

ganization and its mission to help find missing children, reduce online sexual exploitation of children and prevent future victimization, and except as provided” for “Except as provided”, “against NCMEC” for “against the National Center for Missing and Exploited Children”, “(34 U.S.C. 11293)” for “(42 U.S.C. 5773)”, “of NCMEC” for “of such center” wherever appearing, and “from the efforts” for “from the effort”.

Subsec. (b). Pub. L. 115-395, §5(3), substituted “if NCMEC” for “if the National Center for Missing and Exploited Children”, “of NCMEC” for “of such center”, and “(34 U.S.C. 11293)” for “(42 U.S.C. 5773)”.

Subsec. (d). Pub. L. 115-395, §5(4), substituted “NCMEC” for “The National Center for Missing and Exploited Children” in introductory provisions and “visual depiction” for “image” in pars. (1) and (2).

§ 2258E. Definitions

In sections 2258A through 2258E—

(1) the terms “attorney for the government” and “State” have the meanings given those terms in rule 1 of the Federal Rules of Criminal Procedure;

(2) the term “electronic communication service” has the meaning given that term in section 2510;

(3) the term “electronic mail address” has the meaning given that term in section 3 of the CAN-SPAM Act of 2003 (15 U.S.C. 7702);

(4) the term “Internet” has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note);

(5) the term “remote computing service” has the meaning given that term in section 2711;

(6) the term “provider” means an electronic communication service provider or remote computing service;

(7) the term “NCMEC” means the National Center for Missing & Exploited Children; and

(8) the term “website” means any collection of material placed in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.

(Added Pub. L. 110-401, title V, §501(a), Oct. 13, 2008, 122 Stat. 4250; amended Pub. L. 115-395, §6, Dec. 21, 2018, 132 Stat. 5294.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in par. (1), are set out in the Appendix to this title.

Section 1101 of the Internet Tax Freedom Act, referred to in par. (4), is section 1101 of title XI of div. C of Pub. L. 105-277, which is set out in a note under section 151 of Title 47, Telecommunications.

AMENDMENTS

2018—Pub. L. 115-395, §6(1), substituted “2258E” for “2258D” in introductory provisions.

Pars. (6) to (8). Pub. L. 115-395, §6(2)-(4), added pars. (6) and (7) and redesignated former par. (6) as (8).

§ 2259. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—Except as provided in paragraph (2), the order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim’s losses.

(2) RESTITUTION FOR TRAFFICKING IN CHILD PORNOGRAPHY.—If the defendant was convicted of trafficking in child pornography, the court shall order restitution under this section in an amount to be determined by the court as follows:

(A) DETERMINING THE FULL AMOUNT OF A VICTIM’S LOSSES.—The court shall determine the full amount of the victim’s losses that were incurred or are reasonably projected to be incurred by the victim as a result of the trafficking in child pornography depicting the victim.

(B) DETERMINING A RESTITUTION AMOUNT.—After completing the determination required under subparagraph (A), the court shall order restitution in an amount that reflects the defendant’s relative role in the causal process that underlies the victim’s losses, but which is not less than \$3,000.

(C) TERMINATION OF PAYMENT.—A victim’s total aggregate recovery pursuant to this section shall not exceed the full amount of the victim’s demonstrated losses. After the victim has received restitution in the full amount of the victim’s losses as measured by the greatest amount of such losses found in any case involving that victim that has resulted in a final restitution order under this section, the liability of each defendant who is or has been ordered to pay restitution for such losses to that victim shall be terminated. The court may require the victim to provide information concerning the amount of restitution the victim has been paid in other cases for the same losses.

(3) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) DEFINITIONS.—

(1) CHILD PORNOGRAPHY PRODUCTION.—For purposes of this section and section 2259A, the term “child pornography production” means conduct proscribed by subsections (a) through (c) of section 2251, section 2251A, section 2252A(g) (in cases in which the series of felony violations involves at least 1 of the violations listed in this subsection), section 2260(a), or any offense under chapter 109A or chapter 117 that involved the production of child pornography (as such term is defined in section 2256).

(2) FULL AMOUNT OF THE VICTIM’S LOSSES.—For purposes of this subsection, the term “full amount of the victim’s losses” includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, and in the case of traffick-