

struct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.

(As amended Oct. 12, 1984, Pub. L. 98-473, title II, § 1103, 98 Stat. 2143; Oct. 21, 1986, Pub. L. 99-508, title I, § 109, 100 Stat. 1858; Nov. 10, 1986, Pub. L. 99-646, § 33, 100 Stat. 3598.)

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act, referred to in subsec. (c), probably means the Foreign Intelligence Surveillance Act of 1978, Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§ 1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

AMENDMENTS

1986—Pub. L. 99-646 directed the designation of first and second pars. as subsecs. (a) and (b), respectively, which had been previously so designated by Pub. L. 99-508, and substituted "imprisoned not" for "imprisoned" in subsec. (a).

Pub. L. 99-508 designated first and second pars. as subsecs. (a) and (b), respectively, and added subsec. headings and subsec. (c).

1984—Pub. L. 98-473, § 1103(a), substituted provisions raising the maximum fine from \$2,000 to \$10,000 and raising the maximum term of imprisonment from two years to five years.

Pub. L. 98-473, § 1103(b), added the paragraph relating to the penalties for warning the subject of a search.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-508 effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as a note under section 2510 of this title.

CHAPTER 109A—SEXUAL ABUSE

- Sec. 2241. Aggravated sexual abuse.
- 2242. Sexual abuse.
- 2243. Sexual abuse of a minor or ward.
- 2244. Abusive sexual contact.
- 2245. Definitions for chapter.

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical chapters 109A.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 113, 1153, 3185 of this title.

§ 2241. Aggravated sexual abuse

(a) By force or threat

Whoever, in the special maritime and territorial jurisdiction of the United States or in a

Federal prison, knowingly causes another person to engage in a sexual act—

- (1) by using force against that other person; or
- (2) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(b) By other means

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

- (1) renders another person unconscious and thereby engages in a sexual act with that other person; or
- (2) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

- (A) substantially impairs the ability of that other person to appraise or control conduct; and
- (B) engages in a sexual act with that other person;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(c) With children

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who has not attained the age of 12 years, or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.

(d) State of mind proof requirement

In a prosecution under subsection (c) of this section, the Government need not prove that the defendant knew that the other person engaging in the sexual act had not attained the age of 12 years.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3620, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3660.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2241.

EFFECTIVE DATE

Section 87(e) of Pub. L. 99-646 and section 4 of Pub. L. 99-654 provided respectively that: "This section and the amendments made by this section [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 10, 1986]." and "This Act and the amendments made by this Act [see Short Title note below] shall take effect 30 days after the date of the enactment of this Act [Nov. 14, 1986]."

SHORT TITLE

Section 87(a) of Pub. L. 99-646 and section 1 of Pub. L. 99-654 provided respectively that: "This section [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and

9511 of Title 42, The Public Health and Welfare, and section 1472 of Title 49, Appendix, Transportation, and repealing chapter 99 of this title) may be cited as the 'Sexual Abuse Act of 1986.'" and "This Act [enacting this chapter, amending sections 113, 1111, 1153, and 3185 of this title, sections 300w-3, 300w-4, and 9511 of Title 42, and section 1472 of Title 49, Appendix, Transportation, and repealing chapter 99 of this title] may be cited as the 'Sexual Abuse Act of 1986'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2244 of this title.

§ 2242. Sexual abuse

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly—

(1) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnaping); or

(2) engages in a sexual act with another person if that other person is—

(A) incapable of appraising the nature of the conduct; or

(B) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

or attempts to do so, shall be fined under this title, imprisoned not more than 20 years, or both.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2242.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2244 of this title.

§ 2243. Sexual abuse of a minor or ward

(a) Of a minor

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than five years, or both.

(b) Of a ward

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than one year, or both.

(c) Defenses

(1) In a prosecution under subsection (a) of this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the defendant reasonably believed that the other person had attained the age of 16 years.

(2) In a prosecution under this section, it is a defense, which the defendant must establish by a preponderance of the evidence, that the persons engaging in the sexual act were at that time married to each other.

(d) State of mind proof requirement

In a prosecution under subsection (a) of this section, the Government need not prove that the defendant knew—

(1) the age of the other person engaging in the sexual act; or

(2) that the requisite age difference existed between the persons so engaging.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3621, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2243.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2244 of this title.

§ 2244. Abusive sexual contact

(a) Sexual conduct in circumstances where sexual acts are punished by this chapter

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than five years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than one year, or both; or

(4) subsection (b) of section 2243 of this title had the sexual contact been a sexual act, shall be fined not more than \$5,000, imprisoned not more than six months, or both.

(b) In other circumstances

Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than \$5,000, imprisoned not more than six months, or both.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3661.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2244.

§ 2245. Definitions for chapter

As used in this chapter—

(1) the term "prison" means a correctional, detention, or penal facility;

(2) the term "sexual act" means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; and

(3) the term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(4) the term "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(5) the term "official detention" means—

(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.

(Added Pub. L. 99-646, § 87(b), Nov. 10, 1986, 100 Stat. 3622, and Pub. L. 99-654, § 2, Nov. 14, 1986, 100 Stat. 3662.)

CODIFICATION

Pub. L. 99-646 and Pub. L. 99-654 added identical sections 2245.

CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

Sec.

2253. Criminal forfeiture.

2254. Civil forfeiture.

2255. Civil remedy for personal injuries.

2256. Definitions for chapter.

AMENDMENTS

1986—Pub. L. 99-500, § 101(b), [title VII, § 703(b)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-75, and Pub. L. 99-591, § 101(b) [title VII, § 703(b)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-75, added item 2255 and redesignated former item 2255 as 2256.

1984—Pub. L. 98-292, § 7, May 21, 1984, 98 Stat. 206, added items 2253 and 2254 and redesignated former item 2253 as 2255.

§ 2251. Sexual exploitation of children

(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in,¹ or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (d), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (d) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(c)(1) Any person who, in a circumstance described in paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if 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; or

(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (d).

(2) The circumstance referred to in paragraph (1) is that—

¹ So in original.