

APPENDIX E:

United States: 42 U.S.C. § 13032 (Reporting of child pornography by electronic communications service providers)

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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 132--VICTIMS OF CHILD ABUSE

SUBCHAPTER IV--REPORTING REQUIREMENTS

Sec. 13032. Reporting of child pornography by electronic
communication service providers

(a) Definitions

In this section--

- (1) the term ``electronic communication service'' has the meaning given the term in section 2510 of title 18; and
- (2) the term ``remote computing service'' has the meaning given the term in section 2711 of title 18.

(b) Requirements

(1) Duty to report

Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to a law enforcement agency or agencies designated by the Attorney General.

(2) Designation of agencies

Not later than 180 days after October 30, 1998, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be forwarded under paragraph (1).

(3) Failure to report

A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined--

- (A) in the case of an initial failure to make a report, not more than \$50,000; and
- (B) in the case of any second or subsequent failure to make a report, not more than \$100,000.

(c) Civil liability

No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account

of any action taken in good faith to comply with this section.

(d) Limitation of information or material required in report

A report under subsection (b)(1) of this section may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

(e) Monitoring not required

Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

(f) Conditions of disclosure of information contained within report

(1) In general

No law enforcement agency that receives a report under subsection (b)(1) of this section shall disclose any information contained in that report, except that disclosure of such information may be made--

(A) to an attorney for the government for use in the performance of the official duties of the attorney;

(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

(2) Definitions

In this subsection, the terms ``attorney for the government'' and ``State'' have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.

(Pub. L. 101-647, title II, Sec. 227, as added Pub. L. 105-314, title VI, Sec. 604(a), Oct. 30, 1998, 112 Stat. 2983; amended Pub. L. 106-113, div. B, Sec. 1000(a)(1) [title I, Sec. 121], Nov. 29, 1999, 113 Stat. 1535, 1501A-23.)

References in Text

Rule 54 of the Federal Rules of Criminal Procedure, referred to in subsec. (f)(2), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Amendments

1999--Subsec. (b)(1). Pub. L. 106-113, Sec. 1000(a)(1) [title I, Sec. 121(a)], inserted ``to the Cyber Tip Line at the National Center

for Missing and Exploited Children, which shall forward that report''
after ``such facts or circumstances''.

Subsec. (b) (2). Pub. L. 106-113, Sec. 1000(a) (1) [title I,
Sec. 121(b)], substituted ``forwarded'' for ``made''.

Section Referred to in Other Sections

This section is referred to in title 18 section 2702.