

follows: “It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), or (4) of subsection (a) that—

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

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

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

Subsec. (e). Pub. L. 108–21, §505, added subsec. (e).

Subsec. (f). Pub. L. 108–21, §510, added subsec. (f).

2002—Subsecs. (b)(1), (c). Pub. L. 107–273 substituted “paragraph” for “paragraphs”.

1998—Subsec. (a)(5)(A), (B). Pub. L. 105–314, §203(b)(1), substituted “an image” for “3 or more images”.

Subsec. (b). Pub. L. 105–314, §202(b), substituted “, chapter 109A, or chapter 117” for “or chapter 109A” in pars. (1) and (2) and substituted “aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography” for “the possession of child pornography” in par. (2).

Subsec. (d). Pub. L. 105–314, §203(b)(2), added subsec. (d).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of Title 11, Bankruptcy.

**§ 2252B. Misleading domain names on the Internet**

(a) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title or imprisoned not more than 2 years, or both.

(b) Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet shall be fined under this title or imprisoned not more than 10 years, or both.

(c) For the purposes of this section, a domain name that includes a word or words to indicate the sexual content of the site, such as “sex” or “porn”, is not misleading.

(d) For the purposes of this section, the term “material that is harmful to minors” means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—

(1) predominantly appeals to a prurient interest of minors;

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) lacks serious literary, artistic, political, or scientific value for minors.

(e) For the purposes of subsection (d), the term “sex” means acts of masturbation, sexual intercourse, or physical<sup>1</sup> contact with a person’s genitals, or the condition of human male or fe-

<sup>1</sup> So in original. Probably should be “physical”.

male genitals when in a state of sexual stimulation or arousal.

(Added Pub. L. 108–21, title V, §521(a), Apr. 30, 2003, 117 Stat. 686; amended Pub. L. 109–248, title II, §206(b)(4), July 27, 2006, 120 Stat. 614.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–248 substituted “10 years” for “4 years”.

**§ 2252C. Misleading words or digital images on the Internet**

(a) IN GENERAL.—Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title and imprisoned for not more than 10 years.

(b) MINORS.—Whoever knowingly embeds words or digital images into the source code of a website with the intent to deceive a minor into viewing material harmful to minors on the Internet shall be fined under this title and imprisoned for not more than 20 years.

(c) CONSTRUCTION.—For the purposes of this section, a word or digital image that clearly indicates the sexual content of the site, such as “sex” or “porn”, is not misleading.

(d) DEFINITIONS.—As used in this section—

(1) the terms “material that is harmful to minors” and “sex” have the meaning given such terms in section 2252B; and

(2) the term “source code” means the combination of text and other characters comprising the content, both viewable and nonviewable, of a web page, including any website publishing language, programming language, protocol or functional content, as well as any successor languages or protocols.

(Added Pub. L. 109–248, title VII, §703(a), July 27, 2006, 120 Stat. 648.)

**§ 2253. Criminal forfeiture**

(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter or who is convicted of an offense under section 2252B of this chapter,<sup>1</sup> or who is convicted of an offense under chapter 109A, shall forfeit to the United States such person’s interest in—

(1) any visual depiction described in section 2251, 2251A, or 2252<sup>2</sup> 2252A, 2252B, or 2260 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

<sup>1</sup> So in original. The extra comma probably should follow “2260 of this chapter”.

<sup>2</sup> So in original. Probably should be “2251A, 2252,”.

(b) Section 413 of the Controlled Substances Act (21 U.S.C. 853) with the exception of subsections (a) and (d), applies to the criminal forfeiture of property pursuant to subsection (a).

(Added Pub. L. 98-292, § 6, May 21, 1984, 98 Stat. 205; amended Pub. L. 100-690, title VII, § 7522(c), Nov. 18, 1988, 102 Stat. 4494; Pub. L. 101-647, title XXXV, § 3564, Nov. 29, 1990, 104 Stat. 4928; Pub. L. 103-322, title XXXIII, § 330011(m)(1), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 105-314, title VI, § 602, Oct. 30, 1998, 112 Stat. 2982; Pub. L. 109-248, title V, § 505(b), (c), July 27, 2006, 120 Stat. 630.)

#### PRIOR PROVISIONS

A prior section 2253 was redesignated section 2256 of this title.

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-248, § 505(b)(1), inserted “or who is convicted of an offense under section 2252B of this chapter,” after “2260 of this chapter” and substituted “an offense under chapter 109A” for “an offense under section 2421, 2422, or 2423 of chapter 117” in introductory provisions.

Subsec. (a)(1). Pub. L. 109-248, § 505(b)(2), inserted “2252A, 2252B, or 2260” after “2252”.

Subsec. (a)(3). Pub. L. 109-248, § 505(b)(3), inserted “or any property traceable to such property” before period at end.

Subsecs. (b) to (o). Pub. L. 109-248, § 505(c), added subsec. (b) and struck out former subsecs. (b) to (o) which related, respectively, to third party transfers, protective orders, warrant of seizure, order of forfeiture, execution of order, disposition of property, authority of Attorney General, applicability of civil forfeiture provisions, bar on intervention, jurisdiction to enter orders, depositions, third party interests, construction of section, and substitute assets.

1998—Subsec. (a). Pub. L. 105-314 substituted “2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,” for “or 2252 of this chapter”.

1994—Subsec. (a). Pub. L. 103-322, § 330011(m)(1), amended directory language of Pub. L. 101-647, § 3564(1). See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101-647, § 3564(1), as amended by Pub. L. 103-322, § 330011(m)(1), substituted “section 2251” for “sections 2251” in introductory provisions and in par. (1).

Subsec. (h)(4). Pub. L. 101-647, § 3564(2), substituted “under section 616 of the Tariff Act of 1930” for “in accordance with the provisions of section 1616, title 19, United States Code”.

1988—Pub. L. 100-690 amended section generally, substituting subsecs. (a) to (o) for former subsecs. (a) to (d).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, § 330011(m), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of Nov. 29, 1990.

### § 2254. Civil forfeiture

Any property subject to forfeiture pursuant to section 2253 may be forfeited to the United States in a civil case in accordance with the procedures set forth in chapter 46.

(Added Pub. L. 98-292, § 6, May 21, 1984, 98 Stat. 205; amended Pub. L. 99-500, § 101(m) [title II, § 201(a), (c)], Oct. 18, 1986, 100 Stat. 1783-308, 1783-314, and Pub. L. 99-591, § 101(m) [title II, § 201(a), (c)], Oct. 30, 1986, 100 Stat. 3341-308, 3341-314; Pub. L. 100-690, title VII, § 7522(c), Nov. 18, 1988, 102 Stat. 4498; Pub. L. 101-647, title XX, § 2003, title XXXV, § 3565, Nov. 29, 1990, 104 Stat.

4855, 4928; Pub. L. 103-322, title XXXIII, § 330011(m)(2), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 105-314, title VI, § 603, Oct. 30, 1998, 112 Stat. 2982; Pub. L. 106-185, § 2(c)(4), Apr. 25, 2000, 114 Stat. 211; Pub. L. 107-273, div. B, title IV, § 4003(a)(6), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 109-248, title V, § 505(d), July 27, 2006, 120 Stat. 630.)

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### AMENDMENTS

2006—Pub. L. 109-248 amended section generally. Prior to amendment, section related to civil forfeiture of certain types of property described in this chapter and laws applicable to civil forfeiture proceedings.

2002—Subsec. (a)(3). Pub. L. 107-273 struck out comma before period at end.

2000—Subsec. (a)(2), (3). Pub. L. 106-185 struck out before period at end “, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner”.

1998—Subsec. (a)(2). Pub. L. 105-314, § 603(1), substituted “2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,” for “or 2252 of this chapter”.

Subsec. (a)(3). Pub. L. 105-314, § 603(2), substituted “2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,” for “or 2252 of this chapter”.

1994—Subsec. (f). Pub. L. 103-322, § 330011(m)(2), amended directory language of Pub. L. 101-647, § 3565(3)(A). See 1990 Amendment note below.

1990—Subsec. (a)(1) to (3). Pub. L. 101-647, § 3565(1), substituted “section 2251” for “sections 2251”.

Subsec. (e). Pub. L. 101-647, § 3565(2), inserted heading.

Subsec. (f). Pub. L. 101-647, § 3565(3)(A), as amended by Pub. L. 103-322, § 330011(m)(2), substituted “section” for “subchapter” after “forfeited under this” in two places in concluding provisions.

Subsec. (f)(1). Pub. L. 101-647, § 3565(3)(B), substituted “under section 616 of the Tariff Act of 1930” for “pursuant to section 1616 of title 19”.

Subsec. (f)(2). Pub. L. 101-647, § 2003, inserted “, by public sale or any other commercially feasible means,” after “sell”.

1988—Pub. L. 100-690 amended section generally, substituting subsecs. (a) to (i) for former subsecs. (a) to (d).

1986—Pub. L. 99-500 and Pub. L. 99-591 amended section identically, inserting “, and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter” in subsec. (a)(1), substituting “Attorney General or the Postal Service” for “Attorney General” in subsec. (b), and adding subsecs. (c) and (d).

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106-185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, § 330011(m), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of Nov. 29, 1990.

### § 2255. Civil remedy for personal injuries

(a) IN GENERAL.—Any person who, while a minor, was a victim of a violation of section