

NO. _____

In The
Supreme Court of the United States

JOHN CHARLES THOMPSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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Dated: May 26, 2020

QUESTION PRESENTED

1. Was it plain err for the Western District of North Carolina to not aggregate Mr. Thompson's multiple revocation active imprisonment sentences then reduce the amount of time on supervised release by the aggregate amount of active imprisonment?

PARTIES TO THE PROCEEDING

Petitioner John Charles Thompson was the Defendant in district court and the Appellant in the Fourth Circuit Court of Appeals. Respondent United States of America was the Plaintiff in district court and the Appellee in the Fourth Circuit Court of Appeals.

RELATED CASES

United States v. Acklin, No: 13-4390, U.S. Court of Appeals for the Fourth Circuit. Judgment entered February 27, 2014.

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PETITION FOR WRIT OF CERTIORARI

John Thompson, by and through Simon Massie, Criminal Justice Act Public Defender for the Western District of North Carolina, respectfully petitions this court for a Writ of Certiorari to review the judgment of the Fourth Circuit Court of Appeals.

Petitioner John Charles Thompson, on January 1, 2015, John indicted on one charge; traveling in interstate commerce and knowingly failing to register and update a registration as required by the Sex Offender Registration and Notification Act (hereinafter referred to as “SORNA”), in violation of Title 18 U.S.C. § 2250. On March 27, 2015, Mr. Thompson’s Rule 11 hearing was held, he pled guilty to one count in his indictment. On November 18, 2015, sentencing was held in front of the Honorable Robert J. Conrad, Jr. Mr. Thompson was sentenced to 27 months in prison with 5 years of supervised release to follow his prison sentence. On March 13, 2017, Mr. Thomson’s U.S. probation officer filed a Petition for Warrant for Offender Under Supervision. Mr. Thompson’s supervision was revoked on March 29, 2018, he received time served plus 5 years of supervised release to follow his active sentence. Mr. Thompson violated supervised release against and probation filed a Petition for Warrant for Offender Under Supervision. Judgment on the second revocation proceeding was 18 months of active time, followed by 5 years of supervised release, the court cited the Protect Act of 2003 as authority for the judgment render.

Mr. Thompson appealed the district court’s judgment. The 4th Circuit affirmed the district court’s judgment, citing authority given to the district court by the Sexual Offense Registration and Notification Act.

This case offers the Court the opportunity to resolve a conflict between the Sexual Offense Registration and Notification Act and the Protect Act of 2003, the Federal Sentencing Guidelines, and case law. The issue of whether it was plain error for the Western District Court of North Carolina to fail to use the aggregation rule to reduce Mr. Thompson's sentence exposes the very conflict that needs to be resolved by this Court.

The Western District Court of North Carolina rendered judgment against Mr. Thompson's aggregation argument, siting the Protect Act of 2003 as authority warranting the sentence imposed. The authority given to the Court by the Protect Act was expanded, in this case, beyond the scope of the Act when the judgment was rendered. Expanding the powers of the Court beyond the authority given to it will have a dramatic impact on sentencing of defendants.

In opposite to the Protect Act of 2003, the Sexual Offense Registration and Notification Act of 2006 (hereinafter "SORNA") allows the court to render the judgment made by the Western District of North Carolina in Mr. Thompson's case. However, case law has interpreted SORNA's expansion of authority into the crime of failing to register as a sex offender; the courts have concluded the minimum and maximum supervised release a defendant can receive at sentencing is five years.

Furthering the conflict between the Protect Act and SORNA, the Federal Sentencing Guidelines (hereinafter "the guidelines or guidelines"), do not sentence defendants found guilty of failing to register as a sex offender, as a person that has committed a sexual offense, unlike in SORNA and 18 U.S.C. § 3583. Accordingly, the

guidelines limit aggravating factors that can be allotted to a defendant who has been found guilty of failing to register and confine what sentences can be imposed on a defendant, which includes a limitation on supervised release.

It is important the Court address the above stated conflict in authority. Statutory authority providing the Court both the ability and inability to render Mr. Thompson's judgment creates a misunderstanding of what sentences can be decreed, what sentences are allowed according to law, and how failing to register should be categorized. By the Court addressing these concerns there will be consistency throughout the Circuits and provide much needed clarity to the issues presented to this Court.

OPINION

The decision by the North Carolina Western District Court was entered on June 25, 2019 and is reported as *U.S.A. v. Thompson*, 3:15-CR-00017-RJC (J.A. Vol. I, pp. 39). The decision by the Fourth Circuit Court of Appeals was entered on February 24, 2020 and is reported in an unpublished opinion as *U.S.A v. Thompson*, 19-4478.

JURISDICTION

Jurisdiction is vested in the United State District Court for the Western District of North Carolina pursuant to 18 U.S.C. § 2250. Jurisdiction of the Court of Appeals is founded upon 28 U.S.C. § 1291. Appellate jurisdiction is conferred upon the Fourth Circuit pursuant to 18 U.S.C. § 3742(a) and Federal Rule of Appellate Procedure 4(b). A final judgment was entered on June 25, 2019. Defendant John

Charles Thompson gave timely notice of appeal on June 27, 2019. The Fourth Circuit Court of Appeals denied John Thompson's appeal on February 24, 2020. Mr. Thompson invokes this Court's jurisdiction under 28 U.S.C. § 1254(1), having timely filed this petition for Writ of Certiorari within 90 days of the Fourth Circuit Court of Appeals' judgment.

STATUTORY PROVISIONS INVOLVED

Relevant provisions of SORNA Pub. L. 109-248. The Protect Act of 2003: Pub. L. 108-21 (hereinafter "The Protect Act or Protect Act". Failing to register as a sex offender, 18 U.S.C. § 2250. Inclusion of a term of supervised release after imprisonment, 18 U.S.C. § 3583.

STATEMENT OF THE CASE

A. The Conflict between SORNA, The Protect Act, and the United States Sentencing Guidelines

The Protect Act of 2003 expanded sentencing authority for the courts for defendants who have violated certain criminal acts, the category of crimes expanded in the Protect Act were sexual offense crimes. Regardless of this expansion of authority for the courts when a defendant is sentenced for guilt of a sexual offense crime, the Protect Act of 2003 never mentions failing to register as a sex offender as one of the crimes the courts have expanded authority on.

The Federal Sentencing Guidelines (hereinafter U.S.S.G.) have defined sexual offense. U.S.S.G. § 5D1.2. "Sex offense" means (A) an offense, perpetrated against a minor, under (i) chapter 109A of title 18, United States Code; (ii) chapter 110 of such title, not including a recordkeeping offense; (iii) chapter 117 of such title, not

including transmitting information about a minor or filing a factual statement about an alien individual; (iv) an offense under 18 U.S.C. § 1201; or (v) an offense under 18 U.S.C. § 1591; or (B) an attempt or a conspiracy to commit any offense described in subdivisions (A)(i) through (v) of this note. Such term explicitly provides that those offenses which fall outside of the definition are not be considered a sexual offense.

U.S.S.G. § 2A3.5., has defined the term “sex offense” (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 34 U.S.C.A. § 20911(5). (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) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of title 18; (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). 34 U.S.C.A. § 20911(5). The above statute definition of sexual offense, which has been incorporated into the U.S.S.G., came from SORNA.

SORNA created an opposite authority to the Protect Act and the U.S.S.G., SORNA expanded the courts authority in sentencing a defendant who was found guilty for failing to register as a sex offender. Pub. L. 109-248 SORNA allowed the

courts to sentence a defendant up to life on supervised release Id. This conflict in authority.

In 2014, the United States Supreme Court took into consideration the SORNA, statute, the guidelines, and the Department of Justice's position with regard to whether failing to register as a sex offender was considered a sex offense or not. *U.S. v. Acklin*, 557 Fed. Appx. 237 (2014). The Supreme Court decided that failing to register as a sex offender was not considered a sexual offense. Id. The Court limited its' authority in sentencing a defendant to supervised release, in that, the court was only allowed to sentence a defendant to five years of supervised release. Id.

It is important for the Court to address the above stated conflict of law. This issue will present itself in other cases, as there is a direct conflict between multiple statutes, the Federal Sentencing Guidelines, and case law. This Court should grant Certiorari to confront the conflict between the different laws, to further define whether "sex offense" encompasses a failure to register, as well as how courts throughout the United States should sentence someone that has violated 18 U.S.C § 2250.

B. Western District of North Carolina's Decision

The District Court's decision overruled the aggregate argument by the Defense, which aggregated Mr. Thompson's multiple revocation sentences of imprisonment and subtracted the aggregated imprisonment time against the five-year limitation the court could give Mr. Thompson. The Court decreed under the

Protect Act it is statutorily permissible to impose a new term of supervised release without limitation by the amount of time served on a prior revocation.

C. Fourth Circuit's Unpublished Opinion

The Fourth Circuit Panel agreed the District Court's ruling. However, the Fourth Circuit ruled the District Court had authority under SORNA and 18 U.S.C § 3583(k), which includes the failure to register and therefore that the Courts were correct in not aggregating Mr. Thompson's sentence. Further, the Court of Appeals found that Mr. Thompson was subject to a statutory maximum supervised release term of life for the offense of failing to register as required under SORNA and that the aggregation rule under 18 U.S.C. § 3583(h) does not limit the district court's ability to impose an additional term of supervised release after a second revocation.

REASONS FOR GRANTING CERTIORARI

This case presents an opportunity for the Court to address conflicting statutes that, if left unchecked will lead to unwarranted, inconsistent sentences among judges within the same district, and different interpretations for the proper resolution to the conflict between statutes in different circuits throughout the U.S. Further, defendants facing charges of failing to register as a sex offender will be at a loss for what type of sentence they will face causing an influx of appeals to address the same issues stated in the writ that is now before this Court.

I. The Court Should Grant Review to Determine whether Mr. Thompson's new term of supervised release should have been reduced by the aggregate length of imprisonment spent for his two supervised release revocations.

The District Court rendered judgment based on the Protect Act of 2003. The Protect Act does not give the Court the ability to sentence a defendant without accounting for the time spent imprisoned for prior and current supervised release revocations. The authority used by the District Court does not give legal power to the Court to decide the sentence it gave to Mr. Thompson. Knowing the Court does not have the authority to sentence Mr. Thompson the way it did, the case should have been reversed by the Fourth Circuit and remanded to have Mr. Thompson sentencing appropriately.

The Fourth Circuit's holding that the Western District of North Carolina had the authority under SORNA to sentence Mr. Thompson to an additional five years of supervised release gave power to the Court that it never used when rendering judgment against Mr. Thompson. In addition, the Fourth Circuit's opinion is in conflict with the authority that was used by the District Court, insofar as the Protect Act of 2003 does not give authority to render the judgment it did, while SORNA does. Furthermore, the Fourth Circuit's holding conflicts with the U.S.S.G's categorization of sexual offense because the U.S.S.G took the definition of sexual offense from SORNA, which excluded failing to register as a sex offender, but now the Fourth Circuit has included failing to register as a sex offense by allowing the Court's to render judgment as they have done in Mr. Thompson's case. In other words, the Fourth Circuit is allowing Courts to render judgment as if failing to register as a sex

offender is considered a sexual offense, but the definition of sexual offense within SORNA and the U.S.S.G excludes failing to register as being able to be sentence as if a defendant has committed a sexual offense crime. As such the Court should grant Certiorari and reverse the Fourth Circuit's holding that the District Court had the authority to sentence Mr. Thompson to an additional five years of supervised release.

A. Standards for the Court to Consider

This Court will only affirm a sentence imposed after revocation of supervised release if it is not plainly unreasonable. *United States v. Thompson*, 595 F.3d 544, 546 (4th Cir. 2010). The first step in this review requires a determination of whether the sentence is unreasonable. *United States v. Crudup*, 461 F.3d 433, 438 (4th Cir. 2006). “This initial inquiry takes a more ‘deferential appellate posture concerning issues of fact and the exercise of discretion’ than reasonableness review for [G]uidelines sentences.” *United States v. Moulden*, 478 F.3d 652, 656 (4th Cir. 2007) (quoting *Crudup*, 461 F.3d at 439) (applying “plainly unreasonable” standard of review for probation revocation). Only if the sentence is procedurally or substantively unreasonable does the inquiry proceed to the second step of the analysis to determine whether the sentence is plainly unreasonable. *Crudup*, 461 F.3d at 438–39. *United States v. Hamm*, 467 F. App’x 195, 196 (4th Cir. 2012).

A supervised release revocation sentence is procedurally reasonable if the district court considered the advisory policy statement range based upon Chapter Seven of the Sentencing Guidelines and the 18 U.S.C. § 3553(a) (2006) factors applicable to supervised release revocation. See 18 U.S.C. § 3583(e) (2006); *Crudup*,

461 F.3d at 438–40. A sentence is substantively reasonable if the district court stated a proper basis for concluding the defendant should receive the sentence imposed, up to the statutory maximum. *Crudup*, 461 F.3d at 440. *United States v. Hamm*, 467 F. App’x 195, 196 (4th Cir. 2012).

To determine whether a sentence is plainly unreasonable, this Court looks to the definition of “plain” used in the plain-error analysis. *Crudup*, 461 F.3d at 439. For a sentence to be plainly unreasonable, it must run afoul of clearly settled law. *See United States v. Hughes*, 401 F.3d 540, 547 (4th Cir. 2005). *United States v. Thompson*, 595 F.3d 544, 547–48 (4th Cir. 2010).

B. The Court was Substantially unreasonable in sentencing Mr. Thompson to an addition five years of supervised release after his term of imprisonment.

Protect Act of 2003: Pub. L. 108-21

Section 3583 of title 18, United States Code, is amended by adding the following: (k) Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a minor victim, and for any offense under sections 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term of years or life. Protect Act, Pub. L. 108-21, § 101.

Here, the court overruled the aggregate limitation; under the Protect Act it is statutorily permissible to impose a new term of supervised release without limitation by the amount of time the probationer has served on a prior revocation. The court ultimately sentenced Mr. Thompson to another 5-year term of supervised release,

which follows his 18-months of active time. Mr. Thompson was required to register as a sex offender in violation of Title 18 U.S.C. § 2250, the statute that Mr. Thompson was found guilty of is not found in Section 101 of the Protect Act of 2003, even though the crime does not fall within the purview of the Protect Act he is being punished as if he was. Congress did not include Title 18 U.S.C. § 2250 into the Protect Act of 2003, however, Mr. Thompson was sentenced in this case based on the Protect Act, legally the court did not have authority to sentence the Defendant based on that act. Therefore, Mr. Thompson should never have been sentenced according to the Protect Act.

Federal Sentencing Guidelines

Mr. Thompson admitted and pled guilty to: failing to register as a sex offender and knowingly failed to register and update a registration as required by the Sex Offender Registration and Notification Act, in violation of Title 18, U.S.C. § 2250. Mr. Thompson did not commit a sex offense when he failed to register and update his registration because under the guidelines, Mr. Thompson's violation did not rise to the level of "sex offense" according to the definition provided. In addition, chapter five of the guidelines, does not consider Mr. Thompson's violation as a sexual offense based on the definition provided in that chapter. Two separate locations within the U.S.S.G define sexual offense and neither of those definition include failing to register as a sex offense; The offense conduct chapter in the guidelines, referring specifically to Mr. Thompson's violation does not consider he committed a sex offense, nor does the chapter referring specifically to supervised release when imposing a sentence for

Mr. Thompson's specific crime. Given that the guidelines state in two different chapters that Mr. Thompson's illegal conduct did not rise to the level of a sexual offense, he would not be able to receive a supervised release guideline range of 5 years, up to life. Mr. Thompson never committed a sexual offense according to the guidelines; the guidelines do not allow for him to be put on supervised release for up to life, therefore, Mr. Thompson's supervised release following his active time is limited.

Case Law-Precedent

The Defendant argues, and the Government agrees, that the failure to register offense is not a sex offense; therefore, the supervised release Guidelines range does not include a maximum of life, and does not create a range of five years to life as is the case with sex offenses. The Pre-Sentence Report indicated a supervised release Guidelines range of five years to life based on U.S.S.G. § 5D1.2(b)(2) and 18 U.S.C. § 3583(k). The district court imposed a ten-year term without discussion. Subsequent to the sentencing hearing, the Department of Justice (DOJ) issued guidance and established the Government's position on supervised release terms for defendants convicted of SORNA offenses. According to the Government, the memo states (1) that a conviction for failure to register as a sex offender under § 2250(a) does not qualify as a "sex offense" under U.S.S.G. § 5D1.2(b); and (2) the advisory supervised release range for a § 2250(a) conviction is a single point: the statutory minimum of five years. *U.S. v. Acklin*, 557 Fed. Appx. 237 (2014).

Here, Mr. Thompson was sentenced, for his second revocation, to 18 months active time followed by 5 years of supervised release. (J.A. Vol. I, pp. 43-44). In court, counsel argued the court should limit the Defendant's supervised release to 5 years, rather than the range being 5 years to life, but the court disagreed. (J.A. Vol. I. pp. 35-36). Under *Acklin*, this court should have limited Mr. Thompson's supervised release to a maximum/minimum of 5 years, being that his offense was not a sex offense and didn't fall within the guideline definition that allows for a lifetime of supervised release. Therefore, the court should have limited Mr. Thompson's supervised release following his active time.

Case Law-Persuasive

In *Williams*, this court construed subsection (e) to mean that the maximum term of imprisonment, according to the class of the offense, applied "to the aggregate of the sentences imposed on multiple revocations of supervised release." *Williams*, 425 F.3d at 988. Under *Williams*, a district court could therefore revoke supervised release multiple times and reimpose sentences of imprisonment, as long as the total length of the prison terms imposed upon revocation did not exceed the permitted maximums. *Williams* addressed only post-revocation sentences of imprisonment, however, and did not address whether multiple terms of supervised release must also be reduced by the length of imprisonment imposed on all prior revocations. Subsection (h) limits the maximum term of supervised release imposed upon revocation to "the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of

imprisonment that was imposed upon revocation of supervised release.” 18 U.S.C. § 3583(h) (emphasis added). The statute is silent, however, as to whether the term of imprisonment to be subtracted is that which was imposed upon a single revocation, or the aggregate of all prison terms imposed upon multiple revocations. This is a question of first impression in this Circuit, but has been addressed in the relevant legislative history, and in the Seventh, Eighth, and Second Circuits. *United States v. Mazarky*, 499 F.3d 1246, 1248 F.3d 1249 (11th Cir. 2007).

The relevant legislative history and case law from other circuits indicate that subsection (h) was intended to provide credit for the aggregate of prison term served on prior revocations toward the maximum amount of supervised release permitted by statute. Upon multiple revocations, subsection (h) authorizes the imposition of an additional term of supervised release, up to the statutory maximum, “less any term of imprisonment that was imposed upon revocation of supervised release.” 18 U.S.C. § 3583(h). Accordingly, we hold that, under subsection (h), the maximum allowable supervised release following multiple revocations must be reduced by the aggregate length of any terms of imprisonment that have been imposed upon revocation. 1250 (11th Cir. 2007).

Here, the court should have limited Mr. Thompson’s term of supervised release to 5-years because he was originally found guilty of a crime that is not considered a sex offense. Mr. Thompson’s revocation sentence limitation of 5years of supervised release coupled with 18 U.S.C. § 3583(h) reduces the term of supervised release by the active imprisonment imposed for a revocation. In other words, because Mr.

Thompson is serving an active imprisonment term of 18 months, the 18 months of active imprisonment reduces the 5-years of supervised release to 42 months. Therefore, at a minimum, Mr. Thompson should have received 42 months of supervised release following his active sentence for his revocation.

However, *Mazarky* takes it one step further when multiple revocations have occurred by aggregating the active imprisonment from each revocation, then taking the aggregate imprisonment time and reducing the statutory allowable time on supervised release by the aggregate. In other words, Mr. Thompson served 12 months and 4 days on his first revocation and is serving 18 months on his second revocation, aggregated that equals 30 months and 4 days of active imprisonment, thus reducing Mr. Thompson's supervised release after his active sentence to 29 months and 361 days. Therefore, instead of Mr. Thompson receiving a sentence of 18-months imprisonment and 5 years of supervised release following his imprisonment, he should have received 18-months of imprisonment and 29 months and 361 days of supervised released following imprisonment.

Conclusion

Mr. Thompson failed to register as a sex offense, which does not fall under the purview of the Protect Act, thus the court did not have the authority under the Protect Act to sentence him the way they did. In addition, the Federal Sentencing Guidelines show the crime Mr. Thompson was found guilty of, was not a sex offense and didn't allow for a lifetime of supervised release. Furthermore, case law shows the Department of Justice does not consider that Mr. Thompson's crime to be a sex

offense and the amount of time he should receive for supervised release is a single point, 5 years. Lastly, when a defendants' supervised release is revoked and there is a limited amount of time that a defendant can receive for supervised release, the amount of time spent imprisoned for multiple revocations is aggregated and used to reduce the total amount of time allotted for additional supervised release. Statute, the Federal Sentencing Guidelines, and case law all point to a limit on sentences given in cases where a defendant is found guilty of failing to register as a sex offender. Due to that limitation any time spent imprisoned should reduce the amount of time on supervised release following the defendants time in prison. Therefore, the court did not state a proper basis for imposing Mr. Thompson's sentence for an additional 5 years of supervised release after his 18-month active sentence. The court was substantially unreasonable, in that they sentenced Mr. Thompson according to authority they did not have, giving him a sentenced he should never have received.

C. The Court was plainly unreasonable in sentencing Mr. Thompson to an addition five years of supervised release after his term of imprisonment.

To determine whether a sentence is plainly unreasonable, this Court looks to the definition of "plain" used in plain-error analysis. *Crudup*, 461 F.3d at 439. For a sentence to be plainly unreasonable, therefore, it must run afoul of clearly settled law. *See United States v. Hughes*, 401 F.3d 540, 547 (4th Cir. 2005). *United States v. Thompson*, 595 F.3d 544, 547–48 (4th Cir. 2010).

Here, Mr. Thompson argued that any supervised release following his active sentence for his revocation should be limited to 5 years and any time that he spent in

prison for his prior and current revocations should be aggregated then subtracted from his 5 years of supervised release following his current active sentence. (J.A Vol. I, pp. 31-33). The court ultimately disagrees with counsel on the aggregate argument, placing their authority within the purview of the Protect Act. (J.A. Vol. I, pp. 35). However, the Protect Act does not give the court authority to sentence Mr. Thompson, up to a lifetime of supervised release. In addition, the court does not have the authority under the Federal Sentencing Guidelines to sentence Mr. Thompson, up to a lifetime of supervised release. Nor does case law allow the court to sentence the Defendant to the sentence he received. Legally the court does not have the authority under the Protect Act, the guidelines, nor case law to sentence Mr. Thompson, up to a lifetime of supervised release.

Conclusion

The court was plainly unreasonable in sentencing Mr. Thompson to an additional 5-years of supervised release, following his 18-month active imprisonment. When the court gave Mr. Thompson, his sentence based on the Protect Act, there was no proper legal authority in the Protect Act that was used to sentence him accordingly. There was no legal authority in the Protect Act, there is also no legal authority in the guidelines allowing for Mr. Thompson to receive the sentence he did. There was no legal authority in the Protect Act, nor the guidelines, and case shows the DOJ and the guidelines stance is limited in what sentence the court should give. It is plainly unreasonable to sentence Mr. Thompson based on statute that doesn't give the court authority, when the guidelines do not give the court authority, nor

when case law shows the court does not have authority. Therefore, the court acted plainly unreasonable.

CONCLUSION

For the foregoing reasons, the Petitioners respectfully request the Court grant this petition.

Respectfully submitted,

This the 26th day of May, 2020.

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UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-4478

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN CHARLES THOMPSON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., District Judge. (3:15-cr-00017-RJC-1)

Submitted: January 29, 2020

Decided: February 24, 2020

Before AGEE, RICHARDSON, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Simon Massie, MASSIE LAW PLLC, Charlotte, North Carolina, for Appellant.
R. Andrew Murray, United States Attorney, Elizabeth M. Greenough, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Charles Thompson appeals the district court's order revoking his supervised release and imposing an 18-month term of imprisonment to be followed by 5 years' supervised release. Thompson contends that the court lacked authority to impose a five-year term of supervised release and therefore the sentence imposed is plainly unreasonable.

We affirm.

In 2015, Thompson pled guilty to traveling in interstate commerce and knowingly failing to register and update his registration as required by the Sex Offender Registration and Notification Act ("SORNA"), 34 U.S.C.A. § 20913 (West 2012 & Supp. 2019), *see* 18 U.S.C. § 2250(a) (2018). The district court sentenced Thompson to 27 months' imprisonment, to be followed by a 5-year term of supervised release. In March 2018, the district court revoked Thompson's supervision and sentenced him to time served plus five years of supervised release.

In April 2019, Thompson admitted to additional violations of the terms of his supervision. With respect to a sentence to be imposed upon revocation, Thompson argued that the maximum term of supervised release for his underlying violation was five years and that this had to be reduced by the active prison sentences imposed on prior revocations as well as the instant revocation. The district court disagreed, reasoning that Thompson's sentence was not limited by the aggregate of prior revocation sentences. The court imposed a sentence of 18 months' imprisonment, to be followed by five years of supervised release.

On appeal, Thompson contends that the sentence imposed was unreasonable because it was not authorized by the statute. He asserts that, when determining the length

of any supervised release term to impose, the district court must consider the maximum term allowed by the statute and reduce that by the terms of active imprisonment imposed upon any prior revocation, as well as the instant revocation. Thompson relies on 18 U.S.C. § 3583(h) (2018), which provides that the length of a new term of supervised release may “not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.” *Id.* Section 3583(h) requires a court, upon a second revocation of supervised release for the same underlying offense, to aggregate any prior terms of imprisonment when the statute provides for a maximum supervised release term of less than life. *United States v. Maxwell*, 285 F.3d 336, 341 (4th Cir. 2002). However, § 3583(h)’s subtraction rule does not apply where a statute authorizes a maximum supervised release term of life. *See United States v. Crowder*, 738 F.3d 1103, 1104-05 (9th Cir. 2013); *United States v. Cassesse*, 685 F.3d 186, 191 (2d Cir. 2012).

Contrary to his assertion, Thompson was subject to a statutory maximum supervised release term of life for the offense of failing to register as required under SORNA. *See* 18 U.S.C. § 3583(k) (2018). Thus, the subtraction or aggregation rule of § 3583(h) does not limit the district court’s ability to impose an additional term of supervised release after a second revocation. *See Crowder*, 738 F.3d at 1104-05; *Cassesse*, 685 F.3d at 188-91.

Because the district court was authorized to impose a term of supervised release of up to the maximum allowed by the statute, 18 U.S.C. § 3583(h), (k), we discern no abuse of discretion by the district court in imposing a conclude that the 5-year term of supervised release following the 18-month active sentence. We therefore conclude that Thompson’s

sentence was not unreasonable, much less “plainly unreasonable.” *See United States v. Webb*, 738 F.3d 638, 640 (4th Cir. 2013); *United States v. Crudup*, 461 F.3d 433, 437 (4th Cir 2006). Accordingly, we affirm the district court’s judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: February 24, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4478
(3:15-cr-00017-RJC-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOHN CHARLES THOMPSON

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNITED STATES DISTRICT COURT
Western District of North Carolina

UNITED STATES OF AMERICA

v.

JOHN CHARLES THOMPSON

) **JUDGMENT IN A CRIMINAL CASE**
) (For Offenses Committed On or After November 1, 1987)
)
)
) Case Number: DNCW315CR000017-001
) USM Number: 28005-171
)
) Peter Adolf
) Defendant's Attorney

THE DEFENDANT:

- Pleaded guilty to count(s) 1.
- Pleaded nolo contendere to count(s) which was accepted by the court.
- Was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Counts
18:2250	Failure to register as required by the Sex Offender Registration and Notification Act	October 2014	1

The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- The defendant has been found not guilty on count(s).
- Count(s) (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 11/18/2015

Signed: December 7, 2015


 Robert J. Conrad, Jr.
 United States District Judge



IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of TWENTY-SEVEN (27) MONTHS.

The Court makes the following recommendations to the Bureau of Prisons:

- Participation in the Federal Inmate Financial Responsibility Program.
- Participation in any available substance abuse treatment program and if eligible, receive benefits of 18.3621(e)(2).
- Defendant shall support all dependents from prison earnings.
- Participation in any available mental health treatment programs as may be recommended by a Mental Health Professional.
- Participation in any available educational and vocational opportunities.

The Defendant is remanded to the custody of the United States Marshal.

The Defendant shall surrender to the United States Marshal for this District:

- As notified by the United States Marshal.
- At _ on _.

The Defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- As notified by the United States Marshal.
- Before 2 p.m. on _.
- As notified by the Probation Office.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this Judgment.

United States Marshal

By: _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of FIVE (5) YEARS.

The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.
3. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release on a schedule to be established by the Court.
4. The defendant shall provide access to any personal or business financial information as requested by the probation officer.
5. The defendant shall not acquire any new lines of credit unless authorized to do so in advance by the probation officer.
6. The defendant shall not leave the Western District of North Carolina without the permission of the Court or probation officer.
7. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
8. A defendant on supervised release shall report in person to the probation officer in the district to which he or she is released within 72 hours of release from custody of the Bureau of Prisons.
9. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
10. The defendant shall support his or her dependents and meet other family responsibilities.
11. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other activities authorized by the probation officer.
12. The defendant shall notify the probation officer within 72 hours of any change in residence or employment.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as duly prescribed by a licensed physician.
14. The defendant shall participate in a program of testing and treatment or both for substance abuse if directed to do so by the probation officer, until such time as the defendant is released from the program by the probation officer; provided, however, that defendant shall submit to a drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter for use of any controlled substance, subject to the provisions of 18:3563(a)(5) or 18:3583(d), respectively; The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of supervision.
15. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
16. The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
17. The defendant shall submit his person, residence, office, vehicle and/or any computer system including computer data storage media, or any electronic device capable of storing, retrieving, and/or accessing data to which they have access or control, to a search, from time to time, conducted by any U.S. Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn other residents or occupants that such premises or vehicle may be subject to searches pursuant to this condition.
18. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed by the probation officer.
19. The defendant shall notify the probation officer within 72 hours of defendant's being arrested or questioned by a law enforcement officer.
20. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.
21. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
22. If the instant offense was committed on or after 4/24/96, the defendant shall notify the probation officer of any material changes in defendant's economic circumstances which may affect the defendant's ability to pay any monetary penalty.
23. If home confinement (home detention, home incarceration or curfew) is included you may be required to pay all or part of the cost of the electronic monitoring or other location verification system program based upon your ability to pay as determined by the probation officer.
24. The defendant shall cooperate in the collection of DNA as directed by the probation officer.
25. The defendant shall participate in transitional support services under the guidance and supervision of the U.S. Probation Officer. The defendant shall remain in the services until satisfactorily discharged by the service provider and/or with the approval of the U.S. Probation Officer.

ADDITIONAL CONDITIONS:

26. The defendant shall submit to a mental health evaluation and/or treatment program under the guidance and supervision of the U.S. Probation Office. The defendant shall remain in treatment and maintain use of any prescribed medications until satisfactorily discharged by the program with the approval of the Probation Office.
27. The defendant shall submit to curfew, with location monitoring technology (with GPS technology), for a period of 12 months and comply with its requirements as directed. The defendant shall maintain a telephone at the defendant's place of residence without any "call forwarding," "Caller ID services," "call waiting," dial-up computer modems, 1-800 long distance call block, fax machine, voice over internet protocol (VOIP), burglar alarm or three-way calling service. OTHER

SEX OFFENDER**STANDARD CONDITIONS OF SUPERVISION**

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall submit to a psycho-sexual evaluation by a qualified mental health professional experienced in evaluating and managing sexual offenders as approved by the U.S. Probation Officer. The defendant shall complete the treatment recommendations and abide by all of the rules, requirements, and conditions of the program until discharged. The defendant shall take all medications as prescribed.
2. The defendant shall submit to risk assessments, psychological and physiological testing, which may include, but is not limited to a polygraph examination and/or Computer Voice Stress Analyzer (CVSA), or other specific tests to monitor the defendant's compliance with supervised release and treatment conditions, at the direction of the U.S. Probation Officer.
3. The defendant's residence and employment shall be approved by the U.S. Probation Officer. Any proposed change in residence or employment must be provided to the U.S. Probation Officer at least 10 days prior to the change and pre-approved before the change may take place.
4. The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense..

ADDITIONAL CONDITIONS:

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	FINE	RESTITUTION
\$100.00	\$0.00	\$0.00

The determination of restitution is deferred until. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

FINE

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

The interest requirement is waived.

The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

The defendant shall pay court appointed counsel fees.

The defendant shall pay \$0.00 towards court appointed fees.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of \$0.00 due immediately, balance due
 - Not later than _____
 - In accordance (C), (D) below; or
- B Payment to begin immediately (may be combined with (C), (D) below); or
- C Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$50.00 to commence 60 (E.g. 30 or 60) days after the date of this judgment; or
- D Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$ 50.00 to commence 60 (E.g. 30 or 60) days after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court costs:
- The defendant shall forfeit the defendant's interest in the following property to the United States

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 210, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of _____ months, commencing on _____.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date: _____
Defendant

(Signed) _____ Date: _____
U.S. Probation Office/Designated Witness

SEC. 101. SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended— (1) in subsection (e)(3), by inserting “on any such revocation” after “required to serve”; (2) in subsection (h), by striking “that is less than the maximum term of imprisonment authorized under subsection (e)(3)”;
and

(3) by adding at the end the following:

“(k) Notwithstanding subsection (b), the authorized term of supervised release for any offense under section 1201 involving a minor victim, and for any offense under section 1591, 2241, 2242, 2244(a)(1), 2244(a)(2), 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, 2423, or 2425, is any term of years or life.”.

109TH CONGRESS
2D SESSION

H. R. 4905

To provide for the registration of sex offenders and for appropriate notification of their whereabouts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2006

Mr. FOLEY (for himself and Mr. CRAMER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the registration of sex offenders and for appropriate notification of their whereabouts, 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 “Sex Offender Registra-
5 tion and Notification Act”.

6 **SEC. 2. DECLARATION OF PURPOSE.**

7 In order to protect the public from sex offenders and
8 offenders against children, and in response to the vicious
9 attacks by violent sexual predators against the victims list-

1 ed below, Congress in this Act establishes a comprehensive
2 national system for the registration of those offenders:

3 (1) Jacob Wetterling, who was 11 years old,
4 was abducted in 1989 in Minnesota, and remains
5 missing.

6 (2) Megan Nicole Kanka, who was 7 years old,
7 was abducted, sexually assaulted and murdered in
8 1994, in New Jersey.

9 (3) Pam Lychner, who was 31 years old, was
10 attacked by a career offender in Houston, Texas.

11 (4) Jetseta Gage, who was 10 years old, was
12 kidnapped, sexually assaulted, and murdered in
13 2005 in Cedar Rapids, Iowa.

14 (5) Dru Sjodin, who was 22 years old, was sex-
15 ually assaulted and murdered in 2003, in North Da-
16 kota.

17 (6) Jessica Lunsford, who was 9 years, was ab-
18 ducted, sexually assaulted, buried alive, and mur-
19 dered in 2005, in Homosassa, Florida.

20 (7) Sarah Lunde, who was 13 years old, was
21 strangled and murdered in 2005, in Ruskin, Florida.

22 (8) Amie Zyla, who was 8 years old, was sexu-
23 ally assaulted in 1996 by a juvenile offender in
24 Waukesha, Wisconsin, and has become an advocate

1 for child victims and protection of children from ju-
2 venile sex offenders.

3 (9) Christy Ann Fornoff, who was 13 years old,
4 was abducted, sexually assaulted and murdered in
5 1984, in Tempe, Arizona.

6 (10) Alexandra Nicole Zapp, who was 30 years
7 old, was brutally attacked and murdered in a public
8 restroom by a repeat sex offender in 2002, in
9 Bridgewater, Massachusetts.

10 (11) Polly Klaas, who was 12 years old, was ab-
11 ducted, sexually assaulted and murdered in 1993 by
12 a career offender in California.

13 (12) Jimmy Ryce, who was 9 years old, was
14 kidnapped and murdered in Florida on September
15 11, 1995.

16 (13) Carlie Brucia, who was 11 years old, was
17 abducted and murdered in Florida in February,
18 2004.

1 **TITLE I—JACOB WETTERLING**
2 **SEX OFFENDER REGIS-
3 TATION AND NOTIFICATION
4 PROGRAM**

5 **SEC. 101. RELEVANT DEFINITIONS, INCLUDING AMIE ZYLA**
6 **EXPANSION OF SEX OFFENDER DEFINITION**
7 **AND EXPANDED INCLUSION OF CHILD PRED-
8 ATORS.**

9 In this Act the following definitions apply:

10 (1) **SEX OFFENDER REGISTRY.**—The term “sex
11 offender registry” means a registry of sex offenders,
12 and a notification program, maintained by a juris-
13 diction.

14 (2) **JURISDICTION.**—The term jurisdiction
15 means any of the following:

- 16 (A) A State.
- 17 (B) The District of Columbia.
- 18 (C) The Commonwealth of Puerto Rico.
- 19 (D) Guam.
- 20 (E) American Samoa.
- 21 (F) The Northern Mariana Islands.
- 22 (G) The United States Virgin Islands.
- 23 (H) To the extent provided and subject to
24 the requirements of section 127, a federally rec-
25 ognized Indian tribe.

5 (4) EXPANSION OF DEFINITION OF OFFENSE
6 TO INCLUDE ALL CHILD PREDATORS.—The term
7 “specified offense against a minor” means an of-
8 fense against a minor that involves any of the fol-
9 lowing:

10 (A) An offense (unless committed by a
11 parent) involving kidnapping.

12 (B) An offense (unless committed by a
13 parent) involving false imprisonment.

14 (C) Solicitation to engage in sexual con-
15 duct.

16 (D) Use in a sexual performance.

17 (E) Solicitation to practice prostitution.

18 (F) Possession, production, or distribution
19 of child pornography.

(G) Criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct.

(H) Any conduct that by its nature is a sex offense against a minor.

(I) Video voyeurism, as described in section 1801 of title 18, United States Code.

(J) Any attempt or conspiracy to commit
an offense described in this paragraph.

11 (A) is punishable by imprisonment for
12 more than one year; or

13 (B) occurs after the offender becomes a
14 tier I sex offender.

19 (A) involves a crime of violence as defined
20 in section 16 of title 18, United States Code,
21 against the person of another, except a crime of
22 violence consisting of an abusive sexual contact,
23 as defined in section 2246;

24 (B) is an offense where the victim had not
25 attained the age of 13 years; or

(C) occurs after the offender becomes a tier II sex offender.

3 (8) AMY ZYLA EXPANSION OF SEX OFFENSE
4 DEFINITION.—The term “sex offense” means—

5 (A) a State, local, tribal, foreign, or other
6 criminal offense that has an element involving
7 a sexual act or sexual contact with another or
8 an attempt or conspiracy to commit such an of-
9 fense, but does not include an offense involving
10 consensual sexual conduct where the victim was
11 an adult or was at least 13 years old and the
12 offender was not more than 4 years older than
13 the victim;

14 (B) a State, local, tribal, foreign, or other
15 specified offense against a minor;

16 (C) a Federal offense (including an offense
17 prosecuted under section 1152 or 1153 of title
18 18, United States Code) under section 1201,
19 1591, or 1801, or chapter 109A, 110, or 117,
20 of title 18, United States Code, or any other
21 Federal offense designated by the Attorney
22 General for the purposes of this paragraph; or

(D) 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).

13 (12) MINOR.—The term “minor” means an in-
14 dividual who has not attained the age of 18 years.

15 (13) CONVICTED.—The term “convicted” or a
16 variant thereof, used with respect to a sex offense,
17 includes adjudicated delinquent as a juvenile for that
18 offense.

19 SEC. 102. REGISTRY REQUIREMENTS FOR JURISDICTIONS.

20 Each jurisdiction shall maintain a jurisdiction-wide
21 sex offender registry conforming to the requirements of
22 this Act. The Attorney General shall issue guidelines and
23 regulations to interpret and implement this Act.

1 **SEC. 103. REGISTRY REQUIREMENTS FOR SEX OFFENDERS.**

2 (a) IN GENERAL.—A sex offender must register, and
3 keep the registration current, in each jurisdiction where
4 the offender was convicted, where the offender resides,
5 where the offender is an employee, and where the offender
6 is a student.

7 (b) INITIAL REGISTRATION.—The sex offender shall
8 initially register—

9 (1) before completing a sentence of imprison-
10 ment with respect to the offense giving rise to the
11 registration requirement; or

12 (2) not later than 5 days after being sentenced
13 for that offense, if the sex offender is not sentenced
14 to a term of imprisonment.

15 (c) KEEPING THE REGISTRATION CURRENT.—A sex
16 offender must inform each jurisdiction involved, not later
17 than 3 days after each change of residence, employment,
18 or student status.

19 (d) INITIAL REGISTRATION OF SEX OFFENDERS UN-
20 ABLE TO COMPLY WITH SUBSECTION (b).—The Attorney
21 General shall prescribe rules for the registration of sex of-
22 fenders convicted before the enactment of this Act or its
23 implementation in a particular jurisdiction, and for other
24 categories of sex offenders who are unable to comply with
25 subsection (b).

1 (e) STATE PENALTY FOR FAILURE TO COMPLY.—
2 Each jurisdiction, other than a Federally recognized In-
3 dian tribe, shall provide a criminal penalty, that includes
4 a maximum term of imprisonment that is greater than one
5 year, and a minimum term of imprisonment that is no less
6 than 90 days, for the failure of a sex offender to comply
7 with the requirements of this Act.

8 **SEC. 104. INFORMATION REQUIRED IN REGISTRATION.**

9 (a) PROVIDED BY THE OFFENDER.—The sex of-
10 fender must provide the following information to the ap-
11 propriate official for inclusion in the sex offender registry:

12 (1) The name and physical description of the
13 sex offender (including any alias used by the indi-
14 vidual).

15 (2) The Social Security number of the sex of-
16 fender.

17 (3) The address of the residence at which the
18 sex offender resides or will reside.

19 (4) The name and address of the place where
20 the sex offender is employed or will be employed.

21 (5) The name and address of the place where
22 the sex offender is a student or will be a student.

23 (6) The license plate number and description of
24 any vehicle owned or operated by the sex offender.

25 (7) A photograph of the sex offender.

5 (9) A DNA sample of the sex offender, if the
6 appropriate official determines that the jurisdiction
7 does not already have available an appropriate DNA
8 sample.

12 (11) Any other information required by the At-
13 torney General.

14 (b) PROVIDED BY THE JURISDICTION.—The jurisdiction
15 in which the sex offender registers shall include the
16 following information in the registry for that sex offender:

22 (2) The criminal history of the sex offender.

1 **SEC. 105. DURATION OF REGISTRATION REQUIREMENT.**

2 A sex offender shall keep the registration current for
3 a period (excluding any time the sex offender is in custody
4 or civilly committed) of—

5 (1) 20 years, if the offender is a tier I sex of-
6 fender;

7 (2) 30 years, if the offender is a tier II sex of-
8 fender; and

9 (3) the life of the offender, if the offender is a
10 tier III sex offender.

11 **SEC. 106. IN PERSON VERIFICATION.**

12 A sex offender shall appear in person, provide a cur-
13 rent photograph, and verify the information in each reg-
14 istry in which that offender is required to be registered
15 not less frequently than—

16 (1) every six months, if the offender is a tier I
17 sex offender;

18 (2) every 3 months, if the offender is a tier II
19 sex offender; and

20 (3) every month, if the offender is a tier III sex
21 offender.

22 **SEC. 107. DUTY TO NOTIFY SEX OFFENDERS OF REGIS-
23 TATION REQUIREMENTS AND TO REGISTER.**

24 An appropriate official shall, shortly before release
25 from custody of the sex offender, or, if the sex offender
26 is not in custody, immediately after the sentencing of the

1 sex offender, for the offense giving rise to the duty to reg-
2 ister—

3 (1) inform the sex offender of the duty to reg-
4 ister and explain that duty;

5 (2) require the sex offender to read and sign a
6 form stating that the duty to register has been ex-
7 plained and that the sex offender understands the
8 registration requirement; and

9 (3) ensure that the sex offender is registered.

10 **SEC. 108. JESSICA LUNSFORD ADDRESS VERIFICATION
11 PROGRAM.**

12 (a) **ESTABLISHMENT.**—There is established the Jes-
13 sica Lunsford Address Verification Program (hereinafter
14 in this section referred to as the “Program”).

15 (b) **VERIFICATION.**—In the Program, an appropriate
16 official shall verify the residence of each registered sex of-
17 fender not less than—

18 (1) semi-annually, if the offender is a tier I sex
19 offender;

20 (2) quarterly, if the offender is a tier II sex of-
21 fender; and

22 (3) monthly, if the offender is a tier III sex of-
23 fender.

24 (c) **USE OF MAILED FORM AUTHORIZED.**—Such
25 verification may be achieved by mailing a nonforwardable

1 verification form to the last known address of the sex of-
2 fender. The sex offender must return the form, including
3 a notarized signature or a fingerprint verification, within
4 a set period of time. A failure to return the form as re-
5 quired may be a failure to register for the purposes of
6 this Act.

7 **SEC. 109. NATIONAL SEX OFFENDER REGISTRY.**

8 (a) INTERNET.—The Attorney General shall main-
9 tain a national database at the Federal Bureau of Inves-
10 tigation for each sex offender and other person required
11 to register in a jurisdiction’s sex offender registry. The
12 database shall be known as the National Sex Offender
13 Registry.

14 (b) ELECTRONIC FORWARDING.—The Attorney Gen-
15 eral shall ensure (through the National Sex Offender Reg-
16 istry or otherwise) that updated information about a sex
17 offender is immediately transmitted by electronic for-
18 warding to all relevant jurisdictions.

19 **SEC. 110. DRU SJODIN NATIONAL SEX OFFENDER PUBLIC
20 WEBSITE.**

21 (a) ESTABLISHMENT.—There is established the Dru
22 Sjodin National Sex Offender Public Website (hereinafter
23 referred to as the “Website”).

24 (b) INFORMATION TO BE PROVIDED.—The Attorney
25 General shall maintain the Website as a site on the Inter-

1 net which allows the public to obtain relevant information
2 for each sex offender by a single query in a form estab-
3 lished by the Attorney General.

4 **SEC. 111. PUBLIC ACCESS TO SEX OFFENDER INFORMA-**
5 **TION THROUGH THE INTERNET.**

6 (a) **IN GENERAL.**—Except as provided in subsection
7 (b), each jurisdiction shall make available on the Internet
8 all information about each sex offender in the registry, ex-
9 cept for the offender's Social Security number, the identity
10 of any victim, and any other information exempted from
11 disclosure by the Attorney General. The jurisdiction shall
12 provide this information in a manner that is readily acces-
13 sible to the public.

14 (b) **EXCEPTION.**—To the extent authorized by the At-
15 torney General, a jurisdiction need not make available on
16 the Internet information about a tier I sex offender whose
17 offense is a juvenile adjudication.

18 **SEC. 112. MEGAN NICOLE KANKA AND ALEXANDRA NICOLE**
19 **ZAPP COMMUNITY NOTIFICATION PROGRAM.**

20 (a) **ESTABLISHMENT OF PROGRAM.**—There is estab-
21 lished the Megan Nicole Kanka and Alexandra Nicole
22 Zapp Community Program (hereinafter in this section re-
23 ferred to as the "Program").

24 (b) **PROGRAM NOTIFICATION.**—Except as provided in
25 subsection (c), not later than 5 days after a sex offender

1 registers or updates a registration, an appropriate official
2 in the jurisdiction shall provide the information in the reg-
3 istry (other than information exempted from disclosure by
4 the Attorney General) about that offender to the following:

21 (5) Social service entities responsible for pro-
22 tecting minors in the child welfare system.

23 (6) Volunteer organizations in which contact
24 with minors or other vulnerable individuals might
25 occur.

1 (7) The community at large

2 (c) EXCEPTION.—In the case of a tier I sex offender
3 whose offense is a juvenile adjudication, the Attorney Gen-
4 eral may authorize limitation of the entities to which the
5 Program notification is given when the Attorney General
6 determines it is consistent with public safety to do so.

7 SEC. 113. ACTIONS TO BE TAKEN WHEN SEX OFFENDER
8 FAILS TO COMPLY.

9 An appropriate official shall notify the Attorney Gen-
10 eral and appropriate State, local, and tribal law enforce-
11 ment agencies of any failure by a sex offender to comply
12 with the requirements of a registry. The appropriate offi-
13 cial, the Attorney General, and each such law enforcement
14 agency shall take any appropriate action to ensure compli-
15 ance.

16 SEC. 114. IMMUNITY FOR GOOD FAITH CONDUCT.

17 The Federal Government, jurisdictions, political sub-
18 divisions of jurisdictions, and their agencies, officers, em-
19 ployees, and agents shall be immune from liability for good
20 faith conduct under this Act.

21 SEC. 115. DEVELOPMENT AND AVAILABILITY OF REGISTRY
22 MANAGEMENT SOFTWARE.

23 The Attorney General shall develop and support soft-
24 ware for use to establish, maintain, publish, and share sex
25 offender registries.

1 **SEC. 116. FEDERAL DUTY WHEN STATE PROGRAMS NOT**
2 **MINIMALLY SUFFICIENT.**

3 If the Attorney General determines that a jurisdiction
4 does not have a minimally sufficient sex offender regis-
5 tration program, the Department of Justice shall, to the ex-
6 tent practicable, carry out the duties imposed on that ju-
7 risdiction by this Act.

8 **SEC. 117. PERIOD FOR IMPLEMENTATION BY JURISDIC-**
9 **TIONS.**

10 Each jurisdiction shall implement this Act not later
11 than 2 years after the date of the enactment of this Act.
12 However, the Attorney General may authorize up to two
13 one-year extensions of the deadline.

14 **SEC. 118. FAILURE TO COMPLY.**

15 (a) IN GENERAL.—For any fiscal year after the end
16 of the period for implementation, a jurisdiction that fails,
17 as determined by the Attorney General, substantially to
18 implement this Act shall not receive 10 percent of the
19 funds that would otherwise be allocated for that fiscal year
20 to the jurisdiction under subpart 1 of part E of title I
21 of the Omnibus Crime Control and Safe Streets Act of
22 1968 (42 U.S.C. 3570 et seq.).

23 (b) REALLOCATION.—Amounts not allocated under a
24 program referred to in paragraph (1) to a jurisdiction for
25 failure to fully implement this Act shall be reallocated
26 under that program to jurisdictions that have not failed

1 to implement this Act or may be reallocated to a jurisdiction
2 from which they were withheld to be used solely for
3 the purpose of implementing this Act.

4 (c) RULE OF CONSTRUCTION.—The provisions of this
5 Act that are cast as directions to jurisdictions or their officials
6 constitute, in relation to States, only conditions required to avoid the reduction of Federal funding under
7 this section.

9 **SEC. 119. SEX OFFENDER MANAGEMENT ASSISTANCE**
10 **(SOMA) PROGRAM.**

11 (a) IN GENERAL.—The Attorney General shall establish and implement a Sex Offender Management Assistance program (in this Act 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 Act.

17 (b) APPLICATION.—The chief executive of a jurisdiction 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.

21 (c) BONUS PAYMENTS FOR PROMPT COMPLIANCE.—
22 A jurisdiction that, as determined by the Attorney General, has substantially implemented this Act not later than
23 two years after the date of the enactment of this Act is
24 eligible for a bonus payment. The Attorney General may

1 make such a payment under the SOMA program for the
2 first fiscal year beginning after that determination. The
3 amount of the payment shall be—

4 (1) 10 percent of the total received by the juris-
5 diction under the SOMA program for the preceding
6 fiscal year, if that implementation is not later than
7 one year after the date of enactment of this Act; and
8 (2) 5 percent of such total, if not later than two
9 years after that date.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
11 tion to any amounts otherwise authorized to be appro-
12 priated, there are authorized to be appropriated such sums
13 as may be necessary to the Attorney General, to be avail-
14 able only for the SOMA program, for fiscal years 2006
15 through 2008.

16 **SEC. 120. DEMONSTRATION PROJECT FOR USE OF ELEC-**
17 **TRONIC MONITORING DEVICES.**

18 (a) PROJECT REQUIRED.—The Attorney General
19 shall carry out a demonstration project under which the
20 Attorney General makes grants to jurisdictions to dem-
21 onstrate the extent to which electronic monitoring devices
22 can be used effectively in a sex offender management pro-
23 gram.

24 (b) USE OF FUNDS.—The jurisdiction may use grant
25 amounts under this section directly, or through arrange-

1 ments with public or private entities, to carry out pro-
2 grams under which the whereabouts of sex offenders are
3 monitored by electronic monitoring devices.

4 (c) PARTICIPANTS.—Not more than 10 jurisdictions
5 may participate in the demonstration project at any one
6 time.

7 (d) FACTORS.—In selecting jurisdictions to partici-
8 pate in the demonstration project, the Attorney General
9 shall consider the following factors:

10 (1) The total number of sex offenders in the ju-
11 risdiction.

12 (2) The percentage of those sex offenders who
13 fail to comply with registration requirements.

14 (3) The threat to public safety posed by those
15 sex offenders who fail to comply with registration re-
16 quirements.

17 (4) Any other factor the Attorney General con-
18 siders appropriate.

19 (e) DURATION.—The Attorney General shall carry
20 out the demonstration project for fiscal years 2007, 2008,
21 and 2009.

22 (f) INNOVATION.—In making grants under this sec-
23 tion, the Attorney General shall ensure that different ap-
24 proaches to monitoring are funded to allow an assessment
25 of effectiveness.

1 (g) ONE-TIME REPORT AND RECOMMENDATIONS.—

2 Not later than April 1, 2008, the Attorney General shall
3 submit to Congress a report—4 (1) assessing the effectiveness and value of pro-
5 grams funded by this section;6 (2) comparing the cost-effectiveness of the elec-
7 tronic monitoring to reduce sex offenses compared to
8 other alternatives; and9 (3) making recommendations for continuing
10 funding and the appropriate levels for such funding.11 (h) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 such sums as may be necessary.14 **SEC. 121. BONUS PAYMENTS TO STATES THAT IMPLEMENT**
15 **ELECTRONIC MONITORING.**16 (a) IN GENERAL.—A jurisdiction that, within 3 years
17 after the date of the enactment of this Act, has in effect
18 laws and policies described in subsection (b) shall be eligi-
19 ble for a bonus payment described in subsection (c), to
20 be paid by the Attorney General from any amounts avail-
21 able to the Attorney General for such purpose.22 (b) ELECTRONIC MONITORING LAWS AND POLI-
23 CIES.—24 (1) IN GENERAL.—Laws and policies referred
25 to in subsection (a) are laws and policies that ensure

1 that electronic monitoring is required of a person if
2 that person is released after being convicted of a sex
3 offense in which an individual who has not attained
4 the age of 18 years is the victim.

5 (2) MONITORING REQUIRED.—The monitoring
6 required under paragraph (1) is a system that ac-
7 tively monitors and identifies the person's location
8 and timely reports or records the person's presence
9 near or within a crime scene or in a prohibited area
10 or the person's departure from specified geographic
11 limitations.

12 (3) DURATION.—The electronic monitoring re-
13 quired by paragraph (1) shall be required of the per-
14 son—

15 (A) for the life of the person, if—

16 (i) an individual who has not attained
17 the age of 12 years is the victim; or
18 (ii) the person has a prior sex convic-
19 tion (as defined in section 3559(e) of title
20 18, United States Code); and

21 (B) for the period during which the person
22 is on probation, parole, or supervised release for
23 the offense, in any other case.

24 (4) JURISDICTION REQUIRED TO MONITOR ALL
25 SEX OFFENDERS RESIDING IN JURISDICTION.—In

1 addition, laws and policies referred to in subsection
2 (a) also include laws and policies that ensure that
3 the jurisdiction frequently monitors each person re-
4 siding in the jurisdiction for whom electronic moni-
5 toring is required, whether such monitoring is re-
6 quired under this section or under section
7 3563(a)(9) of title 18, United States Code.

8 (c) BONUS PAYMENTS.—The bonus payment referred
9 to in subsection (a) is a payment equal to 10 percent of
10 the funds that would otherwise be allocated for that fiscal
11 year to the jurisdiction under subpart 1 of part E of title
12 I of the Omnibus Crime Control and Safe Streets Act of
13 1968 (42 U.S.C. 3570 et seq.).

14 **SEC. 122. ACCESS TO NATIONAL CRIME INFORMATION**
15 **DATABASES.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, the Attorney General shall ensure access to
18 the national crime information databases (as defined in
19 section 534 of title 28, United States Code) by—

20 (1) the National Center for Missing and Ex-
21 ploited Children, to be used only within the scope of
22 the Center's duties and responsibilities under Fed-
23 eral law to assist or support law enforcement agen-
24 cies in administration of criminal justice functions;
25 and

5 (b) CONDITIONS OF ACCESS.—The access provided
6 under this section, and associated rules of dissemination,
7 shall be—

8 (1) defined by the Attorney General; and

13 SEC. 123. LIMITED IMMUNITY FOR NATIONAL CENTER FOR
14 MISSING AND EXPLOITED CHILDREN WITH
15 RESPECT TO CYBERTIPLINE.

16 Section 227 of the Victims of Child Abuse Act of
17 1990 (42 U.S.C. 13032) is amended by adding at the end
18 the following new subsection:

19 “(g) LIMITATION ON LIABILITY.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), the National Center for Missing
22 and Exploited Children, including any of its direc-
23 tors, officers, employees, or agents, is not liable in
24 any civil or criminal action arising from the perform-

1 ance of its CyberTipline responsibilities and func-
2 tions as defined by this section.

3 “(2) INTENTIONAL, RECKLESS, OR OTHER MIS-
4 CONDUCT.—Paragraph (1) does not apply in an ac-
5 tion in which a party proves that the National Cen-
6 ter for Missing and Exploited Children, or its offi-
7 cer, employee, or agent as the case may be, engaged
8 in intentional misconduct or acted, or failed to act,
9 with actual malice, with reckless disregard to a sub-
10 stantial risk of causing injury without legal justifica-
11 tion, or for a purpose unrelated to the performance
12 of responsibilities or functions under this section.

13 “(3) ORDINARY BUSINESS ACTIVITIES.—Para-
14 graph (1) does not apply to an act or omission re-
15 lated to an ordinary business activity, such as an ac-
16 tivity involving general administration or operations,
17 the use of motor vehicles, or personnel manage-
18 ment.”.

19 SEC. 124. TREATMENT AND MANAGEMENT OF SEX OFFEND-
20 ERS IN THE BUREAU OF PRISONS.

21 Section 3621 of title 18, United States Code, is
22 amended by adding at the end the following new sub-
23 section:

24 "(f) SEX OFFENDER MANAGEMENT.—

1 “(1) IN GENERAL.—The Bureau of Prisons
2 shall make available appropriate treatment to sex of-
3 fenders who are in need of and suitable for treat-
4 ment, as follows:

5 “(A) SEX OFFENDER MANAGEMENT PRO-
6 GRAMS.—The Bureau of Prisons shall establish
7 non-residential sex offender management pro-
8 grams to provide appropriate treatment, moni-
9 toring, and supervision of sex offenders and to
10 provide aftercare during pre-release custody.

11 “(B) RESIDENTIAL SEX OFFENDER
12 TREATMENT PROGRAMS.—The Bureau of Pris-
13 ons shall establish residential sex offender
14 treatment programs to provide treatment to sex
15 offenders who volunteer for such programs and
16 are deemed by the Bureau of Prisons to be in
17 need of and suitable for residential treatment.

18 “(2) REGIONS.—At least one sex offender man-
19 agement program under paragraph (1)(A), and at
20 least one residential sex offender treatment program
21 under paragraph (1)(B), shall be established in each
22 region within the Bureau of Prisons.

23 “(3) AUTHORIZATION OF APPROPRIATIONS.—
24 There are authorized to be appropriated to the Bu-

1 reau of Prisons for each fiscal year such sums as
2 may be necessary to carry out this subsection.”.

3 **SEC. 125. GAO STUDIES ON FEASIBILITY OF USING DRIV-**
4 **ER’S LICENSE REGISTRATION PROCESSES AS**
5 **ADDITIONAL REGISTRATION REQUIREMENTS**
6 **FOR SEX OFFENDERS.**

7 For the purposes of determining the feasibility of
8 using driver’s license registration processes as additional
9 registration requirements for sex offenders to improve the
10 level of compliance with sex offender registration require-
11 ments for change of address upon relocation and other re-
12 lated updates of personal information, the Congress re-
13 quires the following studies:

14 (1) Not later than 180 days after the date of
15 the enactment of this Act, the Government Account-
16 ability Office shall complete a study for the Com-
17 mittee on the Judiciary of the House of Representa-
18 tives to survey a majority of the States to assess the
19 relative systems capabilities to comply with a Fed-
20 eral law that required all State driver’s license sys-
21 tems to automatically access State and national
22 databases of registered sex offenders in a form simi-
23 lar to the requirement of the Nevada law described
24 in paragraph (2). The Government Accountability
25 Office shall use the information drawn from this

1 survey, along with other expert sources, to determine
2 what the potential costs to the States would be if
3 such a Federal law came into effect, and what level
4 of Federal grants would be required to prevent an
5 unfunded mandate. In addition, the Government Ac-
6 countability Office shall seek the views of Federal
7 and State law enforcement agencies, including in
8 particular the Federal Bureau of Investigation, with
9 regard to the anticipated effects of such a national
10 requirement, including potential for undesired side
11 effects in terms of actual compliance with this Act
12 and related laws.

13 (2) Not later than October 2006, the Govern-
14 ment Accountability Office shall complete a study to
15 evaluate the provisions of Chapter 507 of Statutes
16 of Nevada 2005 to determine—

17 (A) if those provisions are effective in in-
18 creasing the registration compliance rates of sex
19 offenders;

20 (B) the aggregate direct and indirect costs
21 for the state of Nevada to bring those provi-
22 sions into effect; and

23 (C) whether those provisions should be
24 modified to improve compliance by registered
25 sex offenders.

1 **SEC. 126. ASSISTANCE IN IDENTIFICATION AND LOCATION**
2 **OF SEX OFFENDERS RELOCATED AS A RE-**
3 **SULT OF A MAJOR DISASTER.**

4 The Attorney General shall provide technical assist-
5 ance to jurisdictions to assist them in the identification
6 and location of a sex offender relocated as a result of a
7 major disaster.

8 **SEC. 127. ELECTION BY INDIAN TRIBES.**

9 (a) ELECTION.—

10 (1) IN GENERAL.—A federally recognized In-
11 dian tribe may, by resolution or other enactment of
12 the tribal council or comparable governmental
13 body—

14 (A) elect to carry out this title as a juris-
15 diction subject to its provisions; or

16 (B) elect to delegate its functions under
17 this title to another jurisdiction or jurisdictions
18 within which the territory of the tribe is located
19 and to provide access to its territory and such
20 other cooperation and assistance as may be
21 needed to enable such other jurisdiction or ju-
22 risdictions to carry out and enforce the require-
23 ments of this title.

24 (2) IMPUTED ELECTION IN CERTAIN CASES.—A
25 tribe shall be treated as if it had made the election
26 described in paragraph (1)(B) if—

1 (A) it is a tribe subject to the law enforce-
2 ment jurisdiction of a State under section 1162
3 of title 18, United States Code;

4 (B) the tribe does not make an election
5 under paragraph (1) within 1 year of the enact-
6 ment of this Act or rescinds an election under
7 paragraph (1)(A); or

8 (C) the Attorney General determines that
9 the tribe has not implemented the requirements
10 of this title and is not likely to become capable
11 of doing so within a reasonable amount of time.

12 (b) COOPERATION BETWEEN TRIBAL AUTHORITIES
13 AND OTHER JURISDICTIONS.—

14 (1) NONDUPLICATION.—A tribe subject to this
15 title is not required to duplicate functions under this
16 title which are fully carried out by another jurisdiction
17 or jurisdictions within which the territory of the
18 tribe is located.

19 (2) COOPERATIVE AGREEMENTS.—A tribe may,
20 through cooperative agreements with such a jurisdic-
21 tion or jurisdictions—

22 (A) arrange for the tribe to carry out any
23 function of such a jurisdiction under this title
24 with respect to sex offenders subject to the
25 tribe's jurisdiction; and

5 SEC. 128. REGISTRATION OF PRISONERS RELEASED FROM
6 FOREIGN IMPRISONMENT.

7 The Attorney General, in consultation with the Sec-
8 retary of State and the Secretary of Homeland Security,
9 shall establish and maintain a system for informing the
10 relevant jurisdictions about persons entering the United
11 States who are required to register under this Act.

12 SEC. 129. SEX OFFENDER RISK CLASSIFICATION STUDY.

13 (a) STUDY.—The Attorney General shall conduct a
14 study of risk-based sex offender classification systems,
15 which shall include an analysis of—

16 (1) various risk-based sex offender classification
17 systems:

18 (2) the methods and assessment tools available
19 to assess the risks posed by sex offenders:

20 (3) the efficiency and effectiveness of risk-based
21 sex offender classification systems, in comparison to
22 offense-based sex offender classification systems,
23 in—

24 (A) reducing threats to public safety posed
25 by sex offenders; and

4 (4) the resources necessary to implement, and
5 the legal implications of implementing, risk-based
6 sex offender classification systems for sex offender
7 registries; and

11 (b) REPORT.—Not later than 18 months after the
12 date of enactment of this Act, the Attorney General shall
13 report to the Congress the results of the study under this
14 section.

15 (c) STUDY CONDUCTED BY TASK FORCE.—The At-
16 torney General may establish a task force to conduct the
17 study and prepare the report required under this section.
18 Any task force established under this section shall be com-
19 posed of members, appointed by the Attorney General,
20 who—

21 (1) represent national, State, and local inter-
22 ests; and

23 (2) are especially qualified to serve on the task
24 force by virtue of their education, training, or expe-
25 rience, particularly in the fields of sex offender man-

1 agement, community education, risk assessment of
2 sex offenders, and sex offender victim issues.

3 **SEC. 130. STUDY OF THE EFFECTIVENESS OF RESTRICTING**
4 **THE ACTIVITIES OF SEX OFFENDERS TO RE-**
5 **DUCE THE OCCURRENCE OF REPEAT OF-**
6 **FENSES.**

7 (a) STUDY.—The Attorney General shall conduct a
8 study to evaluate the effectiveness of monitoring and re-
9 stricting the activities of sex offenders to reduce the occur-
10 rence of repeat offenses by such sex offenders. The study
11 shall evaluate—

12 (1) the effectiveness of methods of monitoring
13 and restricting the activities of sex offenders, includ-
14 ing restrictions—

15 (A) on the areas in which sex offenders
16 can reside, work, and attend school;

17 (B) limiting access by sex offenders to the
18 Internet or to specific Internet sites;

19 (C) preventing access by sex offenders to
20 pornography and other obscene materials; and

21 (D) imposed as part of supervised release
22 or probation conditions;

23 (2) the ability of law enforcement agencies and
24 courts to enforce such restrictions; and

4 (b) REPORT.—Not later than 6 months after the date
5 of enactment of this Act, the Attorney General shall report
6 to the Committee on the Judiciary of the House of Rep-
7 resentatives and the Committee on the Judiciary of the
8 Senate the results of the study under this section.

9 **TITLE II—CRIMINAL LAW EN-**
10 **FORCEMENT OF REGISTRA-**
11 **TION REQUIREMENTS**

12 SEC. 201. AMENDMENTS TO TITLE 18, UNITED STATES
13 CODE, RELATING TO SEX OFFENDER REG-
14 ISTRATION.

15 (a) CRIMINAL PENALTIES FOR NONREGISTRATION.—
16 Part I of title 18, United States Code, is amended by in-
17 serting after chapter 109A the following:

18 **“CHAPTER 109B—SEX OFFENDER AND**
19 **CRIMES AGAINST CHILDREN REGISTRY**

“Sec.
“2250. Failure to register.

20 “§ 2250. Failure to register

21 ‘Whoever is required to register under the Sex Of-
22 fender Registration and Notification Act and—

1 “(1) is a sex offender as defined for the pur-
2 poses of that Act by reason of a conviction under
3 Federal law; or

4 “(2) travels in interstate or foreign commerce,
5 or enters or leaves, or resides in, Indian country;
6 and knowingly fails to register as required shall be fined
7 under this title or imprisoned not more than 20 years, or
8 both.”.

9 (b) CLERICAL AMENDMENT.—The table of chapters
10 for part I of title 18, United States Code, is amended by
11 inserting after the item relating to chapter 109A the fol-
12 lowing new item:

“109B. Sex offender and crimes against children registry 2250”.

13 (c) FALSE STATEMENT OFFENSE.—Section 1001(a)
14 of title 18, United States Code, is amended by adding at
15 the end the following: “If the matter relates to an offense
16 under chapter 109A, 109B, 110, or 117, or section 1591,
17 then the term of imprisonment imposed under this section
18 shall be not more than 10 years.”.

19 (d) PROBATION.—Paragraph (8) of section 3563(a)
20 of title 18, United States Code, is amended to read as
21 follows:

22 “(8) for a person required to register under the
23 Sex Offender Registration and Notification Act, that
24 the person comply with the requirements of that
25 Act; and”.

1 (e) SUPERVISED RELEASE.—Section 3583 of title 18,

2 United States Code, is amended—

3 (1) in subsection (d), in the sentence beginning
4 with “The court shall order, as an explicit condition
5 of supervised release for a person described in sec-
6 tion 4042(c)(4)”, by striking “described in section
7 4042(c)(4)” and all that follows through the end of
8 the sentence and inserting “required to register
9 under the Sex Offender Registration and Notifica-
10 tion Act that the person comply with the require-
11 ments of that Act.”; and

12 (2) in subsection (k)—

13 (A) by striking “2244(a)(1), 2244(a)(2)”
14 and inserting “2243, 2244, 2245, 2250”;

15 (B) by inserting “not less than 5,” after
16 “any term of years”; and

17 (C) by adding at the end the following: “If
18 a defendant required to register under the Sex
19 Offender Registration and Notification Act vio-
20 lates the requirements of that Act or commits
21 any criminal offense for which imprisonment for
22 a term longer than one year can be imposed,
23 the court shall revoke the term of supervised re-
24 lease and require the defendant to serve a term
25 of imprisonment under subsection (e)(3) with-

1 out regard to the exception contained therein.
2 Such term shall be not less than 5 years, and
3 if the offense was an offense under chapter
4 109A, 109B, 110, or 117, or section 1591, not
5 less than 10 years.”.

6 (f) DUTIES OF BUREAU OF PRISONS.—Paragraph
7 (3) of section 4042(c) of title 18, United States Code, is
8 amended to read as follows:

9 “(3) The Director of the Bureau of Prisons shall in-
10 form a person who is released from prison and required
11 to register under the Sex Offender Registration and Noti-
12 fication Act of the requirements of that Act as they apply
13 to that person and the same information shall be provided
14 to a person sentenced to probation by the probation officer
15 responsible for supervision of that person.”.

16 (g) CONFORMING AMENDMENTS TO CROSS REF-
17 ERENCES.—Paragraphs (1) and (2) of section 4042(c) of
18 title 18, United States Code, are each amended by striking
19 “(4)” each place it appears and inserting “(3)”.

20 (h) CONFORMING REPEAL OF DEADWOOD.—Para-
21 graph (4) of section 4042(c) of title 18, United States
22 Code, is repealed.

23 (i) MILITARY OFFENSES.—

24 (1) Section 115(a)(8)(C)(i) of Public Law 105-
25 119 (111 Stat. 2466) is amended by striking “which

1 encompass” and all that follows through “and (B))”
2 and inserting “which are sex offenses as that term
3 is defined in the Sex Offender Registration and No-
4 tification Act”.

5 (2) Section 115(a)(8)(C)(iii) of Public Law
6 105–119 (111 Stat. 2466; 10 U.S.C. 951 note) is
7 amended by striking “the amendments made under
8 subparagraphs (A) and (B)” and inserting “the Sex
9 Offender Registration and Notification Act”.

10 (j) CONFORMING AMENDMENT RELATING TO PA-
11 ROLE.—Section 4209(a) of title 18, United States Code,
12 is amended in the second sentence by striking “described”
13 and all that follows through the end of the sentence and
14 inserting “required to register under the Sex Offender
15 Registration and Notification Act that the person comply
16 with the requirements of that Act.”.

17 **SEC. 202. FEDERAL INVESTIGATION OF SEX OFFENDER VIO-
18 LATIONS OF REGISTRATION REQUIREMENTS.**

19 (a) IN GENERAL.—The Attorney General shall assist
20 jurisdictions in locating and apprehending sex offenders
21 who violate sex offender registration requirements.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as may be
24 necessary for fiscal years 2006 through 2008 to implement
25 this section.

1 SEC. 203. SEX OFFENDER APPREHENSION GRANTS.

2 Title I of the Omnibus Crime Control and Safe
3 Streets Act of 1968 is amended by adding at the end the
4 following new part:

5 "PART JJ—SEX OFFENDER APPREHENSION

6 GRANTS

9 “(a) IN GENERAL.—From amounts made available to
10 carry out this part, the Attorney General may make grants
11 to States, units of local government, Indian tribal govern-
12 ments, other public and private entities, and multi-juris-
13 dictional or regional consortia thereof for activities speci-
14 fied in subsection (b).

15 "(b) COVERED ACTIVITIES.—An activity referred to
16 in subsection (a) is any program, project, or other activity
17 to assist a State in enforcing sex offender registration re-
18 quirements.

19 "SEC. 3012. AUTHORIZATION OF APPROPRIATIONS.

20 “There are authorized to be appropriated such sums
21 as may be necessary for fiscal years 2006 through 2008
22 to carry out this part.”.

1 **SEC. 204. USE OF ANY CONTROLLED SUBSTANCE TO FA-**
2 **CILITATE SEX OFFENSE, AND PROHIBITION**
3 **ON INTERNET SALES OF DATE RAPE DRUGS.**

4 (a) INCREASED PUNISHMENT.—Chapter 109A of
5 title 18, United States Code, is amended by adding at the
6 end the following:

7 **“§ 2249. Use of any controlled substance to facilitate**
8 **sex offense**

9 “(a) Whoever, knowingly uses a controlled substance
10 to substantially impair the ability of a person to appraise
11 or control conduct, in order to commit a sex offense, other
12 than an offense where such use is an element of the of-
13 fense, shall, in addition to the punishment provided for
14 the sex offense, be imprisoned for any term of years not
15 more than 10 years.

16 “(b) As used in this section, the term ‘sex offense’
17 means an offense under this chapter other than an offense
18 under this section.

19 **“§ 2250. Internet sales of date rape drugs**

20 “(a) Whoever knowingly uses the Internet to dis-
21 tribute (as that term is defined for the purposes of the
22 Controlled Substances Act) a date rape drug to any person
23 shall be fined under this title or imprisoned not more than
24 20 years, or both.

25 “(b) As used in this section, the term ‘date rape drug’
26 means gamma hydroxybutyric acid, ketamine, or

1 flunitrazepam, or any analogue of such a substance, in-
2 cluding gamma butyrolactone or 1,4-butanediol.”.

3 (b) AMENDMENT TO TABLE OF SECTIONS.—The
4 table of sections at the beginning of chapter 109A of title
5 18, United States Code, is amended by adding at the end
6 the following new item:

“2249. Use of any controlled substance to facilitate sex offense.
“2250. Internet sales of date rape drugs.”.

7 **SEC. 205. REPEAL OF PREDECESSOR SEX OFFENDER PRO-
8 GRAM.**

9 Sections 170101 (42 U.S.C. 14071) and 170102 (42
10 U.S.C. 14072) of the Violent Crime Control and Law En-
11 forcement Act of 1994, and section 8 of the Pam Lychner
12 Sexual Offender Tracking and Identification Act of 1996
13 (42 U.S.C. 14073), are repealed.

14 **SEC. 206. ASSISTANCE FOR PROSECUTION OF CASES
15 CLEARED THROUGH USE OF DNA BACKLOG
16 CLEARANCE FUNDS.**

17 (a) IN GENERAL.—The Attorney General may make
18 grants to train and employ personnel to help prosecute
19 cases cleared through use of funds provided for DNA
20 backlog elimination.

21 (b) AUTHORIZATION.—There are authorized to be ap-
22 propriated such sums as may be necessary for each of fis-
23 cal years 2006 through 2010 to carry out this section.

1 **SEC. 207. GRANTS TO COMBAT SEXUAL ABUSE OF CHIL-**2 **DREN.**

3 (a) IN GENERAL.—The Bureau of Justice Assistance
4 shall make grants to law enforcement agencies for pur-
5 poses of this section. The Bureau shall make such a
6 grant—

7 (1) to each law enforcement agency that serves
8 a jurisdiction with 50,000 or more residents; and

9 (2) to each law enforcement agency that serves
10 a jurisdiction with fewer than 50,000 residents,
11 upon a showing of need.

12 (b) USE OF GRANT AMOUNTS.—Grants under this
13 section may be used by the law enforcement agency to—

14 (1) hire additional law enforcement personnel,
15 or train existing staff to combat the sexual abuse of
16 children through community education and outreach,
17 investigation of complaints, enforcement of laws re-
18 lating to sex offender registries, and management of
19 released sex offenders;

20 (2) investigate the use of the Internet to facili-
21 tate the sexual abuse of children; and

22 (3) purchase computer hardware and software
23 necessary to investigate sexual abuse of children over
24 the Internet, access local, State, and Federal data-
25 bases needed to apprehend sex offenders, and facili-

1 state the creation and enforcement of sex offender
2 registries.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary for fiscal years 2006 through 2008 to carry out
6 this section.

7 **SEC. 208. EXPANSION OF TRAINING AND TECHNOLOGY EF-
8 FORTS.**

9 (a) TRAINING.—The Attorney General, in consulta-
10 tion with the Office of Juvenile Justice and Delinquency
11 Prevention, shall—

12 (1) expand training efforts with Federal, State,
13 and local law enforcement officers and prosecutors
14 to effectively respond to the threat to children and
15 the public posed by sex offenders who use the Inter-
16 net and technology to solicit or otherwise exploit
17 children;

18 (2) facilitate meetings, between corporations
19 that sell computer hardware and software or provide
20 services to the general public related to use of the
21 Internet, to identify problems associated with the
22 use of technology for the purpose of exploiting chil-
23 dren;

24 (3) host national conferences to train Federal,
25 State, and local law enforcement officers, probation

1 and parole officers, and prosecutors regarding pro-
2 active approaches to monitoring sex offender activity
3 on the Internet;

4 (4) develop and distribute, for personnel listed
5 in paragraph (3), information regarding multi-dis-
6 ciplinary approaches to holding offenders account-
7 able to the terms of their probation, parole, and sex
8 offender registration laws; and

9 (5) partner with other agencies to improve the
10 coordination of joint investigations among agencies
11 to effectively combat on-line solicitation of children
12 by sex offenders.

13 (b) TECHNOLOGY.—The Attorney General, in con-
14 sultation with the Office of Juvenile Justice and Delin-
15 quency Prevention, shall—

16 (1) deploy, to all Internet Crimes Against Chil-
17 dren Task Forces and their partner agencies, tech-
18 nology modeled after the Canadian Child Exploi-
19 tation Tracking System; and

20 (2) conduct training in the use of that tech-
21 nology.

22 (c) REPORT.—Not later than July 1, 2006, the Attor-
23 ney General, in consultation with the Office of Juvenile
24 Justice and Delinquency Prevention, shall submit to Con-
25 gress a report on the activities carried out under this sec-

1 tion. The report shall include any recommendations that
2 the Attorney General, in consultation with the Office, con-
3 siders appropriate.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Attorney General,
6 for fiscal year 2006—

7 (1) \$1,000,000 to carry out subsection (a); and
8 (2) \$2,000,000 to carry out subsection (b).

9 **SEC. 209. REVOCATION OF PROBATION OR SUPERVISED RE-**

10 **LEASE.**

11 (a) PROBATION.—Section 3565(b) of title 18, United
12 States Code, is amended—

13 (1) in paragraph (3) by striking 'or' at the end;
14 and

15 (2) by inserting after paragraph (4) the fol-
16 lowing:

17 “(5) commits a felony crime of violence; or
18 “(6) commits a crime of violence against, or an
19 offense that consists of or is intended to facilitate
20 unlawful sexual contact (as defined in section 2246)
21 with, a person who has not attained the age of 18
22 years;”.

23 (b) SUPERVISED RELEASE.—Section 3583(g) of title
24 18, United States Code, is amended—

1 (1) in paragraph (3) by striking 'or' at the end;

2 and

3 (2) by inserting after paragraph (4) the fol-
4 lowing:

5 “(5) commits a felony crime of violence; or

6 “(6) commits a crime of violence against, or an
7 offense that consists of or is intended to facilitate
8 unlawful sexual contact (as defined in section 2246)
9 with, a person who has not attained the age of 18
10 years;”.

11 **TITLE III—OFFICE ON SEXUAL**
12 **VIOLENCE AND CRIMES**
13 **AGAINST CHILDREN**

14 SEC. 301. ESTABLISHMENT.

15 There is established within the Department of Jus-
16 tice, under the general authority of the Attorney General,
17 an Office on Sexual Violence and Crimes against Children
18 (hereinafter in this title referred to as the “Office”).

19 SEC. 302. DIRECTOR.

20 The Office shall be headed by a Director who shall
21 be appointed by the President. The Director shall report
22 to the Attorney General through the Assistant Attorney
23 General for the Office of Justice Programs and shall have
24 final authority for all grants, cooperative agreements, and
25 contracts awarded by the Office. The Director shall not

1 engage in any employment other than that of serving as
2 the Director, nor shall the Director hold any office in, or
3 act in any capacity for, any organization, agency, or insti-
4 tution with which the Office makes any contract or other
5 arrangement.

6 **SEC. 303. DUTIES AND FUNCTIONS.**

7 The Office is authorized to—

8 (1) administer the standards for sex offender
9 registration and notification programs set forth in
10 this Act;

11 (2) administer grant programs relating to sex
12 offender registration and notification authorized by
13 this Act and other grant programs authorized by
14 this Act as directed by the Attorney General;

15 (3) cooperate with and provide technical assist-
16 ance to States, units of local government, tribal gov-
17 ernments, and other public and private entities in-
18 volved in activities related to sex offender regis-
19 tration or notification or to other measures for the pro-
20 tection of children or other members of the public
21 from sexual abuse or exploitation; and

22 (4) perform such other functions as the Attor-
23 ney General may delegate.

