

103^D CONGRESS
1ST SESSION

H. R. 2174

To amend chapter 110 of title 18, United States Code, to create remedies for children and other victims of pornography, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1993

Mrs. MEYERS of Kansas (for herself, Mr. HORN, Mr. RAVENEL, Mrs. ROUKEMA, Mr. DORNAN, Mr. OXLEY, Mr. PETRI, Mr. LIPINSKI, Mr. BILBRAY, Mrs. JOHNSON of Connecticut, Mr. SOLOMON, Mr. FALCOMAVEGA, Mr. RAMSTAD, Ms. MOLINARI, Mr. ACKERMAN, Mr. PARKER, Mr. PICKETT, Mr. BRYANT, Mr. GORDON, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 110 of title 18, United States Code, to create remedies for children and other victims of pornography, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pornography Victims
5 Protection Act of 1993”.

1 **SEC. 2. SECTION 2251 AMENDMENTS.**

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

4 (1) in subsection (a), by striking out “sub-
5 section (d)” and inserting in lieu thereof “subsection
6 (e)” and by inserting before the period at the end
7 thereof the following: “or if such person knows or
8 has reason to know that the minor was transported
9 in interstate or foreign commerce for the purpose of
10 producing any such visual depiction of such con-
11 duct”;

12 (2) in subsection (b), by striking out “sub-
13 section (d)” and inserting in lieu thereof “subsection
14 (e)” and by inserting before the period at the end
15 thereof the following: “or if such person knows or
16 has reason to know that the minor was transported
17 in interstate or foreign commerce for the purpose of
18 producing any such visual depiction of such con-
19 duct”;

20 (3) by inserting immediately after subsection
21 (b) the following:

22 “(c)(1) Any person who coerces, intimidates, or
23 fraudulently induces an individual 18 years or older to en-
24 gage in any sexually explicit conduct for the purpose of
25 producing any visual depiction of such conduct shall be
26 punished as provided under subsection (e), if such person

1 knows or has reason to know that such visual depiction
2 will be transported in interstate or foreign commerce or
3 mailed, if such visual depiction has actually been trans-
4 ported in interstate or foreign commerce or mailed, or if
5 such person knows or has reason to know that the individ-
6 ual 18 years or older was transported in interstate or for-
7 eign commerce for the purpose of producing any such vis-
8 ual depiction of such conduct.

9 “(2) Proof of one or more of the following facts or
10 conditions shall not, without more, negate a finding of co-
11 ercion under this subsection:

12 “(A) that the person is or has been a pros-
13 titute;

14 “(B) that the person is connected by blood or
15 marriage to anyone involved in or related to the
16 making of the pornography;

17 “(C) that the person has previously had, or
18 been thought to have had, sexual relations with any-
19 one, including anyone involved in or related to the
20 making of the pornography;

21 “(D) that the person has previously posed for
22 sexually explicit pictures for or with anyone, includ-
23 ing anyone involved in or related to the making of
24 the pornography at issue;

1 “(E) that anyone else, including a spouse or
2 other relative, has given permission on the person’s
3 behalf;

4 “(F) that the person actually consented to a
5 use of the performance that is changed into pornog-
6 raphy;

7 “(G) that the person knew that the purpose of
8 the acts or events in question was to make pornog-
9 raphy;

10 “(H) that the person signed a contract to
11 produce pornography; or

12 “(I) that the person was paid or otherwise com-
13 pensated.”;

14 (4) in subsection (c), by striking out “(c)” and
15 inserting in lieu thereof “(d)”;

16 (5) in subsection (d), by striking out “(d)” and
17 inserting in lieu thereof “(e)”;

18 (6) by amending the heading to read as follows:

19 **“§ 2251. Sexual exploitation”.**

20 **SEC. 3. CIVIL REMEDIES AND PROCEDURE.**

21 (a) MODIFICATION OF EXISTING CIVIL REMEDIES.—
22 Section 2255 of title 18, United States Code, is amended
23 to read as follows:

1 **“§ 2255. Civil remedies.**

2 “(a) The district courts of the United States shall
3 have jurisdiction to prevent and restrain violations of sec-
4 tion 2251 of this title by issuing appropriate orders, in-
5 cluding—

6 “(1) ordering any person to divest himself of
7 any interest, direct or indirect, in any legal or busi-
8 ness entity;

9 “(2) imposing reasonable restrictions on the fu-
10 ture activities or investments of any person including
11 prohibiting such person from engaging in the same
12 type of legal or business endeavor; or

13 “(3) ordering dissolution or reorganization of
14 any legal or business entity after making due provi-
15 sion for the rights of innocent persons.

16 “(b) The Attorney General or any person threatened
17 with loss or damage by reason of a violation of section
18 2251 of this title may institute proceedings under sub-
19 section (a) of this section and, in the event that the party
20 bringing suit prevails, such party shall recover the cost
21 of the suit, including a reasonable attorney’s fee. Pending
22 final determination, the court may at any time enter such
23 restraining orders or prohibitions, or take such other ac-
24 tions, including the acceptance of satisfactory performance
25 bonds, as it shall deem proper. For purposes of this sec-

1 tion, a violation of section 2251 of this title shall be deter-
2 mined by a preponderance of the evidence.

3 “(c) Any victim of a violation of section 2251 of this
4 title who suffers physical injury, emotional distress, or
5 property damage as a result of such violation may sue to
6 recover damages in any appropriate United States district
7 court and shall recover threefold the damages such person
8 sustains as a result of such violation and the cost of the
9 suit, including a reasonable attorney’s fee. For purposes
10 of this section, a violation of section 2251 of this title shall
11 be determined by a preponderance of the evidence.

12 “(d) A final judgment or decree rendered in favor of
13 the United States in any criminal proceeding brought by
14 the United States under this chapter shall estop the de-
15 fendant from denying the essential allegations of the
16 criminal offense in any subsequent civil proceeding.

17 “(e) Nothing in this section shall be construed to au-
18 thorize any order restraining the exhibition, distribution
19 or dissemination of any visual material without a full ad-
20 versary proceeding and a final judicial determination that
21 such material contains a visual depiction of sexually ex-
22 plicit conduct, engaged in by a minor or by a person who
23 was coerced, intimidated, or fraudulently induced to en-
24 gage in such sexually explicit conduct.”.

1 (b) ADDITIONAL REMEDIES AND PROCEDURE.—
2 Chapter 110 of title 18, United States Code, is amended
3 by adding at the end the following:

4 **“§ 2259. Civil penalties.**

5 “(a) Any person found to violate section 2251 of this
6 title by preponderance of the evidence shall be liable to
7 the United States Government for a civil penalty of
8 \$100,000 and the forfeiture of any interest in property
9 described in section 2254. The Attorney General may
10 bring an action for recovery of any such civil penalty or
11 forfeiture against any such person. If the Attorney Gen-
12 eral prevails he may also recover the cost of the suit, in-
13 cluding a reasonable attorney’s fee.

14 “(b) If the identity of any victim of an offense pro-
15 vided in section 2251 of this title is established before an
16 award of a civil penalty made to the United States under
17 this section, the victim shall be entitled to the award. If
18 there is more than one victim, the court shall apportion
19 the award among the victims on an equitable basis after
20 considering the harm suffered by each such victim.

21 **“§ 2260. Venue and process.**

22 “(a) Any civil action or proceeding brought under this
23 chapter may be instituted in the district court of the Unit-
24 ed States for any district in which the defendant resides,
25 is found, has an agent, or transacts his affairs.

1 “(b) In any action under section 2255 or 2259 of this
2 title in any district court of the United States in which
3 it is shown that the ends of justice require that other par-
4 ties residing in any other district be brought before the
5 court, the court may cause such parties to be summoned,
6 and process for that purpose may be served in any judicial
7 district of the United States by the marshal of such judi-
8 cial district.

9 “(c) In any civil or criminal action or proceeding
10 under this chapter in the district court of the United
11 States for any judicial district, a subpoena issued by such
12 court to compel the attendance of witnesses may be served
13 in any other judicial district except that no subpoena shall
14 be issued for service upon any individual who resides in
15 another district at a place more than one hundred miles
16 from the place at which such court is held without ap-
17 proval given by a judge of such court upon a showing of
18 good cause.

19 “(d) All other process in any action or proceeding
20 under this chapter may be served on any person in any
21 judicial district in which such person resides, is found, has
22 an agent, or transacts his affairs.

23 **“§ 2261. Expedition of actions.**

24 “‘In any civil action instituted under this chapter by
25 the United States in any district court of the United

1 States, the Attorney General may file with the clerk of
2 such court a certificate stating that in his opinion the case
3 is of general public importance. A copy of that certificate
4 shall be furnished immediately by such clerk to the chief
5 judge or in his absence to the presiding district judge of
6 the district in which such action is pending. Upon receipt
7 of such copy, such judge shall designate immediately a
8 judge of that district to hear and determine the action.
9 The judge designated to hear and determine the action
10 shall assign the action for hearing as soon as practicable
11 and hold hearings and make a determination as expedi-
12 tiously as possible.

13 **“§ 2262. Evidence.**

14 “In any proceeding ancillary to or in any civil action
15 instituted under this chapter the proceedings may be
16 opened or closed to the public at the discretion of the court
17 after consideration of the rights of affected persons.

18 **“§ 2263. Limitations.**

19 “A civil action under section 2255 or 2259 of this
20 title must be brought within six years from the date the
21 violation is committed. In any such action brought by or
22 on behalf of a person who was a minor at the date the
23 violation was committed, the running of such six-year pe-
24 riod shall be deemed to have been tolled during the period
25 of such person’s minority.”.

1 **SEC. 5. CLERICAL AMENDMENT.**

2 (a) TABLE OF SECTIONS.—The table of sections for
3 chapter 110 of part I of title 18, United States Code, is
4 amended to read as follows:

5 **“CHAPTER 110—SEXUAL EXPLOITATION**

- “Sec.
- “2251. Sexual exploitation.
- “2252. Selling or buying of children.
- “2253. Criminal forfeiture.
- “2254. Civil forfeiture.
- “2255. Civil remedies.
- “2256. Definitions for chapter.
- “2257. Record keeping requirements.
- “2258. Failure to report child abuse.
- “2259. Civil penalties.
- “2260. Venue and process.
- “2261. Expedition of actions.
- “2262. Evidence.
- “2263. Limitations.”.

6 (b) TABLE OF CHAPTERS.—The table of chapters for
7 part I of title 18, United States Code, is amended by strik-
8 ing the item relating to chapter 110 and inserting in lieu
9 thereof the following:

“110. Sexual Exploitation 2251”.

