

On July 27, 2006, President George W. Bush signed the Adam Walsh Child Protection and Safety Act of 2006 (hereafter referred to as “Act”) into law. The act was created for the express purpose of protecting children from violent crimes and sexual exploitation, as well as preventing child abuse and child pornography, and promoting internet safety.¹ The act is expansive and includes such provisions as increased penalties for sex offenses against children,² mandatory minimum prison terms for those convicted of violent crimes against children,³ mandatory record keeping requirements for the production of pornography,⁴ grants for sex offender monitoring programs,⁵ and so forth, but for the purposes of this paper, discussion will be limited to specific sections of the Sex Offender Registration and Notification Act section of the Act.

Sex Offender Registration and Notification Act

As a part of the Act, Congress established a comprehensive national registration system to protect members of the public from sex offenders and offenders against children.⁶ The Act expands the definition and includes sex offense to mean criminal offenses that involve sexual acts or contact with someone, or that are against a minor, and conspiracy to commit such offenses.⁷ Specific to child predators, the act expands the definition of “specified offense against

¹ Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, 120 Stat. 587, 587 (2006).

² *Id.* at 613.

³ *Id.* at 612-613.

⁴ *Id.* at 626-627.

⁵ *Id.* at 634.

⁶ *Id.* at 590.

⁷ *Id.* at 592.

a minor” to include kidnapping (parents and guardians do not count), false imprisonment (parents and guardians do not count), solicitation to engage in sexual conduct, sexual performance, solicitation to practice prostitution, video voyeurism, possession of child pornography, production of child pornography, distribution of child pornography, criminal sexual conduct involving a minor, the use of the internet to attempt criminal sexual conduct involving a minor, and any conduct that is a sex offense against a minor.⁸

Under the Act, sex offenders are divided into three categories or “tiers.” A “tier III sex offender” is one who has committed a crime or conspired to commit a crime that is punishable by more than one year of imprisonment and is comparable or more severe than (1) aggravated sexual abuse, (2) sexual abuse, or (3) abusive sexual contact against a minor under age thirteen.⁹ To qualify as a tier III sex offender, the crime also had to involve kidnapping of a minor (unless they were the minor’s parent or guardian) or if the offender had already been a tier II sex offender.¹⁰ A “tier II sex offender” is someone who has committed a crime or conspired to commit a crime that is punishable by more than one year of imprisonment and is comparable or more severe than (1) sex trafficking, (2) coercion or enticement, (3) transportation with the intent to engage in criminal sexual activity, or (4) abusive sexual contact.¹¹ To classify as a tier II sex offender, the crime must also involve (1) a minor being used in a sexual performance, or (2) the solicitation of a minor to practice prostitution, or (3) production or distribution of child pornography, or (4) the offender was already a tier I sex offender.¹² A “tier I sex offender” is a sex offender who is not a tier II or tier III sex offender.¹³

⁸ *Id.*

⁹ *Id.* at 591.

¹⁰ *Id.* at 592.

¹¹ *Id.* at 591.

¹² *Id.*

¹³ *Id.*

The Act requires that every state has to maintain a registry that conforms to the requirements listed.¹⁴ Sex offenders have to register in every jurisdiction they reside in, every jurisdiction they work in, and if they are a student, the jurisdiction where they go to school.¹⁵ The information in the registry has to be kept current there are criminal penalties for nonregistration. If a sex offender does not register, he or she will be fined and/or imprisoned for up to ten years.¹⁶ If the person in question commits a crime of violence while in noncompliance with the registration requirement, he or she will be sentenced to an additional five to thirty years of imprisonment, the length of which depends on the nature of the crimes committed presently and their offense in the past and whether they attempted to register.¹⁷

Public Access

What is perhaps most interesting about this Act is that the information in made to be easily accessible to the public. Each jurisdiction is required to have the information made available on the internet, complete with search options by zip code or geographic radius.¹⁸ While the identity of the victim, social security number, and information regarding arrests that did not result in convictions are left off, the state can include all other information in the registry.¹⁹ In addition, the act requires the Federal Bureau of Investigations to have a National Sex Offender Registry and the Attorney General's Office will maintain the Dru Sjodin National Sex Offender Public Website (<http://www.nsopr.gov>) which also has a search function by zip code or geographical radius.²⁰

¹⁴ *Id.* at 593.

¹⁵ *Id.*

¹⁶ *Id.* at 602.

¹⁷ *Id.* at 602-603.

¹⁸ *Id.* at 596.

¹⁹ *Id.*

²⁰ *Id.* 595-597.