

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.**

**H. R. 6719**

To prohibit threats to a minor, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “James T. Woods Act”.

5 **TITLE I—SAFE ACT**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Sentencing Account-  
8 ability For Exploitation Act” or the “SAFE Act”.

9 **SEC. 102. FINDINGS.**

10 Congress finds the following:

11 (1) Over many years, the complexity and scale  
12 of online child sex offenses have worsened, as offend-  
13 ers have taken advantage of technological develop-

1       ments to target and victimize ever-increasing num-  
2       bers of children.

3           (2) In addition, offenders have pursued increas-  
4       ingly dangerous ways of victimizing children, includ-  
5       ing by resorting to organized efforts at extorting and  
6       manipulating children into engaging in sexually ex-  
7       plicit conduct and other types of degrading and dan-  
8       gerous acts.

9           (3) Offenders have also been increasingly adept  
10       at globalizing their offenses, including by, for exam-  
11       ple, paying adults overseas to provide customized  
12       child sexual abuse material, which may be video re-  
13       corded or live-streamed, to offenders in the United  
14       States.

15          (4) Meanwhile, as the complexity, scale, and  
16       dangerousness of online child sex crimes has wors-  
17       ened, long-existing sex crimes against children con-  
18       tinue to flourish on the dark web, through social  
19       media and related applications, and otherwise.

20          (5) Effective investigation and prosecution are  
21       a critical component of the efforts of the United  
22       States to keep children safe, punish those who vic-  
23       timize them, and deter would-be offenders. It is im-  
24       perative that the Federal sentencing guidelines ac-  
25       count for these interests and ensure that offenders

1 face advisory sentencing ranges that appropriately  
2 account for the scale, complexity, and dangerousness  
3 of these offenses.

4 **SEC. 103. AMENDMENT OF FEDERAL SENTENCING GUIDE-**  
5 **LINE RELATING TO CHILD SEXUAL ABUSE**  
6 **MATERIAL.**

7 (a) DEFINITIONS.—In this section:

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

10 (2) CHILD SEXUAL ABUSE MATERIAL.—The  
11 term “child sexual abuse material” has the meaning  
12 given the term “child pornography” in section  
13 2256(8) of title 18, United States Code.

14 (3) PROHIBITED CONDUCT AGAINST A CHILD.—  
15 The term “prohibited conduct against a child”—

16 (A) means—

17 (i) conduct committed against a child  
18 relating to—

19 (I) kidnapping;

20 (II) illegal sexual abuse, contact,  
21 or activity;

22 (III) live streaming of child sex-  
23 ual abuse;

24 (IV) using a child to produce  
25 child sexual abuse material; or

1 (V) sexual exploitation, including  
2 child sex trafficking; or

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

6 (B) does not include—

7 (i) conduct involving or similar to ad-  
8 vertising, transporting, mailing, distrib-  
9 uting, receiving, possession, accessing, or  
10 viewing child sexual abuse material; or

11 (ii) acquitted conduct, to the extent  
12 that such conduct is excluded from the  
13 scope of relevant conduct under section  
14 1B1.3(c) of the United States Sentencing  
15 Guidelines Manual; and

16 (C) does not require a conviction.

17 (b) DIRECTIVE.—Pursuant to its authority under  
18 section 994(p) of title 28, United States Code, the United  
19 States Sentencing Commission shall review and amend the  
20 Federal sentencing guidelines and policy statements appli-  
21 cable to persons convicted of an offense under section  
22 1466A, 2251(d)(1)(A), 2252, 2252A, or 2260(b) of title  
23 18, United States Code, in order to reflect the intent of  
24 Congress that penalties for the offense under the guide-  
25 lines and policy statements—

1 (1) appropriately account for—

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

4 (B) changes that have occurred since the  
5 relevant guidelines and policy statements were  
6 last amended with respect to—

7 (i) typical offense behavior; and

8 (ii) the use of modern computer and  
9 internet technologies; and

10 (2) to better reflect the current spectrum of of-  
11 fender culpability.

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

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

16 (A) the seriousness of the offenses de-  
17 scribed in that subsection;

18 (B) the need to afford adequate deterrence  
19 to commission of the offenses;

20 (C) the need for just punishment for the  
21 offenses;

22 (D) the need to protect the public from  
23 further crimes of a defendant convicted of any  
24 such offense; and

1 (E) the need to differentiate among offend-  
2 ers based on their culpability and potential dan-  
3 gerousness;

4 (2) avoid duplicative punishment within the ap-  
5 plicable guidelines and under the Federal sentencing  
6 guidelines for substantially the same conduct;

7 (3) develop a guideline that accounts for—

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

12 (i) an act of prohibited conduct  
13 against a child; or

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

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

19 (i) participated in a group dedicated  
20 to child sexual abuse material or prohibited  
21 conduct against a child; or

22 (ii) encouraged, instructed, required,  
23 or similarly caused another individual to  
24 commit an offense involving child sexual

1 abuse material or prohibited conduct  
2 against a child;

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

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

16 (E) whether 3 or more online channels,  
17 technologies, platforms, or methods were used  
18 to commit the offense;

19 (F) gradations in—

20 (i) the severity of the depicted sexu-  
21 ally explicit conduct, including especially  
22 severe physical or emotional trauma; and

23 (ii) the age or physical development of  
24 the minor;

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

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

7 (i) distribution in order to receive any  
8 valuable consideration; and

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

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

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

22 (K) any other conduct or factors that the  
23 United States Sentencing Commission deter-  
24 mines appropriate to reflect the seriousness of  
25 the offense and differentiate among offenders;

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

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

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

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

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

20                 (A) may—

21                         (i) design the specific offense charac-  
22                         teristics, including the increase in offense  
23                         level that each offense characteristic would  
24                         provide; and

25                         (ii) define any terms; and

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

5 (e) REPEALS.—

6 (1) LAWS.—The following provisions of law are  
7 repealed:

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

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

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

19 (2) GUIDELINES.—Section 2G2.2(b) of the  
20 United States Sentencing Commission Guidelines  
21 Manual is amended by striking paragraph (7).

22 (3) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall take effect on the date on  
24 which the amendments to the Federal sentencing

1 guidelines and policy statements required under sub-  
2 section (b) take effect.

3 **TITLE II—ENDING COERCION OF**  
4 **CHILDREN AND HARM ONLINE**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Ending Coercion of  
7 Children and Harm Online Act” or the “ECCHO Act”.

8 **SEC. 202. COERCION OF CHILDREN TO COMMIT HARM.**

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

11 **“§ 2261C. Coercion of children to commit harm**

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

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

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

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

22 “(b) OFFENSE.—It shall be unlawful for any person,  
23 using the mail or any facility or means of interstate or  
24 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. 203. 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—

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; or

15 “(ii) involves a minor and violates sec-  
16 tion 1591 or chapter 109A of title 18; or

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

20 **SEC. 204. SEVERABILITY.**

21 If any provision of this Act, an amendment made by  
22 this Act, or the application of such a provision or amend-  
23 ment to any person or circumstance, is held to be uncon-  
24 stitutional, the remaining provisions of and amendments  
25 made by this Act, and the application of the provision or

1 amendment held to be unconstitutional to any other per-  
2 son or circumstance, shall not be affected thereby.

3 **TITLE III—STOP SEXTORTION**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Stop Sextortion Act”.

6 **SEC. 302. CRIMINALIZING THREATS TO DISTRIBUTE CHILD**  
7 **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. 303. PENALTIES FOR THREATS TO DISTRIBUTE CHILD**  
12 **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. 304. 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.