Suspend the Rules and Pass the Bill, HR. 6847, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

115TH CONGRESS
2D SESSION

H. R. 6847

To amend title 18, United States Code, to expand and strengthen Federal sex offenses, to reauthorize certain programs established by the Adam Walsh Child Protection and Safety Act of 2006, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2018

Mrs. ROBY introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to expand and strengthen Federal sex offenses, to reauthorize certain programs established by the Adam Walsh Child Protection and Safety Act of 2006, 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; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Preventing Child Exploitation Act of 2018”.

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September 24, 2018 (4:20 p.m.)
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STRENGTHENING FEDERAL SEX OFFENSE LAWS

Sec. 101. Expanding the definition of illicit sexual conduct.
Sec. 102. Expanding the definition of Federal sex offense.
Sec. 103. Failure of sex offenders to register.
Sec. 104. Prior military offenses included for purposes of recidivist sentencing provisions.
Sec. 105. Sexual exploitation of children.
Sec. 106. Limited liability for certain persons when responding to search warrants or other legal process.

TITLE II—ADAM WALSH REAUTHORIZATION ACT

Sec. 201. Short title.
Sec. 202. Sex offender management assistance (SOMA) program reauthorization.
Sec. 203. Reauthorization of Federal assistance with respect to violations of registration requirements.
Sec. 204. Duration of sex offender registration requirements for certain juveniles.
Sec. 205. Public access to juvenile sex offender information.
Sec. 206. Protection of local governments from State noncompliance penalty under SORNA.
Sec. 207. Additional information to be included in annual report on enforcement of registration requirements.
Sec. 208. Ensuring supervision of released sexually dangerous persons.
Sec. 209. Tribal Access Program.
Sec. 211. Clarification of aggravated sexual abuse.
Sec. 212. Comprehensive examination of sex offender issues.
Sec. 213. Assisting States with juvenile registration.

TITLE I—STRENGTHENING FEDERAL SEX OFFENSE LAWS

SEC. 101. EXPANDING THE DEFINITION OF ILICIT SEXUAL CONDUCT.

Section 2423(f)(1) of title 18, United States Code, is amended—
(1) by striking “a sexual act (as defined in section 2246) with” and inserting “any conduct involving”; and
(2) by striking “if the sexual act” and inserting “if the conduct”.

SEC. 102. EXPANDING THE DEFINITION OF FEDERAL SEX OFFENSE.

Section 3559 of title 18, United States Code, is amended—
(1) in subsection (e)(2)(A)—
(A) by inserting after “2244(a)(1)” the following “or 2244(a)(5)”;
(B) by striking the “or” before “2423(a)”;
(C) by striking “into prostitution”; and
(D) by inserting “or 2423(c) (relating to illicit sexual conduct)” before the semicolon at the end; and
(2) in subsection (e)(3), by striking “or 2423(a)” and inserting “, 2423(a), or 2423(c)”.

SEC. 103. FAILURE OF SEX OFFENDERS TO REGISTER.

Section 2250(d) of title 18, United States Code, is amended—
(1) by inserting after “Federal law (including the Uniform Code of Military Justice),” the following: “State law,”; and
(2) by adding at the end the following:

“(3) DEFINITION.—In this section, the term ‘crime of violence’ has the meaning given such term in section 16.”.

SEC. 104. PRIOR MILITARY OFFENSES INCLUDED FOR PURPOSES OF RECIDIVIST SENTENCING PROVISIONS.

(a) AGGRAVATED SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by inserting after “State offense” the following: “or an offense under the Uniform Code of Military Justice”.

(b) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(e) of title 18, United States Code, is amended by striking “section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under” each place it appears and inserting “the Uniform Code of Military Justice or”.

(c) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252 of title 18, United States Code, is amended—

(1) in subsection (b)(1), by striking “section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under” and inserting “the Uniform Code of Military Justice or”; and
(2) in subsection (b)(2), by striking “section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under” and inserting “the Uniform Code of Military Justice or”.

(d) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (b)(1), by striking “section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under” and inserting “the Uniform Code of Military Justice or”; and

(2) in subsection (b)(2), by striking “section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under” and inserting “the Uniform Code of Military Justice or”.

(e) REPEAT OFFENDERS.—Section 2426(b)(1)(B) of title 18, United States Code, is amended by inserting after “State law” the following: “or the Uniform Code of Military Justice”.

(f) SENTENCING CLASSIFICATION.—Section 3559 of title 18, United States Code, is amended—

(1) in subsection (e)(2)(B)—

(A) by striking “State sex offense” and inserting “State or Military sex offense”; and
(B) by inserting after “under State law” the following: “or the Uniform Code of Military Justice”; and

(2) in subsection (e)(2)(C), by inserting after “State” the following: “or Military”.

SEC. 105. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251 of title 18, United States Code, is amended—

(1) by amending subsections (a) and (b) to read as follows:

“(a) Any person who, in a circumstance described in subsection (f), knowingly—

“(1) employs, uses, persuades, induces, entices, or coerces a minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, or transmitting a live visual depiction of such conduct;

“(2) produces or causes to be produced a visual depiction of a minor engaged in any sexually explicit conduct where the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct;
“(3) transmits or causes to be transmitted a live visual depiction of a minor engaged in any sexually explicit conduct;

“(4) has a minor assist any other person to engage in any sexually explicit conduct during the commission of an offense set forth in paragraphs (1) through (3) of this subsection; or

“(5) transports any minor in or affecting interstate or foreign commerce with the intent that such minor be used in the production or live transmission of a visual depiction of a minor engaged in any sexually explicit conduct,

shall be punished as provided under subsection (e).

“(b) Any parent, legal guardian, or person having custody or control of a minor who, in a circumstance described in subsection (f), knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct knowing that a visual depiction of such conduct will be produced or transmitted shall be punished as provided under subsection (e).”;

(2) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “employs, uses, persuades, induces, entices, or coerces any

minor to engage in, or who has a minor as-
sist any other person to engage in, any
sexually explicit conduct’’ and inserting
“engages in any conduct described in para-
graphs (1) through (5) of subsection (a)”;
and

(ii) by striking “, for the purpose of
producing any visual depiction of such con-
duct,”;

(B) in paragraph (2)(A), by inserting after
“transported” the following: “or transmitted”;
and

(C) in paragraph (2)(B), by inserting after
“transports” the following; “or transmits”;

(3) by adding at the end the following:
“(f) The circumstances referred to in subsections (a)
and (b) are—

“(1) that the person knows or has reason to
know that such visual depiction will be—

“(A) transported or transmitted using any
means or facility of interstate or foreign com-
merce;

“(B) transported or transmitted in or af-
fecting interstate or foreign commerce; or

“(C) mailed;
“(2) the visual depiction was produced or transmitted using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;

“(3) such visual depiction has actually been—

“(A) transported or transmitted using any means or facility of interstate or foreign commerce;

“(B) transported or transmitted in or affecting interstate or foreign commerce; or

“(C) mailed; or

“(4) any part of the offense occurred in a territory or possession of the United States or within the special maritime and territorial jurisdiction of the United States.

“(g) Notwithstanding any other provision of this section, no criminal charge under subsection (a)(3) may be brought against an electronic communication service provider or remote computing service provider unless such provider has intentionally transmitted or caused to be transmitted a visual depiction with actual knowledge that such depiction is of a minor engaged in sexually explicit conduct, nor may any such criminal charge be brought if barred by the provisions of section 2258B.”.
SEC. 106. LIMITED LIABILITY FOR CERTAIN PERSONS
WHEN RESPONDING TO SEARCH WARRANTS
OR OTHER LEGAL PROCESS.

Section 2258B of title 18, United States Code, is amended—

(1) in subsection (a), by inserting “from the response to a search warrant or other legal process or” before “from the performance”; and

(2) in subsection (b)(2)(C), by inserting “the response to a search warrant or other legal process or to” before “the performance of any responsibility”.

TITLE II—ADAM WALSH REAUTHORIZATION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Adam Walsh Reauthorization Act of 2018”.

SEC. 202. SEX OFFENDER MANAGEMENT ASSISTANCE
(SOMA) PROGRAM REAUTHORIZATION.

Section 126(d) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20928(d)) is amended to read as follows:

“(d) Authorization of Appropriations.—There are authorized to be appropriated to the Attorney General $20,000,000 for each of the fiscal years 2018 through 2022, to be available only for the SOMA program.”.
SEC. 203. REAUTHORIZATION OF FEDERAL ASSISTANCE WITH RESPECT TO VIOLATIONS OF REGISTRATION REQUIREMENTS.

Section 142(b) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20941(b)) is amended to read as follows:

“(b) For each of fiscal years 2018 through 2022, of amounts made available to the United States Marshals Service, not less than $60,000,000 shall be available to carry out this section.”.

SEC. 204. DURATION OF SEX OFFENDER REGISTRATION REQUIREMENTS FOR CERTAIN JUVENILES.

Subparagraph (B) of section 115(b)(2) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20915(b)(2)) is amended by striking “25 years” and inserting “15 years”.

SEC. 205. PUBLIC ACCESS TO JUVENILE SEX OFFENDER INFORMATION.

Section 118(c) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20920(c)) is amended—

(1) by striking “and” after the semicolon in paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and
(3) by inserting after paragraph (3) the following:

“(4) any information about a sex offender for whom the offense giving rise to the duty to register was an offense for which the offender was adjudicated delinquent; and”.

SEC. 206. PROTECTION OF LOCAL GOVERNMENTS FROM STATE NONCOMPLIANCE PENALTY UNDER SORNA.

Section 125 of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20927(a)) is amended—

(1) by striking “jurisdiction” each place it appears and inserting “State”;

(2) in subsection (a)—

(A) by striking “subpart 1 of part E” and inserting “section 505(e)”;

(B) by striking “(42 U.S.C. 3750 et seq.)” and inserting “(34 U.S.C. 10156(e))”;

(3) by adding at the end the following:

“(e) CALCULATION OF ALLOCATION TO UNITS OF LOCAL GOVERNMENT.—Notwithstanding the formula under section 505(e) of the Omnibus Crime Control and Safe Streets Act 1968 (34 U.S.C. 10156(e)), a State which is subject to a reduction in funding under subsection (a) shall—
“(1) calculate the amount to be made available to units of local government by the State pursuant to the formula under section 505(c) using the amount that would otherwise be allocated to that State for that fiscal year under section 505(c) of that Act, and make such amount available to such units of local government; and

“(2) retain for the purposes described in section 501 any amount remaining after the allocation required by paragraph (1).”.

SEC. 207. ADDITIONAL INFORMATION TO BE INCLUDED IN ANNUAL REPORT ON ENFORCEMENT OF REGISTRATION REQUIREMENTS.

Section 635 of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20991) is amended—

(1) by striking “Not later than July 1 of each year” and inserting “On January 1 of each year,”;

(2) in paragraph (3), by inserting before the semicolon at the end the following: “, and an analysis of any common reasons for noncompliance with such Act”;

(3) in paragraph (4), by striking “and” at the end;

(4) in paragraph (5), by striking the period at the end and inserting a semicolon; and
(5) by adding after paragraph (5) the following:

“(6) the number of sex offenders registered in the National Sex Offender Registry;

“(7) the number of sex offenders registered in the National Sex Offender Registry who—

“(A) are adults;

“(B) are juveniles; and

“(C) are adults, but who are required to register as a result of conduct committed as a juvenile; and

“(8) to the extent such information is obtainable, of the number of sex offenders registered in the National Sex Offender Registry who are juveniles—

“(A) the percentage of such offenders who were adjudicated delinquent; and

“(B) the percentage of such offenders who were prosecuted as adults.”.

SEC. 208. ENSURING SUPERVISION OF RELEASED SEXUALLY DANGEROUS PERSONS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended in paragraph (8)(A) by striking “or 4246” and inserting “, 4246, or 4248”.

(b) PRETRIAL SERVICES OFFICERS.—Section 3154 of title 18, United States Code, is amended in paragraph
(12)(A) by striking “or 4246” and inserting “, 4246, or 4248”.

SEC. 209. TRIBAL ACCESS PROGRAM.

The Attorney General is authorized to provide technical assistance, including equipment, to tribal governments for the purpose of enabling such governments to access, enter information into, and obtain information from, Federal criminal information databases, as authorized under section 534(d) of title 28, United States Code. The Department of Justice Working Capital Fund (established under section 527 of title 28, United States Code) may be reimbursed by federally recognized tribes for technical assistance provided pursuant to this section.

SEC. 210. ALTERNATIVE MECHANISMS FOR IN-PERSON VERIFICATION.

Section 116 of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20918) is amended—

(1) by striking “A sex offender shall” and inserting the following:

“(a) IN GENERAL.—Except as provided in subsection (b), a sex offender shall”; and

(2) by adding at the end the following:

“(b) ALTERNATIVE VERIFICATION METHOD.—A jurisdiction may allow a sex offender to comply with the requirements under subsection (a) by an alternative
verification method approved by the Attorney General, except that each offender shall appear in person not less than one time per year. The Attorney General shall approve an alternative verification method described in this subsection prior to its implementation by a jurisdiction in order to ensure that such method provides for verification that is sufficient to ensure the public safety.”.

SEC. 211. CLARIFICATION OF AGGRAVATED SEXUAL ABUSE.

Section 111(8) of the Adam Walsh Child Protection and Safety Act of 2006 (34 U.S.C. 20911(8)) is amended by inserting “subsection (a) or (b) of” before “section 2241 of title 18, United States Code”.

SEC. 212. COMPREHENSIVE EXAMINATION OF SEX OFFENDER ISSUES.

Section 634(c) of the Adam Walsh Child Protection and Safety Act of 2006 is amended by adding at the end the following:

“(3) ADDITIONAL REPORT.—Not later than 1 year after the date of enactment of the Adam Walsh Reauthorization Act of 2018, the National Institute of Justice shall submit to Congress a report on the public safety impact, recidivism, and collateral consequences of long-term registration of juvenile sex offenders, based on the information collected for the study under subsection (a) and any other informa-
tion the National Institute of Justice determines
necessary for such report.”.

SEC. 213. ASSISTING STATES WITH JUVENILE REGISTRATION.

Section 125 of the Adam Walsh Child Protection and
Safety Act of 2006 (34 U.S.C. 20927) is amended by add-
ing at the end the following:

“(e) SUBSTANTIAL IMPLEMENTATION FOR JUVENILE
REGISTRATION REQUIREMENTS.—

“(1) IN GENERAL.—In the case of a jurisdiction
that uses a discretionary process for determining
whether registration under this Act is required for
juveniles 14 years of age or older who are adju-
dicated delinquent for sex offenses described in sec-
tion 111(8), the Attorney General, in assessing
whether the jurisdiction has substantially imple-
mented this title with respect to the registration of
such juveniles, may examine the policies and prac-
tices that the jurisdiction has in place—

“(A) related to the prosecution as adults,

of juveniles who commit sex offenses described
in section 111(8);

“(B) related to the registration under this
Act of juveniles adjudicated delinquent for such
an offense; and
“(C) related to the identification, tracking, monitoring, or managing of juveniles adjudicated delinquent for such offenses who reside in the jurisdiction, including policies and practices to ensure that the records of their identities and sex offenses are available as needed for public safety purposes.

“(2) SUBMISSION BY JURISDICTION.—A jurisdiction described in paragraph (1) shall submit to the Attorney General an explanation for how the discretionary process used by the jurisdiction with respect to the registration of juveniles under this Act should be considered substantial implementation of this title.

“(3) DETERMINATION.—The Attorney General may determine that a jurisdiction has substantially implemented this title if the Attorney General determines that the policies and practices described in paragraph (1) have resulted or will result in the registration, identification, tracking, monitoring, or management of juveniles who commit sex offenses described in section 111(8), and in the availability of the identities and sex offenses of such juveniles as needed for public safety purposes, in a manner that
does not substantially disserve the purposes of this title.”