

FOR IMMEDIATE RELEASE

April 7, 2003

BUSINESS CIVIL LIBERTIES, INC. OPPOSES DOWNWARD DEPARTURES IN FEDERAL SENTENCING

The Business Civil Liberties, Inc. (BCL) expressed its strong opposition today against a proposed amendment to the Amber Alert measure offered by Congressman Tom Feeney of Florida that would restrict the ability of federal judges to depart downward from sentencing guidelines when imposing sentences for *all* federal criminal offenses, not those just for those convicted of child sexual offenses. BCL is concerned that the overbroad language of the Feeney Amendment could result in sending more honest businessmen to prison for regulatory infractions, such as environmental paperwork violations that do not even involve discharges of pollutants, and also set a dangerous precedent for further restrictions in the way that federal judges mete out sentences.

Under current federal sentencing procedures, a convicted defendant receives a sentence based upon an appropriate U.S. Sentencing Guideline that provide federal judges with a short range of possible sentences that may be imposed, whether the sentence be incarceration, probation, home detention, halfway house detention, fines, or a combination of all five. Over the years, complaints have been raised by the business community that federal judges can no longer exercise their judgment in determining what would be the best sentence to impose in a particular case, and many honest businessmen found themselves the target of overzealous bureaucrats at the EPA.

In order to "depart downward" from these sentencing guidelines, federal judges must make special findings to justify their departure, essentially declaring that the U.S. Sentencing Commission did not consider the particular circumstance when promulgating the guideline. The amendment proposed by Congressmen Feeney would make this difficult process even worse, and require federal judges to notify Congress if they do give such departures.

"The Amber Alert itself is a great proposal designed to protect our children, our families, and our community, said Daniel J. Popeo, Chairman and General Counsel of BCL. "However, as is typical with popular legislative proposals, amendments have been offered to advance other agendas than the safety of children, and it's about time that it stopped."

Markup for the Amber Alert legislation is scheduled for this Tuesday, April 8, 2003.

Business Civil Liberties, Inc. is a 501(c)(4) organization affiliated with the Washington Legal Foundation. Please direct inquiries to Daniel J. Popeo, Chairman, 202-588-0302.