

AMENDMENT TO RULES COMMITTEE PRINT

119-33

OFFERED BY MS. LEE OF FLORIDA

Add at the end the following:

1 **TITLE ____.—SAFE ACT**

2 **SEC. ____ . AMENDMENT OF FEDERAL SENTENCING GUIDE-**
3 **LINE RELATING TO CHILD SEXUAL ABUSE**
4 **MATERIAL.**

5 (a) **DEFINITIONS.**—In this section:

6 (1) **CHILD.**—The term “child” means an indi-
7 vidual who has not attained 18 years of age.

8 (2) **CHILD SEXUAL ABUSE MATERIAL.**—The
9 term “child sexual abuse material” has the meaning
10 given the term “child pornography” in section
11 2256(8) of title 18, United States Code.

12 (3) **PROHIBITED CONDUCT AGAINST A CHILD.**—
13 The term “prohibited conduct against a child”—

14 (A) means—

15 (i) conduct committed against a child
16 relating to—

17 (I) kidnapping;

18 (II) illegal sexual abuse, contact,
19 or activity;

1 (III) live streaming of child sex-
2 ual abuse;

3 (IV) using a child to produce
4 child sexual abuse material; or

5 (V) sexual exploitation, including
6 child sex trafficking; or

7 (ii) an attempt or conspiracy to en-
8 gage in any conduct described in sub-
9 clauses (I) through (V) of clause (i);

10 (B) does not include—

11 (i) conduct involving or similar to ad-
12 vertising, transporting, mailing, distrib-
13 uting, receiving, possession, accessing, or
14 viewing child sexual abuse material; or

15 (ii) acquitted conduct, to the extent
16 that such conduct is excluded from the
17 scope of relevant conduct under section
18 1B1.3(c) of the United States Sentencing
19 Guidelines Manual; and

20 (C) does not require a conviction.

21 (b) DIRECTIVE.—Pursuant to its authority under
22 section 994(p) of title 28, United States Code, the United
23 States Sentencing Commission shall review and amend the
24 Federal sentencing guidelines and policy statements appli-
25 cable to persons convicted of an offense under section

1 1466A, 2251(d)(1)(A), 2252, 2252A, or 2260(b) of title
2 18, United States Code, in order to reflect the intent of
3 Congress that penalties for the offense under the guide-
4 lines and policy statements—

5 (1) appropriately account for—

6 (A) the actual and potential harm to vic-
7 tims and to the public from the offense; and

8 (B) changes that have occurred since the
9 relevant guidelines and policy statements were
10 last amended with respect to—

11 (i) typical offense behavior; and

12 (ii) the use of modern computer and
13 internet technologies; and

14 (2) to better reflect the current spectrum of of-
15 fender culpability.

16 (c) REQUIREMENTS.—In carrying out subsection (b),
17 the United States Sentencing Commission shall—

18 (1) ensure that the Federal sentencing guide-
19 lines and policy statements reflect—

20 (A) the seriousness of the offenses de-
21 scribed in that subsection;

22 (B) the need to afford adequate deterrence
23 to commission of the offenses;

24 (C) the need for just punishment for the
25 offenses;

1 (D) the need to protect the public from
2 further crimes of a defendant convicted of any
3 such offense; and

4 (E) the need to differentiate among offend-
5 ers based on their culpability and potential dan-
6 gerousness;

7 (2) avoid duplicative punishment within the ap-
8 plicable guidelines and under the Federal sentencing
9 guidelines for substantially the same conduct;

10 (3) develop a guideline that accounts for—

11 (A) whether, prior to, during, or after the
12 offense at issue, the defendant engaged in, con-
13 spired to engage in, or attempted to engage
14 in—

15 (i) an act of prohibited conduct
16 against a child; or

17 (ii) a pattern of activity involving pro-
18 hibited conduct against a child, whether in-
19 volving a single victim or multiple victims;

20 (B) whether, prior to, during, or after the
21 offense at issue, the defendant—

22 (i) participated in a group dedicated
23 to child sexual abuse material or prohibited
24 conduct against a child; or

1 (ii) encouraged, instructed, required,
2 or similarly caused another individual to
3 commit an offense involving child sexual
4 abuse material or prohibited conduct
5 against a child;

6 (C) whether the defendant engaged in mul-
7 tiple acts, not accounted for in the defendant's
8 criminal history or counts of conviction, involv-
9 ing child sexual abuse material over an ex-
10 tended period of time or with a high degree of
11 frequency;

12 (D) whether the defendant intentionally
13 used, or promoted the use of, software, tech-
14 nology, procedures, or any other means to con-
15 ceal the offense or the identity or location of
16 the defendant or any victim, or to destroy evi-
17 dence for an improper purpose, unless ac-
18 counted for in the conduct of conviction;

19 (E) whether 3 or more online channels,
20 technologies, platforms, or methods were used
21 to commit the offense;

22 (F) gradations in—

23 (i) the severity of the depicted sexu-
24 ally explicit conduct, including especially
25 severe physical or emotional trauma; and

1 (ii) the age or physical development of
2 the minor;

3 (G) the number of items of child sexual
4 abuse material or the number of victims in-
5 volved in the offense;

6 (H) whether the offense involved distribu-
7 tion of child sexual abuse material, accounting
8 for the nature of the distribution, including—

9 (i) distribution in order to receive any
10 valuable consideration; and

11 (ii) distribution through any method
12 that does not limit who can obtain the ma-
13 terial or how many individuals can obtain
14 the material;

15 (I) whether the offense involved the pro-
16 duction, creation, or manufacture of child sex-
17 ual abuse material that is not subject to the
18 cross reference in section 2G2.2(c)(1) of the
19 United States Sentencing Guidelines Manual to
20 section 2G2.1 of the Manual;

21 (J) whether the offense was the direct and
22 proximate cause of the victim's death by sui-
23 cide; and

24 (K) any other conduct or factors that the
25 United States Sentencing Commission deter-

1 mines appropriate to reflect the seriousness of
2 the offense and differentiate among offenders;

3 (4) make any necessary conforming changes to
4 the guidelines; and

5 (5) ensure that the guidelines adequately meet
6 the purposes of sentencing, as set forth in section
7 3553(a)(2) of title 18, United States Code.

8 (d) **AUTHORITY FOR UNITED STATES SENTENCING**
9 **COMMISSION.**—In carrying out this section, the United
10 States Sentencing Commission—

11 (1) may amend provisions of the Federal sen-
12 tencing guidelines that were promulgated pursuant
13 to any other specific congressional directives or legis-
14 lation directly amending the guidelines and promul-
15 gate amendments that would result in sentencing
16 ranges different than those that would have applied
17 under such directives or legislation; and

18 (2) in developing a guideline that comports with
19 the requirements of this section, particularly ac-
20 counting for the factors set forth in subsection
21 (c)(3)—

22 (A) may—

23 (i) design the specific offense charac-
24 teristics, including the increase in offense

1 level that each offense characteristic would
2 provide; and

3 (ii) define any terms; and

4 (B) may not lower the applicable base of-
5 fense level provided in section 2G2.2(a) of the
6 United States Sentencing Guidelines Manual as
7 in effect on the date of enactment of this Act.

8 (e) REPEALS.—

9 (1) LAWS.—The following provisions of law are
10 repealed:

11 (A) Section 632 of the Treasury, Postal
12 Service and General Government Appropria-
13 tions Act, 1992 (28 U.S.C. 994 note; Public
14 Law 102–141).

15 (B) Sections 2 and 3 of the Sex Crimes
16 Against Children Prevention Act of 1995 (28
17 U.S.C. 994 note; Public Law 104–71).

18 (C) Section 401(i)(1) of the Prosecutorial
19 Remedies and Other Tools to end the Exploi-
20 tation of Children Today Act of 2003 (28
21 U.S.C. 994 note; Public Law 108–21).

22 (2) GUIDELINES.—Section 2G2.2(b) of the
23 United States Sentencing Commission Guidelines
24 Manual is amended by striking paragraph (7).

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect on the date on
3 which the amendments to the Federal sentencing
4 guidelines and policy statements required under sub-
5 section (b) take effect.

6 **TITLE ____.—ENDING COERCION**
7 **OF CHILDREN AND HARM ON-**
8 **LINE**

9 **SEC. ____. COERCION OF CHILDREN TO COMMIT HARM.**

10 Chapter 110A of title 18, United States Code, is
11 amended by inserting after section 2261B the following:

12 **“§ 2261C. Coercion of children to commit harm**

13 “(a) DEFINITIONS.—For purposes of this section:

14 “(1) COERCE.—The term ‘coerce’ includes the
15 use of extortion, threats, fraud, deceit, duress, in-
16 timidation, harassment, humiliation, degradation, or
17 manipulation.

18 “(2) MINOR.—The term ‘minor’ means any in-
19 dividual who has not attained the age of 18 years.

20 “(3) SUBSTANTIAL BODILY INJURY.—The term
21 ‘substantial bodily injury’ has the meaning given
22 that term in section 113.

23 “(b) OFFENSE.—It shall be unlawful for any person,
24 using the mail or any facility or means of interstate or
25 foreign commerce, or within the special maritime and ter-

1 ritorial jurisdiction of the United States, to intentionally
2 coerce a minor, directly or through an intermediary, to—

3 “(1)(A) die by suicide or attempt to die by sui-
4 cide; or

5 “(B) kill or attempt to kill any individual;

6 “(2) kill or attempt to kill any pet, emotional
7 support animal, service animal, or horse;

8 “(3) strangle, suffocate, poison, burn, lacerate,
9 or inflict serious bodily injury or substantial bodily
10 injury on any individual (including the minor), pet,
11 emotional support animal, service animal, or horse;
12 or

13 “(4) commit or attempt to commit arson.

14 “(c) PENALTY.—Any person who violates, or at-
15 tempts or conspires to violate—

16 “(1) subparagraph (A) or (B) of subsection
17 (b)(1) shall be fined under this title, imprisoned for
18 any term of years or life, or both; or

19 “(2) paragraph (2), (3), or (4) of subsection (b)
20 shall be fined under this title, imprisoned for not
21 more than 30 years, or both.”.

22 **SEC. __. CLERICAL AND CONFORMING AMENDMENTS.**

23 (a) CLERICAL AMENDMENT.—The table of sections
24 for chapter 110A of title 18, United States Code, is

1 amended by inserting after the item relating to section
2 2261B the following:

“2261C. Coercion of children to commit harm.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) TITLE 18.—

5 (A) CHAPTER 110.—Chapter 110 of title
6 18, United States Code, is amended—

7 (i) in section 2252A(g), by inserting
8 “section 2261C,” after “section 1591,”;
9 and

10 (ii) in section 2258A—

11 (I) in subsection (a)—

12 (aa) in paragraph (1)(A), by
13 striking “online child sexual ex-
14 ploitation and to prevent the on-
15 line sexual exploitation of chil-
16 dren” and inserting “, and to
17 prevent, online child sexual ex-
18 ploitation and online coercion of
19 children”; and

20 (bb) in paragraph (2)(A)—

21 (AA) by striking “or
22 2260 that involves child por-
23 nography,” and inserting
24 “2260, 2261C, or 2422(b),
25 or”; and

1 (BB) by striking “, or
2 of 2422(b)”;

3 (II) in subsection (b), in the mat-
4 ter preceding paragraph (1), by strik-
5 ing “sexual” and inserting “online”;

6 (III) in subsection (c)—

7 (aa) in paragraph (1), by
8 striking “, kidnapping, or entice-
9 ment crimes” and inserting “or
10 kidnapping, online coercion, or
11 enticement crimes involving chil-
12 dren”;

13 (bb) in paragraph (2), by in-
14 serting “or kidnapping, online co-
15 coercion, or enticement crimes in-
16 volving children” after “sexual
17 exploitation”; and

18 (cc) in paragraph (3), by
19 striking “, kidnapping, or entice-
20 ment crimes” and inserting “or
21 kidnapping, online coercion, or
22 enticement crimes involving chil-
23 dren”;

24 (IV) in subsection
25 (d)(5)(A)(ii)(II), by striking “, kid-

1 napping, or enticement crimes” and
2 inserting “or kidnapping, online coer-
3 cion, or enticement crimes involving
4 children”;

5 (V) in subsection (g)(3)—

6 (aa) in subparagraph (A),
7 by striking “, kidnapping, or en-
8 ticement crimes” and inserting
9 “or kidnapping, online coercion,
10 or enticement crimes involving
11 children”;

12 (bb) in subparagraph (B),
13 by striking “, kidnapping, or en-
14 ticement crimes” and inserting
15 “or kidnapping, online coercion,
16 or enticement crimes involving
17 children”; and

18 (cc) in subparagraph (C), by
19 striking “, kidnapping, or entice-
20 ment crimes” and inserting “or
21 kidnapping, online coercion, or
22 enticement crimes involving chil-
23 dren”; and

24 (VI) in subsection (h)(5), by
25 striking “the proliferation of online

1 child sexual exploitation or preventing
2 the online sexual exploitation of chil-
3 dren” and inserting “or preventing
4 the proliferation of online child sexual
5 exploitation or online coercion of chil-
6 dren”.

7 (B) SECTION 3509.—Section 3509(a)(2)(A)
8 of title 18, United States Code, is amended by
9 striking “physical abuse, sexual abuse, or ex-
10 ploitation” and inserting “child abuse”.

11 (C) SECTION 5032.—Section 5032 of title
12 18, United States Code, is amended—

13 (i) in the first undesignated para-
14 graph—

15 (I) by striking “or section
16 1002(a)” and inserting “section
17 1002(a)”; and

18 (II) by striking “section 922(x)
19 or section 924(b), (g), or (h) of this
20 title” and inserting “or section
21 922(x), section 924(b), (g), or (h), or
22 section 2261C(b)(1) or (2) of this
23 title”; and

24 (ii) in the fourth undesignated para-
25 graph, by striking “section 922(x) of this

1 title, or in section 924(b), (g), or (h) of
2 this title” and inserting “section 922(x),
3 section 924(b), (g), or (h), or section
4 2261C(b)(1) or (2) of this title”.

5 (2) PROTECT OUR CHILDREN ACT OF 2008.—
6 Section 2 of the PROTECT Our Children Act of
7 2008 (34 U.S.C. 21101) is amended by striking
8 paragraph (1) and inserting the following:

9 “(1) CHILD EXPLOITATION.—The term ‘child
10 exploitation’ means—

11 “(A) any conduct, attempted conduct, or
12 conspiracy to engage in conduct that—

13 “(i) violates chapter 110 or section
14 2261C, 2422(b), or 2423 of title 18,
15 United States Code; or

16 “(ii) involves a minor and violates sec-
17 tion 1591 or chapter 109A of title 18,
18 United States Code; or

19 “(B) any sexual activity involving a minor
20 for which any person can be charged with a
21 criminal offense.”.

22 **SEC. ____ . SEVERABILITY.**

23 If any provision of this title, an amendment made by
24 this title, or the application of such provision or amend-
25 ment to any person or circumstance is held to be unconsti-

1 tutional, the remainder of this title, the amendments made
2 by this title, and the application of the provisions of such
3 to any person or circumstance shall not be affected there-
4 by.

5 **TITLE _____—STOP SEXTORTION**

6 **SEC. _____. CRIMINALIZING THREATS TO DISTRIBUTE**
7 **CHILD SEXUAL ABUSE MATERIAL.**

8 Title 18, United States Code, is amended—

9 (1) in section 2252—

10 (A) in subsection (a)(2)—

11 (i) in the matter preceding subpara-
12 graph (A)—

13 (I) by inserting “, or threatens to
14 distribute any visual depiction with in-
15 tent to intimidate, coerce, extort, or
16 cause substantial emotional distress to
17 any person,” after “distributes, any
18 visual depiction”;

19 (II) by striking “foreign com-
20 merce or that” and inserting “foreign
21 commerce, or involving a visual depic-
22 tion that”; and

23 (III) by striking “, or which con-
24 tains materials which have been

1 mailed or so shipped or transported,”;

2 and

3 (B) in subsection (b)—

4 (i) in paragraph (1), by striking
5 “Whoever” and inserting “Except as pro-
6 vided in paragraph (3), whoever”; and

7 (ii) by adding at the end the fol-
8 lowing:

9 “(3) Whoever violates, or attempts or conspires to
10 violate, subsection (a)(2) for threatening to distribute any
11 visual depiction, as described in that subsection, shall be
12 punished as provided in paragraph (2) of this subsection
13 if no such visual depiction existed.”; and

14 (2) in section 2252A—

15 (A) in subsection (a)(2)(A)—

16 (i) by inserting “, or threatens to dis-
17 tribute any child pornography with intent
18 to intimidate, coerce, extort, or cause sub-
19 stantial emotional distress to any person,”
20 after “any child pornography”; and

21 (ii) by striking “foreign commerce or
22 that” and inserting “foreign commerce, or
23 involving any child pornography that”; and

24 (B) in subsection (b)—

1 (i) in paragraph (1), by striking
2 “Whoever” and inserting “Except as pro-
3 vided in paragraph (4), whoever”; and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(4) Whoever violates, or attempts or conspires to
7 violate, subsection (a)(2)(A) for threatening to distribute
8 any child pornography, as described in that subsection,
9 shall be punished as provided in paragraph (2) of this sub-
10 section if no such child pornography existed.”.

11 **SEC. _____. PENALTIES FOR THREATS TO DISTRIBUTE**
12 **CHILD SEXUAL ABUSE MATERIAL.**

13 (a) IN GENERAL.—Title 18, United States Code, is
14 amended—

15 (1) in section 1466A—

16 (A) in subsection (a), in the matter pre-
17 ceeding subsection (b), by inserting “, but if the
18 offense involves the knowing use of a visual de-
19 pication of a minor engaged in sexually explicit
20 conduct, with the intent to intimidate, coerce,
21 extort, or cause substantial emotional distress
22 to any person, the maximum term of imprison-
23 ment provided in section 2252A(b)(1) shall be
24 increased by 10 years” before the period at the
25 end; and

1 (B) in subsection (b), in the matter pre-
2 ceding subsection (c), by inserting “, but if the
3 offense involves the knowing use of a visual de-
4 piction of a minor engaged in sexually explicit
5 conduct, with the intent to intimidate, coerce,
6 extort, or cause substantial emotional distress
7 to any person, the maximum term of imprison-
8 ment provided in section 2252A(b)(2) shall be
9 increased by 10 years” before the period at the
10 end; and

11 (2) in section 2260A—

12 (A) in the section heading, by striking
13 “**Penalties for registered sex offend-**
14 **ers**” and inserting “**Other offenses and**
15 **penalties**”;

16 (B) by striking “Whoever” and inserting
17 the following:

18 “(1) OFFENSES BY REGISTERED SEX OFFEND-
19 ERS.—Whoever”; and

20 (C) by adding at the end the following:

21 “(2) ADDITIONAL PENALTIES.—If any offense
22 under section 875(d), 2251, 2252, 2252A, or 2260
23 involves the knowing use of child pornography with
24 the intent to intimidate, coerce, extort, or cause sub-
25 stantial emotional distress to any person, the max-

1 imum term of imprisonment provided in section
2 875(d), 2251(e), 2252(b), 2252A(b), or 2260(c)
3 shall be increased by 10 years.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 110 of title 18, United States Code, is amend-
6 ed by striking the item relating to section 2260A and in-
7 serting the following:

 “2260A. Other offenses and penalties.”.

8 **SEC. ____ . SEVERABILITY.**

9 If any provision of this title, an amendment made by
10 this title, or the application of such provision or amend-
11 ment to any person or circumstance is held to be unconsti-
12 tutional, the remainder of this title, the amendments made
13 by this title, and the application of the provisions of such
14 to any person or circumstance shall not be affected there-
15 by.

