

118TH CONGRESS
1ST SESSION

S. 353

To establish appropriate penalties for possession of child pornography, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2023

Mr. HAWLEY introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To establish appropriate penalties for possession of child
pornography, 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.**

4 This Act may be cited as the “Prosecutorial Remedies
5 and Other Tools to end the Exploitation of Children Today
6 Act of 2023” or the “PROTECT Act of 2023”.

1 **SEC. 2. SENTENCING FOR CHILD PORNOGRAPHY OF-**
2 **FENSES.**

3 (a) **IN GENERAL.**—Section 3553(b)(2) of title 18,
4 United States Code, is amended by adding at the end the
5 following:

6 “(B) **CHILD PORNOGRAPHY OFFENDERS.**—

7 “(i) **DEFINITION.**—In this subpara-
8 graph, the term ‘child pornography of-
9 fense’ means a violation of, or an attempt
10 or conspiracy to violate, section 2251,
11 2251A, 2252(a), 2252A(a), or 2260.

12 “(ii) **FACTS PROVEN DURING TRIAL**
13 **OR ADMITTED BY THE DEFENDANT.**—Not-
14 withstanding subparagraph (A), in sen-
15 tencing a defendant convicted of a child
16 pornography offense, a court shall impose
17 a sentence of the kind, and that is not less
18 than the minimum period in the sentencing
19 range, referred to in subsection (a)(4), as
20 determined based on facts proved beyond a
21 reasonable doubt during a jury or bench
22 trial and facts admitted by the defendant
23 that are relevant to determining the kind
24 and range of sentence, unless the court
25 makes a finding described in clause (i),
26 (ii), or (iii) of subparagraph (A).

1 “(iii) FACTS FOUND BY COURTS.—

2 “(I) IN GENERAL.—Notwith-
 3 standing subparagraph (A), in sen-
 4 tencing a defendant convicted of a
 5 child pornography offense, a court
 6 shall consider, and may impose, a sen-
 7 tence of the kind, and within the sen-
 8 tencing range, referred to in sub-
 9 section (a)(4), as determined based on
 10 all facts found by the court that are
 11 relevant to determining the kind and
 12 range of sentence.

13 “(II) MINIMUM PERIOD.—Noth-
 14 ing in subclause (I) shall authorize a
 15 court to impose a sentence that is less
 16 than—

17 “(aa) the minimum sentence
 18 determined in accordance with
 19 clause (ii); or

20 “(bb) the minimum sentence
 21 otherwise required by statute.”.

22 (b) PENALTIES FOR POSSESSION.—Chapter 110 of
 23 title 18, United States Code, is amended—

24 (1) in section 2252(b)—

- 1 (A) by striking “(1) Whoever violates, or
2 attempts or conspires to violate, paragraph (1),
3 (2), or (3) of subsection (a)” and inserting
4 “Whoever violates, or attempts or conspires to
5 violate, subsection (a)”;
- 6 (B) by striking paragraph (2); and
7 (2) in section 2252A(b)—
- 8 (A) in paragraph (1), by inserting “(5),”
9 after “(4),”;
- 10 (B) by striking paragraph (2); and
- 11 (C) by redesignating paragraph (3) as
12 paragraph (2).

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