHILDREN FROM SEXUAL ATTACKS AND OTHER VIOLENT CRIMES

[\*201] Sec. 201. PROHIBITION ON INTERNET SALES OF DATE RAPE DRUGS.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

"(g) Internet Sales of Date Rape Drugs.--

"(1) Whoever knowingly uses the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that--

"(A) the drug would be used in the commission of criminal sexual conduct; or

"(B) the person is not an authorized purchaser;

shall be fined under this title or imprisoned not more than 20 years, or both.

"(2) As used in this subsection:

"(A) The term 'date rape drug' means--

"(i) gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4-butanediol;

"(ii) ketamine;

"(iii) flunitrazepam; or

[\*\*612] "(iv) any substance which the Attorney General designates, pursuant to the rulemaking procedures prescribed by section 553 of title 5, United States Code, to be used in committing rape or sexual assault.

The Attorney General is authorized to remove any substance from the list of date rape drugs pursuant to the same rulemaking authority.

"(B) The term 'authorized purchaser' means any of the following persons, provided such person has acquired the controlled substance in accordance with this Act:

"(i) A person with a valid prescription that is issued for a legitimate medical purpose in the usual course of professional practice that is based upon a qualifying medical relationship by a practitioner registered by the Attorney General. A 'qualifying medical relationship' means a medical relationship that exists when the practitioner has conducted at least 1 medical evaluation with the authorized purchaser in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals. The preceding sentence shall not be construed to imply that 1 medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

"(ii) Any practitioner or other registrant who is otherwise authorized by their registration to dispense, procure, purchase, manufacture, transfer, distribute, import, or export the substance under this Act.

"(iii) A person or entity providing documentation that establishes the name, address, and business of the person or entity and which provides a legitimate purpose for using any 'date rape drug' for which a prescription is not required.

"(3) The Attorney General is authorized to promulgate regulations for record-keeping and reporting by persons handling 1,4-butanediol in order to implement and enforce the provisions of this section. Any record or report required by such regulations shall be considered a record or report required under this Act."

[\*202] Sec. 202. JETSETA GAGE ASSURED PUNISHMENT FOR VIOLENT CRIMES AGAINST CHILDREN.

Section 3559 of title 18, United States Code, is amended--

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) Mandatory Minimum Terms of Imprisonment for Violent Crimes Against Children.--A person who is convicted of a Federal offense that is a crime of violence against the person of an individual who has not attained the age of 18 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense--

"(1) if the crime of violence is murder, be imprisoned for life or for any term of years not less than 30, except that such person shall be punished by death or life imprisonment [\*\*613] if the circumstances satisfy any of subparagraphs (A) through (D) of section 3591(a)(2) of this title;

"(2) if the crime of violence is kidnapping (as defined in section 1201) or maiming (as defined in section 114), be imprisoned for life or any term of years not less than 25; and

"(3) if the crime of violence results in serious bodily injury (as defined in section 1365), or if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 10."

[\*203] Sec. 203. PENALTIES FOR COERCION AND ENTICEMENT BY SEX OFFENDERS.

Section 2422(b) of title 18, United States Code, is amended by striking "not less than 5 years and not more than 30 years" and inserting "not less than 10 years or for life".

[\*204] Sec. 204. PENALTIES FOR CONDUCT RELATING TO CHILD PROSTITUTION.

Section 2423(a) of title 18, United States Code, is amended by striking "5 years and not more than 30 years" and inserting "10 years or for life".

[\*205] Sec. 205. PENALTIES FOR SEXUAL ABUSE.

Section 2242 of title 18, United States Code, is amended by striking ", imprisoned not more than 20 years, or both" and inserting "and imprisoned for any term of years or for life".

[\*206] Sec. 206. INCREASED PENALTIES FOR SEXUAL OFFENSES AGAINST CHILDREN.

(a) Sexual Abuse and Contact.--

(1) Aggravated sexual abuse of children.-- Section 2241(c) of title 18, United States Code, is amended by striking ", imprisoned for any term of years or life, or both" and inserting "and imprisoned for not less than 30 years or for life".

(2) Abusive sexual contact with children.-- Section 2244 of chapter 109A of title 18, United States Code, is amended--

(A) in subsection (a)--

(i) in paragraph (1), by inserting "subsection (a) or (b) of" before "section 2241";

(ii) by striking "or" at the end of paragraph (3);

(iii) by striking the period at the end of paragraph (4) and inserting "; or"; and

(iv) by inserting after paragraph (4) the following:

"(5) subsection (c) of section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title and imprisoned for any term of years or for life."; and

(B) in subsection (c), by inserting "(other than subsection (a)(5))" after "violates this section".

(3) Sexual abuse of children resulting in death.-- Section 2245 of title 18, United States Code, is amended to read as follows:

"Sec. 2245. Offenses resulting in death

"(a) In General.--A person who, in the course of an offense under this chapter, or section 1591, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425, murders an individual, shall be punished by death or imprisoned for any term of years or for life."

[\*\*614] (4) Death penalty aggravating factor.-- Section 3592(c)(1) of title 18, United States Code, is amended by inserting "section 2245 (offenses resulting in death)," after "(wrecking trains),".

(b) Sexual Exploitation and Other Abuse of Children.--

(1) Sexual exploitation of children.-- Section 2251(e) of title 18, United States Code, is amended--

(A) by inserting "section 1591," after "this chapter," the first place it appears;

(B) by striking "the sexual exploitation of children" the first place it appears and inserting "aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography"; and

(C) by striking "any term of years or for life" and inserting "not less than 30 years or for life".

(2) Activities relating to material involving the sexual exploitation of children.-- Section 2252(b) of title 18, United States Code, is amended in paragraph (1)--

(A) by striking "paragraphs (1)" and inserting "paragraph (1)";

(B) by inserting "section 1591," after "this chapter,"; and

(C) by inserting ", or sex trafficking of children" after "pornography".

(3) Activities relating to material constituting or containing child pornography.-- Section 2252A(b) of title 18, United States Code, is amended in paragraph (1)--

(A) by inserting "section 1591," after "this chapter,"; and

(B) by inserting ", or sex trafficking of children" after "pornography".

(4) Using misleading domain names to direct children to harmful material on the internet.-- Section 2252B(b) of title 18, United States Code, is amended by striking "4" and inserting "10".

(5) Extraterritorial child pornography offenses.-- Section 2260(c) of title 18, United States Code, is amended to read as follows:

"(c) Penalties.--

"(1) A person who violates subsection (a), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (e) of section 2251 for a violation of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in that subsection.

"(2) A person who violates subsection (b), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (b)(1) of section 2252 for a violation of paragraph (1), (2), or (3) of subsection (a) of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in subsection (b)(1) of section 2252."

(c) Mandatory Life Imprisonment for Certain Repeated Sex Offenses Against Children.--Section 3559(e)(2)(A) of title [\*\*615] 18, United States Code, is amended by inserting "1591 (relating to sex trafficking of children)," after "under section".

[\*207] Sec. 207. SEXUAL ABUSE OF WARDS.

Chapter 109A of title 18, United States Code, is amended--

(1) in section 2243(b), by striking "five years" and inserting "15 years"; and

(2) <18 USC 2241-2244> by inserting a comma after "Attorney General" each place it appears.

[\*208] Sec. 208. MANDATORY PENALTIES FOR SEX-TRAFFICKING OF CHILDREN.

Section 1591(b) of title 18, United States Code, is amended--

(1) in paragraph (1)--

(A) by striking "or imprisonment" and inserting "and imprisonment";

(B) by inserting "not less than 15" after "any term of years"; and

(C) by striking ", or both"; and

(2) in paragraph (2)--

(A) by striking "or imprisonment for not more than 40 years, or both" and inserting "and imprisonment for not less than 10 years or for life"; and

(B) by striking ", or both".

[\*209] Sec. 209. CHILD ABUSE REPORTING.

Section 2258 of title 18, United States Code, is amended by striking "guilty of a Class B misdemeanor" and inserting "fined under this title or imprisoned not more than 1 year or both".

[\*210] Sec. 210. SEX OFFENDER SUBMISSION TO SEARCH AS CONDITION OF RELEASE.



(a) Conditions of Probation.--Section 3563(b) of title 18, United States Code, is amended--

(1) in paragraph (21), by striking "or" ;

(2) in paragraph (22) by striking the period at the end and inserting "or;" and

(3) by inserting after paragraph (22) the following:

"(23) if required to register under the Sex Offender Registration and Notification Act, submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions."

(b) Supervised Release.--Section 3583(d) of title 18, United States Code, is amended by adding at the end the following: "The court may order, as an explicit condition of supervised release for a person who is a felon and required to register under the Sex Offender Registration and Notification Act, that the person submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of supervised [\*\*616] release or unlawful conduct by the person, and by any probation officer in the lawful discharge of the officer's supervision functions."

[\*211] Sec. 211. NO LIMITATION FOR PROSECUTION OF FELONY SEX OFFENSES.

Chapter 213 of title 18, United States Code, is amended--

(1) by adding at the end the following:

"Sec. 3299. Child abduction and sex offenses

"Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110 (except for section 2257 and 2257A), or 117, or section 1591."; and

(2) by adding at the end of the table of sections at the beginning of the chapter the following new item:

"3299. Child abduction and sex offenses".

[\*212] Sec. 212. VICTIMS' RIGHTS ASSOCIATED WITH HABEAS CORPUS PROCEEDINGS.

Section 3771(b) of title 18, United States Code, is amended--

(1) by striking "In any court proceeding" and inserting the following:

"(1) In general.-- In any court proceeding"; and

(2) by adding at the end the following:

"(2) Habeas corpus proceedings.----

"(A) In general.--In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).

"(B) Enforcement.--

"(i) In general.--These rights may be enforced by the crime victim or the crime victim's lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).

"(ii) Multiple victims.--In a case involving multiple victims, subsection (d)(2) shall also apply.

"(C) Limitation.--This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.

"(D) Definition.--For purposes of this paragraph, the term 'crime victim' means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative."

[\*213] Sec. 213. KIDNAPPING JURISDICTION.

Section 1201 of title 18, United States Code, is amended--

(1) in subsection (a)(1), by striking "if the person was alive when the transportation began" and inserting ", or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense"; and

[\*\*617] (2) in subsection (b), by striking "to interstate" and inserting "in interstate".

[\*214] Sec. 214. MARITAL COMMUNICATION AND ADVERSE SPOUSAL PRIVILEGE.

The Committee on Rules, Practice, Procedure, and Evidence of the Judicial Conference of the United States shall study the necessity and desirability of amending the Federal Rules of Evidence to provide that the confidential marital communications privilege and the adverse spousal privilege shall be inapplicable in any Federal proceeding in which a spouse is charged with a crime against--

(1) a child of either spouse; or

(2) a child under the custody or control of either spouse.

[\*215] Sec. 215. ABUSE AND NEGLECT OF INDIAN CHILDREN.

Section 1153(a) of title 18, United States Code, is amended by inserting "felony child abuse or neglect," after "years,".

[\*216] Sec. 216. IMPROVEMENTS TO THE BAIL REFORM ACT TO ADDRESS SEX CRIMES AND OTHER MATTERS.

Section 3142 of title 18, United States Code, is amended--

(1) in subsection (c)(1)(B), by inserting at the end the following: "In any case that involves a minor victim under section 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425 of this title, or a failure to register offense under section 2250 of this title, any release order shall contain, at a minimum, a condition of electronic monitoring and each of the conditions specified at subparagraphs (iv), (v), (vi), (vii), and (viii).".

(2) in subsection (f)(1)--

(A) in subparagraph (C), by striking "or" at the end; and

(B) by adding at the end the following:

"(E) any felony that is not otherwise a crime of violence that involves a minor victim or that involves the possession or use of a firearm or destructive device (as those terms are defined in section 921), or any other dangerous weapon, or involves a failure to register under section 2250 of title 18, United States Code; or"; and

(3) in subsection (g), by striking paragraph (1) and inserting the following:

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, a Federal crime of terrorism, or involves a minor victim or a controlled substance, firearm, explosive, or destructive device;"

TITLE III--CIVIL COMMITMENT OF DANGEROUS SEX OFFENDERS

[\*301] Sec. 301. <42 USC 16971> JIMMY RYCE STATE CIVIL COMMITMENT PROGRAMS FOR SEXUALLY DANGEROUS PERSONS.

(a) Grants Authorized.--Except as provided in subsection (b), the Attorney General shall make grants to jurisdictions for [\*618] the purpose of establishing, enhancing, or operating effective civil commitment programs for sexually dangerous persons.

(b) Limitation.--The Attorney General shall not make any grant under this section for the purpose of establishing, enhancing, or operating any transitional housing for a sexually dangerous person in or near a location where minors or other vulnerable persons are likely to come into contact with that person.

(c) Eligibility.--

(1) In general.-- To be eligible to receive a grant under this section, a jurisdiction shall, before the expiration of the compliance period--

(A) have established a civil commitment program for sexually dangerous persons that is consistent with guidelines issued by the Attorney General; or

(B) submit a plan for the establishment of such a program.

(2) Compliance period.-- The compliance period referred to in paragraph (1) expires on the date that is 2 years after the date of the enactment of this Act. However, the Attorney General may, on a case-by-case basis, extend the compliance period that applies to a jurisdiction if the Attorney General considers such an extension to be appropriate.

(3) Release notice.----

(A) Each civil commitment program for which funding is required under this section shall require the issuance of timely notice to a State official responsible for considering whether to pursue civil commitment proceedings upon the impending release of any person incarcerated by the State who--

(i) has been convicted of a sexually violent offense; or

(ii) has been deemed by the State to be at high risk for recommitting any sexual offense against a minor.

(B) The program shall further require that upon receiving notice under subparagraph (A), the State official shall consider whether or not to pursue a civil commitment proceeding, or any equivalent proceeding required under State law.

(d) Attorney General Reports.--Not later than January 31 of each year, beginning with 2008, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of jurisdictions in implementing this section and the rate of sexually violent offenses for each jurisdiction.

(e) Definitions.--As used in this section:

(1) The term "civil commitment program" means a program that involves--

(A) secure civil confinement, including appropriate control, care, and treatment during such confinement; and

(B) appropriate supervision, care, and treatment for individuals released following such confinement.

(2) The term "sexually dangerous person" means a person suffering from a serious mental illness, abnormality, or disorder, as a result of which the individual would have serious difficulty in refraining from sexually violent conduct or child molestation.

[\*\*619] (3) The term "jurisdiction" has the meaning given such term in section 111.

(f) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section \$ 10,000,000 for each of fiscal years 2007 through 2010.

[\*302] Sec. 302. JIMMY RYCE CIVIL COMMITMENT PROGRAM.

Chapter 313 of title 18, United States Code, is amended--

(1) in the chapter analysis--

(A) in the item relating to section 4241, by inserting "or to undergo postrelease proceedings" after "trial"; and

(B) by inserting at the end the following:  
"4248. Civil commitment of a sexually dangerous person";

(2) in section 4241--

(A) in the heading, by inserting or " to undergo postrelease proceedings" after " trial";

(B) in the first sentence of subsection (a), by inserting "or at any time after the commencement of probation or supervised release and prior to the completion of the sentence," after "defendant,";

(C) in subsection (d)--

(i) by striking "trial to proceed" each place it appears and inserting "proceedings to go forward"; and

(ii) by striking "section 4246" and inserting "sections 4246 and 4248"; and

(D) in subsection (e)--

(i) by inserting "or other proceedings" after "trial"; and

(ii) by striking "chapter 207" and inserting "chapters 207 and 227";

(3) in section 4247--

(A) by striking ", or 4246" each place it appears and inserting ", 4246, or 4248";

(B) in subsections (g) and (i), by striking "4243 or 4246" each place it appears and inserting "4243, 4246, or 4248";

(C) in subsection (a)--

(i) by amending subparagraph (1)(C) to read as follows:

"(C) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence or any condition that makes the individual dangerous to others; and";

(ii) in paragraph (2), by striking "and" at the end;

(iii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iv) by inserting at the end the following:

"(4) 'bodily injury' includes sexual abuse;

"(5) 'sexually dangerous person' means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others; and

"(6) 'sexually dangerous to others' with respect a person, means that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have [\*\*620] serious difficulty in refraining from sexually violent conduct or child molestation if released.";

(D) in subsection (b), by striking "4245 or 4246" and inserting "4245, 4246, or 4248";

(E) in subsection (c)(4)--

(i) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) respectively; and

(ii) by inserting after subparagraph (C) the following:

"(D) if the examination is ordered under section 4248, whether the person is a sexually dangerous person;"; and

(F) in subsections (e) and (h)--

(i) by striking "hospitalized" each place it appears and inserting "committed"; and

(ii) by striking "hospitalization" each place it appears and inserting "commitment" ; and

(4) by inserting at the end the following:

"Sec. 4248. Civil commitment of a sexually dangerous person

"(a) Institution of Proceedings.--In relation to a person who is in the custody of the Bureau of Prisons, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons relating to the mental condition of the person, the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) Psychiatric or Psychological Examination and Report.--Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

"(c) Hearing.--The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.--If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall place the person for treatment in a suitable facility, until--

"(1) such a State will assume such responsibility; or

[\*\*621] "(2) the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment; whichever is earlier.

"(e) Discharge.--When the Director of the facility in which a person is placed pursuant to subsection (d) determines that the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that--

"(1) he will not be sexually dangerous to others if released unconditionally, the court shall order that he be immediately discharged; or

"(2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall--

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) Revocation of Conditional Discharge.--The director of a facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that he is sexually dangerous to others in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

"(g) Release to State of Certain Other Persons.--If the director of the facility in which a person is hospitalized or placed pursuant to this chapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons [\*\*622] not related to the mental condition of the person, is a sexually dangerous person, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility."

#### TITLE IV--IMMIGRATION LAW REFORMS TO PREVENT SEX OFFENDERS FROM ABUSING CHILDREN

[\*401] Sec. 401. FAILURE TO REGISTER A DEPORTABLE OFFENSE.

Section 237(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(A)) is amended--

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv) the following new clause:

"(v) Failure to register as a sex offender.--Any alien who is convicted under section 2250 of title 18, United States Code, is deportable."

[\*402] Sec. 402. BARRING CONVICTED SEX OFFENDERS FROM HAVING FAMILY-BASED PETITIONS APPROVED.

(a) Immigrant Family Members.--Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), is amended--

(1) in subparagraph (A)(i), by striking "Any" and inserting "Except as provided in clause (viii), any";

(2) in subparagraph (A), by inserting after clause (vii) the following:

"(viii)(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of a specified offense against a minor, unless the Secretary of Homeland Security, in the



Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.

"(II) For purposes of subclause (I), the term 'specified offense against a minor' is defined as in section 111 of the Adam Walsh Child Protection and Safety Act of 2006."; and

(3) in subparagraph (B)(i)--

(A) by striking "(B)(i) Any alien" and inserting the following: "(B)(i)(I) Except as provided in subclause (II), any alien"; and

(B) by adding at the end the following:

"(I) Subclause (I) shall not apply in the case of an alien lawfully admitted for permanent residence who has been convicted of a specified offense against a minor (as defined in subparagraph (A)(viii)(II)), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that such person poses no [\*\*623] risk to the alien with respect to whom a petition described in subclause (I) is filed."

(b) Nonimmigrants.--Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting "(other than a citizen described in section 204(a)(1)(A)(viii)(I))" after "citizen of the United States" each place that phrase appears.

#### TITLE V--CHILD PORNOGRAPHY PREVENTION

[\*501] Sec. 501. <18 USC 2251 note> FINDINGS.

Congress makes the following findings:

(1) The effect of the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography on the interstate market in child pornography:

(A) The illegal production, transportation, distribution, receipt, advertising and possession of child pornography, as defined in section 2256(8) of title 18, United States Code, as well as the transfer of custody of children for the production of child pornography, is harmful to the physiological, emotional, and mental health of the children depicted in child pornography and has a substantial and detrimental effect on society as a whole.

(B) A substantial interstate market in child pornography exists, including not only a multimillion dollar industry, but also a nationwide network of individuals openly advertising their desire to exploit children and to traffic in child pornography. Many of these individuals distribute child pornography with the expectation of receiving other child pornography in return.

(C) The interstate market in child pornography is carried on to a substantial extent through the mails and other instrumentalities of interstate and foreign commerce, such as the Internet. The advent of the Internet has greatly increased the ease of transporting, distributing, receiving, and advertising child pornography in interstate commerce. The advent of digital cameras and digital video cameras, as well as videotape cameras, has greatly increased the ease of producing child pornography. The advent of inexpensive computer equipment with the capacity to store large numbers of digital images of child pornography has greatly increased the ease of possessing child

pornography. Taken together, these technological advances have had the unfortunate result of greatly increasing the interstate market in child pornography.

(D) Intrastate incidents of production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the transfer of custody of children for the production of child pornography, have a substantial and direct effect upon interstate commerce because:

(i) Some persons engaged in the production, transportation, distribution, receipt, advertising, and possession of child pornography conduct such activities entirely within the boundaries of one state. These persons are unlikely to be content with the amount of child pornography they produce, transport, distribute, [\*\*624] receive, advertise, or possess. These persons are therefore likely to enter the interstate market in child pornography in search of additional child pornography, thereby stimulating demand in the interstate market in child pornography.

(ii) When the persons described in subparagraph (D)(i) enter the interstate market in search of additional child pornography, they are likely to distribute the child pornography they already produce, transport, distribute, receive, advertise, or possess to persons who will distribute additional child pornography to them, thereby stimulating supply in the interstate market in child pornography.

(iii) Much of the child pornography that supplies the interstate market in child pornography is produced entirely within the boundaries of one state, is not traceable, and enters the interstate market surreptitiously. This child pornography supports demand in the interstate market in child pornography and is essential to its existence.

(E) Prohibiting the intrastate production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of custody of children for the production of child pornography, will cause some persons engaged in such intrastate activities to cease all such activities, thereby reducing both supply and demand in the interstate market for child pornography.

(F) Federal control of the intrastate incidents of the production, transportation, distribution, receipt, advertising, and possession of child pornography, as well as the intrastate transfer of children for the production of child pornography, is essential to the effective control of the interstate market in child pornography.

(2) The importance of protecting children from repeat exploitation in child pornography:

(A) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and related media.

(B) Child pornography is not entitled to protection under the First Amendment and thus may be prohibited.

(C) The government has a compelling State interest in protecting children from those who sexually exploit them, and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain.

(D) Every instance of viewing images of child pornography represents a renewed violation of the privacy of the victims and a repetition of their abuse.

(E) Child pornography constitutes prima facie contraband, and as such should not be distributed to, or copied by, child pornography defendants or their attorneys.

(F) It is imperative to prohibit the reproduction of child pornography in criminal cases so as to avoid repeated violation and abuse of victims, so long as the government makes reasonable accommodations for the inspection, viewing, and examination of such material for the purposes of mounting a criminal defense.

[\*\*625] [\*502] Sec. 502. OTHER RECORD KEEPING REQUIREMENTS.

(a) In General.--Section 2257 of title 18, United States Code, is amended--

(1) in subsection (a), by inserting after "videotape," the following: "digital image, digitally- or computer-manipulated image of an actual human being, picture,";

(2) in subsection (e)(1), by adding at the end the following: "In this paragraph, the term 'copy' includes every page of a website on which matter described in subsection (a) appears.";

(3) in subsection (f), by--

(A) in paragraph (3), by striking "and" after the semicolon;

(B) in paragraph (4), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(5) for any person to whom subsection (a) applies to refuse to permit the Attorney General or his or her designee to conduct an inspection under subsection (c)."; and

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

"(h) In this section--

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in clauses (i) through (v) of section 2256(2)(A) of this title;

"(2) the term 'produces'--

"(A) means--

"(i) actually filming, videotaping, photographing, creating a picture, digital image, or digitally- or computer-manipulated image of an actual human being;

"(ii) digitizing an image, of a visual depiction of sexually explicit conduct; or, assembling, manufacturing, publishing, duplicating, reproducing, or reissuing a book, magazine, periodical, film, videotape, digital image, or picture, or other matter intended for commercial distribution, that contains a visual depiction of sexually explicit conduct; or

"(iii) inserting on a computer site or service a digital image of, or otherwise managing the sexually explicit content, of a computer site or service that contains a visual depiction of, sexually explicit conduct; and

"(B) does not include activities that are limited to--

"(i) photo or film processing, including digitization of previously existing visual depictions, as part of a commercial enterprise, with no other commercial interest in the sexually explicit material, printing, and video duplication;

"(ii) distribution;

"(iii) any activity, other than those activities identified in subparagraph (A), that does not involve the hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers;

"(iv) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of the Communications Act of 1934 (47 U.S.C. 231)); or

[\*\*626] "(v) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)) shall not constitute such selection or alteration of the content of the communication; and

"(3) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct."

(b) <18 USC 2257 note> Construction.--The provisions of section 2257 shall not apply to any depiction of actual sexually explicit conduct as described in clause (v) of section 2256(2)(A) of title 18, United States Code, produced in whole or in part, prior to the effective date of this section unless that depiction also includes actual sexually explicit conduct as described in clauses (i) through (iv) of section 2256(2)(A) of title 18, United States Code.

[\*503] Sec. 503. RECORD KEEPING REQUIREMENTS FOR SIMULATED SEXUAL CONDUCT.

(a) In General.--Chapter 110 of title 18, United States Code, is amended by inserting after section 2257 the following:

"Sec. 2257A. RECORD KEEPING REQUIREMENTS FOR SIMULATED SEXUAL CONDUCT.

"(a) Whoever produces any book, magazine, periodical, film, videotape, digital image, digitally- or computer-manipulated image of an actual human being, picture, or other matter that--

"(1) contains 1 or more visual depictions of simulated sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of simulated sexually explicit conduct--

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at their business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except [\*\*627] as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this chapter or chapter 71, or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in subsection (a)(1) in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located. In this paragraph, the term 'copy' includes every page of a website on which matter described in subsection (a) appears.

"(2) If the person to whom subsection (a) applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful--

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; or

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, that--

"(A) contains 1 or more visual depictions made after the date of enactment of this subsection of simulated sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(5) for any person to whom subsection (a) applies to refuse to permit the Attorney General or his or her designee to conduct an inspection under subsection (c).

"(g) As used in this section, the terms 'produces' and 'performer' have the same meaning as in section 2257(h) of this title.

"(h)(1) The provisions of this section and section 2257 shall not apply to matter, or any image therein, containing one or more [\*\*628] visual depictions of simulated sexually explicit conduct, or actual sexually explicit conduct as described in clause (v) of section 2256(2)(A), if such matter--"(A)

(i) is intended for commercial distribution;

"(ii) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that such person regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers, including minor performers, employed by that person, pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the name, address, and date of birth of the performer; and

"(iii) is not produced, marketed or made available by the person described in clause (ii) to another in circumstances such that an ordinary person would conclude that the matter contains a visual depiction that is child pornography as defined in section 2256(8); or"(B)

(i) is subject to the authority and regulation of the Federal Communications Commission acting in its capacity to enforce section 1464 of this title, regarding the broadcast of obscene, indecent or profane programming; and

"(ii) is created as a part of a commercial enterprise by a person who certifies to the Attorney General that such person regularly and in the normal course of business collects and maintains individually identifiable information regarding all performers, including minor performers, employed by that person, pursuant to Federal and State tax, labor, and other laws, labor agreements, or otherwise pursuant to industry standards, where such information includes the name, address, and date of birth of the performer.

"(2) Nothing in subparagraphs (A) and (B) of paragraph (1) shall be construed to exempt any matter that contains any visual depiction that is child pornography, as defined in section 2256(8), or is actual sexually explicit conduct within the definitions in clauses (i) through (iv) of section 2256(2)(A).

"(i)(1) Whoever violates this section shall be imprisoned for not more than 1 year, and fined in accordance with the provisions of this title, or both.

"(2) Whoever violates this section in an effort to conceal a substantive offense involving the causing, transporting, permitting or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct in violation of this title, or to conceal a substantive offense that involved trafficking in material involving the sexual exploitation of a minor, including receiving, transporting, advertising, or possessing material involving the sexual exploitation of a minor with intent to traffic, in violation of this title, shall be imprisoned for not more than 5 years and fined in accordance with the provisions of this title, or both.

"(3) Whoever violates paragraph (2) after having been previously convicted of a violation punishable under that paragraph shall be imprisoned for any period of years not more than 10 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.

"The provisions of this section shall not become effective until 90 days after the final regulations implementing this section are [\*\*629] published in the Federal Register. The provisions of this section shall not apply to any matter, or image therein, produced, in whole or in part, prior to the effective date of this section.

"(k) On an annual basis, the Attorney General shall submit a report to Congress--

"(1) concerning the enforcement of this section and section 2257 by the Department of Justice during the previous 12-month period; and

"(2) including--

"(A) the number of inspections undertaken pursuant to this section and section 2257;

"(B) the number of open investigations pursuant to this section and section 2257;

"(C) the number of cases in which a person has been charged with a violation of this section and section 2257; and

"(D) for each case listed in response to subparagraph (C), the name of the lead defendant, the federal district in which the case was brought, the court tracking number, and a synopsis of the violation and its disposition, if any, including settlements, sentences, recoveries and penalties."

(b) Chapter Analysis.--The chapter analysis for chapter 110 of title 18, United States Code, is amended by inserting after the item for section 2257 the following:

"2257A. Recordkeeping requirements for simulated sexual conduct."

[\*504] Sec. 504. PREVENTION OF DISTRIBUTION OF CHILD PORNOGRAPHY USED AS EVIDENCE IN PROSECUTIONS.

Section 3509 of title 18, United States Code, is amended by adding at the end the following:

"(m) Prohibition on Reproduction of Child Pornography.--

"(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.

"(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.

"(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial."

[\*505] Sec. 505. AUTHORIZING CIVIL AND CRIMINAL ASSET FORFEITURE IN CHILD EXPLOITATION AND OBSCENITY CASES.

(a) Conforming Forfeiture Procedures for Obscenity Offenses.--Section 1467 of title 18, United States Code, is amended--

(1) in subsection (a)(3), by inserting a period after "of such offense" and striking all that follows; and

[\*\*630] (2) by striking subsections (b) through (n) and inserting the following:

"(b) The provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853), with the exception of subsections (a) and (d), shall apply to the criminal forfeiture of property pursuant to subsection (a).

"(c) Any property subject to forfeiture pursuant to subsection (a) may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46 of this title."

(b) Property Subject to Criminal Forfeiture.--Section 2253(a) of title 18, United States Code, is amended--

(1) in the matter preceding paragraph (1)--



(A) by inserting "or who is convicted of an offense under section 2252B of this chapter," after "2260 of this chapter"; and

(B) by striking "an offense under section 2421, 2422, or 2423 of chapter 117" and inserting "an offense under chapter 109A";

(2) in paragraph (1), by inserting "2252A, 2252B, or 2260" after "2252"; and

(3) in paragraph (3), by inserting "or any property traceable to such property" before the period.

(c) Criminal Forfeiture Procedure.--Section 2253 of title 18, United States Code, is amended by striking subsections (b) through (o) and inserting the following:

"(b) Section 413 of the Controlled Substances Act (21 U.S.C. 853) with the exception of subsections (a) and (d), applies to the criminal forfeiture of property pursuant to subsection (a).".

(d) Civil Forfeiture.--Section 2254 of title 18, United States Code, is amended to read as follows:

"Sec. 2254. Civil forfeiture

"Any property subject to forfeiture pursuant to section 2253 may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46.".

[\*506] Sec. 506. PROHIBITING THE PRODUCTION OF OBSCENITY AS WELL AS TRANSPORTATION, DISTRIBUTION, AND SALE.

(a) Section 1465.--Section 1465 of title 18 of the United States Code is amended--

(1) by inserting " production and" before " transportation" in the heading of the section;

(2) by inserting "produces with the intent to transport, distribute, or transmit in interstate or foreign commerce, or whoever knowingly" after "whoever knowingly" and before "transports or travels in"; and

(3) by inserting a comma after "in or affecting such commerce".

(b) Section 1466.--Section 1466 of title 18 of the United States Code is amended--

(1) in subsection (a), by inserting "producing with intent to distribute or sell, or" before "selling or transferring obscene matter,";

(2) in subsection (b), by inserting, "produces" before "sells or transfers or offers to sell or transfer obscene matter"; and

[\*\*631] (3) in subsection (b) by inserting "production," before "selling or transferring or offering to sell or transfer such material.".

[\*507] Sec. 507. GUARDIANS AD LITEM.

Section 3509(h)(1) of title 18, United States Code, is amended by inserting ", and provide reasonable compensation and payment of expenses for," before "a guardian".

**TITLE VI--GRANTS, STUDIES, AND PROGRAMS FOR CHILDREN AND COMMUNITY SAFETY**

**Subtitle A--Mentoring Matches for Youth Act**

[\*601] Sec. 601. <42 USC 5611 note> SHORT TITLE.

This subtitle may be cited as the "Mentoring Matches for Youth Act of 2006".

[\*602] Sec. 602. <42 USC 5611 note> FINDINGS.

Congress finds the following:

(1) Big Brothers Big Sisters of America, which was founded in 1904 and chartered by Congress in 1958, is the oldest and largest mentoring organization in the United States.

(2) There are over 450 Big Brothers Big Sisters of America local agencies providing mentoring programs for at-risk children in over 5,000 communities throughout every State, Guam, and Puerto Rico.

(3) Over the last decade, Big Brothers Big Sisters of America has raised a minimum of 75 percent of its annual operating budget from private sources and is continually working to grow private sources of funding to maintain this ratio of private to Federal funds.

(4) In 2005, Big Brothers Big Sisters of America provided mentors for over 235,000 children.

(5) Big Brothers Big Sisters of America has a goal to provide mentors for 1,000,000 children per year.

[\*603] Sec. 603. <42 USC 5611 note> GRANT PROGRAM FOR EXPANDING BIG BROTHERS BIG SISTERS MENTORING PROGRAM.

In each of fiscal years 2007 through 2012, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereafter in this Act referred to as the "Administrator") may make grants to Big Brothers Big Sisters of America to use for expanding the capacity of and carrying out the Big Brothers Big Sisters mentoring programs for at-risk youth.

[\*604] Sec. 604. <42 USC 5611 note> BIENNIAL REPORT.

(a) In General.--Big Brothers Big Sisters of America shall submit 2 reports to the Administrator in each of fiscal years 2007 through 2013. Big Brothers Big Sisters of America shall submit the first report in a fiscal year not later than April 1 of that fiscal year and the second report in a fiscal year not later than September 30 of that fiscal year.

[\*\*632] (b) Required Content.--Each such report shall include the following:

(1) A detailed statement of the progress made by Big Brothers Big Sisters of America in expanding the capacity of and carrying out mentoring programs for at-risk youth.

(2) A detailed statement of how the amounts received under this Act have been used.

(3) A detailed assessment of the effectiveness of the mentoring programs.

(4) Recommendations for continued grants and the appropriate amounts for such grants.

[\*605] Sec. 605. <42 USC 5611 note> AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act--

(1) \$ 9,000,000 for fiscal year 2007;

(2) \$ 10,000,000 for fiscal year 2008;

(3) \$ 11,500,000 for fiscal year 2009;

(4) \$ 13,000,000 for fiscal year 2010; and

(5) \$ 15,000,000 for fiscal year 2011.

Subtitle B--National Police Athletic League Youth Enrichment Act

[\*611] Sec. 611. <42 USC 13701 note> SHORT TITLE.

This subtitle may be cited as the "National Police Athletic League Youth Enrichment Reauthorization Act of 2006".

[\*612] Sec. 612. FINDINGS.

Section 2 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended--

(1) in paragraph (1)--

(A) by redesignating subparagraphs (C) through (G) as subparagraphs (D) through (H), respectively; and

(B) by inserting after subparagraph (B) the following:

"(C) develop life enhancing character and leadership skills in young people;"

(2) in paragraph (2) by striking "55-year" and inserting "90-year";

(3) in paragraph (3)--

(A) by striking "320 PAL chapters" and inserting "350 PAL chapters"; and

- (B) by striking "1,500,000 youth" and inserting "2,000,000 youth";
- (4) in paragraph (4), by striking "82 percent" and inserting "85 percent";
- (5) in paragraph (5), in the second sentence, by striking "receive no" and inserting "rarely receive";
- (6) in paragraph (6), by striking "17 are at risk" and inserting "18 are at risk"; and
- (7) in paragraph (7), by striking "1999" and inserting "2005".

[\*613] Sec. 613. PURPOSE.

Section 3 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended--

- (1) in paragraph (1)--

[\*\*633] (A) by striking "320 established PAL chapters" and inserting "342 established PAL chapters"; and

(B) by striking "and" at the end;

- (2) in paragraph (2), by striking "2006." and inserting "2010; and"; and

- (3) by adding at the end the following:

"(3) support of an annual gathering of PAL chapters and designated youth leaders from such chapters to participate in a 3-day conference that addresses national and local issues impacting the youth of America and includes educational sessions to advance character and leadership skills."

[\*614] Sec. 614. GRANTS AUTHORIZED.

Section 5 of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended--

- (1) in subsection (a), by striking "2001 through 2005" and inserting "2006 through 2010"; and

(2) in subsection (b)(1)(B), by striking "not less than 570 PAL chapters in operation before January 1, 2004" and inserting "not fewer than 500 PAL chapters in operation before January 1, 2010".

[\*615] Sec. 615. USE OF FUNDS.

Section 6(a)(2) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended--

- (1) in the matter preceding subparagraph (A), by striking "four" and inserting "two"; and

- (2) in subparagraph (A)--

(A) in the matter preceding clause (i), by striking "two programs" and inserting "one program";

(B) in clause (iii), by striking "or";

(C) in clause (iv), by striking "and" and inserting "or"; and

(D) by inserting after clause (iv) the following:

"(v) character development and leadership training; and".

[\*616] Sec. 616. AUTHORIZATION OF APPROPRIATIONS.

Section 8(a) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended by striking "2001 through 2005" and inserting "2006 through 2010".

[\*617] Sec. 617. NAME OF LEAGUE.

(a) Definitions.--Section 4(4) of the National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended in the paragraph heading, by striking "Athletic" and inserting "Athletic/activities".

(b) Text.--The National Police Athletic League Youth Enrichment Act of 2000 (42 U.S.C. 13751 note) is amended by striking "Police Athletic League" each place such term appears and inserting "Police Athletic/Activities League".

Subtitle C--Grants, Studies, and Other Provisions

[\*621] Sec. 621. <42 USC 16981> PILOT PROGRAM FOR MONITORING SEXUAL OFFENDERS.

(a) Sex Offender Monitoring Program.--

[\*\*634] (1) Grants authorized.----

(A) In general.--The Attorney General is authorized to award grants (referred to as "Jessica Lunsford and Sarah Lunde Grants") to States, local governments, and Indian tribal governments to assist in--

(i) carrying out programs to outfit sex offenders with electronic monitoring units; and

(ii) the employment of law enforcement officials necessary to carry out such programs.

(B) Duration.--The Attorney General shall award grants under this section for a period not to exceed 3 years.

(C) Minimum standards.--The electronic monitoring units used in the pilot program shall at a minimum--

(i) provide a single-unit tracking device for each offender that--

(I) contains a central processing unit with global positioning system and cellular technology in a single unit; and

(II) provides two- and three-way voice communication; and

(ii) permit active, real-time, and continuous monitoring of offenders 24 hours a day.

(2) Application.----

(A) In general.--Each State, local government, or Indian tribal government desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(B) Contents.--Each application submitted pursuant to subparagraph (A) shall--

(i) describe the activities for which assistance under this section is sought; and

(ii) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

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

(c) Authorization of Appropriations.--

(1) In general.-- There are authorized to be appropriated \$ 5,000,000 for each of the fiscal years 2007 through 2009 to carry out this section.

(2) Report.-- Not later than September 1, 2010, the Attorney General shall report to Congress--

(A) assessing the effectiveness and value of this section;

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

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

[\*622] Sec. 622. TREATMENT AND MANAGEMENT OF SEX OFFENDERS IN THE BUREAU OF PRISONS.

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

[\*\*635] "(f) Sex Offender Management.--

"(1) In general.-- The Bureau of Prisons shall make available appropriate treatment to sex offenders who are in need of and suitable for treatment, as follows:

"(A) Sex offender management programs.--The Bureau of Prisons shall establish non-residential sex offender management programs to provide appropriate treatment, monitoring, and supervision of sex offenders and to provide aftercare during pre-release custody.

"(B) Residential sex offender treatment programs.--The Bureau of Prisons shall establish residential sex offender treatment programs to provide treatment to sex offenders who volunteer for such programs and are deemed by the Bureau of Prisons to be in need of and suitable for residential treatment.

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

"(3) Authorization of appropriations.-- There are authorized to be appropriated to the Bureau of Prisons for each fiscal year such sums as may be necessary to carry out this subsection."

[\*623] Sec. 623. SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS.

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

X "PART X--SEX OFFENDER APPREHENSION GRANTS; JUVENILE SEX OFFENDER TREATMENT GRANTS

"Sec. 3011. <42 USC 3797ee> SEX OFFENDER APPREHENSION GRANTS.

"(a) Authority To Make Sex Offender Apprehension Grants.--

"(1) In general.-- From amounts made available to carry out this part, the Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof for activities specified in paragraph (2).

"(2) Covered activities.-- An activity referred to in paragraph (1) is any program, project, or other activity to assist a State in enforcing sex offender registration requirements.

"(b) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to carry out this part.

"Sec. 3012. <42 USC 3797ee-1> JUVENILE SEX OFFENDER TREATMENT GRANTS.

"(a) Authority To Make Juvenile Sex Offender Treatment Grants.--

"(1) In general.-- From amounts made available to carry out this part, the Attorney General may make grants to units of local government, Indian tribal governments, correctional facilities, other public and private entities, and multijurisdictional or regional consortia thereof for activities specified in paragraph (2).

[\*\*636] "(2) Covered activities.-- An activity referred to in paragraph (1) is any program, project, or other activity to assist in the treatment of juvenile sex offenders.

"(b) Juvenile Sex Offender Defined.--For purposes of this section, the term 'juvenile sex offender' is a sex offender who had not attained the age of 18 years at the time of his or her offense.

"(c) Authorization of Appropriations.--There are authorized to be appropriated \$ 10,000,000 for each of fiscal years 2007 through 2009 to carry out this part."

[\*624] Sec. 624. <42 USC 16982> ASSISTANCE FOR PROSECUTION OF CASES CLEARED THROUGH USE OF DNA BACKLOG CLEARANCE FUNDS.

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

(b) Authorization.--There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

[\*625] Sec. 625. <42 USC 16983> GRANTS TO COMBAT SEXUAL ABUSE OF CHILDREN.

(a) In General.--The Bureau of Justice Assistance is authorized to make grants under this section--

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

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

(b) Use of Grant Amounts.--Grants under this section may be used by the law enforcement agency to--

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

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

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

(c) Criteria.--The Attorney General shall give priority to law enforcement agencies making a showing of need.

(d) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary for fiscal years 2007 through 2009 to carry out this section.

[\*626] Sec. 626. CRIME PREVENTION CAMPAIGN GRANT.



Subpart 2 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 is amended by adding at the end the following new chapter:

"CHAPTER 4--GRANTS TO PRIVATE ENTITIES

"Sec. 519. <42 USC 3765> CRIME PREVENTION CAMPAIGN GRANT.

"(a) Grant Authorization.--The Attorney General may provide a grant to a national private, nonprofit organization that has expertise in promoting crime prevention through public outreach and media campaigns in coordination with law enforcement [\*\*637] agencies and other local government officials, and representatives of community public interest organizations, including schools and youth-serving organizations, faith-based, and victims' organizations and employers.

"(b) Application.--To request a grant under this section, an organization described in subsection (a) shall submit an application to the Attorney General in such form and containing such information as the Attorney General may require.

"(c) Use of Funds.--An organization that receives a grant under this section shall--

"(1) create and promote national public communications campaigns;

"(2) develop and distribute publications and other educational materials that promote crime prevention;

"(3) design and maintain web sites and related web-based materials and tools;

"(4) design and deliver training for law enforcement personnel, community leaders, and other partners in public safety and hometown security initiatives;

"(5) design and deliver technical assistance to States, local jurisdictions, and crime prevention practitioners and associations;

"(6) coordinate a coalition of Federal, national, and statewide organizations and communities supporting crime prevention;

"(7) design, deliver, and assess demonstration programs;

"(8) operate McGruff-related programs, including McGruff Club;

"(9) operate the Teens, Crime, and Community Program; and

"(10) evaluate crime prevention programs and trends.

"(d) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section--

"(1) for fiscal year 2007, \$ 7,000,000;

"(2) for fiscal year 2008, \$ 8,000,000;

"(3) for fiscal year 2009, \$ 9,000,000; and

"(4) for fiscal year 2010, \$ 10,000,000."

[\*627] Sec. 627. <42 USC 16984> GRANTS FOR FINGERPRINTING PROGRAMS FOR CHILDREN.

(a) In General.--The Attorney General shall establish and implement a program under which the Attorney General may make grants to States, units of local government, and Indian tribal governments in accordance with this section.

(b) Use of Grant Amounts.--A grant made to a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to law enforcement agencies within the jurisdiction of such State, unit, or tribal government to be used for any of the following activities:

(1) To establish a voluntary fingerprinting program for children, which may include the taking of palm prints of children.

(2) To hire additional law enforcement personnel, or train existing law enforcement personnel, to take fingerprints of children.

(3) To provide information within the community involved about the existence of such a fingerprinting program.

[\*\*638] (4) To provide for computer hardware, computer software, or other materials necessary to carry out such a fingerprinting program.

(c) Limitation.--Fingerprints of a child derived from a program funded under this section--

(1) may be released only to a parent or guardian of the child; and

(2) may not be copied or retained by any Federal, State, local, or tribal law enforcement officer unless written permission is given by the parent or guardian.

(d) Criminal Penalty.--Any person who uses the fingerprints of a child derived from a program funded under this section for any purpose other than the purpose described in subsection (c)(1) shall be subject to imprisonment for not more than 1 year, a fine under title 18, United States Code, or both.

(e) Authorization of Appropriations.--There is authorized to be appropriated \$ 20,000,000 to carry out this section for the 5-year period beginning on the first day of fiscal year 2007.

[\*628] Sec. 628. <42 USC 16985> GRANTS FOR RAPE, ABUSE & INCEST NATIONAL NETWORK.

(a) Findings.--Congress finds as follows:

(1) More than 200,000 Americans each year are victims of sexual assault, according to the Department of Justice.

- (2) In 2004, 1 American was sexually assaulted every 2.5 minutes.
- (3) One of every 6 women, and 1 of every 133 men, in America has been the victim of a completed or attempted rape, according to the Department of Justice.
- (4) The Federal Bureau of Investigation ranks rape second in the hierarchy of violent crimes for its Uniform Crime Reports, trailing only murder.
- (5) The Federal Government, through the Victims of Crime Act, Violence Against Women Act, and other laws, has long played a role in providing services to sexual assault victims and in seeking policies to increase the number of rapists brought to justice.
- (6) Research suggests that sexual assault victims who receive counseling support are more likely to report their attack to the police and to participate in the prosecution of the offender.
- (7) Due in part to the combined efforts of law enforcement officials at the local, State, and Federal level, as well as the efforts of the Rape, Abuse & Incest National Network (RAINN) and its affiliated rape crisis centers across the United States, sexual violence in America has fallen by more than half since 1994.
- (8) RAINN, a 501(c)(3) nonprofit corporation headquartered in the District of Columbia, has since 1994 provided help to victims of sexual assault and educated the public about sexual assault prevention, prosecution, and recovery.
- (9) RAINN established and continues to operate the National Sexual Assault Hotline, a free, confidential telephone hotline that provides help, 24 hours a day, to victims nationally.
- (10) More than 1,100 local rape crisis centers in the 50 States and the District of Columbia partner with RAINN and are members of the National Sexual Assault Hotline network [\*\*639] (which has helped more than 970,000 people since its inception in 1994).
- (11) To better serve victims of sexual assault, 80 percent of whom are under age 30 and 44 percent of whom are under age 18, RAINN will soon launch the National Sexual Assault Online Hotline, the web's first secure hotline service offering live help 24 hours a day.
- (12) Congress and the Department of Justice have given RAINN funding to conduct its crucial work.
- (13) RAINN is a national model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the communications and technology industries to launch the National Sexual Assault Hotline and the National Sexual Assault Online Hotline.
- (14) Worth magazine selected RAINN as one of "America's 100 Best Charities", in recognition of the organization's "efficiency and effectiveness."
- (15) In fiscal year 2005, RAINN spent more than 91 cents of every dollar received directly on program services.

(16) The demand for RAINN's services is growing dramatically, as evidenced by the fact that, in 2005, the National Sexual Assault Hotline helped 137,039 people, an all-time record.

(17) The programs sponsored by RAINN and its local affiliates have contributed to the increase in the percentage of victims who report their rape to law enforcement.

(18) According to a recent poll, 92 percent of American women said that fighting sexual and domestic violence should be a top public policy priority (a higher percentage than chose health care, child care, or any other issue).

(19) Authorizing Federal funds for RAINN's national programs would promote continued progress with this interstate problem and would make a significant difference in the prosecution of rapists and the overall incidence of sexual violence.

(b) Duties and Functions of the Administrator.--

(1) Description of activities.-- The Administrator shall--

(A) issue such rules as the Administrator considers necessary or appropriate to carry out this section;

(B) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all Federally funded programs relating to victims of sexual assault; and

(C) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this section.

(2) Annual grant to rape, abuse & incest national network.— The Administrator shall annually make a grant to RAINN, which shall be used for the performance of the organization's national programs, which may include--

(A) operation of the National Sexual Assault Hotline, a 24-hour toll-free telephone line by which individuals may receive help and information from trained volunteers;

(B) operation of the National Sexual Assault Online Hotline, a 24-hour free online service by which individuals may receive help and information from trained volunteers;

[\*\*640] (C) education of the media, the general public, and populations at risk of sexual assault about the incidence of sexual violence and sexual violence prevention, prosecution, and recovery;

(D) dissemination, on a national basis, of information relating to innovative and model programs, services, laws, legislation, and policies that benefit victims of sexual assault; and

(E) provision of technical assistance to law enforcement agencies, State and local governments, the criminal justice system, public and private nonprofit agencies, and individuals in the investigation and prosecution of cases involving victims of sexual assault.

(c) Definitions.--For the purposes of this section:

(1) Administrator.-- The term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

(2) Rainn.-- The term "RAINN" means the Rape, Abuse & Incest National Network, a 501(c)(3) nonprofit corporation headquartered in the District of Columbia.

(d) Authorization of Appropriations.--There is authorized to be appropriated to the Administrator to carry out this section, \$ 3,000,000 for each of fiscal years 2007 through 2010.

[\*629] Sec. 629. <42 USC 16986> CHILDREN'S SAFETY ONLINE AWARENESS CAMPAIGNS.

(a) Awareness Campaign for Children's Safety Online.--

(1) In general.-- The Attorney General, in consultation with the National Center for Missing and Exploited Children, is authorized to develop and carry out a public awareness campaign to demonstrate, explain, and encourage children, parents, and community leaders to better protect children when such children are on the Internet.

(2) Required components.-- The public awareness campaign described under paragraph (1) shall include components that compliment and reinforce the campaign message in a variety of media, including the Internet, television, radio, and billboards.

(b) Awareness Campaign Regarding the Accessibility and Utilization of Sex Offender Registries.--The Attorney General, in consultation with the National Center for Missing and Exploited Children, is authorized to develop and carry out a public awareness campaign to demonstrate, explain, and encourage parents and community leaders to better access and utilize the Federal and State sex offender registries.

(c) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2007 through 2011.

[\*630] Sec. 630. <42 USC 16987> GRANTS FOR ONLINE CHILD SAFETY PROGRAMS.

(a) In General.--The Attorney General shall, subject to the availability of appropriations, make grants to States, units of local government, and nonprofit organizations for the purposes of establishing and maintaining programs with respect to improving and educating children and parents in the best ways for children to be safe when on the Internet.

(b) Definition of State.--For purposes of this section, the term "State" means any State of the United States, the District [\*\*641] of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(c) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2007 through 2011.

[\*631] Sec. 631. <42 USC 16988> JESSICA LUNSFORD ADDRESS VERIFICATION GRANT PROGRAM.

(a) Establishment.--There is established the Jessica Lunsford Address Verification Grant Program (hereinafter in this section referred to as the "Program").

(b) Grants Authorized.--Under the Program, the Attorney General is authorized to award grants to State, local governments, and Indian tribal governments to assist in carrying out programs requiring an appropriate official to verify, at appropriate intervals, the residence of all or some registered sex offenders.

(c) Application.--

(1) In general.-- Each State or local government seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) Contents.-- Each application submitted pursuant to paragraph (1) shall--

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this section.

(d) Innovation.--In making grants under this section, the Attorney General shall ensure that different approaches to address verification are funded to allow an assessment of effectiveness.

(e) Authorization of Appropriations.--

(1) In general.-- There are authorized to be appropriated for each of the fiscal years 2007 through 2009 such sums as may be necessary to carry out this section.

(2) Report.-- Not later than April 1, 2009, the Attorney General shall report to Congress--

(A) assessing the effectiveness and value of this section;

(B) comparing the cost effectiveness of address verification to reduce sex offenses compared to other alternatives; and

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

[\*632] Sec. 632. <42 USC 16989> FUGITIVE SAFE SURRENDER.

(a) Findings.--Congress finds the following:

(1) Fugitive Safe Surrender is a program of the United States Marshals Service, in partnership with public, private, and faith-based organizations, which temporarily transforms a church into a courthouse, so fugitives can turn themselves in, in an atmosphere where they feel more comfortable to do so, and have nonviolent cases adjudicated immediately.

(2) In the 4-day pilot program in Cleveland, Ohio, over 800 fugitives turned themselves in. By contrast, a successful Fugitive Task Force sweep, conducted for 3 days after Fugitive Safe Surrender, resulted in the arrest of 65 individuals.

[\*\*642] (3) Fugitive Safe Surrender is safer for defendants, law enforcement, and innocent bystanders than needing to conduct a sweep.

(4) Based upon the success of the pilot program, Fugitive Safe Surrender should be expanded to other cities throughout the United States.

(b) Establishment.--The United States Marshals Service shall establish, direct, and coordinate a program (to be known as the "Fugitive Safe Surrender Program"), under which the United States Marshals Service shall apprehend Federal, State, and local fugitives in a safe, secure, and peaceful manner to be coordinated with law enforcement and community leaders in designated cities throughout the United States.

(c) Authorization of Appropriations.--There are authorized to be appropriated to the United States Marshals Service to carry out this section--

(1) \$ 3,000,000 for fiscal year 2007;

(2) \$ 5,000,000 for fiscal year 2008; and

(3) \$ 8,000,000 for fiscal year 2009.

(d) Other Existing Applicable Law.--Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

[\*633] Sec. 633. <42 USC 16990> NATIONAL REGISTRY OF SUBSTANTIATED CASES OF CHILD ABUSE.

(a) In General.--The Secretary of Health and Human Services, in consultation with the Attorney General, shall create a national registry of substantiated cases of child abuse or neglect.

(b) Information.--

(1) Collection.-- The information in the registry described in subsection (a) shall be supplied by States and Indian tribes, or, at the option of a State, by political subdivisions of such State, to the Secretary of Health and Human Services.

(2) Type of information.-- The registry described in subsection (a) shall collect in a central electronic registry information on persons reported to a State, Indian tribe, or political subdivision of a State as perpetrators of a substantiated case of child abuse or neglect.

(c) Scope of Information.--

(1) In general.----

(A) Treatment of reports.--The information to be provided to the Secretary of Health and Human Services under this section shall relate to substantiated reports of child abuse or neglect.

(B) Exception.--If a State, Indian tribe, or political subdivision of a State has an electronic register of cases of child abuse or neglect equivalent to the registry established under this section that it maintains pursuant to a requirement or authorization under any other provision of law, the information provided to the Secretary of Health and Human Services under this section shall be coextensive with that in such register.

(2) Form.-- Information provided to the Secretary of Health and Human Services under this section--

[\*\*643] (A) shall be in a standardized electronic form determined by the Secretary of Health and Human Services; and

(B) shall contain case-specific identifying information that is limited to the name of the perpetrator and the nature of the substantiated case of child abuse or neglect, and that complies with clauses (viii) and (ix) of section 106(b)(2)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(A) (viii) and (ix)).

(d) Construction.--This section shall not be construed to require a State, Indian tribe, or political subdivision of a State to modify--

(1) an equivalent register of cases of child abuse or neglect that it maintains pursuant to a requirement or authorization under any other provision of law; or

(2) any other record relating to child abuse or neglect, regardless of whether the report of abuse or neglect was substantiated, unsubstantiated, or determined to be unfounded.

(e) Accessibility.--Information contained in the national registry shall only be accessible to any Federal, State, Indian tribe, or local government entity, or any agent of such entities, that has a need for such information in order to carry out its responsibilities under law to protect children from child abuse and neglect.

(f) Dissemination.--The Secretary of Health and Human Services shall establish standards for the dissemination of information in the national registry of substantiated cases of child abuse or neglect. Such standards shall comply with clauses (viii) and (ix) of section 106(b)(2)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)(2)(A) (viii) and (ix)).

(g) Study.--

(1) In general.-- The Secretary of Health and Human Services shall conduct a study on the feasibility of establishing data collection standards for a national child abuse and neglect registry with recommendations and findings concerning--

(A) costs and benefits of such data collection standards;

(B) data collection standards currently employed by each State, Indian tribe, or political subdivision of a State;



(C) data collection standards that should be considered to establish a model of promising practices; and

(D) a due process procedure for a national registry.

(2) Report.-- Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on the Judiciary in the House of Representatives and the United States Senate and the Senate Committee on Health, Education, Labor and Pensions and the House Committee on Education and the Workforce a report containing the recommendations and findings of the study on data collection standards for a national child abuse registry authorized under this subsection.

(3) Authorization of appropriations.-- There is authorized to be appropriated \$ 500,000 for the period of fiscal years 2006 and 2007 to carry out the study required by this subsection.

[\*634] Sec. 634. COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES.

(a) In General.--The National Institute of Justice shall conduct a comprehensive study to examine the control, prosecution, [\*\*644] treatment, and monitoring of sex offenders, with a particular focus on--

(1) the effectiveness of the Sex Offender Registration and Notification Act in increasing compliance with sex offender registration and notification requirements, and the costs and burdens associated with such compliance;

(2) the effectiveness of sex offender registration and notification requirements in increasing public safety, and the costs and burdens associated with such requirements;

(3) the effectiveness of public dissemination of sex offender information on the Internet in increasing public safety, and the costs and burdens associated with such dissemination; and

(4) the effectiveness of treatment programs in reducing recidivism among sex offenders, and the costs and burdens associated with such programs.

(b) Recommendations.--The study described in subsection (a) shall include recommendations for reducing the number of sex crimes against children and adults and increasing the effectiveness of registration requirements.

(c) Reports.--

(1) In general.-- Not later than 5 years after the date of enactment of this Act, the National Institute of Justice shall report the results of the study conducted under subsection (a) together with findings to Congress, through the Internet to the public, to each of the 50 governors, to the Mayor of the District of Columbia, to territory heads, and to the top official of the various Indian tribes.

(2) Interim reports.-- The National Institute of Justice shall submit yearly interim reports.

(d) Appropriations.--There are authorized to be appropriated \$ 3,000,000 to carry out this section.

[\*635] Sec. 635. <42 USC 16991> ANNUAL REPORT ON ENFORCEMENT OF REGISTRATION REQUIREMENTS.

Not later than July 1 of each year, the Attorney General shall submit a report to Congress describing--

(1) the use by the Department of Justice of the United States Marshals Service to assist jurisdictions in locating and apprehending sex offenders who fail to comply with sex offender registration requirements, as authorized by this Act;

(2) the use of section 2250 of title 18, United States Code (as added by section 151 of this Act), to punish offenders for failure to register;

(3) a detailed explanation of each jurisdiction's compliance with the Sex Offender Registration and Notification Act;

(4) a detailed description of Justice Department efforts to ensure compliance and any funding reductions, the basis for any decision to reduce funding or not to reduce funding under section 125; and

(5) the denial or grant of any extensions to comply with the Sex Offender Registration and Notification Act, and the reasons for such denial or grant.

[\*\*645] [\*636] Sec. 636. GOVERNMENT ACCOUNTABILITY OFFICE STUDIES ON FEASIBILITY OF USING DRIVER'S LICENSE REGISTRATION PROCESSES AS ADDITIONAL REGISTRATION REQUIREMENTS FOR SEX OFFENDERS.

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

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

(2) Not later than February 1, 2007, the Government Accountability Office shall complete a study to evaluate the provisions of Chapter 507 of Statutes of Nevada 2005 to determine--

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

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

(C) how those provisions might be modified to improve compliance by registered sex offenders.

[\*637] Sec. 637. SEX OFFENDER RISK CLASSIFICATION STUDY.

(a) Study.--The Attorney General shall conduct a study of risk-based sex offender classification systems, which shall include an analysis of--

(1) various risk-based sex offender classification systems;

(2) the methods and assessment tools available to assess the risks posed by sex offenders;

(3) the efficiency and effectiveness of risk-based sex offender classification systems, in comparison to offense-based sex offender classification systems, in--

(A) reducing threats to public safety posed by sex offenders; and

(B) assisting law enforcement agencies and the public in identifying the most dangerous sex offenders;

[\*\*646] (4) the resources necessary to implement, and the legal implications of implementing, risk-based sex offender classification systems for sex offender registries; and

(5) any other information the Attorney General determines necessary to evaluate risk-based sex offender classification systems.

(b) Report.--Not later than 18 months after the date of enactment of this Act, the Attorney General shall report to the Congress the results of the study under this section.

(c) Study Conducted by Task Force.--The Attorney General may establish a task force to conduct the study and prepare the report required under this section. Any task force established under this section shall be composed of members, appointed by the Attorney General, who--

(1) represent national, State, and local interests; and

(2) are especially qualified to serve on the task force by virtue of their education, training, or experience, particularly in the fields of sex offender management, community education, risk assessment of sex offenders, and sex offender victim issues.

[\*638] Sec. 638. STUDY OF THE EFFECTIVENESS OF RESTRICTING THE ACTIVITIES OF SEX OFFENDERS TO REDUCE THE OCCURRENCE OF REPEAT OFFENSES.

(a) Study.--The Attorney General shall conduct a study to evaluate the effectiveness of monitoring and restricting the activities of sex offenders to reduce the occurrence of repeat offenses by such sex offenders, through conditions imposed as part of supervised release or probation conditions. The study shall evaluate--

(1) the effectiveness of methods of monitoring and restricting the activities of sex offenders, including restrictions--

(A) on the areas in which sex offenders can reside, work, and attend school;

(B) limiting access by sex offenders to the Internet or to specific Internet sites; and

(C) preventing access by sex offenders to pornography and other obscene materials;

(2) the ability of law enforcement agencies and courts to enforce such restrictions; and

(3) the efficacy of any other restrictions that may reduce the occurrence of repeat offenses by sex offenders.

(b) Report.--Not later than 6 months after the date of enactment of this Act, the Attorney General shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the results of the study under this section.

[\*639] Sec. 639. THE JUSTICE FOR CRIME VICTIMS FAMILY ACT.

(a) Short Title.--This section may be cited as the "Justice for Crime Victims Family Act".

(b) Study of Measures Needed To Improve Performance of Homicide Investigators.--Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report--

(1) outlining what measures are needed to improve the performance of Federal, State, and local criminal investigators of homicide; and

[\*\*647] (2) including an examination of--

(A) the benefits of increasing training and resources for such investigators, with respect to investigative techniques, best practices, and forensic services;

(B) the existence of any uniformity among State and local jurisdictions in the measurement of homicide rates and clearance of homicide cases;

(C) the coordination in the sharing of information among Federal, State, and local law enforcement and coroners and medical examiners; and

(D) the sources of funding that are in existence on the date of the enactment of this Act for State and local criminal investigators of homicide.

(c) Improvements Needed for Solving Homicides Involving Missing Persons and Unidentified Human Remains.--Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report--

(1) evaluating measures to improve the ability of Federal, State, and local criminal investigators of homicide to solve homicides involving missing persons and unidentified human remains; and

(2) including an examination of--

(A) measures to expand national criminal records databases with accurate information relating to missing persons and unidentified human remains;

(B) the collection of DNA samples from potential "high-risk" missing persons;

(C) the benefits of increasing access to national criminal records databases for medical examiners and coroners;

(D) any improvement in the performance of postmortem examinations, autopsies, and reporting procedures of unidentified persons or remains;

(E) any coordination between the National Center for Missing Children and the National Center for Missing Adults;

(F) website postings (or other uses of the Internet) of information of identifiable information such as physical features and characteristics, clothing, and photographs of missing persons and unidentified human remains; and

(G) any improvement with respect to--

(i) the collection of DNA information for missing persons and unidentified human remains; and

(ii) entering such information into the Combined DNA Index System of the Federal Bureau of Investigation and national criminal records databases.

## TITLE VII--INTERNET SAFETY ACT

[\*701] Sec. 701. CHILD EXPLOITATION ENTERPRISES.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

"(g) Child Exploitation Enterprises.--

[\*\*648] "(1) Whoever engages in a child exploitation enterprise shall be fined under this title and imprisoned for any term of years not less than 20 or for life.

"(2) A person engages in a child exploitation enterprise for the purposes of this section if the person violates section 1591, section 1201 if the victim is a minor, or chapter 109A (involving a minor victim), 110 (except for sections 2257 and 2257A), or 117 (involving a minor victim), as a

part of a series of felony violations constituting three or more separate incidents and involving more than one victim, and commits those offenses in concert with three or more other persons."

[\*702] Sec. 702. INCREASED PENALTIES FOR REGISTERED SEX OFFENDERS.

(a) Offense.--Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 2260A. Penalties for registered sex offenders

"Whoever, being required by Federal or other law to register as a sex offender, commits a felony offense involving a minor under section 1201, 1466A, 1470, 1591, 2241, 2242, 2243, 2244, 2245, 2251, 2251A, 2260, 2421, 2422, 2423, or 2425, shall be sentenced to a term of imprisonment of 10 years in addition to the imprisonment imposed for the offense under that provision. The sentence imposed under this section shall be consecutive to any sentence imposed for the offense under that provision."

(b) Clerical Amendment.--The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2260A. Increased penalties for registered sex offenders."

[\*703] Sec. 703. DECEPTION BY EMBEDDED WORDS OR IMAGES.

(a) In General.--Chapter 110 of title 18, United States Code, is amended by inserting after section 2252B the following:

"Sec. 2252C. Misleading words or digital images on the Internet

"(a) In General.--Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title and imprisoned for not more than 10 years.

"(b) Minors.--Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet shall be fined under this title and imprisoned for not more than 20 years.

"(c) Construction.--For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as 'sex' or 'porn', is not misleading.

"(d) Definitions.--As used in this section--

"(1) the terms 'material that is harmful to minors' and 'sex' have the meaning given such terms in section 2252B; and

"(2) the term 'source code' means the combination of text and other characters comprising the content, both viewable and nonviewable, of a web page, including any website publishing language, programming language, protocol or functional content, as well as any successor languages or protocols."

[\*\*649] (b) Table of Sections.--The table of sections for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2252B the following:

"2252C. Misleading words or digital images on the Internet."

[\*704] Sec. 704. ADDITIONAL PROSECUTORS FOR OFFENSES RELATING TO THE SEXUAL EXPLOITATION OF CHILDREN.

(a) Definition.--In this section, the term "offenses relating to the sexual exploitation of children" shall include any offense committed in violation of--

(1) chapter 71 of title 18, United States Code, involving an obscene visual depiction of a minor, or transfer of obscene materials to a minor;

(2) chapter 109A of title 18, United States Code, involving a victim who is a minor;

(3) chapter 109B of title 18, United States Code;

(4) chapter 110 of title 18, United States Code;

(5) chapter 117 of title 18, United States Code involving a victim who is a minor; and

(6) section 1591 of title 18, United States Code.

(b) Additional Prosecutors.--In fiscal year 2007, the Attorney General shall, subject to the availability of appropriations for such purposes, increase by not less than 200 the number of attorneys in United States Attorneys' Offices. The additional attorneys shall be assigned to prosecute offenses relating to the sexual exploitation of children.

(c) Authorization of Appropriations.--There are authorized to be appropriated to the Department of Justice for fiscal year 2007 such sums as may be necessary to carry out this section.

[\*705] Sec. 705. ADDITIONAL COMPUTER-RELATED RESOURCES.

(a) Department of Justice Resources.--In fiscal year 2007, the Attorney General shall, subject to the availability of appropriations for such purposes, increase by not less than 30 the number of computer forensic examiners within the Regional Computer Forensic Laboratories (RCFL). The additional computer forensic examiners shall be dedicated to investigating crimes involving the sexual exploitation of children and related offenses.

(b) Department of Homeland Security Resources.--In fiscal year 2007, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purposes, increase by not less than 15 the number of computer forensic examiners within the Cyber Crimes Center (C3). The additional computer forensic examiners shall be dedicated to investigating crimes involving the sexual exploitation of children and related offenses.

(c) Authorization of Appropriations.--There are authorized to be appropriated to the Department of Justice and the Department of Homeland Security for fiscal year 2007 such sums as may be necessary to carry out this section.

[\*706] Sec. 706. ADDITIONAL ICAC TASK FORCES.

(a) Additional Task Forces.--In fiscal year 2007, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall, subject to the availability of appropriations for such purpose, increase by not less than 10 the number of Internet Crimes Against Children Task Forces that are part of the Internet Crimes Against Children Task Force Program authorized and [\*\*650] funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.). These Task Forces shall be in addition to the ones authorized in section 143 of this Act.

(b) Authorization of Appropriations.--There are authorized to be appropriated to the Administrator of the Office of Juvenile Justice and Delinquency Prevention for fiscal year 2007 such sums as may be necessary to carry out this section.

[\*707] Sec. 707. MASHA'S LAW.

(a) <18 USC 2251 note> Short Title.--This section may be cited as "Masha's Law".

(b) In General.--Section 2255(a) of title 18, United States Code, is amended--

(1) in the first sentence--

(A) by striking "(a) Any minor who is" and inserting the following:

"(a) In General.--Any person who, while a minor, was";

(B) by inserting after "such violation" the following: ", regardless of whether the injury occurred while such person was a minor,"; and

(C) by striking "such minor" and inserting "such person"; and

(2) in the second sentence--

(A) by striking "Any minor" and inserting "Any person"; and

(B) by striking "\$ 50,000" and inserting "\$ 150,000".

(c) Conforming Amendment.--Section 2255(b) of title 18, United States Code, is amended by striking "(b) Any action" and inserting the following:

"(b) Statute of Limitations.--Any action".

## **AMERICAN SAMOA**

### **AM. SAMOA CODE ANN. § 46.4502 (2007). Disturbing private peace.**

(a) A person commits the crime of private peace disturbance if he is on private property and unreasonably and purposely causes alarm to another person or persons on those premises by:



- (1) threatening to commit a crime against any person or
- (2) fighting.
- (b) It is a defense to prosecution under this section that the actor had significant provo-cation for his conduct.
- (c) Private peace disturbance is a class C misdemeanor.

## **GUAM**

### **GUAM CODE ANN. TIT. 9, § 70.35 (2009). Invasion of Privacy: Penalty; Definitions.**

(a) A person commits a misdemeanor if, except as authorized by law, he:

- (1) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;
- (2) installs in any private place, without the consent of the person or persons entitled to privacy there, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in such place, or uses any such unauthorized installation;
- (3) installs or uses outside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy there;
- (4) intercepts without the consent of the sender or receiver a message by telephone, telegraph, letter or other means of communicating privately; but this Paragraph does not extend to:
  - (A) overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or
  - (B) interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or
- (5) divulges without the consent of the sender or receiver the existence or contents of any message described in Paragraph (4) if the defendant knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged in transmitting it.

### **GUAM CODE ANN. TIT. 9, § 61.15 (2009). Disorderly Conduct; Defined & Punished.**

(a) A person is guilty of disorderly conduct, if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) engages in fighting or threatening, or in violent or tumultuous behavior;
- (2) makes unreasonable noise or offensively coarse utterance, gesture or display, or addresses abusive language to any person present; or
- (3) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the defendant.

(b) As used in this Section, public means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.

(c) An offense under this Section is a petty misdemeanor if the defendant's intent is to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a violation.

## **PUERTO RICO**

### **P.R. LAWS ANN. TIT. 33, § 4521 (2009). Breach of the peace.**

Any person who willfully performs any of the following acts, shall be punished by imprisonment for a term that shall not exceed six (6) months, a fine that shall not exceed five hundred dollars (\$500), or both penalties, at the discretion of the court:

(a) Disturbs the peace or quiet of any individual or neighborhood, by loud and unusual noises, tumultuous or offensive conduct or threats, insults, fights, challenges or provocations.

(b) On any public street or thoroughfare fires any gun or pistol, or without it being a case of self-defense, draws or exhibits any deadly weapon in the presence of two (2) or more persons, in a violent, rude or threatening attitude or unlawfully makes use of said weapon in a fight or quarrel.

(c) Uses vulgar, profane or indecent language in the presence or within the hearing of women or children in a loud or noisy manner.

In any of the above modalities, the court, at its discretion, may impose the penalty of rendering of community service in lieu of the penalty of imprisonment.

## **VIRGIN ISLANDS**

### **V.I. CODE ANN. TIT. 14, § 622 (2010). Disturbing the peace; fighting.**

Whoever maliciously and willfully--

(1) disturbs the peace or quiet of any village, town, neighborhood or person, by loud or unusual noise, or by tumultuous offensive conduct, or threatening, traducing, quarreling, challenging to fight or fighting; or

(2) on the public streets, or upon the public highways, or within hearing of such streets or highways, uses any vulgar, profane, or indecent language in a loud and boisterous manner--  
shall be fined not more than \$100 or imprisoned not more than 90 days, or both.