

## [National Laws](#)

Legislation of Interpol member states on sexual offences against children

# United States of America– Etats-Unis d'Amérique - Estados Unidos de América

Washington

The United States has certain federal laws concerning sexual abuse against minors. Each of our 50 states, the District of Colombia, and the various U.S. territories, also has its own laws on each of these subjects. Please note that judicial decisions may have affected the validity of the statutory law without yet being reflected in the statutory law. Thus, certain information may not be current. No texts of the state statutes have been included.

## **I. Ages for legal purposes**

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### **Age of simple majority**

The law only recognizes as legal the acts of persons who possess the capacity to form the proper intent to perform the particular acts. Two aspects of "capacity" are recognized: the mental capacity to form the intent to commit an act, and maturity, or the roughly objective measure of the ability to form a legal intent. It is maintained that when a child reaches a certain age his or her capacity to form the proper intent matures. At this point a child can be held accountable for his or her actions.

The variation of age limits for different activities, such as marrying, voting, or consuming alcohol, illustrates the values a society places on certain types of activities and how a society values individual responsibility and accountability. For instance, when a minor intentionally injures another or damages property, he or she may be held liable for the act at age fourteen (14) , and even earlier, in some instances, in certain courts. But he or she may not be allowed to drink or vote until age twenty-one (21) or eighteen (18).

The limitations on a minor's ability to contract, however, are established to protect innocent third parties and ignorant or immature first parties. If a minor makes a foolish business decision out of immaturity or ignorance, the contract may be voided on the basis of a lack of capacity to contract.

### **Age of consent for sexual activity**

The federal age of consent for sexual activities is sixteen (16) years.

### **Age of consent for marriage**

The laws regulating marriage are quite uniform. The right to marry is considered very personal, and once the 'age of majority', or when one can marry without the permission of a parent or guardian, is reached, it is the couple's sole decision

whether or not to marry. However, below this age, parental consent is required (though states do not require the consent of a parent or guardian in the country or who has abandoned his or her child). The age of majority is now universally eighteen (18), except in Mississippi, where the parties need to be twenty-one (21), and Arkansas, where the female needs only to be sixteen (16). While only two states, California and Kentucky, have no statutory minimum age under which marriage licenses will not be issued, many states with a minimum age requirement do permit marriages between minors under that age. Virtually all states allowing the marrying of minors require court approval in addition to parental consent. A growing number of states now require counseling for minors seeking to marry. Provisions for underage marriages exist in order to permit pregnant minor females and/or couples to marry, and prevailing code language still clearly reflects that bias. Ohio has the most explicit rule on this issue. In that state, the juvenile court is authorized to grant official consent to the marriage of underage persons, and the probate court issues the license. According to Ohio statutes, the probate court may delay issuing the license until the court is convinced that the female is pregnant and will carry the child to term or may even delay issuance of the license until the baby is born.

## II. Rape

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### **'Definitions for chapter', § 2246, Ch. 109A of the Federal Code, 'Sexual Abuse'**

'As used in this chapter-(2) the term 'sexual act' means-

- a) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;
- b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- c) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- d) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of sixteen (16) years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) ) The term 'sexual contact' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.'

The Federal Code has been amended by the '**Child Protection and Sexual Predator Punishment Act of 1998**' more particularly about the penalties which are now more severe.

The amendments added to the Code will be highlighted in order to be identified.

**'Aggravated sexual abuse by force or threat', § 2241 (a), Ch. 109A of the Federal Code, 'Sexual Abuse'**

'Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly causes another person to engage in a sexual act-

- 1) by using force against that other person; or
- 2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury or kidnapping;

-or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.'

### **III. Other forms of child sex abuse**

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**'Aggravated sexual abuse by other means', § 2241 (b), Ch. 109A of the Federal Code, 'Sexual Abuse'**

'Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly -

- 1) renders another person unconscious and thereby engages in a sexual act with that other person; or
- 2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby -
  - a) substantially impairs the ability of that other person to appraise or control conduct; and
  - b) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.'

**'Aggravated sexual abuse with children', § 2241 (c), Ch. 109A of the Federal Code, 'Sexual Abuse'**

'Whoever crosses a State line with intent to engage in a sexual act with a person who has not attained the age of twelve (12) years, or in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of twelve (12) years, or knowingly engages in a sexual act under the circumstances described in subsections (a) and (b) with another person who has attained the age of twelve (12) years but has not attained the age of sixteen (16) years (and is at least 4 years younger than the person so engaging), or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both. If the defendant has previously been convicted of another Federal offence under this subsection, or of a State offence that would have been an offence under either such provision had the offence occurred in a Federal prison, unless the death penalty is imposed, the defendant shall be sentenced to life in prison.'

**'Sexual abuse of a minor', § 2243 (a), Ch. 109A of the Federal Code, 'Sexual Abuse'**

'Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who-

1) has attained the age of twelve (12) years but has not attained the age of sixteen (16) years; and

2) is at least four years younger than the person so engaging,

-or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.'

**'Abusive sexual contact', § 2244, Ch. 109A of the Federal Code, 'Sexual Abuse'**

'(a) Sexual conduct in circumstances where sexual acts are punished by this chapter.

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate-

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years, or both; or

(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than six months, or both.

(b) In other circumstances.

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined under this title, imprisoned not more than six months, or both.

(c) Offenses involving young children—

If the sexual contact that violates this section is with an individual who has not attained the age of twelve (12) years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.'

**'Sexual abuse resulting in death', § 2245, Ch. 109A of the Federal Code, 'Sexual Abuse'**

'A person who, in the course of an offence under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.'

**'Repeat offenders', § 2247 of the Federal Code, as amended by the following**

(a) Maximum term of imprisonment—

The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

(b) Prior sex offense conviction defined—

In this section, the term 'prior sex offense conviction' has the meaning given that term in section 2426(b).'

**'Increased penalties for use of a computer in the sexual abuse or exploitation of a child', Amendment to the Federal Code**

'Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

- A. aggravated sexual abuse under section 2241 of the title 18, United States Code;
- B. sexual abuse under section 2242 of the title 18, United States Code;
- C. sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and
- D. coercion and enticement of a minor under section 2422 (b) of title 18, U.S. Code, contacting a minor under section 2422 of title 18, U.S. Code, and transportation of minors and travel under section 2423 of title 18, U.S. Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or

facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.'

**'Transfer of obscene material to minors', § 1470 chapter 71 as amended by the 1998's Act**

'Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly

transfer obscene matter to another individual who has not attained the age of sixteen (16), knowing that such other individual has not attained the age of sixteen (16) years, or attempts to do so, shall be fined under this title, imprisoned not more than ten (10) years, or both.'

#### **IV. Child prostitution**

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The Federal Code has been amended by the **'Child Protection and Sexual Predator Punishment Act of 1998'** more particularly about the penalties which are now more severe.

The amendments added to the Code will be highlighted in order to be identified.

**'Coercion and enticement', § 2422 of the Federal Code, Ch. 117, 'Transportation for illegal sexual activity and related crimes' as amended by 1998's Act**

'(a) Whoever knowingly persuades, induces, entices or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offence, or attempts to do so, shall be fined under this title or imprisoned not more than ten, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of eighteen (18) years to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 15 years or both.'

**'Transportation of minors', § 2423 of the Federal Code, Ch. 117, 'Transportation for illegal sexual activity and related crimes' as amended by the 1998's Act**

'(a) Transportation with intent to engage in criminal sexual activity:

A person who knowingly transports an individual who has not attained the age of eighteen (18) years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offence, or attempts to do so, shall be fined under this title, imprisoned not more than fifteen years, or both.

(b) Travel with intent to engage in sexual act with a juvenile:

A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2246) with a person under eighteen (18) years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall *be fined under this title, imprisoned not more than 15 years or both.*

**'Sex trafficking of children or by force, fraud, or coercion', § 1591 of the Federal Code, Ch. 77, 'Peonage and Slavery'**

(a) Whoever knowingly-

(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is-

(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

(2) if the offense was not so effected, and the person transported had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

(c) In this section:

(1) The term 'commercial sex act' means any sex act, on account of which anything of value is given to or received by any person.

(2) The term 'coercion' means-

- (a) threats of serious harm to or physical restraint against any person;
  - (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
  - (c) the abuse or threatened abuse of law or the legal process.
- (3) The term 'venture' means any group of two or more individuals associated in fact, whether or not a legal entity.

**' Increased penalties for use of a computer in the sexual abuse or exploitation of a child', Amendment to the the Federal Code**

'Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(D) coercion and enticement of a minor under section 2422 (b) of title 18, U.S Code, contacting a minor under section 2422 of title 18, U.S. Code, and transportation of minors and travel under section 2423 of title 18, U.S. Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.'

**'Death or imprisonment for crimes against children', section 3559 of Title 18 amended by the 1998's Act**

'(1) Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is ...a violation of section 2422, 2423, or 2251 shall unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

- A. the victim of the offense has not attained the age of fourteen (14)
- B. the victim dies as result of the offense; and
- C. the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2)

(2) EXCEPTION—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.'

## V. Child pornography

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The Federal Code has been amended by the '**Child Protection and Sexual Predator Punishment Act of 1998**' more particularly about the penalties which are now more severe.

The amendments added to the Code will be highlighted in order to be identified.

### **'Definitions for Chapter', § 2256, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

'For the purposes of this chapter, the term-

(1) 'minor' means any person under the age of eighteen (18) years;

(2) 'sexually explicit conduct' means actual or simulated-

a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

b) bestiality;

c) masturbation;

d) sadistic or masochistic abuse; or

e) lascivious exhibition of the genitals or pubic area of any person;'

'child pornography' means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where-

(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

### **§ 2251, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

'A. Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such

conduct, shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

B. Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (d) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

C. (1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering-

a) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

b) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct:

-shall be punished as provided under subsection D.

C. (2) The circumstance referred to in paragraph (1) is that—

a) such person knows or has reason to know that such notice or advertisement will be transported in interstate or foreign commerce by any means including by computer or mailed; or

b) such notice or advertisement is transported in interstate or foreign commerce by any means including by computer or mailed.

D. Any individual who violates, or attempts or conspires to violate, this section shall be fined under this title or imprisoned not less than 10 years nor more than 20 years, and both, but if such person has one prior conviction under this chapter, chapter 109A, or chapter 117 or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 30 years, but if such person has 2 or more prior convictions under this chapter, chapter 109A, or chapter 117 or under the laws of any State relating to the sexual exploitation of children, such person shall be fined under this title and imprisoned not less than 30 years nor more than life. Any organisation that violates, or attempts or conspires to violate, this section shall be fined under this title. Whoever, in the course of an offence under this section,

engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.'

**'Selling or buying of children', § 2251A, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

(A) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either-

(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either-

a) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

b) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

-shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(B) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either-

(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) with intent to promote either-

a) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

b) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

-shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

(C) The circumstances referred to in subsections (a) and (b) are that-

(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

(3) the conduct described in such subsections took place in any territory or possession of the United States.'

**'Certain activities relating to material involving the sexual exploitation of minors', § 2252, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

(A) Any person who-

(1) knowingly transports or ships in interstate or foreign commerce by any means including by computer or mails, any visual depiction, if-

a) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

b) such visual depiction is of such conduct;

(2) knowingly receives, or distributes, any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce by any means including by computer or through the mails, if-

a) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

b) such visual depiction is of such conduct;

(3) either-

a) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

b) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means, including by computer, if-

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct;

or

(4) either-

a) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other master which contain any visual depiction; or

b) knowingly possesses 1 or more books, magazines, periodicals, films, video tapes, or other master which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if-

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct; shall be punished as provided in subsection (b) of this section.

(B)

(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than 15 years, or both, but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117 or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 5 years nor more than 30 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 5 years, or both, but if such person has a prior conviction under this chapter, chapter 109A, or chapter 117 or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 2 years nor more than 10 years.'

C) AFFIRMATIVE DEFENSE. It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant-

(1) possessed less than three matters containing any visual depiction proscribed by that paragraph ; and

(2) promptly and in good faith, and without retaining or allowing any person , other than a law enforcement agency, to access any visual depiction or copy thereof--

(i) took reasonable steps to destroy each such visual depiction or

(ii) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

**'Certain activities relating to material constituting or containing child pornography', § 2252A, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

'(A) Any person who-

(1) knowingly mails, or transports or ships in interstate or foreign commerce by any means, including by computer, any child pornography;

(2) knowingly receives or distributes-

a) any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

b) any material that contains child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer;

(3) knowingly reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer;

(4) either-

a) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or

b) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; or

(5) either-

a) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or

b) knowingly possesses any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer, shall be punished as provided in subsection (b).

(B)

(1) Whoever violates, or attempts or conspires to violate, paragraphs (1), (2), (3), or (4) of subsection (a) shall be fined under this title or imprisoned not more than 15 years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 5 years nor more than 30 years.

(2) Whoever violates, or attempts or conspires to violate, subsection (a)(5) shall be fined under this title or imprisoned not more than 5 years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, or under the laws of any State relating to the possession of child pornography, such person shall be fined under this title and imprisoned for not less than 2 years nor more than 10 years.

(C) It shall be an affirmative defence to a charge of violating paragraphs (1), (2), (3), or (4) of subsection (a) that-

(1) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct;

(2) each such person was an adult at the time the material was produced; and

(3) the defendant did not advertise, promote, present, describe, or distribute the material in such a manner as to convey the impression that it is or contains a visual depiction of a minor engaging in sexually explicit conduct.'

(D) It shall be an affirmative defense to a charge of violating subsection (a) (5) that the defendant—

(1) possessed less than three images of child pornography; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

(i) took reasonable steps to destroy each such images

(ii) reported the matter to a law enforcement agency and afforded that agency access to each such image.

**'Production of sexually explicit depictions of a minor for importation into the United States', § 2260, Ch. 110 of the Federal Code, 'Sexual Exploitation and other Abuse of Children':**

'(a) Use of minor:

A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other

person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

(b) Use of visual depiction:

A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

(c) Penalties:

A person who violates subsection (a) or (b), or conspires or attempts to do so-

(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.'

**Section 227, 'Reporting of child pornography by electronic communication service providers' of The Child Abuse Act of 1990, as inserted after section 226 by the 27<sup>th</sup> January 1998 Amendment:**

'(b) Requirements—

1. DUTY TO REPORT—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.
2. DESIGNATION OF AGENCIES—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).
3. FAILURE TO REPORT—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined:
  - A. in the case of an initial failure to make a report, not more than \$50,000; and
  - B. in the case of any second or subsequent failure to make a report, not more than \$100,000.'

'(c) Civil liability—

No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.'

'(d) Limitation of information or material required in report—

A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the federal Government may not require the production of such information or matter in that report.'

'(e) Monitoring not required—

Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person '

Informations contained in such reports shall not be disclosed except to an Attorney for his official duties, for the needs of investigations, in front of a court.