

(B) PENALTY.—An attorney who violates subparagraph (A) shall be fined under this title, imprisoned not more than 1 year, or both.

(Added Pub. L. 103-322, title IV, §40113(b)(1), Sept. 13, 1994, 108 Stat. 1907; amended Pub. L. 104-132, title II, §205(c), Apr. 24, 1996, 110 Stat. 1231; Pub. L. 115-299, §§3(a), (b), 4, Dec. 7, 2018, 132 Stat. 4384, 4385.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1)(D)(i), is the date of enactment of Pub. L. 115-299, which was approved Dec. 7, 2018.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-299, §3(a)(1), substituted “Except as provided in paragraph (2), the order” for “The order” and struck out “as determined by the court pursuant to paragraph (2)” after “of the victim’s losses”.

Subsec. (b)(2). Pub. L. 115-299, §3(a)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 115-299, §3(a)(2), (3), redesignated par. (2) as (3) and struck out former par. (3) which defined “full amount of the victim’s losses”.

Subsec. (c). Pub. L. 115-299, §3(b)(1), (2), (5), substituted “Definitions” for “Definition” in subsec. heading, designated existing provisions as par. (4) and inserted par. heading, and added pars. (1) to (3).

Subsec. (c)(4). Pub. L. 115-299, §3(b)(3), (4), substituted “under this chapter. In the case” for “under this chapter, including, in the case”, and inserted “may assume the crime victim’s rights under this section.” after “or any other person appointed as suitable by the court.”.

Subsec. (d). Pub. L. 115-299, §4, added subsec. (d).

1996—Subsec. (a). Pub. L. 104-132, §205(c)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, §205(c)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (3); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.”

Subsec. (b)(2). Pub. L. 104-132, §205(c)(2)(B), struck out “by victim” after “Enforcement” in heading and amended text generally. Prior to amendment, text read as follows: “An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”

Subsec. (b)(4)(C), (D). Pub. L. 104-132, §205(c)(2)(C), struck out subpars. (C) and (D), which related to court’s consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court’s entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104-132, §205(c)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104-132, §205(c)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104-132, §205(c)(3), struck out subsecs. (d) and (e) which read as follows:

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a

restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”

Subsec. (f). Pub. L. 104-132, §205(c)(4), redesignated subsec. (f) as (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

FINDINGS

Pub. L. 115-299, §2, Dec. 7, 2018, 132 Stat. 4383, provided that: “Congress finds the following:

“(1) The demand for child pornography harms children because it drives production, which involves severe child sexual abuse and exploitation.

“(2) The harms caused by child pornography begin, but do not end, with child sex assault because child pornography is a permanent record of that abuse and trafficking in those images compounds the harm to the child.

“(3) In *Paroline v. United States* (2014), the Supreme Court recognized that ‘every viewing of child pornography is a repetition of the victim’s abuse’.

“(4) The American Professional Society on the Abuse of Children has stated that for victims of child pornography, ‘the sexual abuse of the child, the memorialization of that abuse which becomes child pornography, and its subsequent distribution and viewing become psychologically intertwined and each compound the harm suffered by the child-victim’.

“(5) Victims suffer continuing and grievous harm as a result of knowing that a large, indeterminate number of individuals have viewed and will in the future view images of their childhood sexual abuse. Harms of this sort are a major reason that child pornography is outlawed.

“(6) The unlawful collective conduct of every individual who reproduces, distributes, or possesses the images of a victim’s childhood sexual abuse plays a part in sustaining and aggravating the harms to that individual victim.

“(7) It is the intent of Congress that victims of child pornography be compensated for the harms resulting from every perpetrator who contributes to their anguish. Such an aggregate causation standard reflects the nature of child pornography and the unique ways that it actually harms victims.”

§ 2259A. Assessments in child pornography cases

(a) IN GENERAL.—In addition to any other criminal penalty, restitution, or special assessment authorized by law, the court shall assess—

(1) not more than \$17,000 on any person convicted of an offense under section 2252(a)(4) or 2252A(a)(5);

(2) not more than \$35,000 on any person convicted of any other offense for trafficking in child pornography; and

(3) not more than \$50,000 on any person convicted of a child pornography production offense.

(b) ANNUAL ADJUSTMENT.—The dollar amounts in subsection (a) shall be adjusted annually in conformity with the Consumer Price Index.

(c) FACTORS CONSIDERED.—In determining the amount of the assessment under subsection (a),

the court shall consider the factors set forth in sections 3553(a) and 3572.

(d) IMPOSITION AND IMPLEMENTATION.—

(1) IN GENERAL.—The provisions of subchapter C of chapter 227 (other than section 3571) and subchapter B of chapter 229 (relating to fines) apply to assessments under this section, except that paragraph (2) applies in lieu of any contrary provisions of law relating to fines or disbursement of money received from a defendant.

(2) EFFECT ON OTHER PENALTIES.—Imposition of an assessment under this section does not relieve a defendant of, or entitle a defendant to reduce the amount of any other penalty by the amount of the assessment. Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

(A) A special assessment under section 3013.

(B) Restitution to victims of any child pornography production or trafficking offense that the defendant committed.

(C) An assessment under this section.

(D) Other orders under any other section of this title.

(E) All other fines, penalties, costs, and other payments required under the sentence.

(Added Pub. L. 115-299, §5(a), Dec. 7, 2018, 132 Stat. 4386.)

§ 2259B. Child pornography victims reserve

(a) DEPOSITS INTO THE RESERVE.—Notwithstanding any other provision of law, there shall be deposited into the Child Pornography Victims Reserve established under section 1402(d)(6) of the Victims of Crime Act of 1984 (34 U.S.C. 20101(d)) all assessments collected under section 2259A and any gifts, bequests, or donations to the Child Pornography Victims Reserve from private entities or individuals.

(b) AVAILABILITY FOR DEFINED MONETARY ASSISTANCE.—Amounts in the Child Pornography Victims Reserve shall be available for payment of defined monetary assistance pursuant to section 2259(d). If at any time the Child Pornography Victims Reserve has insufficient funds to make all of the payments ordered under section 2259(d), the Child Pornography Victims Reserve shall make such payments as it can satisfy in full from available funds. In determining the order in which such payments shall be made, the Child Pornography Victims Reserve shall make payments based on the date they were ordered, with the earliest-ordered payments made first.

(c) ADMINISTRATION.—The Attorney General shall administer the Child Pornography Victims Reserve and shall issue guidelines and regulations to implement this section.

(d) SENSE OF CONGRESS.—It is the sense of Congress that individuals who violate this chapter prior to the date of the enactment of the Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, but who are sentenced after such date, shall be subject to the statutory scheme that was in effect at the time the offenses were committed.

(Added Pub. L. 115-299, §5(c), Dec. 7, 2018, 132 Stat. 4387.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, referred to in subsec. (d), is the date of enactment of Pub. L. 115-299, which was approved Dec. 7, 2018.

§ 2260. Production of sexually explicit depictions of a minor for importation into the United States

(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, intending that the visual depiction will be imported or transmitted into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

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

(c) PENALTIES.—

(1) A person who violates subsection (a), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (e) of section 2251 for a violation of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in that subsection.

(2) A person who violates subsection (b), or attempts or conspires to do so, shall be subject to the penalties provided in subsection (b)(1) of section 2252 for a violation of paragraph (1), (2), or (3) of subsection (a) of that section, including the penalties provided for such a violation by a person with a prior conviction or convictions as described in subsection (b)(1) of section 2252.

(Added Pub. L. 103-322, title XVI, §160001(a), Sept. 13, 1994, 108 Stat. 2036, §2258; renumbered §2260, Pub. L. 104-294, title VI, §601(i)(1), Oct. 11, 1996, 110 Stat. 3501; amended Pub. L. 109-248, title II, §206(b)(5), July 27, 2006, 120 Stat. 614; Pub. L. 110-401, title III, §303, Oct. 13, 2008, 122 Stat. 4242.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-401 inserted “or for the purpose of transmitting a live visual depiction of such conduct” after “for the purpose of producing any visual depiction of such conduct” and “or transmitted” after “imported”.