

Senator Orrin G. Hatch
Statement for the Record
S. 2152, the *Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018*
December 3, 2018

Mr./Mme. President, I am pleased Congress recently passed my bipartisan bill, the *Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018*. This legislation will help provide meaningful assistance for child pornography victims to support their recovery and allow them to reclaim their lives. This is a momentous day and many years in the making. I have introduced similar versions of this bill in the last three Congresses, and I look forward to the President signing it into law.

Nearly 25 years ago, Congress enacted the *Violence Against Women Act*, which created a process for victims to seek restitution from defendants. For crimes that involve individual defendants who cause specific harm to particular victims, the restitution statute works in a straightforward way.

But child pornography is unlike any other crime. The abuse involved in creating these images profoundly alters the lives of victims, while trafficking in the permanent record of that abuse perpetuates and expands the harm. As the Supreme Court noted in its 2014 opinion in *Paroline v. United States*: “Every viewing of child pornography is a repetition of the victim’s abuse.” And unfortunately, the Internet has radically changed the nature of child pornography trafficking by drastically increasing the number of individuals who harm victims while simultaneously making it more difficult to identify the individuals from whom victims can seek restitution.

In its decision in *Paroline*, the Supreme Court made clear that the current restitution statute cannot provide meaningful compensation for most child pornography victims. The *Amy, Vicky, and Andy Act* changes that.

The *Amy, Vicky, and Andy Act* establishes more relevant and useful standards for child pornography victims who seek restitution from defendants, including improved criteria for judges to use when calculating victims’ losses and provisions that ensure victims will receive meaningful restitution. Under this legislation, a victim of trafficking in child pornography may choose to seek restitution from defendants or to receive a one-time payment from the Child Pornography Victims Reserve within the federal Crime Victims Fund. The reserve will be supported by an assessment on all child pornography defendants.

Congress understands the concern of the Supreme Court in *Paroline* that it is difficult to identify a discrete, readily definable incremental loss any one defendant caused any one victim, and so we have determined—after considering a range of options with the specific goal of fully compensating victims of child pornography in a swift and just manner—that it is reasonable, fair, and equitable to fix the minimum restitution amount for trafficking in child pornography at \$3,000.

Congress firmly believes that the amounts in the Act are consistent with the principle in *Hughey v. United States*, 495 U. S. 411 (1990), that restitution should reflect the consequences of the

defendant's own conduct. Congress finds that \$3,000 is the minimum restitution that each individual defendant of trafficking in child pornography crimes should be assessed that comports with a defendant's relative role in the causal process that underlies a victim's general losses. This is fully in accordance with the Supreme Court's decision in *Paroline*. This amount also upholds Congress's longstanding goal of proportionality in sentencing because it reflects the amount of restitution currently being sought and ordered in district courts throughout the country.

Criminals convicted of child pornography crimes—be they crimes of production, distribution, or possession—are part of a group of wrongdoers who collectively cause harm. Indeed, the profound suffering of victims of child pornography crimes is due in part to their knowledge that each day, untold numbers of people across the country and around the world are viewing and distributing images of the victims' sexual abuse. Criminals who commit child pornography crimes cannot escape their responsibility to pay restitution by hiding in a crowd.

Another important provision in the bill gives victims access to the images depicting them, which can be important for victim identification, expert testimony, forensic review, and treatment.

The *Amy, Vicky, and Andy Act* has been endorsed by the National Organization for Victim Assistance, National Association of Attorneys General, National Crime Victims Law Institute, National District Attorneys Association, National Center for Victims of Crime, National Association of VOCA Assistance Administrators, National Crime Victims Bar Association, CHILD USA, RAINN, APSAC in partnership with The New York Foundling, Enough is Enough, Thorn, Academy on Violence and Abuse, DV LEAP, Utah Crime Victims Legal Clinic, Utah Coalition against Sexual Assault, and the Children's Justice Fund. I appreciate all of their support.

Developing and passing this important legislation has truly been a collaborative and years-long effort. There are a number of people I would like to thank who have been vital in this process.

First and foremost, I wish to recognize and thank Amy, Vicky, and Andy, the brave individuals for whom this bill is named. As victims in some of the most widely distributed child pornography series in the world, they represent so many child pornography victims. Amy, Vicky, and Andy strongly support this bill.

Second, I want to thank Amy's lawyer, James Marsh; Vicky's lawyer, Carol Hepburn; Andy's advocates at the Utah Crime Victims Legal Clinic; and Professor Paul Cassell at the University of Utah, who took Amy's case all the way to the Supreme Court. Their assistance with this bill, drawn from their tireless advocacy for victims, has been truly invaluable and much appreciated. Likewise, I must thank the dedicated attorneys at the Department of Justice for their important contributions to this legislation. I would particularly like to thank Alexandra Gelber of the Department of Justice Child Exploitation and Obscenity Section.

Third, I wish to thank the Senators on both sides of the aisle who supported this important legislation, especially the 26 colleagues who co-sponsored this legislation with me. In particular, I wish to thank Ranking Member Feinstein, who joined me in introducing this bill. We have served together for many years, and she has long been a champion for crime victims. I likewise

want to express my gratitude to Chairman Chuck Grassley, who also joined me in introducing the bill and who was crucial to getting this important legislation across the finish line. Throughout our Senate service, I have worked with Chairman Grassley and Ranking Member Feinstein on several bills to protect children, and I thank them for their commitment to ensuring that child victims have the support they need. I must thank members of their staff as well for their outstanding work: Senator Feinstein's Counsel, Nicholas Xenakis, her former Chief Counsel for Crime, Peter Hyun, and her former detailee, Sunjeet Randhawa; and Senator Grassley's Chief Constitution Counsel and Crime Counsel, Aaron Cummings, and his Chief Counsel for Justice Programs, Juvenile Justice and Violence Against Women, Evelyn Fortier.

Fourth, I wish to recognize some colleagues in the House of Representatives. I would like to thank Congressman Trey Gowdy, the House sponsor of the bill. He has been a tireless advocate for child pornography victims, and I appreciate his dedicated service. Anna Bartlett in his office was a terrific help. Congressman Matt Cartwright, who represents Amy in the House, has been a champion on this issue and has introduced similar legislation in the last three Congresses.

I would also like to recognize House Judiciary Committee Chairman Bob Goodlatte. I have been fortunate to work with him on several initiatives throughout the years that were enacted into law—most recently the *Orrin G. Hatch-Bob Goodlatte Music Modernization Act*. I was pleased to collaborate with him again on the *Amy, Vicky, and Andy Act*. I would like to thank his Chief of Staff, Shelley Husband, and his Deputy Chief of Staff and Chief Counsel, Branden Ritchie, for their excellent job in shepherding this bill through the House. I also need to thank staff on the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations for their great work—Chief Counsel Robert Parmiter and former Counsel Chris Grieco. I would like to give a special shout-out to Crime Subcommittee Counsel Margaret Barr, who was an outstanding partner in this effort. They all deserve tremendous credit for this victory.

I would be remiss if I did not thank staff in the cloakroom and Senate Legislative Counsel for their assistance. Our work in the Senate would not be possible without their dedicated service.

Lastly, I would like to thank those on my staff who assisted me with this bill. Firstly, I would like to thank my former Chief Counsel and Senior Nominations Counsel, Thomas Jipping, who spearheaded this effort while he was a member of my staff. Next, I need to recognize Matt Sandgren, my Chief of Staff. His tenacity and expertise was invaluable in getting this legislation passed. I'm also grateful to my Legislative Director, Matt Jensen, for his dedicated work on this bill through each step of the legislative process. Finally, I would like to thank Kristin McLintock, my Senior Legislative Aide, who worked diligently with House staff and stakeholders over the last several months to refine this bill and get it across the finish line. They all deserve immense credit for their work to get this bill enacted into law.

Mr./Mme. President, child pornography is a truly evil crime that has lasting impacts on its victims. The *Amy, Vicky, and Andy Child Pornography Victim Assistance Act* will help provide victims the assistance they need to put their lives back together. I am honored and extremely pleased this legislation will soon be signed into law.