

113TH CONGRESS
2^D SESSION

S. _____

To amend section 2259 of title 18, United States Code, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend section 2259 of title 18, United States Code, 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 “Amy and Vicky Child
5 Pornography Victim Restitution Improvement Act of
6 2014”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) The demand for child pornography harms
10 children because it drives production, which involves

1 severe and often irreparable child sexual abuse and
2 exploitation.

3 (2) The harms caused by child pornography are
4 more extensive than the harms caused by child sex
5 abuse alone because child pornography is a perma-
6 nent record of the abuse of the depicted child, and
7 the harm to the child is exacerbated by its circula-
8 tion. Every viewing of child pornography is a repeti-
9 tion of the victim's original childhood sexual abuse.

10 (3) Victims suffer continuing and grievous
11 harm as a result of knowing that a large, indetermi-
12 nate number of individuals have viewed and will in
13 the future view images of their childhood sexual
14 abuse. Harms of this sort are a major reason that
15 child pornography is outlawed.

16 (4) The unlawful collective conduct of every in-
17 dividual who reproduces, distributes, or possesses
18 the images of a victim's childhood sexual abuse plays
19 a part in sustaining and aggravating the harms to
20 that individual victim. Multiple actors independently
21 commit intentional crimes that combine to produce
22 an indivisible injury to a victim.

23 (5) It is the intent of Congress that victims of
24 child pornography be fully compensated for all the

1 harms resulting from each and every perpetrator
2 who contributes to their anguish.

3 (6) Congress intends to adopt and hereby
4 adopts an aggregate causation standard to address
5 the unique crime of child pornography and the
6 unique harms caused by child pornography.

7 (7) Victims should not be limited to receiving
8 restitution from defendants only for losses caused by
9 each defendant's own offense of conviction. Courts
10 must apply a less restrictive aggregate causation
11 standard in child pornography cases, while also rec-
12 ognizing appropriate constitutional limits and pro-
13 tections for defendants.

14 **SEC. 3. MANDATORY RESTITUTION.**

15 Section 2259 of title 18, United States Code, is
16 amended—

17 (1) in subsection (b), by striking paragraph (3)
18 and inserting the following:

19 “(3) DEFINITION.—(A) For purposes of this
20 subsection, the term ‘full amount of the victim’s
21 losses’ includes any costs incurred by the victim
22 for—

23 “(i) lifetime medical services relating to
24 physical, psychiatric, or psychological care;

1 “(ii) lifetime physical and occupational
2 therapy or rehabilitation;

3 “(iii) necessary transportation, temporary
4 housing, and child care expenses;

5 “(iv) lifetime lost income; and

6 “(v) attorneys’ fees, as well as other costs
7 incurred.

8 “(B) For purposes of this subsection, the term
9 ‘full amount of the victim’s losses’ also includes any
10 other losses suffered by the victim, if those losses
11 are a proximate result of the offense.

12 “(C) For purposes of this subsection, the term
13 ‘full amount of the victim’s losses’ also includes any
14 losses suffered by the victim from any sexual act or
15 sexual conduct (as those terms are defined in section
16 2246) in preparation for or during the production of
17 child pornography depicting the victim involved in
18 the offense.”;

19 (2) by redesignating subsection (c) as sub-
20 section (d);

21 (3) by inserting after subsection (b) the fol-
22 lowing:

23 “(c) DETERMINING RESTITUTION.—

24 “(1) HARMED BY ONE DEFENDANT.—If the vic-
25 tim was harmed as a result of the commission of an

1 offense under this chapter by 1 defendant, the court
2 shall determine the full amount of the victim's losses
3 caused by the defendant and enter an order of res-
4 titution for an amount that is not less than the full
5 amount of the victim's losses.

6 “(2) HARMED BY MORE THAN ONE DEFEND-
7 ANT.—If the victim was harmed as a result of of-
8 fenses under this chapter by more than 1 person, re-
9 gardless of whether the persons have been charged,
10 prosecuted, or convicted in any Federal or State
11 court of competent jurisdiction within the United
12 States, the court shall determine the full amount of
13 the victim's losses caused by all such persons, or
14 reasonably expected to be caused by such persons,
15 and enter an order of restitution against the defend-
16 ant in favor of the victim for—

17 “(A) the full amount of the victim's losses;

18 or

19 “(B) an amount that is not more than the
20 amount described in subparagraph (A) and not
21 less than—

22 “(i) \$250,000 for any offense under
23 section 2251(a), 2251(b), 2251(c), 2251A,
24 2252A(a)(7), 2252A(g), or 2260(a);

1 “(ii) \$150,000 for any offense under
2 section 2251(d), 2252(a)(1), 2252(a)(2),
3 2252(a)(3), 2252A(a)(1), 2252A(a)(2),
4 2252A(a)(3), 2252A(a)(4), 2252A(a)(6),
5 2252A(a)(7), or 2260(b);

6 “(iii) \$25,000 for any offense under
7 section 2252(a)(4) or 2252A(a)(5); or

8 “(iv) \$50,000 for any other offense
9 under this chapter.

10 “(3) JOINT AND SEVERAL LIABILITY.—Each
11 defendant against whom an order of restitution is
12 issued under paragraph (2)(A) shall be jointly and
13 severally liable to the victim with all other defend-
14 ants against whom an order of restitution is issued
15 under paragraph (2)(A) in favor of such victim.

16 “(4) CONTRIBUTION.—Each defendant who is
17 ordered to pay restitution under paragraph (2)(A),
18 and has made full payment to the victim equal to or
19 exceeding the statutory minimum amount described
20 in paragraph (2)(B), may recover contribution from
21 any defendant who is also ordered to pay restitution
22 under paragraph (2)(A). Such claims shall be
23 brought in accordance with this section and the Fed-
24 eral Rules of Civil Procedure. In resolving contribu-
25 tion claims, the court may allocate payments among

1 liable parties using such equitable factors as the
2 court determines are appropriate so long as no pay-
3 ments to victims are reduced or delayed. No action
4 for contribution may be commenced more than 5
5 years after the date on which the defendant seeking
6 contribution was ordered to pay restitution under
7 this section.”;

8 (4) in subsection (d), as redesignated, by strik-
9 ing “a commission of a crime under this chapter,”
10 and inserting “or by the commission of (i) an of-
11 fense under this chapter or (ii) a series of offenses
12 under this chapter committed by the defendant and
13 other persons causing aggregated losses,”; and

14 (5) by adding at the end the following:

15 “(e) REPORT.—Not later than 1 year after the date
16 of enactment of the Amy and Vicky Child Pornography
17 Victim Restitution Improvement Act of 2014, the Attor-
18 ney General shall submit to Congress a report on the
19 progress, if any, of the Department of Justice in obtaining
20 restitution for victims of any offense under this chapter.”.