

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2146

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2002

Received; read twice and referred to the Committee on the Judiciary

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## AN ACT

To amend title 18 of the United States Code to provide life imprisonment for repeat offenders who commit sex offenses against children.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Two Strikes and  
3 You’re Out Child Protection Act”.

4 **SEC. 2. MANDATORY LIFE IMPRISONMENT FOR REPEAT**  
5 **SEX OFFENDERS AGAINST CHILDREN.**

6 Section 3559 of title 18, United States Code, is  
7 amended by adding at the end the following new sub-  
8 section:

9 “(e) **MANDATORY LIFE IMPRISONMENT FOR RE-**  
10 **PEATED SEX OFFENSES AGAINST CHILDREN.—**

11 “(1) **IN GENERAL.—**A person who is convicted  
12 of a Federal sex offense in which a minor is the vic-  
13 tim shall be sentenced to life imprisonment if the  
14 person has a prior sex conviction in which a minor  
15 was the victim, unless the sentence of death is im-  
16 posed.

17 “(2) **DEFINITIONS.—**For the purposes of this  
18 subsection—

19 “(A) the term ‘Federal sex offense’  
20 means—

21 “(i) an offense under section 2241  
22 (relating to aggravated sexual abuse),  
23 2242 (relating to sexual abuse), 2243(a)  
24 (relating to sexual abuse of a minor),  
25 2244(a)(1) or (2) (relating to abusive sex-  
26 ual contact), 2245 (relating to sexual

1 abuse resulting in death), or 2251A (relat-  
2 ing to selling or buying of children); or

3 “(ii) an offense under section 2423(a)  
4 (relating to transportation of minors) in-  
5 volving prostitution or sexual activity con-  
6 stituting a State sex offense;

7 “(B) the term ‘State sex offense’ means an  
8 offense under State law that consists of conduct  
9 that would be a Federal sex offense if, to the  
10 extent or in the manner specified in the applica-  
11 ble provision of this title—

12 “(i) the offense involved interstate or  
13 foreign commerce, or the use of the mails;  
14 or

15 “(ii) the conduct occurred in any com-  
16 monwealth, territory, or possession of the  
17 United States, within the special maritime  
18 and territorial jurisdiction of the United  
19 States, in a Federal prison, on any land or  
20 building owned by, leased to, or otherwise  
21 used by or under the control of the Gov-  
22 ernment of the United States, or in the In-  
23 dian country (as defined in section 1151);

24 “(C) the term ‘prior sex conviction’ means  
25 a conviction for which the sentence was imposed

1 before the conduct occurred constituting the  
2 subsequent Federal sex offense, and which was  
3 for a Federal sex offense or a State sex offense;

4 “(D) the term ‘minor’ means an individual  
5 who has not attained the age of 17 years; and

6 “(E) the term ‘State’ has the meaning  
7 given that term in subsection (c)(2).”.

8 **SEC. 3. STUDY OF IMPACT OF LEGISLATION.**

9 (a) In each case in which a life sentence is imposed  
10 under section 3559(e), the judge shall make and transmit  
11 to the Administrative Office of the United States Courts  
12 findings with regard to each of the following:

13 (1) The applicable range under the Federal  
14 Sentencing Guidelines if the statutory minimum life  
15 sentence had not applied.

16 (2) The sentence that the court would have im-  
17 posed on the defendant if the statutory minimum life  
18 sentence had not applied, in light of the nature and  
19 circumstances of the offense, the history and charac-  
20 teristics of the defendant, and the other factors set  
21 forth in section 3553(a).

22 (3) The race, gender, age, and ethnicity of the  
23 victim and defendant.

24 (4) The reason for the Government’s decision to  
25 prosecute this defendant in Federal court instead of

1       deferring to prosecution in State or tribal court, and  
2       the criteria used by the Government to make that  
3       decision in this and other cases.

4               (5) The projected cost to the Federal Govern-  
5       ment of the life sentence, taking into account capital  
6       and operating costs associated with imprisonment.

7       (b) To assist the court to make the findings required  
8       in subsections (a)(4) and (a)(5), the Government attorney  
9       shall state on the record such information as the court  
10      deems necessary to make such findings, including cost  
11      data provided by the Bureau of Prisons. In making the  
12      required findings, the court shall not be bound by the in-  
13      formation provided by the Government attorney.

14      (c) The Administrative Office of the United States  
15      Courts shall annually compile and report the findings  
16      made under subsection (a) to the Congress.

17      **SEC. 4. CONFORMING AMENDMENT.**

18      Sections 2247 and 2426 of title 18, United States  
19      Code, are each amended by inserting “, unless section  
20      3559(e) applies” before the final period.

        Passed the House of Representatives March 14,  
2002.

Attest:

JEFF TRANDAHL,

*Clerk.*