

103^D CONGRESS
1ST SESSION

H. R. 2217

To control and prevent crime.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1993

Mr. GEKAS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To control and prevent crime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Violent Crimes Control Act of 1993”.

6 (b) TABLE OF CONTENTS.—The following is the table
7 of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.

Sec. 102. Death penalty procedures.

Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.

Sec. 104. Conforming amendment relating to espionage.

Sec. 105. Conforming amendment relating to transporting explosives.

- Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
- Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
- Sec. 108. Conforming amendment relating to murder.
- Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
- Sec. 110. Murder by Federal prisoner.
- Sec. 111. Conforming amendment relating to kidnapping.
- Sec. 112. Conforming amendment relating to hostage taking.
- Sec. 113. Conforming amendment relating to mailability of injurious articles.
- Sec. 114. Conforming amendment relating to presidential assassination.
- Sec. 115. Conforming amendment relating to murder for hire.
- Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
- Sec. 117. Conforming amendment relating to wrecking trains.
- Sec. 118. Conforming amendment relating to bank robbery.
- Sec. 119. Conforming amendment relating to terrorist acts.
- Sec. 120. Conforming amendment relating to aircraft hijacking.
- Sec. 121. Conforming amendment to Controlled Substances Act.
- Sec. 122. Conforming amendment relating to genocide.
- Sec. 123. Protection of court officers and jurors.
- Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
- Sec. 125. Death penalty for murder of Federal law enforcement officers.
- Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
- Sec. 127. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
- Sec. 128. Amendment to Federal Aviation Act.
- Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
- Sec. 130. Torture.
- Sec. 131. Weapons of mass destruction.
- Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
- Sec. 133. Death penalty for civil rights murders.
- Sec. 134. Death penalty for murder of Federal witnesses.
- Sec. 135. Drive-by shootings.
- Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
- Sec. 137. Death penalty for rape and child molestation murders.
- Sec. 138. Protection of jurors and witnesses in capital cases.
- Sec. 139. Inapplicability to uniform code of military justice.
- Sec. 140. Death penalty for causing death in the sexual exploitation of children.
- Sec. 141. Murder by escaped prisoners.
- Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

- Sec. 201. Short title.
- Sec. 202. Period of limitation.
- Sec. 203. Appeal.
- Sec. 204. Amendment of Federal rules of appellate procedure.
- Sec. 205. Section 2254 amendments.

Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for Subtitle B.

Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS AND RELATED AMENDMENTS

Sec. 401. Increased mandatory minimum sentences for criminals using firearms.

Sec. 402. Increased penalty for second offense of using an explosive to commit a felony.

Sec. 403. Smuggling firearms in aid of drug trafficking.

Sec. 404. Prohibition against theft of firearms or explosives.

Sec. 405. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.

Sec. 406. Summary destruction of explosives subject to forfeiture.

Sec. 407. Elimination of outmoded language relating to parole.

Sec. 408. Enhanced penalties for use of a firearm in the commission of counterfeiting or forgery.

Sec. 409. Mandatory penalties for firearms possession by violent felons and serious drug offenders.

Sec. 410. Receipt of firearms by nonresident.

Sec. 411. Prohibition against conspiracy to violate Federal firearms or explosives laws.

Sec. 412. Prohibition against theft of firearms or explosives from licensee.

Sec. 413. Prohibition against disposing of explosives to prohibited persons.

Sec. 414. Increased penalty for interstate gun trafficking.

Sec. 415. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.

Sec. 416. Possession of explosives by felons and others.

Sec. 417. Possession of an explosive during the commission of a felony.

Sec. 418. Disposition of forfeited firearms.

Sec. 419. Definition of serious drug offense.

Sec. 420. Definition of burglary under the armed career criminal statute.

TITLE V—TERRORISM AND INTERNATIONAL MATTERS

Sec. 501. Terrorism civil remedy.

Sec. 502. Providing material support to terrorists.

Sec. 503. Forfeiture of assets used to support terrorists.

Sec. 504. Alien witness cooperation.

Sec. 505. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.

Sec. 506. Assimilated crimes in extended territorial sea.

Sec. 507. Jurisdiction over crimes against United States nationals on certain foreign ships.

Sec. 508. Penalties for international terrorist acts.

- Sec. 509. Authorization of appropriations.
- Sec. 510. Enhanced penalties for certain offenses.
- Sec. 511. Sentencing guidelines increase for terrorist crimes.
- Sec. 512. Extension of the statute of limitations for certain terrorism offenses.
- Sec. 513. International parental kidnapping.
- Sec. 514. State court programs regarding interstate and international parental child abduction.
- Sec. 515. Foreign murder of United States nationals.
- Sec. 516. Extradition.
- Sec. 517. Gambling devices on United States ships.
- Sec. 518. FBI access to telephone subscriber information.

TITLE VI—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS’ RIGHTS

Subtitle A—Sexual Violence and Child Abuse

- Sec. 601. Definition of sexual act for victims below 16 years of age.
- Sec. 602. Increased penalties for recidivist sex offenders.
- Sec. 603. Restitution for victims of sex offenses.
- Sec. 604. HIV testing and penalty enhancement in sexual abuse cases.
- Sec. 605. Payment of cost of HIV testing for victim.

Subtitle B—Victims’ Rights

- Sec. 611. Restitution amendments.
- Sec. 612. Victim’s right of allocution in sentencing.
- Sec. 613. Right of the victim to an impartial jury.
- Sec. 614. Mandatory restitution and other provisions.

Subtitle C—Crime Victims Fund

- Sec. 621. Crime victims fund.
- Sec. 622. Percentage change in crime victim compensation formula.
- Sec. 623. Administrative costs for crime victim compensation.
- Sec. 624. Relationship of crime victim compensation to certain Federal programs.
- Sec. 625. Use of unspent section 1403 money.
- Sec. 626. Underserved victims.
- Sec. 627. Grants for demonstration projects.
- Sec. 628. Administrative costs for crime victim assistance.
- Sec. 629. Change of due date for required report.
- Sec. 630. Maintenance of effort.
- Sec. 631. Delayed effective date for certain provisions.

Subtitle D—National Child Protection Act

- Sec. 641. Short title.
- Sec. 642. Findings and purposes.
- Sec. 643. Definitions.
- Sec. 644. Reporting by the States.
- Sec. 645. Background checks.
- Sec. 646. Funding for improvement of child abuse crime information.

Subtitle E—Jacob Wetterling Crimes Against Children Registration Act

- Sec. 651. Short title.
- Sec. 652. Establishment of program.

Sec. 653. State compliance.

Subtitle F—Domestic Violence

Sec. 661. Domestic violence grants.

Sec. 662. Report on battered women’s syndrome.

Subtitle G—Other Provisions

Sec. 671. Inducement of minor to commit an offense.

Sec. 672. Disclosure of records of arrests by campus police.

Sec. 673. National baseline study on campus sexual assault.

Sec. 674. Sense of Congress concerning child custody and visitation rights.

TITLE VII—EQUAL JUSTICE ACT

Sec. 701. Short title.

Sec. 702. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.

Sec. 703. General safeguards against racial prejudice or bias in the tribunal.

Sec. 704. Federal capital cases.

Sec. 705. Extension of protection of civil rights statutes.

TITLE VIII—PUBLIC CORRUPTION

Sec. 801. Short title.

Sec. 802. Public corruption.

Sec. 803. Interstate commerce.

Sec. 804. Narcotics-related public corruption.

TITLE IX—FEDERAL PRISONS

Sec. 901. Authorization of appropriations for new prison construction.

TITLE X—VIOLENT CRIME

Sec. 1001. Short title.

Sec. 1002. Title 18 amendment.

TITLE XI—INTERNATIONAL PARENTAL KIDNAPPING

Sec. 1101. Short title.

Sec. 1102. Title 18 amendment.

Sec. 1103. State court programs regarding international parental child abduction.

1 TITLE I—DEATH PENALTY

2 SEC. 101. SHORT TITLE.

3 This title may be cited as the “Federal Death Penalty

4 Act of 1993”.

1 **SEC. 102. DEATH PENALTY PROCEDURES.**

2 (a) ADDITION OF CHAPTER TO TITLE 18, UNITED
3 STATES CODE.—Title 18, United States Code, is amended
4 by inserting after chapter 227 the following new chapter:

5 **“CHAPTER 228—DEATH PENALTY**
6 **PROCEDURES**

“Sec.

“3591. Sentence of death.

“3592. Factors to be considered in determining whether a sentence of death is
justified.

“3593. Special hearing to determine whether a sentence of death is justified.

“3594. Imposition of a sentence of death.

“3595. Review of a sentence of death.

“3596. Implementation of a sentence of death.

“3597. Use of State facilities.

“3598. Appointment of counsel.

“3599. Collateral attack on judgment imposing sentence of death.

“3600. Application in Indian country.

7 **“§ 3591. Sentence of death**

8 “A defendant who has been found guilty of—

9 “(1) an offense described in section 794 or sec-
10 tion 2381;

11 “(2) an offense described in section 1751(c) if
12 the offense, as determined beyond a reasonable
13 doubt at a hearing under section 3593, constitutes
14 an attempt to murder the President of the United
15 States and results in bodily injury to the President
16 or comes dangerously close to causing the death of
17 the President;

18 “(3) an offense referred to in section 408(c)(1)
19 of the Controlled Substances Act (21 U.S.C.
20 848(c)(1)), committed as part of a continuing crimi-

1 nal enterprise offense under the conditions described
2 in subsection (b) of that section which involved not
3 less than twice the quantity of controlled substance
4 described in subsection (b)(2)(A) or twice the gross
5 receipts described in subsection (b)(2)(B);

6 “(4) an offense referred to in section 408(c)(1)
7 of the Controlled Substances Act (21 U.S.C.
8 848(c)(1)), committed as part of a continuing crimi-
9 nal enterprise offense under that section, where the
10 defendant is a principal administrator, organizer, or
11 leader of such an enterprise, and the defendant, in
12 order to obstruct the investigation or prosecution of
13 the enterprise or an offense involved in the enter-
14 prise, attempts to kill or knowingly directs, advises,
15 authorizes, or assists another to attempt to kill any
16 public officer, juror, witness, or members of the fam-
17 ily or household of such a person;

18 “(5) an offense constituting a felony violation of
19 the Controlled Substances Act (21 U.S.C. 801 et
20 seq.), the Controlled Substances Import and Export
21 Act (21 U.S.C. 951 et seq.), or the Maritime Drug
22 Law Enforcement Act (46 U.S.C. App. 1901 et
23 seq.), where the defendant, intending to cause death
24 or acting with reckless disregard for human life, en-
25 gages in such a violation, and the death of another

1 person results in the course of the violation or from
2 the use of the controlled substance involved in the
3 violation; or

4 “(6) any other offense for which a sentence of
5 death is provided if the defendant, as determined be-
6 yond a reasonable doubt at a hearing under section
7 3593, caused the death of a person intentionally,
8 knowingly, or through recklessness manifesting ex-
9 treme indifference to human life, or caused the
10 death of a person through the intentional infliction
11 of serious bodily injury,

12 shall be sentenced to death if, after consideration of the
13 factors set forth in section 3592 in the course of a hearing
14 held pursuant to section 3593, it is determined that impo-
15 sition of a sentence of death is justified, except that no
16 person may be sentenced to death who was less than 18
17 years of age at the time of the offense or who is mentally
18 retarded.

19 **“§ 3592. Factors to be considered in determining**
20 **whether a sentence of death is justified**

21 “(a) MITIGATING FACTORS.—In determining wheth-
22 er a sentence of death is justified for any offense, the jury,
23 or if there is no jury, the court, shall consider each of
24 the following mitigating factors and determine which, if
25 any, exist:

1 “(1) MENTAL CAPACITY.—The defendant’s
2 mental capacity to appreciate the wrongfulness of
3 his conduct or to conform his conduct to the require-
4 ments of law was significantly impaired, regardless
5 of whether the capacity was so impaired as to con-
6 stitute a defense to the charge.

7 “(2) DURESS.—The defendant was under un-
8 usual and substantial duress, regardless of whether
9 the duress was of such a degree as to constitute a
10 defense to the charge.

11 “(3) PARTICIPATION IN OFFENSE MINOR.—The
12 defendant’s participation in the offense, which was
13 committed by another, was relatively minor, regard-
14 less of whether the participation was so minor as to
15 constitute a defense to the charge.

16 “(4) NO SIGNIFICANT CRIMINAL HISTORY.—
17 The defendant did not have a significant history of
18 other criminal conduct.

19 “(5) DISTURBANCE.—The defendant committed
20 the offense under severe mental or emotional dis-
21 turbance.

22 “(6) VICTIM’S CONSENT.—The victim consented
23 to the criminal conduct that resulted in the victim’s
24 death.

1 The jury, or if there is no jury, the court, shall consider
2 whether any other aspect of the defendant's background,
3 character or record or any other circumstance of the of-
4 fense that the defendant may proffer as a mitigating fac-
5 tor exists.

6 “(b) AGGRAVATING FACTORS FOR ESPIONAGE AND
7 TREASON.—In determining whether a sentence of death
8 is justified for an offense described in section 3591(1), the
9 jury, or if there is no jury, the court, shall consider each
10 of the following aggravating factors and determine which,
11 if any, exist:

12 “(1) PREVIOUS ESPIONAGE OR TREASON CON-
13 VICTION.—The defendant has previously been con-
14 victed of another offense involving espionage or trea-
15 son for which a sentence of life imprisonment or
16 death was authorized by statute.

17 “(2) RISK OF SUBSTANTIAL DANGER TO NA-
18 TIONAL SECURITY.—In the commission of the of-
19 fense the defendant knowingly created a grave risk
20 to the national security.

21 “(3) RISK OF DEATH TO ANOTHER.—In the
22 commission of the offense the defendant knowingly
23 created a grave risk of death to another person.

24 The jury, or if there is no jury, the court, may consider
25 whether any other aggravating factor exists.

1 “(c) AGGRAVATING FACTORS FOR HOMICIDE AND
2 FOR ATTEMPTED MURDER OF THE PRESIDENT.—In de-
3 termining whether a sentence of death is justified for an
4 offense described in section 3591 (2) or (6), the jury, or
5 if there is no jury, the court, shall consider each of the
6 following aggravating factors and determine which, if any,
7 exist:

8 “(1) CONDUCT OCCURRED DURING COMMISSION
9 OF SPECIFIED CRIMES.—The conduct resulting in
10 death occurred during the commission or attempted
11 commission of, or during the immediate flight from
12 the commission of, an offense under section 32 (de-
13 struction of aircraft or aircraft facilities), section 33
14 (destruction of motor vehicles or motor vehicle facili-
15 ties), section 36 (violence at international airports),
16 section 351 (violence against Members of Congress,
17 Cabinet officers, or Supreme Court Justices), section
18 751 (prisoners in custody of institution or officer),
19 section 794 (gathering or delivering defense informa-
20 tion to aid foreign government), section 844(d)
21 (transportation of explosives in interstate commerce
22 for certain purposes), section 844(f) (destruction of
23 Government property by explosives), section 844(i)
24 (destruction of property affecting interstate com-
25 merce by explosives), section 1116 (killing or at-

1 tempted killing of diplomats), section 1118 (pris-
2 oners serving life term), section 1201 (kidnapping),
3 section 1203 (hostage taking), section 1751 (violence
4 against the President or Presidential staff), section
5 1992 (wrecking trains), section 2280 (maritime vio-
6 lence), section 2281 (maritime platform violence),
7 section 2332 (terrorist acts abroad against United
8 States nationals), section 2339A (use of weapons of
9 mass destruction), or section 2381 (treason) of this
10 title, section 1826 of title 28 (persons in custody as
11 recalcitrant witnesses or hospitalized following insan-
12 ity acquittal), or section 902 (i) or (n) of the Fed-
13 eral Aviation Act of 1958 (49 U.S.C. App. 1472 (i)
14 or (n) (aircraft piracy)).

15 “(2) INVOLVEMENT OF FIREARM OR PREVIOUS
16 CONVICTION OF VIOLENT FELONY INVOLVING FIRE-
17 ARM.—The defendant—

18 “(A) during and in relation to the commis-
19 sion of the offense or in escaping or attempting
20 to escape apprehension used or possessed a fire-
21 arm (as defined in section 921); or

22 “(B) has previously been convicted of a
23 Federal or State offense punishable by a term
24 of imprisonment of more than 1 year, involving
25 the use of attempted or threatened use of a

1 firearm (as defined in section 921), against an-
2 other person.

3 “(3) PREVIOUS CONVICTION OF OFFENSE FOR
4 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
5 MENT WAS AUTHORIZED.—The defendant has pre-
6 viously been convicted of another Federal or State
7 offense resulting in the death of a person, for which
8 a sentence of life imprisonment or death was author-
9 ized by statute.

10 “(4) PREVIOUS CONVICTION OF OTHER SERI-
11 OUS OFFENSES.—The defendant has previously been
12 convicted of 2 or more Federal or State offenses,
13 each punishable by a term of imprisonment of more
14 than 1 year, committed on different occasions, in-
15 volving the importation, manufacture, or distribution
16 of a controlled substance (as defined in section 102
17 of the Controlled Substances Act (21 U.S.C. 802))
18 or the infliction of, or attempted infliction of, serious
19 bodily injury or death upon another person.

20 “(5) GRAVE RISK OF DEATH TO ADDITIONAL
21 PERSONS.—The defendant, in the commission of the
22 offense or in escaping or attempting to escape ap-
23 prehension, knowingly created a grave risk of death
24 to one or more persons in addition to the victim of
25 the offense.

1 “(6) HEINOUS, CRUEL OR DEPRAVED MANNER
2 OF COMMISSION.—The defendant committed the of-
3 fense in an especially heinous, cruel, or depraved
4 manner in that it involved torture or serious physical
5 abuse to the victim.

6 “(7) PROCUREMENT OF OFFENSE BY PAY-
7 MENT.—The defendant procured the commission of
8 the offense by payment, or promise of payment, of
9 anything of pecuniary value.

10 “(8) COMMISSION OF THE OFFENSE FOR PECU-
11 NIARY GAIN.—The defendant committed the offense
12 as consideration for the receipt, or in the expectation
13 of the receipt, of anything of pecuniary value.

14 “(9) SUBSTANTIAL PLANNING AND
15 PREMEDITATION.—The defendant committed the of-
16 fense after substantial planning and premeditation.

17 “(10) VULNERABILITY OF VICTIM.—The victim
18 was particularly vulnerable due to old age, youth, or
19 infirmity.

20 “(11) TYPE OF VICTIM.—The defendant com-
21 mitted the offense against—

22 “(A) the President of the United States,
23 the President-elect, the Vice President, the Vice
24 President-elect, the Vice President-designate,
25 or, if there was no Vice President, the officer

1 next in order of succession to the office of the
2 President of the United States, or any person
3 acting as President under the Constitution and
4 laws of the United States;

5 “(B) a chief of state, head of government,
6 or the political equivalent, of a foreign nation;

7 “(C) a foreign official listed in section
8 1116(b)(3)(A), if that official was in the United
9 States on official business; or

10 “(D) a Federal public servant who was
11 outside of the United States or who was a Fed-
12 eral judge, a Federal law enforcement officer,
13 an employee (including a volunteer or contract
14 employee) of a Federal prison, or an official of
15 the Federal Bureau of Prisons—

16 “(i) while such public servant was en-
17 gaged in the performance of his official du-
18 ties;

19 “(ii) because of the performance of
20 such public servant’s official duties; or

21 “(iii) because of such public servant’s
22 status as a public servant.

23 For purposes of this paragraph, the terms ‘Presi-
24 dent-elect’ and ‘Vice President-elect’ mean such per-
25 sons as are the apparent successful candidates for

1 the offices of President and Vice President, respec-
2 tively, as ascertained from the results of the general
3 elections held to determine the electors of President
4 and Vice President in accordance with sections 1
5 and 2 of title 3; a ‘Federal law enforcement officer’
6 is a public servant authorized by law or by a Gov-
7 ernment agency or Congress to conduct or engage in
8 the prevention, investigation, or prosecution of an
9 offense; ‘Federal prison’ means a Federal correc-
10 tional, detention, or penal facility, Federal commu-
11 nity treatment center, or Federal halfway house, or
12 any such prison operated under contract with the
13 Federal Government; and ‘Federal judge’ means any
14 judicial officer of the United States, and includes a
15 justice of the Supreme Court and a United States
16 magistrate judge.

17 The jury, or if there is no jury, the court, may consider
18 whether any other aggravating factor exists.

19 “(d) AGGRAVATING FACTORS FOR DRUG OFFENSE
20 DEATH PENALTY.—In determining whether a sentence of
21 death is justified for an offense described in section 3591
22 (3), (4), or (5), the jury, or if there is no jury, the court,
23 shall consider each of the following aggravating factors
24 and determine which, if any, exist:

1 “(1) PREVIOUS CONVICTION OF OFFENSE FOR
2 WHICH A SENTENCE OF DEATH OR LIFE IMPRISON-
3 MENT WAS AUTHORIZED.—The defendant has pre-
4 viously been convicted of another Federal or State
5 offense resulting in the death of a person, for which
6 a sentence of life imprisonment or death was author-
7 ized by statute.

8 “(2) PREVIOUS CONVICTION OF OTHER SERI-
9 OUS OFFENSES.—The defendant has previously been
10 convicted of two or more Federal or State offenses,
11 each punishable by a term of imprisonment of more
12 than one year, committed on different occasions, in-
13 volving the importation, manufacture, or distribution
14 of a controlled substance (as defined in section 102
15 of the Controlled Substances Act (21 U.S.C. 802))
16 or the infliction of, or attempted infliction of, serious
17 bodily injury or death upon another person.

18 “(3) PREVIOUS SERIOUS DRUG FELONY CONVICT-
19 TION.—The defendant has previously been convicted
20 of another Federal or State offense involving the
21 manufacture, distribution, importation, or possession
22 of a controlled substances (as defined in section 102
23 of the Controlled Substances Act (21 U.S.C. 802))
24 for which a sentence of five or more years of impris-
25 onment was authorized by statute.

1 “(4) USE OF FIREARM.—In committing the of-
2 fense, or in furtherance of a continuing criminal en-
3 terprise of which the offense was a part, the defend-
4 ant used a firearm or knowingly directed, advised,
5 authorized, or assisted another to use a firearm (as
6 defined in section 921) to threaten, intimidate, as-
7 sault, or injure a person.

8 “(5) DISTRIBUTION TO PERSONS UNDER 21.—
9 The offense, or a continuing criminal enterprise of
10 which the offense was a part, involved conduct pro-
11 scribed by section 418 of the Controlled Substances
12 Act (21 U.S.C. 859) which was committed directly
13 by the defendant or for which the defendant would
14 be liable under section 2 of this title.

15 “(6) DISTRIBUTION NEAR SCHOOLS.—The of-
16 fense, or a continuing criminal enterprise of which
17 the offense was a part, involved conduct proscribed
18 by section 419 of the Controlled Substances Act (21
19 U.S.C. 860) which was committed directly by the de-
20 fendant or for which the defendant would be liable
21 under section 2 of this title.

22 “(7) USING MINORS IN TRAFFICKING.—The of-
23 fense, or a continuing criminal enterprise of which
24 the offense was a part, involved conduct proscribed
25 by section 420 of the Controlled Substances Act (21

1 U.S.C. 861) which was committed directly by the de-
2 fendant or for which the defendant would be liable
3 under section 2 of this title.

4 “(8) LETHAL ADULTERANT.—The offense in-
5 volved the importation, manufacture, or distribution
6 of a controlled substance (as defined in section 102
7 of the Controlled Substances Act (21 U.S.C. 802)),
8 mixed with a potentially lethal adulterant, and the
9 defendant was aware of the presence of the
10 adulterant.

11 The jury, or if there is no jury, the court, may consider
12 whether any other aggravating factor exists.

13 **“§ 3593. Special hearing to determine whether a sen-
14 tence of death is justified**

15 “(a) NOTICE BY THE GOVERNMENT.—Whenever the
16 Government intends to seek the death penalty for an of-
17 fense described in section 3591, the attorney for the Gov-
18 ernment, a reasonable time before the trial, or before ac-
19 ceptance by the court of a plea of guilty, or at such time
20 thereafter as the court may permit upon a showing of good
21 cause, shall sign and file with the court, and serve on the
22 defendant, a notice that the Government in the event of
23 conviction will seek the sentence of death. The notice shall
24 set forth the aggravating factor or factors enumerated in
25 section 3592, and any other aggravating factor not specifi-

1 cally enumerated in section 3592, that the Government,
2 if the defendant is convicted, will seek to prove as the basis
3 for the death penalty. The factors for which notice is pro-
4 vided under this subsection may include factors concerning
5 the effect of the offense on the victim and the victim's
6 family. The court may permit the attorney for the Govern-
7 ment to amend the notice upon a showing of good cause.

8 “(b) HEARING BEFORE A COURT OR JURY.—When
9 the attorney for the Government has filed a notice as re-
10 quired under subsection (a) and the defendant is found
11 guilty of an offense described in section 3591, the judge
12 who presided at the trial or before whom the guilty plea
13 was entered, or another judge if that judge is unavailable,
14 shall conduct a separate sentencing hearing to determine
15 the punishment to be imposed. Prior to such a hearing,
16 no presentence report shall be prepared by the United
17 States Probation Service, notwithstanding the provisions
18 of the Federal Rules of Criminal Procedure. The hearing
19 shall be conducted—

20 “(1) before the jury that determined the de-
21 fendant's guilt;

22 “(2) before a jury impaneled for the purpose of
23 the hearing if—

24 “(A) the defendant was convicted upon a
25 plea of guilty;

1 “(B) the defendant was convicted after a
2 trial before the court sitting without a jury;

3 “(C) the jury that determined the defend-
4 ant’s guilt was discharged for good cause; or

5 “(D) after initial imposition of a sentence
6 under this section, reconsideration of the sen-
7 tence under the section is necessary; or

8 “(3) before the court alone, upon motion of the
9 defendant and with the approval of the attorney for
10 the Government.

11 A jury impaneled pursuant to paragraph (2) shall consist
12 of 12 members, unless, at any time before the conclusion
13 of the hearing, the parties stipulate, with the approval of
14 the court, that it shall consist of a lesser number.

15 “(c) PROOF OF MITIGATING AND AGGRAVATING FAC-
16 TORS.—At the hearing, information may be presented as
17 to—

18 “(1) any matter relating to any mitigating fac-
19 tor listed in section 3592 and any other mitigating
20 factor; and

21 “(2) any matter relating to any aggravating
22 factor listed in section 3592 for which notice has
23 been provided under subsection (a) and (if informa-
24 tion is presented relating to such a listed factor) any

1 other aggravating factor for which notice has been
2 so provided.

3 The information presented may include the trial transcript
4 and exhibits. Any other information relevant to such miti-
5 gating or aggravating factors may be presented by either
6 the Government or the defendant. The information pre-
7 sented by the Government in support of factors concerning
8 the effect of the offense on the victim and the victim's
9 family may include oral testimony, a victim impact state-
10 ment that identifies the victim of the offense and the na-
11 ture and extent of harm and loss suffered by the victim
12 and the victim's family, and other relevant information.
13 Information is admissible regardless of its admissibility
14 under the rules governing admission of evidence at crimi-
15 nal trials, except that information may be excluded if its
16 probative value is outweighed by the danger of creating
17 unfair prejudice, confusing the issues, or misleading the
18 jury. The attorney for the Government and for the defend-
19 ant shall be permitted to rebut any information received
20 at the hearing, and shall be given fair opportunity to
21 present argument as to the adequacy of the information
22 to establish the existence of any aggravating or mitigating
23 factor, and as to the appropriateness in that case of im-
24 posing a sentence of death. The attorney for the Govern-
25 ment shall open the argument. The defendant shall be per-

1 mitted to reply. The Government shall then be permitted
2 to reply in rebuttal. The burden of establishing the exist-
3 ence of an aggravating factor is on the Government, and
4 is not satisfied unless the existence of such a factor is es-
5 tablished beyond a reasonable doubt. The burden of estab-
6 lishing the existence of any mitigating factor is on the de-
7 fendant, and is not satisfied unless the existence of such
8 a factor is established by a preponderance of the evidence.

9 “(d) RETURN OF SPECIAL FINDINGS.—The jury, or
10 if there is no jury, the court, shall consider all the informa-
11 tion received during the hearing. It shall return special
12 findings identifying any aggravating factor or factors set
13 forth in section 3592 found to exist and any other aggra-
14 vating factor for which notice has been provided under
15 subsection (a) found to exist. A finding with respect to
16 a mitigating factor may be made by one or more members
17 of the jury, and any member of the jury who finds the
18 existence of a mitigating factor may consider such factor
19 established for purposes of this section regardless of the
20 number of jurors who concur that the factor has been es-
21 tablished. A finding with respect to any aggravating factor
22 must be unanimous. If no aggravating factor set forth in
23 section 3592 is found to exist, the court shall impose a
24 sentence other than death authorized by law.

1 “(e) RETURN OF A FINDING CONCERNING A SEN-
2 TENCE OF DEATH.—If, in the case of—

3 “(1) an offense described in section 3591(1), an
4 aggravating factor required to be considered under
5 section 3592(b) is found to exist;

6 “(2) an offense described in section 3591 (2) or
7 (6), an aggravating factor required to be considered
8 under section 3592(c) is found to exist; or

9 “(3) an offense described in section 3591 (3),
10 (4), or (5), an aggravating factor required to be con-
11 sidered under section 3592(d) is found to exist,

12 the jury, or if there is no jury, the court, shall then con-
13 sider whether the aggravating factor or factors found to
14 exist under subsection (d) outweigh any mitigating factor
15 or factors. The jury, or if there is no jury, the court shall
16 recommend a sentence of death if it unanimously finds at
17 least one aggravating factor and no mitigating factor or
18 if it finds one or more aggravating factors which outweigh
19 any mitigating factors. In any other case, it shall not rec-
20 ommend a sentence of death. The jury shall be instructed
21 that it must avoid any influence of sympathy, sentiment,
22 passion, prejudice, or other arbitrary factors in its deci-
23 sion, and should make such a recommendation as the in-
24 formation warrants.

1 “(f) SPECIAL PRECAUTION TO ASSURE AGAINST
2 DISCRIMINATION.—In a hearing held before a jury, the
3 court, prior to the return of a finding under subsection
4 (e), shall instruct the jury that, in considering whether
5 a sentence of death is justified, it shall not be influenced
6 by prejudice or bias relating to the race, color, religion,
7 national origin, or sex of the defendant or of any victim
8 and that the jury is not to recommend a sentence of death
9 unless it has concluded that it would recommend a sen-
10 tence of death for the crime in question no matter what
11 the race, color, religion, national origin, or sex of the de-
12 fendant or of any victim may be. The jury, upon return
13 of a finding under subsection (e), shall also return to the
14 court a certificate, signed by each juror, that prejudice or
15 bias relating to the race, color, religion, national origin,
16 or sex of the defendant or any victim was not involved
17 in reaching his or her individual decision and that the indi-
18 vidual juror would have made the same recommendation
19 regarding a sentence for the crime in question no matter
20 what the race, color, religion, national origin, or sex of
21 the defendant or any victim may be.

22 **“§ 3594. Imposition of a sentence of death**

23 “Upon the recommendation under section 3593(e)
24 that a sentence of death be imposed, the court shall sen-
25 tence the defendant to death. Otherwise the court shall

1 impose a sentence, other than death, authorized by law.
2 Notwithstanding any other provision of law, if the maxi-
3 mum term of imprisonment for the offense is life imprison-
4 ment, the court may impose a sentence of life imprison-
5 ment without the possibility of release.

6 **“§ 3595. Review of a sentence of death**

7 “(a) APPEAL.—In a case in which a sentence of death
8 is imposed, the sentence shall be subject to review by the
9 court of appeals upon appeal by the defendant. Notice of
10 appeal of the sentence must be filed within the time speci-
11 fied for the filing of a notice of appeal of the judgment
12 of conviction. An appeal of the sentence under this section
13 may be consolidated with an appeal of the judgment of
14 conviction and shall have priority over all other cases.

15 “(b) REVIEW.—The court of appeals shall review the
16 entire record in the case, including—

17 “(1) the evidence submitted during the trial;

18 “(2) the information submitted during the sen-
19 tencing hearing;

20 “(3) the procedures employed in the sentencing
21 hearing; and

22 “(4) the special findings returned under section
23 3593(d).

24 “(c) DECISION AND DISPOSITION.—

1 “(1) AFFIRMANCE.—If the court of appeals de-
2 termines that—

3 “(A) the sentence of death was not im-
4 posed under the influence of passion, prejudice,
5 or any other arbitrary factor;

6 “(B) the evidence and information support
7 the special findings of the existence of an ag-
8 gravating factor or factors; and

9 “(C) the proceedings did not involve any
10 other prejudicial error requiring reversal of the
11 sentence that was properly preserved for and
12 raised on appeal,

13 it shall affirm the sentence.

14 “(2) REMAND.—In a case in which the sentence
15 is not affirmed under paragraph (1), the court of
16 appeals shall remand the case for reconsideration
17 under section 3593 or for imposition of another au-
18 thorized sentence as appropriate, except that the
19 court shall not reverse a sentence of death on the
20 ground that an aggravating factor was invalid or
21 was not supported by the evidence and information
22 if at least one aggravating factor required to be con-
23 sidered under section 3592 remains which was found
24 to exist and the court, on the basis of the evidence
25 submitted at trial and the information submitted at

1 the sentencing hearing, finds no mitigating factor or
2 finds that the remaining aggravating factor or fac-
3 tors which were found to exist outweigh any mitigat-
4 ing factors.

5 “(3) STATEMENT OF REASONS.—The court of
6 appeals shall state in writing the reasons for its dis-
7 position of an appeal of a sentence of death under
8 this section.

9 **“§ 3596. Implementation of a sentence of death**

10 “(a) IN GENERAL.—A person who has been sen-
11 tenced to death pursuant to this chapter shall be commit-
12 ted to the custody of the Attorney General until exhaus-
13 tion of the procedures for appeal of the judgment of con-
14 viction and for review of the sentence. When the sentence
15 is to be implemented, the Attorney General shall release
16 the person sentenced to death to the custody of a United
17 States Marshal, who shall supervise implementation of the
18 sentence in the manner prescribed by the law of the State
19 in which the sentence is imposed. If the law of such State
20 does not provide for implementation of a sentence of
21 death, the court shall designate another State, the law of
22 which does so provide, and the sentence shall be imple-
23 mented in the manner prescribed by such law.

24 “(b) SPECIAL BARS TO EXECUTION.—A sentence of
25 death shall not be carried out upon a person who lacks

1 the mental capacity to understand the death penalty and
2 why it was imposed on that person, or upon a woman while
3 she is pregnant.

4 “(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—
5 No employee of any State department of corrections, the
6 Federal Bureau of Prisons, or the United States Marshals
7 Service, and no employee providing services to that depart-
8 ment, bureau, or service under contract shall be required,
9 as a condition of that employment or contractual obliga-
10 tion, to be in attendance at or to participate in any execu-
11 tion carried out under this section if such participation
12 is contrary to the moral or religious convictions of the em-
13 ployee. For purposes of this subsection, the term ‘partici-
14 pate in any execution’ includes personal preparation of the
15 condemned individual and the apparatus used for the exe-
16 cution, and supervision of the activities of other personnel
17 in carrying out such activities.

18 **“§ 3597. Use of State facilities**

19 “A United States Marshal charged with supervising
20 the implementation of a sentence of death may use appro-
21 priate State or local facilities for the purpose, may use
22 the services of an appropriate State or local official or of
23 a person such an official employs for the purpose, and
24 shall pay the costs thereof in an amount approved by the
25 Attorney General.

1 **“§ 3598. Appointment of counsel**

2 “(a) REPRESENTATION OF INDIGENT DEFEND-
3 ANTS.—This section shall govern the appointment of coun-
4 sel for any defendant against whom a sentence of death
5 is sought, or on whom a sentence of death has been im-
6 posed, for an offense against the United States, where the
7 defendant is or becomes financially unable to obtain ade-
8 quate representation. Such a defendant shall be entitled
9 to appointment of counsel from the commencement of trial
10 proceedings until one of the conditions specified in section
11 3599(b) has occurred. This section shall not affect the ap-
12 pointment of counsel and the provision of ancillary legal
13 services under section 408(q) (4), (5), (6), (7), (8), (9),
14 and (10) of the Controlled Substances Act (21 U.S.C. 848
15 (q) (4), (5), (6), (7), (8), (9), and (10)).

16 “(b) REPRESENTATION BEFORE FINALITY OF JUDG-
17 MENT.—A defendant within the scope of this section shall
18 have counsel appointed for trial representation as provided
19 in section 3005. At least 1 counsel so appointed shall con-
20 tinue to represent the defendant until the conclusion of
21 direct review of the judgment, unless replaced by the court
22 with other qualified counsel.

23 “(c) REPRESENTATION AFTER FINALITY OF JUDG-
24 MENT.—When a judgment imposing a sentence of death
25 has become final through affirmance by the Supreme
26 Court on direct review, denial of certiorari by the Supreme

1 Court on direct review, or expiration of the time for seek-
2 ing direct review in the court of appeals or the Supreme
3 Court, the Government shall promptly notify the district
4 court that imposed the sentence. Within 10 days after re-
5 ceipt of such notice, the district court shall proceed to
6 make a determination whether the defendant is eligible
7 under this section for appointment of counsel for subse-
8 quent proceedings. On the basis of the determination, the
9 court shall issue an order—

10 “(1) appointing 1 or more counsel to represent
11 the defendant upon a finding that the defendant is
12 financially unable to obtain adequate representation
13 and wishes to have counsel appointed or is unable
14 competently to decide whether to accept or reject ap-
15 pointment of counsel;

16 “(2) finding, after a hearing if necessary, that
17 the defendant rejected appointment of counsel and
18 made the decision with an understanding of its legal
19 consequences; or

20 “(3) denying the appointment of counsel upon
21 a finding that the defendant is financially able to ob-
22 tain adequate representation.

23 Counsel appointed pursuant to this subsection shall be dif-
24 ferent from the counsel who represented the defendant at
25 trial and on direct review unless the defendant and counsel

1 request a continuation or renewal of the earlier represen-
2 tation.

3 “(d) STANDARDS FOR COMPETENCE OF COUNSEL.—

4 In relation to a defendant who is entitled to appointment
5 of counsel under this section, at least 1 counsel appointed
6 for trial representation must have been admitted to the
7 bar for at least 5 years and have at least 3 years of experi-
8 ence in the trial of felony cases in the federal district
9 courts. If new counsel is appointed after judgment, at
10 least 1 counsel so appointed must have been admitted to
11 the bar for at least 5 years and have at least 3 years of
12 experience in the litigation of felony cases in the Federal
13 courts of appeals or the Supreme Court. The court, for
14 good cause, may appoint counsel who does not meet the
15 standards prescribed in the 2 preceding sentences, but
16 whose background, knowledge, or experience would other-
17 wise enable him or her to properly represent the defend-
18 ant, with due consideration of the seriousness of the pen-
19 alty and the nature of the litigation.

20 “(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—

21 Except as otherwise provided in this section, section
22 3006A shall apply to appointments under this section.

23 “(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—

24 The ineffectiveness or incompetence of counsel during pro-
25 ceedings on a motion under section 2255 of title 28 in

1 a capital case shall not be a ground for relief from the
2 judgment or sentence in any proceeding. This limitation
3 shall not preclude the appointment of different counsel at
4 any stage of the proceedings.

5 **“§ 3599. Collateral attack on judgment imposing sen-**
6 **tence of death**

7 “(a) TIME FOR MAKING SECTION 2255 MOTION.—
8 In a case in which a sentence of death has been imposed,
9 and the judgment has become final as described in section
10 3598(c), a motion in the case under section 2255 of title
11 28 shall be filed within 90 days of the issuance of the
12 order relating to appointment of counsel under section
13 3598(c). The court in which the motion is filed, for good
14 cause shown, may extend the time for filing for a period
15 not exceeding 60 days. A motion described in this section
16 shall have priority over all noncapital matters in the dis-
17 trict court, and in the court of appeals on review of the
18 district court’s decision.

19 “(b) STAY OF EXECUTION.—The execution of a sen-
20 tence of death shall be stayed in the course of direct review
21 of the judgment and during the litigation of an initial mo-
22 tion in the case under section 2255 of title 28. The stay
23 shall run continuously following imposition of the sen-
24 tence, and shall expire if—

1 “(1) the defendant fails to file a motion under
2 section 2255 of title 28 within the time specified in
3 subsection (a), or fails to make a timely application
4 for court of appeals review following the denial of
5 such a motion by a district court;

6 “(2) upon completion of district court and court
7 of appeals review under section 2255 of title 28, the
8 motion under that section is denied and—

9 “(A) the time for filing a petition for cer-
10 tiorari has expired and no petition has been
11 filed;

12 “(B) a timely petition for certiorari was
13 filed and the Supreme Court denied the peti-
14 tion; or

15 “(C) a timely petition for certiorari was
16 filed and upon consideration of the case, the
17 Supreme Court disposed of it in a manner that
18 left the capital sentence undisturbed; or

19 “(3) before a district court, in the presence of
20 counsel and after having been advised of the con-
21 sequences of the decision to do so, the defendant
22 waives the right to file a motion under section 2255
23 of title 28.

24 “(c) FINALITY OF DECISION ON REVIEW.—If one of
25 the conditions specified in subsection (b) has occurred, no

1 court thereafter shall have the authority to enter a stay
2 of execution or grant relief in the case unless—

3 “(1) the basis for the stay and request for relief
4 is a claim not presented in earlier proceedings;

5 “(2) the failure to raise the claim was—

6 “(A) the result of governmental action in
7 violation of the Constitution or laws of the
8 United States;

9 “(B) the result of the Supreme Court rec-
10 ognition of a new Federal right that is retro-
11 actively applicable; or

12 “(C) based on a factual predicate that
13 could not have been discovered through the ex-
14 ercise of reasonable diligence in time to present
15 the claim in earlier proceedings; and

16 “(3) the facts underlying the claim would be
17 sufficient, if proven, to undermine the court’s con-
18 fidence in the determination of guilt on the offense
19 or offenses for which the death penalty was imposed.

20 **“§ 3600. Application in Indian country**

21 “Notwithstanding sections 1152 and 1153, no person
22 subject to the criminal jurisdiction of an Indian tribal gov-
23 ernment shall be subject to a capital sentence under this
24 chapter for any offense the Federal jurisdiction for which
25 is predicated solely on Indian country as defined in section

1 1151 and which has occurred within the boundaries of
 2 such Indian country, unless the governing body of the
 3 tribe has made an election that this chapter have effect
 4 over land and persons subject to its criminal jurisdiction.”.

5 (b) TECHNICAL AMENDMENT.—The part analysis for
 6 part II of title 18, United States Code, is amended by
 7 adding after the item relating to chapter 227 the following
 8 new item:

“**228. Death penalty procedures** **3591.**”.

9 **SEC. 103. CONFORMING AMENDMENT RELATING TO DE-**
 10 **STRUCTION OF AIRCRAFT OR AIRCRAFT FA-**
 11 **CILITIES.**

12 Section 34 of title 18, United States Code, is amend-
 13 ed by striking the comma after “life” and all that follows
 14 through “order”.

15 **SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIO-**
 16 **NAGE.**

17 Section 794(a) of title 18, United States Code, is
 18 amended by striking the period at the end and inserting
 19 “, except that the sentence of death shall not be imposed
 20 unless the jury or, if there is no jury, the court, further
 21 finds beyond a reasonable doubt at a hearing under sec-
 22 tion 3593 that the offense directly concerned—

23 “(1) nuclear weaponry, military spacecraft and
 24 satellites, early warning systems, or other means of
 25 defense or retaliation against large-scale attack;

1 “(2) war plans;

2 “(3) communications intelligence or cryp-
3 tographic information;

4 “(4) sources or methods of intelligence or coun-
5 terintelligence operations; or

6 “(5) any other major weapons system or major
7 element of defense strategy.”.

8 **SEC. 105. CONFORMING AMENDMENT RELATING TO TRANS-**
9 **PORTING EXPLOSIVES.**

10 Section 844(d) of title 18, United States Code, is
11 amended by striking “as provided in section 34 of this
12 title”.

13 **SEC. 106. CONFORMING AMENDMENT RELATING TO MALI-**
14 **CIOUS DESTRUCTION OF FEDERAL PROP-**
15 **ERTY BY EXPLOSIVES.**

16 Section 844(f) of title 18, United States Code, is
17 amended by striking “as provided in section 34 of this
18 title”.

19 **SEC. 107. CONFORMING AMENDMENT RELATING TO MALI-**
20 **CIOUS DESTRUCTION OF INTERSTATE PROP-**
21 **ERTY BY EXPLOSIVES.**

22 Section 844(i) of title 18, United States Code, is
23 amended by striking “as provided in section 34 of this
24 title”.

1 **SEC. 108. CONFORMING AMENDMENT RELATING TO MUR-**
2 **DER.**

3 Section 1111(b) of title 18, United States Code, is
4 amended to read as follows:

5 “(b) Within the special maritime and territorial juris-
6 diction of the United States—

7 “(1) whoever is guilty of murder in the first de-
8 gree shall be punished by death or by imprisonment
9 for life; and

10 “(2) whoever is guilty of murder in the second
11 degree shall be imprisoned for any term of years or
12 for life”.

13 **SEC. 109. CONFORMING AMENDMENT RELATING TO KILL-**
14 **ING OFFICIAL GUESTS OR INTERNATIONALLY**
15 **PROTECTED PERSONS.**

16 Section 1116(a) of title 18, United States Code, is
17 amended by striking the comma after “title” and all that
18 follows through “years”.

19 **SEC. 110. MURDER BY FEDERAL PRISONER.**

20 (a) OFFENSE.—Chapter 51 of title 18, United States
21 Code, is amended by adding at the end the following new
22 section:

23 **“§ 1118. Murder by a Federal prisoner**

24 “(a) OFFENSE.—Whoever, while confined in a Fed-
25 eral prison under a sentence for a term of life imprison-

1 ment, murders another shall be punished by death or by
2 life imprisonment without the possibility of release.

3 “(b) DEFINITIONS.—For purposes of this section—

4 “(1) ‘Federal prison’ means any Federal correc-
5 tional, detention, or penal facility, Federal commu-
6 nity treatment center, or Federal halfway house, or
7 any such prison operated under contract with the
8 Federal Government; and

9 “(2) ‘term of life imprisonment’ means a sen-
10 tence for the term of natural life, a sentence com-
11 muted to natural life, an indeterminate term of a
12 minimum of at least 15 years and a maximum of
13 life, or an unexecuted sentence of death.”.

14 (b) TECHNICAL AMENDMENT.—The chapter analysis
15 for chapter 51 of title 18, United States Code, is amended
16 by adding at the end the following new item:

“1118. Murder by a Federal prisoner.”.

17 **SEC. 111. CONFORMING AMENDMENT RELATING TO KID-**
18 **NAPPING.**

19 Section 1201(a) of title 18, United States Code, is
20 amended by striking the period at the end and inserting
21 “and, if the death of any person results, shall be punished
22 by death or life imprisonment”.

1 **SEC. 112. CONFORMING AMENDMENT RELATING TO HOS-**
2 **TAGE TAKING.**

3 Section 1203(a) of title 18, United States Code, is
4 amended by striking the period at the end and inserting
5 “and, if the death of any person results, shall be punished
6 by death or life imprisonment”.

7 **SEC. 113. CONFORMING AMENDMENT RELATING TO MAIL-**
8 **ABILITY OF INJURIOUS ARTICLES.**

9 The last paragraph of section 1716 of title 18, United
10 States Code, is amended by striking the comma after
11 “life” and all that follows through “order”.

12 **SEC. 114. CONFORMING AMENDMENT RELATING TO PRESI-**
13 **DENTIAL ASSASSINATION.**

14 Section 1751(c) of title 18, United States Code, is
15 amended to read as follows:

16 “(c) Whoever attempts to murder or kidnap any indi-
17 vidual designated in subsection (a) shall be punished—

18 “(1) by imprisonment for any term of years or
19 for life; or

20 “(2) if the conduct constitutes an attempt to
21 murder the President of the United States and re-
22 sults in bodily injury to the President or otherwise
23 comes dangerously close to causing the death of the
24 President, by death or imprisonment for any term of
25 years or for life.”.

1 **SEC. 115. CONFORMING AMENDMENT RELATING TO MUR-**
2 **DER FOR HIRE.**

3 Section 1958(a) of title 18, United States Code, is
4 amended by striking “and if death results, shall be subject
5 to imprisonment for any term of years or for life, or shall
6 be fined not more than \$50,000, or both” and inserting
7 “and if death results, shall be punished by death or life
8 imprisonment, or shall be fined in accordance with this
9 title, or both”.

10 **SEC. 116. CONFORMING AMENDMENT RELATING TO VIO-**
11 **LENT CRIMES IN AID OF RACKETEERING AC-**
12 **TIVITY.**

13 Section 1959(a)(1) of title 18, United States Code,
14 is amended to read as follows:

15 “(1) for murder, by death or life imprisonment,
16 or a fine in accordance with this title, or both, and
17 for kidnapping, by imprisonment for any term of
18 years or for life, or a fine in accordance with this
19 title, or both;”.

20 **SEC. 117. CONFORMING AMENDMENT RELATING TO**
21 **WRECKING TRAINS.**

22 The penultimate paragraph of section 1992 of title
23 18, United States Code, is amended by striking the comma
24 after “life” and all that follows through “order”.

1 **SEC. 118. CONFORMING AMENDMENT RELATING TO BANK**
2 **ROBBERY.**

3 Section 2113(e) of title 18, United States Code, is
4 amended by striking “or punished by death if the verdict
5 of the jury shall so direct” and inserting “or if death re-
6 sults shall be punished by death or life imprisonment”.

7 **SEC. 119. CONFORMING AMENDMENT RELATING TO TER-**
8 **RORIST ACTS.**

9 Section 2332(a)(1) of title 18, United States Code,
10 as redesignated by section 601(b)(2), is amended to read
11 as follows:

12 “(1) if the killing is murder as defined in sec-
13 tion 1111(a), be fined under this title, punished by
14 death or imprisonment for any term of years or for
15 life, or both;”.

16 **SEC. 120. CONFORMING AMENDMENT RELATING TO AIR-**
17 **CRAFT HIJACKING.**

18 Section 903 of the Federal Aviation Act of 1958 (49
19 U.S.C. App. 1473) is amended by striking subsection (c).

20 **SEC. 121. CONFORMING AMENDMENT TO CONTROLLED**
21 **SUBSTANCES ACT.**

22 Section 408 of the Controlled Substances Act (21
23 U.S.C. 848) is amended by striking subsections (g), (h),
24 (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3),
25 and (r).

1 **SEC. 122. CONFORMING AMENDMENT RELATING TO GENO-**
2 **CIDE.**

3 Section 1091(b)(1) of title 18, United States Code,
4 is amended by striking “a fine of not more than
5 \$1,000,000 and imprisonment for life” and inserting
6 “death or imprisonment for life and a fine of not more
7 than \$1,000,000”.

8 **SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.**

9 Section 1503 of title 18, United States Code, is
10 amended—

11 (1) by inserting “(a)” before “Whoever”;

12 (2) in subsection (a), as designated by para-
13 graph (1)—

14 (A) by striking “commissioner” each place
15 it appears and inserting “magistrate judge”;
16 and

17 (B) by striking “fined not more than
18 \$5,000 or imprisoned not more than five years,
19 or both” and inserting “punished as provided in
20 subsection (b)”;

21 (3) by adding at the end the following new sub-
22 section:

23 “(b) The punishment for an offense under this sec-
24 tion is—

25 “(1) in the case of a killing, the punishment
26 provided in sections 1111 and 1112;

1 “(2) in the case of an attempted killing, or a
2 case in which the offense was committed against a
3 petit juror and in which a class A or B felony was
4 charged, imprisonment for not more than 20 years;
5 and

6 “(3) in any other case, imprisonment for not
7 more than 10 years.”.

8 **SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF**
9 **WITNESSES, VICTIMS, AND INFORMANTS.**

10 Section 1513 of title 18, United States Code, is
11 amended—

12 (1) by redesignating subsections (a) and (b) as
13 subsections (b) and (c), respectively; and

14 (2) by inserting before subsection (b), as redesi-
15 gnated by paragraph (1), the following new sub-
16 section:

17 “(a)(1) Whoever kills or attempts to kill another per-
18 son with intent to retaliate against any person for—

19 “(A) the attendance of a witness or party at an
20 official proceeding, or any testimony given or any
21 record, document, or other object produced by a wit-
22 ness in an official proceeding; or

23 “(B) any information relating to the commis-
24 sion or possible commission of a Federal offense or
25 a violation of conditions of probation, parole, or re-

1 lease pending judicial proceedings given by a person
2 to a law enforcement officer,
3 shall be punished as provided in paragraph (2).

4 “(2) The punishment for an offense under this sub-
5 section is—

6 “(A) in the case of a killing, the punishment
7 provided in sections 1111 and 1112; and

8 “(B) in the case of an attempt, imprisonment
9 for not more than 20 years.”.

10 **SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW**
11 **ENFORCEMENT OFFICERS.**

12 Section 1114 of title 18, United States Code, is
13 amended by striking “be punished as provided under sec-
14 tions 1111 and 1112 of this title, except that” and insert-
15 ing “, in the case of murder (as defined in section 1111),
16 be punished by death or imprisonment for life, and, in the
17 case of manslaughter (as defined in section 1112), be pun-
18 ished as provided in section 1112, and”.

19 **SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR**
20 **LOCAL LAW ENFORCEMENT OFFICERS AS-**
21 **SISTING FEDERAL LAW ENFORCEMENT OFFI-**
22 **CERS.**

23 Section 1114 of title 18, United States Code, is
24 amended by inserting “, or any State or local law enforce-
25 ment officer while assisting, or on account of his or her

1 assistance of, any Federal officer or employee covered by
2 this section in the performance of duties,” after “other
3 statutory authority”.

4 **SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR**
5 **THE SUPPRESSION OF UNLAWFUL ACTS OF**
6 **VIOLENCE AT AIRPORTS SERVING INTER-**
7 **NATIONAL CIVIL AVIATION.**

8 (a) OFFENSE.—Chapter 2 of title 18, United States
9 Code, is amended by adding at the end the following new
10 section:

11 **“§ 36. Violence at international airports**

12 “(a) Whoever unlawfully and intentionally, using any
13 device, substance or weapon—

14 “(1) performs an act of violence against a per-
15 son at an airport serving international civil aviation
16 which causes or is likely to cause serious injury or
17 death; or

18 “(2) destroys or seriously damages the facilities
19 of an airport serving international civil aviation or a
20 civil aircraft not in service located thereon or dis-
21 rupts the services of the airport,

22 if such an act endangers or is likely to endanger safety
23 at the airport, or attempts to do such an act, shall be fined
24 under this title, imprisoned not more than 20 years, or
25 both, and if the death of any person results from conduct

1 prohibited by this subsection, shall be punished by death
2 or imprisoned for any term of years or for life.

3 “(b) There is jurisdiction over the activity prohibited
4 in subsection (a) if—

5 “(1) the prohibited activity takes place in the
6 United States; or

7 “(2) the prohibited activity takes place outside
8 the United States and the offender is later found in
9 the United States.”.

10 (b) TECHNICAL AMENDMENT.—The chapter analysis
11 for chapter 2 of title 18, United States Code, is amended
12 by adding at the end the following new item:

“36. Violence at international airports.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the later of—

15 (1) the date of enactment of this Act; or

16 (2) the date on which the Protocol for the Sup-
17 pression of Unlawful Acts of Violence at Airports
18 Serving International Civil Aviation, Supplementary
19 to the Convention for the Suppression of Unlawful
20 Acts Against the Safety of Civil Aviation, done at
21 Montreal on 23 September 1971, has come into
22 force and the United States has become a party to
23 the Protocol.

1 **SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.**

2 Section 902(n) of the Federal Aviation Act of 1958
3 (49 U.S.C. App. 1472(n)) is amended—

4 (1) by striking paragraph (3); and

5 (2) by redesignating paragraph (4) as para-
6 graph (3).

7 **SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME**
8 **NAVIGATION OR FIXED PLATFORMS.**

9 (a) OFFENSE.—Chapter 111 of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing new sections:

12 **“§ 2280. Violence against maritime navigation**

13 “(a) OFFENSE.—Whoever unlawfully and inten-
14 tionally—

15 “(1) seizes or exercises control over a ship by
16 force or threat thereof or any other form of intimi-
17 dation;

18 “(2) performs an act of violence against a per-
19 son on board a ship if that act is likely to endanger
20 the safe navigation of that ship;

21 “(3) destroys a ship or causes damage to a ship
22 or to its cargo which is likely to endanger the safe
23 navigation of that ship;

24 “(4) places or causes to be placed on a ship, by
25 any means whatsoever, a device or substance which
26 is likely to destroy that ship, or cause damage to

1 that ship or its cargo which endangers or is likely
2 to endanger the safe navigation of that ship;

3 “(5) destroys or seriously damages maritime
4 navigational facilities or seriously interferes with
5 their operation, if such act is likely to endanger the
6 safe navigation of a ship;

7 “(6) communicates information, knowing the
8 information to be false and under circumstances in
9 which such information may reasonably be believed,
10 thereby endangering the safe navigation of a ship;

11 “(7) injures or kills any person in connection
12 with the commission or the attempted commission of
13 an offense described in paragraph (1), (2), (3), (4),
14 (5), or (6); or

15 “(8) attempts to commit any act prohibited
16 under paragraph (1), (2), (3), (4), (5), (6), or (7),
17 shall be fined under this title, imprisoned not more than
18 20 years, or both, and if the death of any person results
19 from conduct prohibited by this subsection, shall be pun-
20 ished by death or imprisoned for any term of years or for
21 life.

22 “(b) THREATENED OFFENSE.—Whoever threatens to
23 commit any act prohibited under subsection (a) (2), (3),
24 or (5), with apparent determination and will to carry the
25 threat into execution, if the threatened act is likely to en-

1 danger the safe navigation of the ship in question, shall
2 be fined under this title, imprisoned not more than 5
3 years, or both.

4 “(c) JURISDICTION.—There is jurisdiction over the
5 activity prohibited in subsections (a) and (b)—

6 “(1) in the case of a covered ship, if—

7 “(A) such activity is committed—

8 “(i) against or on board a ship flying
9 the flag of the United States at the time
10 the prohibited activity is committed;

11 “(ii) in the United States; or

12 “(iii) by a national of the United
13 States or by a stateless person whose ha-
14 bitual residence is in the United States;

15 “(B) during the commission of such activ-
16 ity, a national of the United States is seized,
17 threatened, injured, or killed; or

18 “(C) the offender is later found in the
19 United States after such activity is committed;

20 “(2) in the case of a ship navigating or sched-
21 uled to navigate solely within the territorial sea or
22 internal waters of a country other than the United
23 States, if the offender is later found in the United
24 States after such activity is committed; and

1 “(3) in the case of any vessel, if such activity
2 is committed in an attempt to compel the United
3 States to do or abstain from doing any act.

4 “(d) DELIVERY OF PROBABLE OFFENDER.—The
5 master of a covered ship flying the flag of the United
6 States who has reasonable grounds to believe that he or
7 she has on board the ship any person who has committed
8 an offense under Article 3 of the Convention for the Sup-
9 pression of Unlawful Acts Against the Safety of Maritime
10 Navigation may deliver such person to the authorities of
11 a State Party to that Convention. Before delivering such
12 person to the authorities of another country, the master
13 shall notify in an appropriate manner the Attorney Gen-
14 eral of the United States of the alleged offense and await
15 instructions from the Attorney General as to what action
16 the master should take. When delivering the person to a
17 country which is a State Party to the Convention, the mas-
18 ter shall, whenever practicable, and if possible before en-
19 tering the territorial sea of such country, notify the au-
20 thorities of such country of his or her intention to deliver
21 such person and the reason therefor. If the master delivers
22 such person, the master shall furnish the authorities of
23 such country with the evidence in the master’s possession
24 that pertains to the alleged offense.

25 “(e) DEFINITIONS.—As used in this section—

1 “(1) ‘ship’ means a vessel of any type whatso-
2 ever not permanently attached to the seabed, includ-
3 ing dynamically supported craft, submersibles or any
4 other floating craft, but does not include a warship,
5 a ship owned or operated by a government when
6 being used as a naval auxiliary or for customs or po-
7 lice purposes, or a ship that has been withdrawn
8 from navigation or laid up;

9 “(2) ‘covered ship’ means a ship that is navi-
10 gating or is scheduled to navigate into, through, or
11 from waters beyond the outer limit of the territorial
12 sea of a single country or a lateral limit of that
13 country’s territorial sea with an adjacent country;

14 “(3) ‘national of the United States’ has the
15 meaning stated in section 101(a)(22) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1101(a)(22));

17 “(4) ‘territorial sea of the United States’ means
18 all waters extending seaward to 12 nautical miles
19 from the baselines of the United States determined
20 in accordance with international law; and

21 “(5) ‘United States’, when used in a geographi-
22 cal sense, includes the Commonwealth of Puerto
23 Rico, the Commonwealth of the Northern Marianas
24 Islands, and all territories and possessions of the
25 United States.

1 **“§ 2281. Violence against maritime fixed platforms**

2 “(a) OFFENSE.—Whoever unlawfully and inten-
3 tionally—

4 “(1) seizes or exercises control over a fixed
5 platform by force or threat thereof or any other
6 form of intimidation;

7 “(2) performs an act of violence against a per-
8 son on board a fixed platform if that act is likely to
9 endanger its safety;

10 “(3) destroys a fixed platform or causes dam-
11 age to it which is likely to endanger its safety;

12 “(4) places or causes to be placed on a fixed
13 platform, by any means whatsoever, a device or sub-
14 stance that is likely to destroy the fixed platform or
15 likely to endanger its safety;

16 “(5) injures or kills any person in connection
17 with the commission or attempted commission of an
18 offense described in paragraph (1), (2), (3), or (4);
19 or

20 “(6) attempts to do anything prohibited under
21 paragraphs (1), (2), (3), (4), or (5);

22 shall be fined under this title, imprisoned not more than
23 20 years, or both, and if death results to any person from
24 conduct prohibited by this subsection, shall be punished
25 by death or imprisoned for any term of years or for life.

1 “(b) THREATENED OFFENSE.—Whoever threatens to
2 do anything prohibited under subsection (a) (2) or (3),
3 with apparent determination and will to carry the threat
4 into execution, if the threatened act is likely to endanger
5 the safety of the fixed platform, shall be fined under this
6 title or imprisoned not more than 5 years, or both.

7 “(c) JURISDICTION.—There is jurisdiction over the
8 activity prohibited in subsections (a) and (b) if—

9 “(1) such activity is committed against or on
10 board a fixed platform—

11 “(A) that is located on the continental
12 shelf of the United States;

13 “(B) that is located on the continental
14 shelf of another country, by a national of the
15 United States or by a stateless person whose
16 habitual residence is in the United States; or

17 “(C) in an attempt to compel the United
18 States to do or abstain from doing any act;

19 “(2) during the commission of such activity
20 against or on board a fixed platform located on a
21 continental shelf, a national of the United States is
22 seized, threatened, injured or killed; or

23 “(3) such activity is committed against or on
24 board a fixed platform located outside the United
25 States and beyond the continental shelf of the Unit-

1 ed States and the offender is later found in the
2 United States.

3 “(d) DEFINITIONS.—As used in this section—

4 “(1) ‘continental shelf’ means the seabed and
5 subsoil of the submarine areas that extend beyond a
6 country’s territorial sea to the limits provided by
7 customary international law as reflected in Article
8 76 of the 1982 Convention on the Law of the Sea;

9 “(2) ‘fixed platform’ means an artificial island,
10 installation or structure permanently attached to the
11 seabed for the purpose of exploration or exploitation
12 of resources or for other economic purposes;

13 “(3) ‘national of the United States’ has the
14 meaning stated in section 101(a)(22) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1101(a)(22));

16 “(4) ‘territorial sea of the United States’ means
17 all waters extending seaward to 12 nautical miles
18 from the baselines of the United States determined
19 in accordance with international law; and

20 “(5) ‘United States’, when used in a geographi-
21 cal sense, includes the Commonwealth of Puerto
22 Rico, the Commonwealth of the Northern Marianas
23 Islands, and all territories and possessions of the
24 United States.”.

1 (b) TECHNICAL AMENDMENT.—The chapter analysis
2 for chapter 111 of title 18, United States Code, is amend-
3 ed by adding at the end the following new items:

“2280. Violence against maritime navigation.

“2281. Violence against maritime fixed platforms.”.

4 (c) EFFECTIVE DATES.—The amendments made by
5 this section shall take effect on the later of—

6 (1) the date of enactment of this Act; or

7 (2)(A) in the case of section 2280 of title 18,
8 United States Code, the date on which the Conven-
9 tion for the Suppression of Unlawful Acts Against
10 the Safety of Maritime Navigation has come into
11 force and the United States has become a party to
12 that Convention; and

13 (B) in the case of section 2281 of title 18,
14 United States Code, the date on which the Protocol
15 for the Suppression of Unlawful Acts Against the
16 Safety of Fixed Platforms Located on the Continen-
17 tal Shelf has come into force and the United States
18 has become a party to that Protocol.

19 **SEC. 130. TORTURE.**

20 (a) IN GENERAL.—Part I of title 18, United States
21 Code, is amended by inserting after chapter 113A the fol-
22 lowing new chapter:

23 **“CHAPTER 113B—TORTURE**

“Sec.

“2340. Definitions.

“2340A. Torture.

“2340B. Exclusive remedies.

1 **“§ 2340. Definitions**

2 “As used in this chapter—

3 “(1) ‘torture’ means an act committed by a per-
4 son acting under the color of law specifically in-
5 tended to inflict severe physical or mental pain or
6 suffering (other than pain or suffering incidental to
7 lawful sanctions) upon another person within his
8 custody or physical control;

9 “(2) ‘severe mental pain or suffering’ means
10 the prolonged mental harm caused by or resulting
11 from—

12 “(A) the intentional infliction or threat-
13 ened infliction of severe physical pain or suffer-
14 ing;

15 “(B) the administration or application, or
16 threatened administration or application, of
17 mind-altering substances or other procedures
18 calculated to disrupt profoundly the senses or
19 the personality;

20 “(C) the threat of imminent death; or

21 “(D) the threat that another person will
22 imminently be subjected to death, severe phys-
23 ical pain or suffering, or the administration or
24 application of mind-altering substances or other

1 procedures calculated to disrupt profoundly the
2 senses or personality; and

3 “(3) ‘United States’ includes all areas under
4 the jurisdiction of the United States including any
5 of the places described in sections 5 and 7 of this
6 title and section 101(38) of the Federal Aviation Act
7 of 1958 (49 U.S.C. App. 1301(38)).

8 **“§ 2340A. Torture**

9 “(a) OFFENSE.—Whoever outside the United States
10 commits or attempts to commit torture shall be fined
11 under this title or imprisoned not more than 20 years, or
12 both, and if death results to any person from conduct pro-
13 hibited by this subsection, shall be punished by death or
14 imprisoned for any term of years or for life.

15 “(b) JURISDICTION.—There is jurisdiction over the
16 activity prohibited in subsection (a) if—

17 “(1) the alleged offender is a national of the
18 United States; or

19 “(2) the alleged offender is present in the Unit-
20 ed States, irrespective of the nationality of the vic-
21 tim or the alleged offender.

22 **“§ 2340B. Exclusive remedies**

23 “Nothing in this chapter shall be construed as pre-
24 cluding the application of State or local laws on the same
25 subject, nor shall anything in this chapter be construed

1 as creating any substantive or procedural right enforceable
2 by law by any party in any civil proceeding.”.

3 (b) TECHNICAL AMENDMENT.—The part analysis for
4 part I of title 18, United States Code, is amended by in-
5 serting after the item relating to chapter 113A the follow-
6 ing new item:

“**113B. Torture** **2340.**”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the later of—

9 (1) the date of enactment of this Act; or

10 (2) the date on which the United States has be-
11 come a party to the Convention Against Torture and
12 Other Cruel, Inhuman or Degrading Treatment or
13 Punishment.

14 **SEC. 131. WEAPONS OF MASS DESTRUCTION.**

15 (a) FINDINGS.—The Congress finds that the use and
16 threatened use of weapons of mass destruction (as defined
17 in the amendment made by subsection (b)) gravely harm
18 the national security and foreign relations interests of the
19 United States, seriously affect interstate and foreign com-
20 merce, and disturb the domestic tranquility of the United
21 States.

22 (b) OFFENSE.—Chapter 113A of title 18, United
23 States Code, as amended by section 601(b), is amended
24 by adding at the end the following new section:

1 **“§ 2339A. Use of weapons of mass destruction**

2 “(a) OFFENSE.—Whoever uses, or attempts or con-
3 spires to use, a weapon of mass destruction—

4 “(1) against a national of the United States
5 while such national is outside of the United States;

6 “(2) against any person within the United
7 States; or

8 “(3) against any property that is owned, leased,
9 or used by the United States or by any department
10 or agency of the United States, whether the property
11 is within or outside the United States,

12 shall be imprisoned for any term of years or for life, and
13 if death results, shall be punished by death or imprisoned
14 for any term of years or for life.

15 “(b) DEFINITIONS.—As used in this section—

16 “(1) ‘national of the United States’ has the
17 meaning stated in section 101(a)(22) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1101(a)(22));
19 and

20 “(2) ‘weapon of mass destruction’ means—

21 “(A) a destructive device (as defined in
22 section 921);

23 “(B) poison gas;

24 “(C) a weapon involving a disease orga-
25 nism; and

1 death or imprisoned for any term of years or for life;
2 and

3 “(2) in the case of any other killing or an at-
4 tempted killing, be subject to the penalties provided
5 for engaging in such conduct within the special mar-
6 itime and territorial jurisdiction of the United States
7 under sections 1112 and 1113.”.

8 **SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.**

9 (a) CONSPIRACY AGAINST RIGHTS.—Section 241 of
10 title 18, United States Code, is amended by striking “shall
11 be subject to imprisonment for any term of years or for
12 life” and inserting “shall be punished by death or impris-
13 onment for any term of years or for life”.

14 (b) DEPRIVATION OF RIGHTS UNDER COLOR OF
15 LAW.—Section 242 of title 18, United States Code, is
16 amended by striking “shall be subject to imprisonment for
17 any term of years or for life” and inserting “shall be pun-
18 ished by death or imprisonment for any term of years or
19 for life”.

20 (c) FEDERALLY PROTECTED ACTIVITIES.—Section
21 245(b) of title 18, United States Code, is amended by
22 striking “shall be subject to imprisonment for any term
23 of years or for life” and inserting “shall be punished by
24 death or imprisonment for any term of years or for life”.

1 (d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUC-
2 TION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—
3 Section 247(c)(1) of title 18, United States Code, is
4 amended by inserting “the death penalty or” before “im-
5 prisonment”.

6 **SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WIT-**
7 **NESSES.**

8 Section 1512(a)(2)(A) of title 18, United States
9 Code, is amended to read as follows:

10 “(A) in the case of murder (as defined in sec-
11 tion 1111), the death penalty or imprisonment for
12 life, and in the case of any other killing, the punish-
13 ment provided in section 1112;”.

14 **SEC. 135. DRIVE-BY SHOOTINGS.**

15 (a) OFFENSE.—Chapter 44 of title 18, United States
16 Code, is amended by adding at the end the following new
17 section:

18 **“§ 931. Drive-by shootings**

19 “(a) OFFENSE.—Whoever knowingly discharges a
20 firearm at a person—

21 “(1) in the course of or in furtherance of drug
22 trafficking activity; or

23 “(2) from a motor vehicle,

1 shall be punished by imprisonment for not more than 25
2 years, and if death results shall be punished by death or
3 by imprisonment for any term of years or for life.

4 “(b) DEFINITION.—As used in this section, the term
5 ‘drug trafficking activity’ means a drug trafficking crime
6 (as defined in section 929(a)(2)), or a pattern or series
7 of acts involving one or more drug trafficking crimes.”.

8 (b) TECHNICAL AMENDMENT.—The chapter analysis
9 for chapter 44 of title 18, United States Code, is amended
10 by adding at the end the following new item:

“931. Drive-by shootings.”.

11 **SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING**
12 **FEDERAL CRIMES OF VIOLENCE AND DRUG**
13 **TRAFFICKING CRIMES.**

14 Section 924 of title 18, United States Code, is
15 amended by adding at the end the following new sub-
16 section:

17 “(i) Whoever, in the course of a violation of sub-
18 section (c), causes the death of a person through the use
19 of a firearm, shall—

20 “(1) if the killing is a murder (as defined in
21 section 1111), be punished by death or by imprison-
22 ment for any term of years or for life; and

23 “(2) if the killing is manslaughter (as defined
24 in section 1112), be punished as provided in section
25 1112.”.

1 **SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLES-**
2 **TATION MURDERS.**

3 (a) OFFENSE.—Chapter 109A of title 18, United
4 States Code, is amended—

5 (1) by redesignating section 2245 as section
6 2246; and

7 (2) by inserting after section 2244 the following
8 new section:

9 **“§ 2245. Sexual abuse resulting in death**

10 “Whoever, in the course of an offense under this
11 chapter, engages in conduct that results in the death of
12 a person, shall be punished by death or imprisoned for
13 any term of years or for life.”.

14 (b) TECHNICAL AMENDMENT.—The chapter analysis
15 for chapter 109A of title 18, United States Code, is
16 amended by striking the item relating to section 2245 and
17 inserting the following:

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

18 **SEC. 138. PROTECTION OF JURORS AND WITNESSES IN**
19 **CAPITAL CASES.**

20 Section 3432 of title 18, United States Code, is
21 amended by striking the period and inserting: “, except
22 that the list of the veniremen and witnesses need not be
23 furnished if the court finds by a preponderance of the evi-

1 dence that providing the list may jeopardize the life or
2 safety of any person.”.

3 **SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILI-**
4 **TARY JUSTICE.**

5 The provisions of chapter 228 of title 18, United
6 States Code, as added by this Act, shall not apply to pros-
7 ecutions under the Uniform Code of Military Justice (10
8 U.S.C. 801 et seq.).

9 **SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE**
10 **SEXUAL EXPLOITATION OF CHILDREN.**

11 Section 2251(d) of title 18, United States Code, is
12 amended by adding at the end the following new sentence:
13 “Whoever, in the course of an offense under this section,
14 engages in conduct that results in the death of a person,
15 shall be punished by death or imprisoned for any term
16 of years or for life.”.

17 **SEC. 141. MURDER BY ESCAPED PRISONERS.**

18 (a) OFFENSE.—Chapter 51 of title 18, United States
19 Code, as amended by section 110, is amended by adding
20 at the end the following new section:

21 **“§ 1119. Murder by escaped prisoners**

22 “(a) OFFENSE.—A person who, having escaped from
23 a Federal prison where the person was confined under a
24 sentence for a term of life imprisonment, kills another per-

1 son, shall be punished as provided in sections 1111 and
2 1112.

3 “(b) DEFINITION.—As used in this section, the terms
4 ‘Federal prison’ and ‘term of life imprisonment’ have the
5 meanings stated in section 1118.”.

6 (b) TECHNICAL AMENDMENT.—The chapter analysis
7 for chapter 51 of title 18, United States Code, is amended
8 by adding at the end the following new item:

“1119. Murder by escaped prisoners.”.

9 **SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT**
10 **OF COLUMBIA.**

11 Title 18 of the United States Code is amended—

12 (a) by adding the following new section at the
13 end of chapter 51:

14 **“§1118. Capital punishment for murders in the Dis-**
15 **trict of Columbia**

16 “(a) OFFENSE.— It is an offense to cause the death
17 of a person intentionally, knowingly, or through reckless-
18 ness manifesting extreme indifference to human life, or
19 to cause the death of a person through the intentional in-
20 fliction of serious bodily injury.

21 “(b) FEDERAL JURISDICTION.—There is a federal ju-
22 risdiction over an offense described in this section if the
23 conduct resulting in death occurs in the District of Colum-
24 bia.

1 “(c) PENALTY.—An offense described in this section
2 is a Class A felony. A sentence of death may be imposed
3 for an offense described in this section as provided in sub-
4 sections (d)–(1).

5 “(d) MITIGATING FACTORS.—In determining wheth-
6 er to recommend a sentence of death, the jury shall con-
7 sider whether any aspect of the defendant’s character,
8 background, or record or any circumstance of the offense
9 that the defendant may proffer as a mitigating factor ex-
10 ists, including the following factors:

11 “(1) MENTAL CAPACITY.—The defendant’s
12 mental capacity to appreciate the wrongfulness of
13 his conduct or to conform his conduct to the require-
14 ments of law was significantly impaired.

15 “(2) DURESS.—The defendant was under un-
16 usual and substantial duress.

17 “(3) PARTICIPATION IN OFFENSE MINOR.—The
18 defendant is punishable as a principal (pursuant to
19 section 2 of this title) in the offense, which was com-
20 mitted by another, but the defendant’s participation
21 was relatively minor.

22 “(e) AGGRAVATING FACTORS.—In determining
23 whether to recommend a sentence of death, the jury shall
24 consider any aggravating factor for which notice has been

1 provided under subsection (f), including the following fac-
2 tors—

3 “(1) KILLING IN FURTHERANCE OF DRUG
4 TRAFFICKING.—The defendant engaged in the con-
5 duct resulting in death in the course of or in fur-
6 therance of drug trafficking activity.

7 “(2) KILLING IN THE COURSE OF OTHER SERI-
8 OUS VIOLENT CRIMES.—The defendant engaged in
9 the conduct resulting in death in the course of com-
10 mitting or attempting to commit an offense involving
11 robbery, burglary, sexual abuse, kidnaping, or arson.

12 “(3) MULTIPLE KILLINGS OR ENDANGERMENT
13 OF OTHERS.—The defendant committed more than
14 one offense under this section, or in committing the
15 offense knowingly created a grave risk of death to
16 one or more persons in addition to the victim of the
17 offense.

18 “(4) INVOLVEMENT OF FIREARM.—During and
19 in relation to the commission of the offense, the de-
20 fendant used or possessed a firearm as defined in
21 section 921 of this title.

22 “(5) PREVIOUS CONVICTION OF VIOLENT FEL-
23 ONY.—The defendant has previously been convicted
24 of an offense punishable by a term of imprisonment
25 of more than one year that involved the use or at-

1 tempted or threatened use of force against a person
2 or that involved sexual abuse.

3 (6) KILLING WHILE INCARCERATED OR UNDER
4 SUPERVISION.—The defendant at the time of the of-
5 fense was confined in or had escaped from a jail,
6 prison, or other correctional or detention facility,
7 was on pre-trial release, or was on probation, parole,
8 supervised release, or other post-conviction condi-
9 tional release.

10 “(7) HEINOUS, CRUEL OR DEPRAVED MANNER
11 OF COMMISSION.—The defendant committed the of-
12 fense in an especially heinous, cruel, or depraved
13 manner in that it involved torture or serious physical
14 abuse to the victim.

15 “(8) PROCUREMENT OF THE OFFENSE BY PAY-
16 MENT.—The defendant procured the commission of
17 the offense by payment, or promise of payment, of
18 anything of pecuniary value.

19 “(9) COMMISSION OF THE OFFENSE FOR PECU-
20 NIARY GAIN.—The defendant committed the offense
21 as consideration for receiving, or in the expectation
22 of receiving or obtaining, anything of pecuniary
23 value.

1 “(10) SUBSTANTIAL PLANNING AND
2 PREMEDITATION.—The defendant committed the of-
3 fense after substantial planning and premeditation.

4 “(11) VULNERABILITY OF VICTIM.—The victim
5 was particularly vulnerable due to old age, youth, or
6 infirmity.

7 “(12) KILLING OF PUBLIC SERVANT.—The de-
8 fendant committed the offense against a public serv-
9 ant—

10 “(i) while such public servant was engaged
11 in the performance of his or her official duties;

12 “(ii) because of the performance of such
13 public servant’s official duties; or

14 “(iii) because of such public servant’s sta-
15 tus as a public servant.

16 “(13) KILLING TO INTERFERE WITH OR RE-
17 TALIATE AGAINST WITNESS.—The defendant com-
18 mitted the offense in order to prevent or inhibit any
19 person from testifying or providing information con-
20 cerning an offense, or to retaliate against any person
21 for testifying or providing such information.

22 “(f) NOTICE OF INTENT TO SEEK DEATH PEN-
23 ALTY.—If the government intends to seek the death pen-
24 alty for an offense under this section, the attorney for the
25 government shall file with the court and serve on the de-

1 defendant a notice of such intent. The notice shall be pro-
2 vided a reasonable time before the trial or acceptance of
3 a guilty plea, or at such later time as the court may permit
4 for good cause. The notice shall set forth the aggravating
5 factor or factors set forth in subsection (e) and any other
6 aggravating factor or factors that the government will seek
7 to prove as the basis for the death penalty. The factors
8 for which notice is provided under this subsection may in-
9 clude factors concerning the effect of the offense on the
10 victim and the victim's family. The court may permit the
11 attorney for the government to amend the notice upon a
12 showing of good cause.

13 “(g) JUDGE AND JURY AT CAPITAL SENTENCING
14 HEARING.—A hearing to determine whether the death
15 penalty will be imposed for an offense under this section
16 shall be conducted by the judge who presided at trial or
17 accepted a guilty plea, or by another judge if that judge
18 is not available. The hearing shall be conducted before the
19 jury that determined the defendant's guilt if that jury is
20 available. A new jury shall be impaneled for the purpose
21 of the hearing if the defendant pleaded guilty, the trial
22 of guilt was conducted without a jury, the jury that deter-
23 mined the defendant's guilt was discharged for good
24 cause, or reconsideration of the sentence is necessary after
25 the initial imposition of a sentence of death. A jury

1 impaneled under this subsection shall have twelve mem-
2 bers unless the parties stipulate to a lesser number at any
3 time before the conclusion of the hearing with the approval
4 of the judge. Upon motion of the defendant, with the ap-
5 proval of the attorney for the government, the hearing
6 shall be carried out before the judge without a jury. If
7 there is no jury, references to “the jury” in this section,
8 where applicable, shall be understood as referring to the
9 judge.

10 “(h) PROOF OF MITIGATING AND AGGRAVATING
11 FACTORS.—No presentence report shall be prepared if a
12 capital sentencing hearing is held under this section. Any
13 information relevant to the existence of mitigating factors,
14 or to the existence of aggravating factors for which notice
15 has been provided under subsection (f), may be presented
16 by either the government or the defendant, regardless of
17 its admissibility under the rules governing the admission
18 of evidence at criminal trials, except that information may
19 be excluded if its probative value is outweighed by the dan-
20 ger of creating unfair prejudice, confusing the issues, or
21 misleading the jury. The information presented may in-
22 clude trial transcripts and exhibits. The attorney for the
23 government and for the defendant shall be permitted to
24 rebut any information received at the hearing, and shall
25 be given fair opportunity to present argument as to the

1 adequacy of the information to establish the existence of
2 any aggravating or mitigating factor, and as to the appro-
3 priateness in that case of imposing a sentence of death.
4 The attorney for the government shall open the argument,
5 the defendant shall be permitted to reply, and the govern-
6 ment shall then be permitted to reply in rebuttal.

7 “(i) FINDINGS OF AGGRAVATING AND MITIGATING
8 FACTORS.—The jury shall return special findings identify-
9 ing any aggravating factor or factors for which notice has
10 been provided under subsection (f) and which the jury
11 unanimously determines have been established by the gov-
12 ernment beyond a reasonable doubt. A mitigating factor
13 is established if the defendant has proven its existence by
14 a preponderance of the evidence, and any member of the
15 jury who finds the existence of such a factor may regard
16 it as established for purposes of this section regardless of
17 the number of jurors who concur that the factor has been
18 established.

19 “(j) FINDING CONCERNING A SENTENCE OF
20 DEATH.—If the jury specially finds under subsection (i)
21 that one or more aggravating factors set forth in sub-
22 section (e) exist, and the jury further finds unanimously
23 that there are no mitigating factors or that the aggravat-
24 ing factor or factors specially found under subsection (i)
25 outweigh any mitigating factors, then the jury shall rec-

1 ommend a sentence of death. In any other case, the jury
2 shall not recommend a sentence of death. The jury shall
3 be instructed that it must avoid any influence of sym-
4 pathy, sentiment, passion, prejudice, or other arbitrary
5 factors in its decision, and should make such a rec-
6 ommendation as the information warrants.

7 “(k) SPECIAL PRECAUTION TO ASSURE AGAINST
8 DISCRIMINATION.—In a hearing held before a jury, the
9 court, before the return of a finding under subsection (j),
10 shall instruct the jury that, in considering whether to rec-
11 ommend a sentence of death, it shall not consider the race,
12 color, religion, national origin, or sex of the defendant or
13 any victim, and that the jury is not to recommend a sen-
14 tence of death unless it has concluded that it would rec-
15 ommend a sentence of death for such a crime regardless
16 of the race, color, religion, national origin, or sex of the
17 defendant or any victim. The jury, upon the return of a
18 finding under subsection (j), shall also return to the court
19 a certificate, signed by each juror, that the race, color,
20 religion, national origin, or sex of the defendant or any
21 victim did not affect the juror’s individual decision and
22 that the individual juror would have recommended the
23 same sentence for such a crime regardless of the race,
24 color, religion, national origin, or sex of the defendant or
25 any victim.

1 “(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon
2 a recommendation under subsection (j) that a sentence of
3 death be imposed, the court shall sentence the defendant
4 to death. Otherwise the court shall impose a sentence,
5 other than death, authorized by law.

6 “(m) REVIEW OF A SENTENCE OF DEATH.—

7 “(1) The defendant may appeal a sentence of
8 death under this section by filing a notice of appeal
9 of the sentence within the time provided for filing a
10 notice of appeal of the judgment of conviction. An
11 appeal of a sentence under this subsection may be
12 consolidated within an appeal of the judgment of
13 conviction and shall have priority over all noncapital
14 matters in the court of appeals.

15 “(2) The court of appeals shall review the en-
16 tire record in the case including the evidence submit-
17 ted at trial and information submitted during the
18 sentencing hearing, the procedures employed in the
19 sentencing hearing, and the special findings returned
20 under subsection (i). The court of appeals shall up-
21 hold the sentence if it determines that the sentence
22 of death was not imposed under the influence of pas-
23 sion, prejudice, or any other arbitrary factor, that
24 the evidence and information support the special
25 findings under subsection (i), and that the proceed-

1 ings were otherwise free of prejudicial error that was
2 properly preserved for review.

3 “(3) In any other case, the court of appeals
4 shall remand the case for reconsideration of the sen-
5 tence or imposition of another authorized sentence
6 as appropriate, except that the court shall not re-
7 verse a sentence of death on the ground that an ag-
8 gravating factor was invalid or was not supported by
9 the evidence and information if at least one aggra-
10 vating factor described in subsection (e) remains
11 which was found to exist and the court, on the basis
12 of the evidence submitted at trial and the informa-
13 tion submitted at the sentencing hearing, finds that
14 the remaining aggravating factor or factors which
15 were found to exist outweigh any mitigating factors.
16 The court of appeals shall state in writing the rea-
17 sons for its disposition of an appeal of a sentence of
18 death under this section.

19 “(n) IMPLEMENTATION OF SENTENCE OF DEATH.—
20 A person sentenced to death under this section shall be
21 committed to the custody of the Attorney General until
22 exhaustion of the procedures for appeal of the judgment
23 of conviction and review of the sentence. When the sen-
24 tence is to be implemented, the Attorney General shall re-
25 lease the person sentenced to death to the custody of a

1 United States Marshal. The Marshal shall supervise im-
2 plementation of the sentence in the manner prescribed by
3 the law of a State designated by the court. The Marshal
4 may use State or local facilities, may use the services of
5 an appropriate State or local official or of a person such
6 an official employs, and shall pay the costs thereof in an
7 amount approved by the Attorney General.

8 “(o) SPECIAL BAR TO EXECUTION.—A sentence of
9 death shall not be carried out upon a woman while she
10 is pregnant.

11 “(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION
12 IN EXECUTION.—No employee of any State department
13 of corrections, the United States Marshals Service, or the
14 Federal Bureau of Prisons, and no person providing serv-
15 ices to that department, service, or bureau under contract
16 shall be required, as a condition of that employment or
17 contractual obligation, to be in attendance at or to partici-
18 pate in any execution carried out under this section if such
19 participation is contrary to the moral or religious convic-
20 tions of the employee. For purposes of this subsection, the
21 term ‘participate in any execution’ includes personal prep-
22 aration of the condemned individual and the apparatus
23 used for the execution, and supervision of the activities
24 of other personnel in carrying out such activities.

1 “(q) APPOINTMENT OF COUNSEL FOR INDIGENT
2 CAPITAL DEFENDANTS.—A defendant against whom a
3 sentence of death is sought, or on whom a sentence of
4 death has been imposed, under this section, shall be enti-
5 tled to appointment of counsel from the commencement
6 of trial proceedings until one of the conditions specified
7 in subsection (v) has occurred, if the defendant is or be-
8 comes financially unable to obtain adequate representa-
9 tion. Counsel shall be appointed for trial representation
10 as provided in section 3005 of this title, and at least one
11 counsel so appointed shall continue to represent the de-
12 fendant until the conclusion of direct review of the judg-
13 ment, unless replaced by the court with other qualified
14 counsel. Except as otherwise provided in this section, the
15 provisions of section 3006A of this title shall apply to ap-
16 pointments under this section.

17 “(r) REPRESENTATION AFTER FINALITY OF JUDG-
18 MENT.—When a judgment imposing a sentence of death
19 under this section has become final through affirmance by
20 the Supreme Court on direct review, denial of certiorari
21 by the Supreme Court on direct review, or expiration of
22 the time for seeking direct review in the court of appeals
23 or the Supreme Court, the government shall promptly no-
24 tify the court that imposed the sentence. The court, within
25 10 days of receipt of such notice, shall proceed to make

1 determination whether the defendant is eligible for ap-
2 pointment of counsel for subsequent proceedings. The
3 court shall issue an order appointing one or more counsel
4 to represent the defendant upon a finding that the defend-
5 ant is financially unable to obtain adequate representation
6 and wishes to have counsel appointed or is unable com-
7 petently to decide whether to accept or reject appointment
8 of counsel. The court shall issue an order denying appoint-
9 ment of counsel upon a finding that the defendant is fi-
10 nancially able to obtain adequate representation or that
11 the defendant rejected appointment of counsel with an un-
12 derstanding of the consequences of that decision. Counsel
13 appointed pursuant to this subsection shall be different
14 from the counsel who represented the defendant at trial
15 and on direct review unless the defendant and counsel re-
16 quest a continuation or renewal of the earlier representa-
17 tion.

18 “(s) STANDARDS FOR COMPETENCE OF COUNSEL.—
19 In relation to a defendant who is entitled to appointment
20 of counsel under subsections (q)–(r), at least one counsel
21 appointed for trial representation must have been admit-
22 ted to the bar for at least 5 years and have at least three
23 years of experience in the trial of felony cases in the Fed-
24 eral district courts. If new counsel is appointed after judg-
25 ment, at least one counsel so appointed must have been

1 admitted to the bar for at least 5 years and have at least
2 3 years of experience in the litigation of felony cases in
3 the Federal courts of appeals or the Supreme Court. The
4 court, for good cause, may appoint counsel who does not
5 meet these standards, but whose background, knowledge,
6 or experience would otherwise enable him or her to prop-
7 erly represent the defendant, with due consideration of the
8 seriousness of the penalty and the nature of the litigation.

9 “(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN
10 COLLATERAL PROCEEDINGS.—The ineffectiveness or in-
11 competence of counsel during proceedings on a motion
12 under section 2255 of title 28, United States Code, in a
13 case under this section shall not be a ground for relief
14 from the judgment or sentence in any proceeding. This
15 limitation shall not preclude the appointment of different
16 counsel at any stage of the proceedings.

17 “(u) TIME FOR COLLATERAL ATTACK ON DEATH
18 SENTENCE.—A motion under section 2255 of title 28,
19 United States Code, attacking a sentence of death under
20 this section, or the conviction on which it is predicated,
21 must be filed within 90 days of the issuance of the order
22 under subsection (r) appointing or denying the appoint-
23 ment of counsel for such proceedings. The court in which
24 the motion is filed, for good cause shown, may extend the
25 time for filing for a period not exceeding 60 days. Such

1 a motion shall have priority over all non-capital matters
2 in the district court, and in the court of appeals on review
3 of the district court's decision.

4 “(v) STAY OF EXECUTION.—The execution of a sen-
5 tence of death under this section shall be stayed in the
6 course of direct review of the judgment and during the
7 litigation of an initial motion in the case under section
8 2255 of title 28, United States Code. The stay shall run
9 continuously following imposition of the sentence and shall
10 expire if—

11 “(1) the defendant fails to file a motion under
12 section 2255 of title 28, United States Code, within
13 the time specified in subsection (u), or fails to make
14 a timely application for court of appeals review fol-
15 lowing the denial of such a motion by a district
16 court;

17 “(2) upon completion of district court and court
18 of appeals review under section 2255 of title 28,
19 United States Code, the Supreme Court disposes of
20 a petition for certiorari in a manner that leaves the
21 capital sentence undisturbed, or the defendant fails
22 to file a timely petition for certiorari; or

23 “(3) before a district court, in the presence of
24 counsel and after having been advised of the con-
25 sequences of such a decision, the defendant waives

1 the right to file a motion under section 2255 of title
2 28, United States Code.

3 “(w) FINALITY OF THE DECISION ON REVIEW.—If
4 one of the conditions specified in subsection (v) has oc-
5 curred, no court thereafter shall have the authority to
6 enter a stay of execution or grant relief in the case un-
7 less—

8 “(1) the basis for the stay and request for relief
9 is a claim not presented in earlier proceedings;

10 “(2) the failure to raise the claim is the result
11 of governmental action in violation of the Constitu-
12 tion or laws of the United States, the result of the
13 Supreme Court’s recognition of a new Federal right
14 that is retroactively applicable, or the result of the
15 fact that the factual predicate of the claim could not
16 have been discovered through the exercise of reason-
17 able diligence in time to present the claim in earlier
18 proceedings; and

19 “(3) the facts underlying the claim would be
20 sufficient, if proven, to undermine the court’s con-
21 fidence in the determination of guilt on the offense
22 or offenses for which the death penalty was imposed.

23 “(x) DEFINITIONS.—For purposes of this section—

24 “(1) ‘State’ has the meaning given in section
25 513 of this title, including the District of Columbia;

1 “(2) ‘Offense’, as used in paragraphs (2), (5),
2 and (13) of subsection (e), and in paragraph (5) of
3 this subsection, means an offense under the law of
4 the District of Columbia, another State, or the Unit-
5 ed States;

6 “(3) ‘Drug trafficking activity’ means a drug
7 trafficking crime as defined in section 929(a)(2) of
8 this title, or a pattern or series of acts involving one
9 or more drug trafficking crimes;

10 “(4) ‘Robbery’ means obtaining the property of
11 another by force or threat of force;

12 “(5) ‘Burglary’ means entering or remaining in
13 a building or structure in violation of the law of the
14 District of Columbia, another State, or the United
15 States, with the intent to commit an offense in the
16 building or structure;

17 “(6) ‘Sexual abuse’ means any conduct pro-
18 scribed by chapter 109A of this title, whether or not
19 the conduct occurs in the special maritime and terri-
20 torial jurisdiction of the United States;

21 “(7) ‘Arson’ means damaging or destroying a
22 building or structure through the use of fire or ex-
23 plosives;

1 “(8) ‘Kidnapping’ means seizing, confining, or
2 abducting a person, or transporting a person without
3 his or her consent;

4 “(9) ‘Pre-trial release’, ‘probation’, ‘parole’, ‘su-
5 pervised release’, and ‘other post-conviction condi-
6 tional release’, as used in subsection (e)(6), mean
7 any such release, imposed in relation to a charge or
8 conviction for an offense under the law of the Dis-
9 trict of Columbia, another State, or the United
10 States; and

11 “(10) ‘Public servant’ means an employee,
12 agent, officer, or official of the District of Columbia,
13 another State, or the United States, or an employee,
14 agent, officer, or official of a foreign government
15 who is within the scope of section 1116 of this title.

16 “(y) When an offense is charged under this section,
17 the government may join any charge under the District
18 of Columbia Code that arises from the same incident.”;
19 and

20 (b) by adding the following at the end of the
21 table of sections for chapter 51:

“1118. Capital punishment for murders in the District of Columbia.”.

1 **TITLE II—HABEAS CORPUS**
2 **REFORM**
3 **Subtitle A—General Habeas Corpus**
4 **Reform**

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

6 This title may be cited as the “Habeas Corpus Re-
7 form Act of 1993”.

8 **SEC. 202. PERIOD OF LIMITATION.**

9 Section 2244 of title 28, United States Code, is
10 amended by adding at the end the following new sub-
11 section:

12 “(d) A one-year period of limitation shall apply to an
13 application for a writ of habeas corpus by a person in cus-
14 tody pursuant to the judgment of a State court. The limi-
15 tation period shall run from the latest of—

16 “(1) the time at which State remedies are ex-
17 hausted;

18 “(2) the time at which the impediment to filing
19 an application created by State action in violation of
20 the Constitution or laws of the United States is re-
21 moved, where the applicant was prevented from fil-
22 ing by such State action;

23 “(3) the time at which the Federal right as-
24 serted was initially recognized by the Supreme

1 Court, where the right has been newly recognized by
2 the Court and is retroactively applicable; or

3 “(4) the time at which the factual predicate of
4 the claim or claims presented could have been dis-
5 covered through the exercise of reasonable dili-
6 gence.”.

7 **SEC. 203. APPEAL.**

8 Section 2253 of title 28, United States Code, is
9 amended to read as follows:

10 **“§ 2253. Appeal**

11 “In a habeas corpus proceeding or a proceeding
12 under section 2255 before a circuit or district judge, the
13 final order shall be subject to review, on appeal, by the
14 court of appeals for the circuit where the proceeding is
15 had.

16 “There shall be no right of appeal from such an order
17 in a proceeding to test the validity of a warrant to remove,
18 to another district or place for commitment or trial, a per-
19 son charged with a criminal offense against the United
20 States, or to test the validity of his detention pending re-
21 moval proceedings.

22 “An appeal may not be taken to the court of appeals
23 from the final order in a habeas corpus proceeding where
24 the detention complained of arises out of process issued
25 by a State court, or from the final order in a proceeding

1 under section 2255, unless a circuit justice or judge issues
2 a certificate of probable cause.”.

3 **SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE**
4 **PROCEDURE.**

5 Rule 22 of the Federal Rules of Appellate Procedure
6 is amended to read as follows:

7 **“§ Rule 22. Habeas corpus and section 2255 proceed-**
8 **ings**

9 “(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-
10 BEAS CORPUS.—An application for a writ of habeas cor-
11 pus shall be made to the appropriate district court. If ap-
12 plication is made to a circuit judge, the application will
13 ordinarily be transferred to the appropriate district court.
14 If an application is made to or transferred to the district
15 court and denied, renewal of the application before a cir-
16 cuit judge is not favored; the proper remedy is by appeal
17 to the court of appeals from the order of the district court
18 denying the writ.

19 “(b) NECESSITY OF CERTIFICATE OF PROBABLE
20 CAUSE FOR APPEAL.—In a habeas corpus proceeding in
21 which the detention complained of arises out of process
22 issued by a State court, and in a motion proceeding pursu-
23 ant to section 2255 of title 28, United States Code, an
24 appeal by the applicant or movant may not proceed unless
25 a circuit judge issues a certificate of probable cause. If

1 a request for a certificate of probable cause is addressed
2 to the court of appeals, it shall be deemed addressed to
3 the judges thereof and shall be considered by a circuit
4 judge or judges as the court deems appropriate. If no ex-
5 press request for a certificate is filed, the notice of appeal
6 shall be deemed to constitute a request addressed to the
7 judges of the court of appeals. If an appeal is taken by
8 a State or the Government or its representative, a certifi-
9 cate or probable cause is not required.”.

10 **SEC. 205. SECTION 2254 AMENDMENTS.**

11 Section 2254 of title 28, United States Code, is
12 amended—

13 (1) by amending subsection (b) to read as fol-
14 lows:

15 “(b) An application for a writ of habeas corpus in
16 behalf of a person in custody pursuant to the judgment
17 of a State court shall not be granted unless it appears
18 that the applicant has exhausted the remedies available
19 in the courts of the State, or that there is either an ab-
20 sence of available State corrective process or the existence
21 of circumstances rendering such process ineffective to pro-
22 tect the rights of the applicant. An application may be
23 denied on the merits notwithstanding the failure of the
24 applicant to exhaust the remedies available in the courts
25 of the State.”;

1 (2) by redesignating subsections (d), (e), and
2 (f) as subsections (e), (f), and (g), respectively;

3 (3) by inserting after subsection (c) the follow-
4 ing new subsection:

5 “(d) An application for a writ of habeas corpus in
6 behalf of a person in custody pursuant to the judgment
7 of a State court shall not be granted with respect to any
8 claim that has been fully and fairly adjudicated in State
9 proceedings.”;

10 (4) by amending subsection (e), as redesignated
11 by paragraph (2), to read as follows:

12 “(e) In a proceeding instituted by an application for
13 a writ of habeas corpus by a person in custody pursuant
14 to the judgment of a State court, a full and fair deter-
15 mination of a factual issue made in the case by a State
16 court shall be presumed to be correct. The applicant shall
17 have the burden of rebutting this presumption by clear
18 and convincing evidence.”; and

19 (5) by adding at the end the following new sub-
20 section:

21 “(h) In all proceedings brought under this section,
22 and any subsequent proceedings on review, appointment
23 of counsel for a petitioner who is or becomes financially
24 unable to afford counsel shall be in the discretion of the
25 court, except as provided by a rule promulgated by the

1 Supreme Court pursuant to statutory authority. Appoint-
2 ment of counsel under this section shall be governed by
3 section 3006A of title 18, United States Code.”.

4 **SEC. 206. SECTION 2255 AMENDMENTS.**

5 Section 2255 of title 28, United States Code, is
6 amended—

7 (1) by striking the second paragraph and the
8 penultimate paragraph; and

9 (2) by adding at the end the following new
10 paragraphs:

11 “A two-year period of limitation shall apply to a mo-
12 tion under this section. The limitation period shall run
13 from the latest of—

14 “(1) the time at which the judgment of convic-
15 tion becomes final;

16 “(2) the time at which the impediment to mak-
17 ing a motion created by governmental action in vio-
18 lation of the Constitution or laws of the United
19 States is removed, where the movant was prevented
20 from making a motion by such governmental action;

21 “(3) the time at which the right asserted was
22 initially recognized by the Supreme Court, where the
23 right has been newly recognized by the Court and is
24 retroactively applicable; or

1 “(4) the time at which the factual predicate of
2 the claim or claims presented could have been dis-
3 covered through the exercise of reasonable diligence.

4 “In all proceedings brought under this section, and
5 any subsequent proceedings on review, appointment of
6 counsel for a movant who is or becomes financially unable
7 to afford counsel shall be in the discretion of the court,
8 except as provided by a rule promulgated by the Supreme
9 Court pursuant to statutory authority. Appointment of
10 counsel under this section shall be governed by section
11 3006A of title 18, United States Code.”.

12 **Subtitle B—Death Penalty**
13 **Litigation Procedures**

14 **SEC. 211. SHORT TITLE FOR SUBTITLE B.**

15 This subtitle may be cited as the “Death Penalty
16 Litigation Procedures Act of 1993”.

17 **SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.**

18 (a) ADDITION OF CHAPTER TO TITLE 28, UNITED
19 STATES CODE.—Title 28, United States Code, is amended
20 by inserting after chapter 153 the following new chapter:

21 **“CHAPTER 154—SPECIAL HABEAS CORPUS**
22 **PROCEDURES IN CAPITAL CASES**

“Sec.

“2256. Prisoners in State custody subject to capital sentence; appointment of
 counsel; requirement of rule of court or statute; procedures for
 appointment.

“2257. Mandatory stay of execution; duration; limits on stays of execution; suc-
 cessive petitions.

“2258. Filing of habeas corpus petition; time requirements; tolling rules.

1 as provided in subsection (b) must offer counsel to all
2 State prisoners under capital sentence and must provide
3 for the entry of an order by a court of record—

4 “(1) appointing 1 or more counsel to represent
5 the prisoner upon a finding that the prisoner is indi-
6 gent and accepted the offer or is unable competently
7 to decide whether to accept or reject the offer;

8 “(2) finding, after a hearing if necessary, that
9 the prisoner rejected the offer of counsel and made
10 the decision with an understanding of its legal con-
11 sequences; or

12 “(3) denying the appointment of counsel upon
13 a finding that the prisoner is not indigent.

14 “(d) PREVIOUS REPRESENTATION.—No counsel ap-
15 pointed pursuant to subsections (b) and (c) to represent
16 a State prisoner under capital sentence shall have pre-
17 viously represented the prisoner at trial or on direct appeal
18 in the case for which the appointment is made unless the
19 prisoner and counsel expressly request continued represen-
20 tation.

21 “(e) NO GROUND FOR RELIEF.—The ineffectiveness
22 or incompetence of counsel during State or Federal collat-
23 eral postconviction proceedings in a capital case shall not
24 be a ground for relief in a proceeding arising under section
25 2254. This limitation shall not preclude the appointment

1 of different counsel, on the court’s own motion or at the
2 request of the prisoner, at any phase of State or Federal
3 postconviction proceedings on the basis of the ineffective-
4 ness or incompetence of counsel in such proceedings.

5 **“§ 2257. Mandatory stay of execution; duration; limits**
6 **on stays of execution; successive peti-**
7 **tions**

8 “(a) STAY.—Upon the entry in the appropriate State
9 court of record of an order under section 2256(c), a war-
10 rant or order setting an execution date for a State pris-
11 oner shall be stayed upon application to any court that
12 would have jurisdiction over any proceedings filed under
13 section 2254. The application must recite that the State
14 has invoked the postconviction review procedures of this
15 chapter and that the scheduled execution is subject to
16 stay.

17 “(b) EXPIRATION OF STAY.—A stay of execution
18 granted pursuant to subsection (a) shall expire if—

19 “(1) a State prisoner fails to file a habeas cor-
20 pus petition under section 2254 within the time re-
21 quired in section 2258, or fails to make a timely ap-
22 plication for court of appeals review following the de-
23 nial of such a petition by a district court;

1 “(2) upon completion of district court and court
2 of appeals review under section 2254 the petition for
3 relief is denied and—

4 “(A) the time for filing a petition for cer-
5 tiorari has expired and no petition has been
6 filed;

7 “(B) a timely petition for certiorari was
8 filed and the Supreme Court denied the peti-
9 tion; or

10 “(C) a timely petition for certiorari was
11 filed and upon consideration of the case, the
12 Supreme Court disposed of it in a manner that
13 left the capital sentence undisturbed; or

14 “(3) before a court of competent jurisdiction, in
15 the presence of counsel and after having been ad-
16 vised of the consequences of his decision, a State
17 prisoner under capital sentence waives the right to
18 pursue habeas corpus review under section 2254.

19 “(c) LIMITATION ON FURTHER STAY.—If one of the
20 conditions in subsection (b) has occurred, no Federal court
21 thereafter shall have the authority to enter a stay of execu-
22 tion or grant relief in a capital case unless—

23 “(1) the basis for the stay and request for relief
24 is a claim not previously presented in the State or
25 Federal courts;

1 “(2) the failure to raise the claim is—

2 “(A) the result of State action in violation
3 of the Constitution or laws of the United
4 States;

5 “(B) the result of the Supreme Court rec-
6 ognition of a new Federal right that is retro-
7 actively applicable; or

8 “(C) based on a factual predicate that
9 could not have been discovered through the ex-
10 ercise of reasonable diligence in time to present
11 the claim for State or Federal postconviction
12 review; and

13 “(3) the facts underlying the claim would be
14 sufficient, if proven, to undermine the court’s con-
15 fidence in the determination of guilt on the offense
16 or offenses for which the death penalty was imposed.

17 **“§ 2258. Filing of habeas corpus petition; time re-
18 quirements; tolling rules**

19 “Any petition for habeas corpus relief under section
20 2254 must be filed in the appropriate district court within
21 180 days from the filing in the appropriate State court
22 of record of an order under section 2256(c). The time re-
23 quirements established by this section shall be tolled—

24 “(1) from the date that a petition for certiorari
25 is filed in the Supreme Court until the date of final

1 disposition of the petition if a State prisoner files
2 the petition to secure review by the Supreme Court
3 of the affirmance of a capital sentence on direct re-
4 view by the court of last resort of the State or other
5 final State court decision on direct review;

6 “(2) during any period in which a State pris-
7 oner under capital sentence has a properly filed re-
8 quest for postconviction review pending before a
9 State court of competent jurisdiction; if all State fil-
10 ing rules are met in a timely manner, this period
11 shall run continuously from the date that the State
12 prisoner initially files for postconviction review until
13 final disposition of the case by the highest court of
14 the State, but the time requirements established by
15 this section are not tolled during the pendency of a
16 petition for certiorari before the Supreme Court ex-
17 cept as provided in paragraph (1); and

18 “(3) during an additional period not to exceed
19 60 days, if—

20 “(A) a motion for an extension of time is
21 filed in the Federal district court that would
22 have proper jurisdiction over the case upon the
23 filing of a habeas corpus petition under section
24 2254; and

1 “(2) conduct any requested evidentiary hearing
2 necessary to complete the record for habeas corpus
3 review.

4 “(b) ADJUDICATION.—Upon the development of a
5 complete evidentiary record, the district court shall rule
6 on the claims that are properly before it, but the court
7 shall not grant relief from a judgment of conviction or sen-
8 tence on the basis of any claim that was fully and fairly
9 adjudicated in State proceedings.

10 **“§ 2260. Certificate of probable cause inapplicable**

11 “The requirement of a certificate of probable cause
12 in order to appeal from the district court to the court of
13 appeals does not apply to habeas corpus cases subject to
14 this chapter except when a second or successive petition
15 is filed.

16 **“§ 2261. Application to State unitary review proce-**
17 **dure**

18 “(a) IN GENERAL.—For purposes of this section, the
19 term ‘unitary review procedure’ means a State procedure
20 that authorizes a person under sentence of death to raise,
21 in the course of direct review of the judgment, such claims
22 as could be raised on collateral attack. This chapter shall
23 apply, as provided in this section, in relation to a State
24 unitary review procedure if the State establishes by rule
25 of its court of last resort or by statute a mechanism for

1 the appointment, compensation, and payment of reason-
2 able litigation expenses of competent counsel in the uni-
3 tary review proceedings, including expenses relating to the
4 litigation of collateral claims in the proceedings. The rule
5 of court or statute must provide standards of competency
6 for the appointment of such counsel.

7 “(b) OFFER OF COUNSEL.—A unitary review proce-
8 dure, to qualify under this section, must include an offer
9 of counsel following trial for the purpose of representation
10 on unitary review, and entry of an order, as provided in
11 section 2256(c), concerning appointment of counsel or
12 waiver or denial of appointment of counsel for that pur-
13 pose. No counsel appointed to represent the prisoner in
14 the unitary review proceedings shall have previously rep-
15 resented the prisoner at trial in the case for which the
16 appointment is made unless the prisoner and counsel ex-
17 pressly request continued representation.

18 “(c) APPLICATION OF OTHER SECTIONS.—Sections
19 2257, 2258, 2259, 2260, and 2262 shall apply in relation
20 to cases involving a sentence of death from any State hav-
21 ing a unitary review procedure that qualifies under this
22 section. References to State ‘post-conviction review’ and
23 ‘direct review’ in those sections shall be understood as re-
24 ferring to unitary review under the State procedure. The
25 references in sections 2257(a) and 2258 to ‘an order

1 under section 2256(c)' shall be understood as referring to
2 the post-trial order under subsection (b) concerning rep-
3 resentation in the unitary review proceedings, but if a
4 transcript of the trial proceedings is unavailable at the
5 time of the filing of such an order in the appropriate State
6 court, the start of the 180-day limitation period under sec-
7 tion 2258 shall be deferred until a transcript is made
8 available to the prisoner or the prisoner's counsel.

9 **“§ 2262. Limitation periods for determining petitions**

10 “(a) IN GENERAL.—The adjudication of any petition
11 under section 2254 that is subject to this chapter, and
12 the adjudication of any motion under section 2255 by a
13 person under sentence of death, shall be given priority by
14 the district court and by the court of appeals over all
15 noncapital matters. The adjudication of such a petition or
16 motion shall be subject to the following time limitations:

17 “(1) A Federal district court shall determine
18 such a petition or motion within 110 days of filing.

19 “(2)(A) The court of appeals shall hear and de-
20 termine any appeal relating to such a petition or
21 motion within 90 days after the notice of appeal is
22 filed.

23 “(B) The court of appeals shall decide any ap-
24 plication for rehearing en banc within 20 days of the
25 filing of the application unless a responsive pleading

1 is required, in which case the court of appeals shall
2 decide the application within 20 days of the filing of
3 the responsive pleading. If en banc consideration is
4 granted, the en banc court shall determine the ap-
5 peal within 90 days of the decision to grant such
6 consideration.

7 “(3) The Supreme Court shall act on any appli-
8 cation for a writ of certiorari relating to such a peti-
9 tion or motion within 90 days after the application
10 is filed.

11 “(b) APPLICATION OF SECTION.—The time limita-
12 tions under subsection (a) shall apply to an initial petition
13 or motion, and to any second or successive petition or mo-
14 tion. The same limitations shall also apply to the redeter-
15 mination of a petition or motion or related appeal follow-
16 ing a remand by the court of appeals or the Supreme
17 Court for further proceedings, and in such a case the limi-
18 tation period shall run from the date of the remand.

19 “(c) RULE OF CONSTRUCTION.—The time limitations
20 under this section shall not be construed to entitle a peti-
21 tioner or movant to a stay of execution, to which the peti-
22 tioner or movant would otherwise not be entitled, for the
23 purpose of litigating any petition, motion, or appeal.

24 “(d) NO GROUND FOR RELIEF.—The failure of a
25 court to meet or comply with the time limitations under

1 this section shall not be a ground for granting relief from
 2 a judgment of conviction or sentence. The State or Gov-
 3 ernment may enforce the time limitations under this sec-
 4 tion by applying to the court of appeals or the Supreme
 5 Court for a writ of mandamus.

6 “(e) REPORT.—The Administrative Office of the
 7 United States Courts shall report annually to Congress on
 8 the compliance by the courts with the time limits estab-
 9 lished in this section.

10 **“§ 2263. Rule of construction**

11 “This chapter shall be construed to promote the expe-
 12 ditious conduct and conclusion of State and Federal court
 13 review in capital cases.”.

14 (b) TECHNICAL AMENDMENT.—The part analysis for
 15 part IV of title 28, United States Code, is amended by
 16 adding after the item relating to chapter 153 the following
 17 new item:

“154. **Special habeas corpus procedures in capital**
cases 2256.”.

18 **Subtitle C—Equalization of Capital**
 19 **Habeas Corpus Litigation Funding**

20 **SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

21 Part E of title I of the Omnibus Crime Control and
 22 Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is
 23 amended by inserting after section 511 the following new
 24 section:

1 “FUNDING FOR DEATH PENALTY PROSECUTIONS

2 “SEC. 511A. Notwithstanding any other provision of
3 this part, the Director shall provide grants to the States,
4 from the funding allocated pursuant to section 511, for
5 the purpose of supporting litigation pertaining to Federal
6 habeas corpus petitions in capital cases. The total funding
7 available for such grants within any fiscal year shall be
8 equal to the funding provided to capital resource centers,
9 pursuant to Federal appropriation, in the same fiscal
10 year.”.

11 **TITLE III—EXCLUSIONARY RULE**

12 **SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.**

13 (a) IN GENERAL.—Chapter 223 of title 18, United
14 States Code, is amended by adding at the end the follow-
15 ing new section:

16 **“§ 3509. Admissibility of evidence obtained by search 17 or seizure**

18 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
19 SONABLE SEARCH OR SEIZURE.—Evidence that is ob-
20 tained as a result of a search or seizure shall not be ex-
21 cluded in a proceeding in a court of the United States
22 on the ground that the search or seizure was in violation
23 of the fourth amendment to the Constitution of the United
24 States, if the search or seizure was carried out in cir-
25 cumstances justifying an objectively reasonable belief that

1 it was in conformity with the fourth amendment. The fact
2 that evidence was obtained pursuant to and within the
3 scope of a warrant constitutes prima facie evidence of the
4 existence of such circumstances.

5 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
6 RULE.—Evidence shall not be excluded in a proceeding
7 in a court of the United States on the ground that it was
8 obtained in violation of a statute, an administrative rule
9 or regulation, or a rule of procedure unless exclusion is
10 expressly authorized by statute or by a rule prescribed by
11 the Supreme Court pursuant to statutory authority.

12 “(c) RULE OF CONSTRUCTION.—This section shall
13 not be construed to require or authorize the exclusion of
14 evidence in any proceeding.”.

15 (b) TECHNICAL AMENDMENT.—The chapter analysis
16 for chapter 223 of title 28, United States Code, is amend-
17 ed by adding at the end the following new item:

“3509. Admissibility of evidence obtained by search or seizure.”.

18 **TITLE IV—FIREARMS AND**
19 **RELATED AMENDMENTS**

20 **SEC. 401. INCREASED MANDATORY MINIMUM SENTENCES**
21 **FOR CRIMINALS USING FIREARMS.**

22 Section 924(c)(1) of title 18, United States Code, is
23 amended to read as follows:

24 “(c)(1)(A) Whoever, during and in relation to any
25 crime of violence or drug trafficking crime (including a

1 crime of violence or drug trafficking crime which provides
2 for an enhanced punishment if committed by the use of
3 a deadly or dangerous weapon or device) for which the
4 person may be prosecuted in a court of the United
5 States—

6 “(i) knowingly uses, carries, or otherwise pos-
7 sesses a firearm, shall, in addition to the punish-
8 ment provided for the underlying crime, be sen-
9 tenced to imprisonment for 10 years;

10 “(ii) discharges a firearm with intent to injure
11 another person, shall, in addition to the punishment
12 provided for the underlying crime, be sentenced to
13 imprisonment for 20 years; or

14 “(iii) knowingly uses, carries, or otherwise pos-
15 sesses a firearm that is a machinegun or destructive
16 device, or that is equipped with a firearm silencer or
17 firearm muffler, shall, in addition to the punishment
18 provided for the underlying crime, be sentenced to
19 imprisonment for 30 years.

20 “(B)(i) In the case of a second conviction under this
21 subsection, a person shall, in addition to the punishment
22 provided for the underlying crime, be sentenced to impris-
23 onment for 20 years for a violation of subparagraph
24 (A)(i), to imprisonment for 30 years for a violation of sub-

1 paragraph (A)(ii), and life imprisonment for a violation
2 of subparagraph (A)(iii).

3 “(ii) In the case of a third or subsequent conviction
4 under this subsection, or a conviction for a violation of
5 subparagraph (A)(ii) that results in the death of another
6 person, a person shall be sentenced to life imprisonment.

7 “(C) Notwithstanding any other law, a term of im-
8 prisonment under this subsection shall run concurrently
9 with any other term of imprisonment imposed for the un-
10 derlying crime.

11 “(D) For the purposes of paragraph (A), a person
12 shall be considered to be in possession of a firearm if the
13 person has a firearm readily available at the scene of the
14 crime during the commission of the crime.”.

15 **SEC. 402. INCREASED PENALTY FOR SECOND OFFENSE OF**
16 **USING AN EXPLOSIVE TO COMMIT A FELONY.**

17 Section 844(h) of title 18, United States Code, is
18 amended by striking “ten” and inserting “20”.

19 **SEC. 403. SMUGGLING FIREARMS IN AID OF DRUG TRAF-**
20 **FICKING.**

21 Section 924 of title 18, United States Code, as
22 amended by section 136, is amended by adding at the end
23 the following new subsection:

24 “(j) Whoever, with the intent to engage in or to pro-
25 mote conduct that—

1 “(1) is punishable under the Controlled Sub-
2 stances Act (21 U.S.C. 801 et seq.), the Controlled
3 Substances Import and Export Act (21 U.S.C. 951
4 et seq.), or the Maritime Drug Law Enforcement
5 Act (46 U.S.C. App. 1901 et seq.);

6 “(2) violates any law of a State relating to any
7 controlled substance (as defined in section 102 of
8 the Controlled Substances Act (21 U.S.C. 802)); or

9 “(3) constitutes a crime of violence (as defined
10 in subsection (c)(3) of this section),
11 smuggles or knowingly brings into the United States a
12 firearm, or attempts to do so, shall be imprisoned not
13 more than 10 years, fined under this title, or both.”.

14 **SEC. 404. PROHIBITION AGAINST THEFT OF FIREARMS OR**
15 **EXPLOSIVES.**

16 (a) FIREARMS.—Section 924 of title 18, United
17 States Code, as amended by section 403, is amended by
18 adding at the end the following new subsection:

19 “(k) Whoever steals any firearm which is moving as,
20 or is a part of, or which has moved in, interstate or foreign
21 commerce shall be imprisoned not less than 2 nor more
22 than 10 years, fined in accordance with this title, or
23 both.”.

1 (b) EXPLOSIVES.—Section 844 of title 18, United
2 States Code, is amended by adding at the end the follow-
3 ing new subsection:

4 “(k) Whoever steals any explosive materials which are
5 moving as, or are a part of, or which have moved in, inter-
6 state or foreign commerce shall be imprisoned not less
7 than 2 nor more than 10 years, fined in accordance with
8 this title, or both.”.

9 **SEC. 405. INCREASED PENALTY FOR KNOWINGLY FALSE,**
10 **MATERIAL STATEMENT IN CONNECTION**
11 **WITH THE ACQUISITION OF A FIREARM FROM**
12 **A LICENSED DEALER.**

13 Section 924(a) of title 18, United States Code, is
14 amended—

15 (1) in paragraph (1)(B) by striking “(a)(6),”;

16 and

17 (2) in paragraph (2) by inserting “(a)(6),”

18 after “subsection”.

19 **SEC. 406. SUMMARY DESTRUCTION OF EXPLOSIVES SUB-**
20 **JECT TO FORFEITURE.**

21 Section 844(c) of title 18, United States Code, is
22 amended—

23 (1) by inserting “(1)” before “Any”; and

24 (2) by adding at the end the following new
25 paragraphs:

1 “(2) Notwithstanding paragraph (1), in the case of
2 the seizure of any explosive materials for any offense for
3 which the materials would be subject to forfeiture where
4 it is impracticable or unsafe to remove the materials to
5 a place of storage, or where it is unsafe to store them,
6 the seizing officer may destroy the explosive materials
7 forthwith. Any destruction under this paragraph shall be
8 in the presence of at least one credible witness. The seizing
9 officer shall make a report of the seizure and take samples
10 as the Secretary may by regulation prescribe.

11 “(3) Within 60 days after any destruction made pur-
12 suant to paragraph (2), the owner of, including any person
13 having an interest in, the property so destroyed may make
14 application to the Secretary for reimbursement of the
15 value of the property. If the claimant establishes to the
16 satisfaction of the Secretary that—

17 “(A) the property has not been used or involved
18 in a violation of law; or

19 “(B) any unlawful involvement or use of the
20 property was without the claimant’s knowledge, con-
21 sent, or willful blindness,

22 the Secretary shall make an allowance to the claimant not
23 exceeding the value of the property destroyed.”.

1 **SEC. 407. ELIMINATION OF OUTMODED LANGUAGE RELAT-**
2 **ING TO PAROLE.**

3 Section 924 of title 18, United States Code, is
4 amended—

5 (1) in subsection (c)(1) by striking “No person
6 sentenced under this subsection shall be eligible for
7 parole during the term of imprisonment imposed
8 herein.”; and

9 (2) in subsection (e)(1) by striking “, and such
10 person shall not be eligible for parole with respect to
11 the sentence imposed under this subsection”.

12 **SEC. 408. ENHANCED PENALTIES FOR USE OF A FIREARM**
13 **IN THE COMMISSION OF COUNTERFEITING**
14 **OR FORGERY.**

15 Section 924(c)(1) of title 18, United States Code, as
16 amended by section 401, is amended in subparagraph (A)
17 by inserting “or during and in relation to any felony pun-
18 ishable under chapter 25” after “United States,”.

19 **SEC. 409. MANDATORY PENALTIES FOR FIREARMS POSSES-**
20 **SION BY VIOLENT FELONS AND SERIOUS**
21 **DRUG OFFENDERS.**

22 (a) ONE PRIOR CONVICTION.—Section 924(a)(2) of
23 title 18, United States Code, is amended by inserting “,
24 and if the violation is of section 922(g)(1) by a person
25 who has a previous conviction for a violent felony or a
26 serious drug offense (as defined in subsections (e)(2) (A)

1 and (B) of this section), a sentence imposed under this
2 paragraph shall include a term of imprisonment of not less
3 than 5 years” before the period.

4 (b) TWO PRIOR CONVICTIONS.—Section 924 of title
5 18, United States Code, as amended by section 404, is
6 amended by adding at the end the following new sub-
7 section:

8 “(1) Notwithstanding subsection (a)(2), any per-
9 son who violates section 922(g) and has 2 previous convic-
10 tions by any court referred to in section 922(g)(1) for a
11 violent felony (as defined in subsection (e)(2)(B) of this
12 section) or a serious drug offense (as defined in subsection
13 (e)(2)(A) of this section) committed on occasions different
14 from one another shall be fined as provided in this title,
15 imprisoned not less than 10 years and not more than 20
16 years, or both.

17 “(2) Notwithstanding any other law, the court shall
18 not suspend the sentence of, or grant a probationary sen-
19 tence to, a person described in paragraph (1) with respect
20 to the conviction under section 922(g).”.

21 **SEC. 410. RECEIPT OF FIREARMS BY NONRESIDENT.**

22 Section 922(a) of title 18, United States Code, is
23 amended—

24 (1) in paragraph (7)(C) by striking “and”;

1 (2) in paragraph (8)(C) by striking the period
2 and inserting “; and”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(9) for any person, other than a licensed im-
6 porter, licensed manufacturer, licensed dealer, or li-
7 censed collector, who does not reside in any State to
8 receive any firearms unless such receipt is for lawful
9 sporting purposes.”.

10 **SEC. 411. PROHIBITION AGAINST CONSPIRACY TO VIOLATE**
11 **FEDERAL FIREARMS OR EXPLOSIVES LAWS.**

12 (a) FIREARMS.—Section 924 of title 18, United
13 States Code, as amended by section 409(b), is amended
14 by adding at the end the following new subsection:

15 “(m) Whoever conspires to commit any offense pun-
16 ishable under this chapter shall be subject to the same
17 penalties as those prescribed for the offense the commis-
18 sion of which was the object of the conspiracy.”.

19 (b) EXPLOSIVES.—Section 844 of title 18, United
20 States Code, as amended by section 404(b), is amended
21 by adding at the end the following new subsection:

22 “(l) Whoever conspires to commit any offense punish-
23 able under this chapter shall be subject to the same pen-
24 alties as those prescribed for the offense the commission
25 of which was the object of the conspiracy.”.

1 **SEC. 412. PROHIBITION AGAINST THEFT OF FIREARMS OR**
2 **EXPLOSIVES FROM LICENSEE.**

3 (a) FIREARMS.—Section 924 of title 18, United
4 States Code, as amended by section 411(a), is amended
5 by adding at the end the following new subsection:

6 “(n) Whoever steals any firearm from a licensed im-
7 porter, licensed manufacturer, licensed dealer, or licensed
8 collector shall be fined in accordance with this title, im-
9 prisoned not more than 10 years, or both.”.

10 (b) EXPLOSIVES.—Section 844 of title 18, United
11 States Code, as amended by section 411(b), is amended
12 by adding at the end the following new subsection:

13 “(m) Whoever steals any explosive material from a
14 licensed importer, licensed manufacturer, licensed dealer,
15 or permittee shall be fined in accordance with this title,
16 imprisoned not more than 10 years, or both.”.

17 **SEC. 413. PROHIBITION AGAINST DISPOSING OF EXPLO-**
18 **SIVES TO PROHIBITED PERSONS.**

19 Section 842(d) of title 18, United States Code, is
20 amended by striking “licensee” and inserting “person”.

21 **SEC. 414. INCREASED PENALTY FOR INTERSTATE GUN**
22 **TRAFFICKING.**

23 Section 924 of title 18, United States Code, as
24 amended by section 412(a), is amended by adding at the
25 end the following new subsection:

1 “(o) Whoever, with the intent to engage in conduct
2 that constitutes a violation of section 922(a)(1)(A), travels
3 from any State or foreign country into any other State
4 and acquires, or attempts to acquire, a firearm in such
5 other State in furtherance of such purpose shall be impris-
6 oned for not more than 10 years.”.

7 **SEC. 415. PROHIBITION AGAINST TRANSACTIONS INVOLV-**
8 **ING STOLEN FIREARMS WHICH HAVE MOVED**
9 **IN INTERSTATE OR FOREIGN COMMERCE.**

10 Section 922(j) of title 18, United States Code, is
11 amended to read as follows:

12 “(j) It shall be unlawful for any person to receive,
13 possess, conceal, store, barter, sell, or dispose of any stolen
14 firearm or stolen ammunition, or pledge or accept as secu-
15 rity for a loan any stolen firearm or stolen ammunition,
16 which is moving as, which is a part of, which constitutes,
17 or which has been shipped or transported in, interstate
18 or foreign commerce, either before or after it was stolen,
19 knowing or having reasonable cause to believe that the
20 firearm or ammunition was stolen.”.

21 **SEC. 416. POSSESSION OF EXPLOSIVES BY FELONS AND**
22 **OTHERS.**

23 Section 842(i) of title 18, United States Code, is
24 amended by inserting “or possess” after “to receive”.

1 **SEC. 417. POSSESSION OF AN EXPLOSIVE DURING THE**
2 **COMMISSION OF A FELONY.**

3 Section 844(h) of title 18, United States Code, is
4 amended—

5 (1) by striking “carries an explosive during”
6 and inserting “uses, carries, or otherwise possesses
7 an explosive during”; and

8 (2) by striking “used or carried” and inserting
9 “used, carried, or possessed”.

10 **SEC. 418. DISPOSITION OF FORFEITED FIREARMS.**

11 Subsection 5872(b) of the Internal Revenue Code of
12 1986 is amended to read as follows:

13 “(b) DISPOSAL.—In the case of the forfeiture of any
14 firearm, where there is no remission or mitigation of for-
15 feiture thereof—

16 “(1) the Secretary may retain the firearm for
17 official use of the Department of the Treasury or, if
18 not so retained, offer to transfer the weapon without
19 charge to any other executive department or inde-
20 pendent establishment of the Government for official
21 use by it and, if the offer is accepted, so transfer the
22 firearm;

23 “(2) if the firearm is not disposed of pursuant
24 to paragraph (1), is a firearm other than a machine-
25 gun or firearm forfeited for a violation of this chap-
26 ter, is a firearm that in the opinion of the Secretary

1 is not so defective that its disposition pursuant to
2 this paragraph would create an unreasonable risk of
3 a malfunction likely to result in death or bodily in-
4 jury, and is a firearm which (in the judgment of the
5 Secretary, taking into consideration evidence of
6 present value and evidence that like firearms are not
7 available except as collector's items, or that the
8 value of like firearms available in ordinary commer-
9 cial channels is substantially less) derives a substan-
10 tial part of its monetary value from the fact that it
11 is novel or rare or because of its association with
12 some historical figure, period, or event, the Sec-
13 retary may sell the firearm, after public notice, at
14 public sale to a dealer licensed under chapter 44 of
15 title 18, United States Code;

16 “(3) if the firearm has not been disposed or
17 pursuant to paragraph (1) or (2), the Secretary
18 shall transfer the firearm to the Administrator of
19 General Services, who shall destroy or provide for
20 the destruction of such firearm; and

21 “(4) no decision or action of the Secretary pur-
22 suant to this subsection shall be subject to judicial
23 review.”.

1 **SEC. 419. DEFINITION OF SERIOUS DRUG OFFENSE.**

2 Section 924(e)(2)(A) of title 18, United States Code,
3 is amended—

- 4 (1) by striking “or” at the end of clause (i);
5 (2) by adding “or” at the end of clause (ii); and
6 (3) by adding at the end the following new
7 clause:

8 “(iii) an offense under State law that,
9 if it had been prosecuted as a violation of
10 the Controlled Substances Act (21 U.S.C.
11 801 et seq.) as that Act provided at the
12 time of the offense, would have been pun-
13 ishable by a maximum term of 10 years or
14 more;”.

15 **SEC. 420. DEFINITION OF BURGLARY UNDER THE ARMED**
16 **CAREER CRIMINAL STATUTE.**

17 Section 924(e)(2) of title 18, United States Code, is
18 amended—

- 19 (1) by striking “and” at the end of subpara-
20 graph (B);
21 (2) by striking the period at the end of sub-
22 paragraph (C) and inserting “; and”; and
23 (3) by adding at the end the following new sub-
24 paragraph:
25 “(D) the term ‘burglary’ means a crime that—

1 “(i) consists of entering or remaining sur-
2 reptitiously within a building that is the prop-
3 erty of another person with intent to engage in
4 conduct constituting a Federal or State offense;
5 and

6 “(ii) is punishable by a term of imprison-
7 ment exceeding 1 year.”.

8 **TITLE V—TERRORISM AND** 9 **INTERNATIONAL MATTERS**

10 **SEC. 501. TERRORISM CIVIL REMEDY.**

11 (a) REINSTATEMENT OF LAW.—The amendments
12 made by section 132 of the Military Construction Appro-
13 priations Act, 1991 (104 Stat. 2250), are repealed effec-
14 tive as of April 10, 1991.

15 (b) TERRORISM.—Chapter 113A of title 18, United
16 States Code, as amended by subsection (a), is amended—

17 (1) in section 2331 (as in effect prior to enact-
18 ment of the Military Construction Appropriations
19 Act, 1991) by striking subsection (d) and redesign-
20 ating subsection (e) as subsection (d);

21 (2) by redesignating section 2331 (as in effect
22 prior to enactment of the Military Construction Ap-
23 propriations Act, 1991) as section 2332 and amend-
24 ing the heading for section 2332, as redesignated, to
25 read as follows:

1 **“§ 2332. Criminal penalties”;**

2 (3) by inserting before section 2332, as redesignig-
3 nated by paragraph (2), the following new section:

4 **“§ 2331. Definitions**

5 “As used in this chapter—

6 “(1) the term ‘act of war’ means any act occur-
7 ring in the course of—

8 “(A) declared war;

9 “(B) armed conflict, whether or not war
10 has been declared, between two or more na-
11 tions; or

12 “(C) armed conflict between military forces
13 of any origin;

14 “(2) the term ‘international terrorism’ means
15 activities that—

16 “(A) involve violent acts or acts dangerous
17 to human life that are a violation of the crimi-
18 nal laws of the United States or of any State,
19 or that would be a criminal violation if commit-
20 ted within the jurisdiction of the United States
21 or of any State;

22 “(B) appear to be intended—

23 “(i) to intimidate or coerce a civilian
24 population;

25 “(ii) to influence the policy of a gov-
26 ernment by intimidation or coercion; or

1 “(iii) to affect the conduct of a gov-
2 ernment by assassination or kidnapping;
3 and

4 “(C) occur primarily outside the territorial
5 jurisdiction of the United States, or transcend
6 national boundaries in terms of the means by
7 which they are accomplished, the persons they
8 appear intended to intimidate or coerce, or the
9 locale in which their perpetrators operate or
10 seek asylum;

11 “(3) the term ‘national of the United States’
12 has the meaning given such term in section
13 101(a)(22) of the Immigration and Nationality Act;
14 and

15 “(4) the term ‘person’ means any individual or
16 entity capable of holding a legal or beneficial interest
17 in property.”; and

18 (4) by inserting after section 2332, as redesign-
19 nated, the following new sections:

20 **“§ 2333. Civil remedies**

21 “(a) ACTION AND JURISDICTION.—Any national of
22 the United States injured in his or her person, property,
23 or business by reason of an act of international terrorism,
24 or his or her estate, survivors, or heirs, may sue therefor
25 in any appropriate district court of the United States and

1 shall recover threefold the damages he or she sustains and
2 the cost of the suit, including attorney's fees.

3 “(b) ESTOPPEL UNDER UNITED STATES LAW.—A
4 final judgment or decree rendered in favor of the United
5 States in any criminal proceeding under section 1116,
6 1201, 1203, or 2332 of this title or section 902 (i), (k),
7 (l), (n), or (r) of the Federal Aviation Act of 1958 (49
8 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop
9 the defendant from denying the essential allegations of the
10 criminal offense in any subsequent civil proceeding under
11 this section.

12 “(c) ESTOPPEL UNDER FOREIGN LAW.—A final
13 judgment or decree rendered in favor of any foreign state
14 in any criminal proceeding shall, to the extent that such
15 judgment or decree may be accorded full faith and credit
16 under the law of the United States, estop the defendant
17 from denying the essential allegations of the criminal of-
18 fense in any subsequent civil proceeding under this sec-
19 tion.

20 **“§ 2334. Jurisdiction and venue**

21 “(a) GENERAL VENUE.—Any civil action under sec-
22 tion 2333 of this title against any person may be insti-
23 tuted in the district court of the United States for any
24 district where any plaintiff resides or where any defendant
25 resides or is served, or has an agent. Process in such a

1 civil action may be served in any district where the defend-
2 ant resides, is found, or has an agent.

3 “(b) SPECIAL MARITIME OR TERRITORIAL JURISDIC-
4 TION.—If the actions giving rise to the claim occurred
5 within the special maritime and territorial jurisdiction of
6 the United States, any civil action under section 2333
7 against any person may be instituted in the district court
8 of the United States for any district in which any plaintiff
9 resides or the defendant resides, is served, or has an
10 agent.

11 “(c) SERVICE ON WITNESSES.—A witness in a civil
12 action brought under section 2333 may be served in any
13 other district where the defendant resides, is found, or has
14 an agent.

15 “(d) CONVENIENCE OF THE FORUM.—The district
16 court shall not dismiss any action brought under section
17 2333 on the grounds of the inconvenience or inappropri-
18 ateness of the forum chosen, unless—

19 “(1) the action may be maintained in a foreign
20 court that has jurisdiction over the subject matter
21 and over all the defendants;

22 “(2) that foreign court is significantly more
23 convenient and appropriate; and

1 “(3) that foreign court offers a remedy that is
2 substantially the same as the one available in the
3 courts of the United States.

4 **“§ 2335. Limitation of actions**

5 “(a) IN GENERAL.—Subject to subsection (b), a suit
6 for recovery of damages under section 2333 shall not be
7 maintained unless commenced within 4 years from the
8 date the cause of action accrued.

9 “(b) CALCULATION OF PERIOD.—The time of the ab-
10 sence of the defendant from the United States or from
11 any jurisdiction in which the same or a similar action aris-
12 ing from the same facts may be maintained by the plain-
13 tiff, or any concealment of the defendant’s whereabouts,
14 shall not be counted for the purposes of the period of limi-
15 tation prescribed by subsection (a).

16 **“§ 2336. Other limitations**

17 “(a) ACTS OF WAR.—No action shall be maintained
18 under section 2333 for injury or loss by reason of an act
19 of war.

20 “(b) LIMITATION ON DISCOVERY.—If a party to an
21 action under section 2333 seeks to discover the investiga-
22 tive files of the Department of Justice, the attorney for
23 the Government may object on the ground that compliance
24 will interfere with a criminal investigation or prosecution
25 of the incident, or a national security operation related

1 to the incident, which is the subject of the civil litigation.
2 The court shall evaluate any objections raised by the Gov-
3 ernment in camera and shall stay the discovery if the court
4 finds that granting the discovery request will substantially
5 interfere with a criminal investigation or prosecution of
6 the incident or a national security operation related to the
7 incident. The court shall consider the likelihood of criminal
8 prosecution by the Government and other factors it deems
9 to be appropriate. A stay of discovery under this sub-
10 section shall constitute a bar to the granting of a motion
11 to dismiss under rules 12(b)(6) and 56 of the Federal
12 Rules of Civil Procedure.

13 “(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1)
14 The Attorney General may intervene in any civil action
15 brought under section 2333 for the purpose of seeking a
16 stay of the civil action. A stay shall be granted if the court
17 finds that the continuation of the civil action will substan-
18 tially interfere with a criminal prosecution which involves
19 the same subject matter and in which an indictment has
20 been returned, or interfere with national security oper-
21 ations related to the terrorist incident that is the subject
22 of the civil action. A stay may be granted for up to 6
23 months. The Attorney General may petition the court for
24 an extension of the stay for additional 6-month periods
25 until the criminal prosecution is completed or dismissed.

1 “(2) In a proceeding under this subsection, the Attor-
2 ney General may request that any order issued by the
3 court for release to the parties and the public omit any
4 reference to the basis on which the stay was sought.

5 **“§ 2337. Suits against Government officials**

6 “‘No action shall be maintained under section 2333
7 against—

8 “(1) the United States, an agency of the United
9 States, or an officer or employee of the United
10 States or any agency thereof acting within the offi-
11 cer’s or employee’s official capacity or under color of
12 legal authority; or

13 “(2) a foreign state, an agency of a foreign
14 state, or an officer or employee of a foreign state or
15 an agency thereof acting within the officer’s or em-
16 ployee’s official capacity or under color of legal au-
17 thority.

18 **“§ 2338. Exclusive Federal jurisdiction**

19 “‘The district courts of the United States shall have
20 exclusive jurisdiction over an action brought under this
21 chapter.’”.

22 (c) TECHNICAL AMENDMENTS.—(1) The chapter
23 analysis for chapter 113A of title 18, United States Code
24 is amended to read as follows:

“CHAPTER 113A—TERRORISM

“Sec.
 “2331. Definitions.
 “2332. Criminal penalties.
 “2333. Civil remedies.
 “2334. Jurisdiction and venue.
 “2335. Limitation of actions.
 “2336. Other limitations.
 “2337. Suits against government officials.
 “2338. Exclusive Federal jurisdiction.”.

1 (2) The item relating to chapter 113A in the part
 2 analysis for part 1 of title 18, United States Code, is
 3 amended to read as follows:

“113A. Terrorism 2331”.

4 (d) EFFECTIVE DATE.—This section and the amend-
 5 ments made by this section shall apply to any pending case
 6 or any cause of action arising on or after 4 years before
 7 the date of enactment of this Act.

8 **SEC. 502. PROVIDING MATERIAL SUPPORT TO TERRORISTS.**

9 (a) OFFENSE.—Chapter 113A of title 18, United
 10 States Code, is amended by adding at the end the follow-
 11 ing new section:

12 **“§ 2339. Providing material support to terrorists**

13 “Whoever, within the United States, provides mate-
 14 rial support or resources or conceals or disguises the na-
 15 ture, location, source, or ownership of material support or
 16 resources, knowing or intending that they are to be used
 17 to facilitate a violation of section 32, 36, 351, 844 (f) or
 18 (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281,
 19 2332, or 2339A of this title or section 902(i) of the Fed-
 20 eral Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or

1 to facilitate the concealment or an escape from the com-
2 mission of any of the foregoing, shall be fined under this
3 title, imprisoned not more than 10 years, or both. For pur-
4 poses of this section, material support or resources in-
5 cludes currency or other financial securities, financial
6 services, lodging, training, safehouses, false documenta-
7 tion or identification, communications equipment, facili-
8 ties, weapons, lethal substances, explosives, personnel,
9 transportation, and other physical assets.”.

10 (b) TECHNICAL AMENDMENT.—The chapter analysis
11 for chapter 113A of title 18, United States Code, as
12 amended by section 501(b)(1), is amended by adding at
13 the end the following new item:

“2339. Providing material support to terrorists.”.

14 **SEC. 503. FORFEITURE OF ASSETS USED TO SUPPORT TER-**
15 **RORISTS.**

16 (a) CIVIL FORFEITURE.—Section 981(a)(1) of title
17 18, United States Code, is amended by adding at the end
18 the following new subparagraph:

19 “(F) Any property, real or personal—

20 “(i) used or intended for use in committing
21 or to facilitate the concealment or an escape
22 from the commission of; or

23 “(ii) constituting or derived from the gross
24 profits or other proceeds obtained from,

1 a violation of section 32, 36, 351, 844 (f) or (i),
2 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281,
3 2332, or 2339A of this title or section 902(i) of the
4 Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).”.

5 (b) CRIMINAL FORFEITURE.—Section 982(a) of title
6 18, United States Code, is amended by adding at the end
7 the following new paragraph:

8 “(5) Any property, real or personal—

9 “(A) used or intended for use in commit-
10 ting or to facilitate the concealment or an es-
11 cape from the commission of; or

12 “(B) constituting or derived from the gross
13 profits or other proceeds obtained from,

14 a violation of section 32, 36, 351, 844 (f) or (i),
15 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281,
16 2332, or 2339A of this title or section 902(i) of the
17 Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).”.

18 **SEC. 504. ALIEN WITNESS COOPERATION.**

19 (a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—
20 Chapter 224 of title 18, United States Code, is amended—

21 (1) by redesignating section 3528 as section
22 3529; and

23 (2) by inserting after section 3527 the following
24 new section:

1 **“§ 3528. Aliens; waiver of admission requirements**

2 “(a) IN GENERAL.—Upon authorizing protection to
3 any alien under this chapter, the United States shall pro-
4 vide the alien with appropriate immigration visas and
5 allow the alien to remain in the United States so long as
6 that alien abides by all laws of the United States and
7 guidelines, rules and regulations for protection. The Attor-
8 ney General may determine that the granting of perma-
9 nent resident status to such alien is in the public interest
10 and necessary for the safety and protection of such alien
11 without regard to the alien’s admissibility under immigra-
12 tion or any other laws and regulations or the failure to
13 comply with such laws and regulations pertaining to ad-
14 missibility.

15 “(b) ALIEN WITH FELONY CONVICTIONS.—Notwith-
16 standing any other provision of this chapter, an alien who
17 would not be excluded because of felony convictions shall
18 be considered for permanent residence on a conditional
19 basis for a period of 2 years. Upon a showing that the
20 alien is still being provided protection, or that protection
21 remains available to the alien in accordance with this
22 chapter, or that the alien is still cooperating with the Gov-
23 ernment and has maintained good moral character, the
24 Attorney General shall remove the conditional basis of the
25 status effective as of the second anniversary of the alien’s
26 obtaining the status of admission for permanent residence.

1 Permanent resident status shall not be granted to an alien
2 who would be excluded because of felony convictions unless
3 the Attorney General determines, pursuant to regulations
4 which shall be prescribed by the Attorney General, that
5 granting permanent residence status to the alien is nec-
6 essary in the interests of justice and comports with safety
7 of the community.

8 “(c) LIMIT ON NUMBER OF ALIENS.—The number
9 of aliens and members of their immediate families entering
10 the United States under the authority of this section shall
11 in no case exceed 200 persons in any fiscal year. The deci-
12 sion to grant or deny permanent resident status under this
13 section is at the discretion of the Attorney General and
14 shall not be subject to judicial review.

15 “(d) DEFINITIONS.—As used in this section, the
16 terms ‘alien’ and ‘United States’ have the meanings stated
17 in section 101 of the Immigration and Nationality Act (8
18 U.S.C. 1101).”.

19 (b) TECHNICAL AMENDMENT.—The chapter analysis
20 for chapter 224 of title 18, United States Code, is amend-
21 ed by striking the item relating to section 3528 and insert-
22 ing the following:

“3528. Aliens; waiver of admission requirements.

“3529. Definition.”.

1 **SEC. 505. TERRITORIAL SEA EXTENDING TO 12 MILES IN-**
2 **CLUDED IN SPECIAL MARITIME AND TERRI-**
3 **TORIAL JURISDICTION.**

4 The Congress declares that all the territorial sea of
5 the United States, as defined by Presidential Proclamation
6 5928 of December 27, 1988, is part of the United States,
7 subject to its sovereignty, and, for purposes of Federal
8 criminal jurisdiction, is within the special maritime and
9 territorial jurisdiction of the United States wherever that
10 term is used in title 18, United States Code.

11 **SEC. 506. ASSIMILATED CRIMES IN EXTENDED TERRI-**
12 **TORIAL SEA.**

13 Section 13 of title 18, United States Code is amend-
14 ed—

15 (1) in subsection (a), by inserting after “title”
16 the following: “or on, above, or below any portion of
17 the territorial sea of the United States not within
18 the territory of any State, territory, possession, or
19 district”; and

20 (2) by inserting at the end the following new
21 subsection:

22 “(c) Whenever any waters of the territorial sea of the
23 United States lie outside the territory of any State, terri-
24 tory, possession, or district, such waters (including the air-
25 space above and the seabed and subsoil below, and artifi-
26 cial islands and fixed structures erected thereon) shall be

1 deemed for purposes of subsection (a) to lie within the
2 area of the State, territory, possession, or district within
3 which it would lie if the boundaries of the State, territory,
4 possession, or district were extended seaward to the outer
5 limit of the territorial sea of the United States.”.

6 **SEC. 507. JURISDICTION OVER CRIMES AGAINST UNITED**
7 **STATES NATIONALS ON CERTAIN FOREIGN**
8 **SHIPS.**

9 Section 7 of title 18, United States Code, is amended
10 by inserting at the end the following new paragraph:

11 “(8) Any foreign vessel during a voyage having
12 a scheduled departure from or arrival in the United
13 States with respect to an offense committed by or
14 against a national of the United States.”.

15 **SEC. 508. PENALTIES FOR INTERNATIONAL TERRORIST**
16 **ACTS.**

17 Section 2332 of title 18, United States Code, as re-
18 designated by section 501(a)(2), is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (2) by striking “ten” and
21 inserting “20”; and

22 (B) in paragraph (3) by striking “three”
23 and inserting “10”; and

24 (2) in subsection (c) by striking “five” and in-
25 serting “10”.

1 **SEC. 509. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated in each of
3 the fiscal years 1993, 1994, and 1995, in addition to any
4 other amounts specified in appropriations Acts, for
5 counterterrorist operations and programs:

6 (1) for the Federal Bureau of Investigation,
7 \$25,000,000;

8 (2) for the Department of State, \$10,000,000;

9 (3) for the United States Customs Service,
10 \$7,500,000;

11 (4) for the United States Secret Service,
12 \$2,500,000;

13 (5) for the Bureau of Alcohol, Tobacco, and
14 Firearms, \$2,500,000;

15 (6) for the Federal Aviation Administration,
16 \$2,500,000; and

17 (7) for grants to State and local law enforce-
18 ment agencies, to be administered by the Office of
19 Justice Programs in the Department of Justice, in
20 consultation with the Federal Bureau of Investiga-
21 tion, \$25,000,000.

22 **SEC. 510. ENHANCED PENALTIES FOR CERTAIN OFFENSES.**

23 (a) INTERNATIONAL ECONOMIC EMERGENCY POW-
24 ERS ACT.—(1) Section 206(a) of the International Eco-
25 nomic Emergency Powers Act (50 U.S.C. 1705(a)) is

1 amended by striking “\$10,000” and inserting
2 “\$1,000,000”.

3 (2) Section 206(b) of the International Economic
4 Emergency Powers Act (50 U.S.C. 1705(b)) is amended
5 by striking “\$50,000” and inserting “\$1,000,000”.

6 (b) SECTION 1541 OF TITLE 18.—Section 1541 of
7 title 18, United States Code, is amended—

8 (1) by striking “\$500” and inserting
9 “\$250,000”; and

10 (2) by striking “one year” and inserting “5
11 years”.

12 (c) CHAPTER 75 OF TITLE 18.—Sections 1542,
13 1543, 1544, and 1546 of title 18, United States Code,
14 are each amended—

15 (1) by striking “\$2,000” each place it appears
16 and inserting “\$250,000”; and

17 (2) by striking “five years” each place it ap-
18 pears and inserting “10 years”.

19 (d) SECTION 1545 OF TITLE 18.—Section 1545 of
20 title 18, United States Code, is amended—

21 (1) by striking “\$2,000” and inserting
22 “\$250,000”; and

23 (2) by striking “three years” and inserting “10
24 years”.

1 **SEC. 511. SENTENCING GUIDELINES INCREASE FOR TER-**
2 **RORIST CRIMES.**

3 The United States Sentencing Commission is directed
4 to amend its sentencing guidelines to provide an increase
5 of not less than 3 levels in the base offense level for any
6 felony, whether committed within or outside the United
7 States, that involves or is intended to promote inter-
8 national terrorism, unless such involvement or intent is
9 itself an element of the crime.

10 **SEC. 512. EXTENSION OF THE STATUTE OF LIMITATIONS**
11 **FOR CERTAIN TERRORISM OFFENSES.**

12 (a) IN GENERAL.—Chapter 213 of title 18, United
13 States Code, is amended by inserting after section 3285
14 the following new section:

15 **“§ 3286. Extension of statute of limitations for certain**
16 **terrorism offenses**

17 “Notwithstanding section 3282, no person shall be
18 prosecuted, tried, or punished for any offense involving a
19 violation of section 32, 36, 112, 351, 1116, 1203, 1361,
20 1751, 2280, 2281, 2332, 2339A, or 2340A of this title
21 or section 902 (i), (j), (k), (l), or (n) of the Federal Avia-
22 tion Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l),
23 and (n)), unless the indictment is found or the information
24 is instituted within 10 years next after such offense shall
25 have been committed.”.

1 (b) TECHNICAL AMENDMENT.—The chapter analysis
2 for chapter 213 of title 18, United States Code, is amend-
3 ed by inserting after the item relating to section 3285 the
4 following new item:

“3286. Extension of statute of limitations for certain terrorism offenses.”.

5 **SEC. 513. INTERNATIONAL PARENTAL KIDNAPPING.**

6 (a) IN GENERAL.—Chapter 55 of title 18, United
7 States Code, is amended by adding at the end the follow-
8 ing new section:

9 **“§ 1204. International parental kidnapping**

10 “(a) OFFENSE.—Whoever removes a child from the
11 United States or retains a child (who has been in the Unit-
12 ed States) outside the United States with intent to ob-
13 struct the lawful exercise of parental rights shall be fined
14 under this title, imprisoned not more than 3 years, or
15 both.

16 “(b) DEFINITIONS.—As used in this section—

17 “(1) the term ‘child’ means a person who has
18 not attained the age of 16 years; and

19 “(2) the term ‘parental rights’, with respect to
20 a child, means the right to physical custody of the
21 child—

22 “(A) whether joint or sole (and includes
23 visiting rights); and

1 “(B) whether arising by operation of law,
2 court order, or legally binding agreement of the
3 parties.

4 “(c) RULE OF CONSTRUCTION.—This section does
5 not detract from The Hague Convention on the Civil As-
6 pects of International Parental Child Abduction, done at
7 The Hague on October 25, 1980.”.

8 (b) TECHNICAL AMENDMENT.—The chapter analysis
9 for chapter 55 of title 18, United States Code, is amended
10 by adding at the end the following new item:

“1204. International parental kidnapping.”.

11 **SEC. 514. STATE COURT PROGRAMS REGARDING INTER-**
12 **STATE AND INTERNATIONAL PARENTAL**
13 **CHILD ABDUCTION.**

14 There is authorized to be appropriated \$250,000 to
15 carry out under the State Justice Institute Act of 1984
16 (42 U.S.C. 10701 et seq.) national, regional, and in-State
17 training and educational programs dealing with criminal
18 and civil aspects of interstate and international parental
19 child abduction.

20 **SEC. 515. FOREIGN MURDER OF UNITED STATES NATION-**
21 **ALS.**

22 (a) IN GENERAL.—Chapter 51 of title 18, United
23 States Code, as amended by section 141(a), is amended
24 by adding at the end the following new section:

1 **“§ 1120. Foreign murder of United States nationals**

2 “(a) OFFENSE.—Whoever kills or attempts to kill a
3 national of the United States while such national is out-
4 side the United States but within the jurisdiction of an-
5 other country shall be punished as provided under sections
6 1111, 1112, and 1113.

7 “(b) APPROVAL OF PROSECUTION.—No prosecution
8 may be instituted against any person under this section
9 except upon the written approval of the Attorney General,
10 the Deputy Attorney General, or an Assistant Attorney
11 General, which function of approving prosecutions may
12 not be delegated. No prosecution shall be approved if pros-
13 ecution has been previously undertaken by a foreign coun-
14 try for the same act or omission.

15 “(c) CRITERIA FOR APPROVAL.—No prosecution
16 shall be approved under this section unless the Attorney
17 General, in consultation with the Secretary of State, deter-
18 mines that the act or omission took place in a country
19 in which the person is no longer present, and the country
20 lacks the ability to lawfully secure the person’s return. A
21 determination by the Attorney General under this sub-
22 section is not subject to judicial review.

23 “(d) ASSISTANCE FROM OTHER AGENCIES.—In the
24 course of the enforcement of this section and notwith-
25 standing any other law, the Attorney General may request

1 assistance from any Federal, State, local, or foreign agen-
2 cy, including the Army, Navy, and Air Force.

3 “(e) DEFINITION.—As used in this section, the term
4 ‘national of the United States’ has the meaning stated in
5 section 101(a)(22) of the Immigration and Nationality Act
6 (8 U.S.C. 1101(a)(22)).”.

7 (b) TECHNICAL AMENDMENTS.—(1) Section 1117 of
8 title 18, United States Code, is amended by striking “or
9 1116” and inserting “1116, or 1120”.

10 (2) The chapter analysis for chapter 51 of title 18,
11 United States Code, as amended by section 141(b), is
12 amended by adding at the end the following new item:

“1120. Foreign murder of United States nationals.”.

13 **SEC. 516. EXTRADITION.**

14 (a) SCOPE.—Section 3181 of title 18, United States
15 Code, is amended—

16 (1) by inserting “(a) IN GENERAL.—” before
17 “The provisions of this chapter”; and

18 (2) by adding at the end the following new sub-
19 sections:

20 “(b) SURRENDER WITHOUT REGARD TO EXISTENCE
21 OF EXTRADITION TREATY.—This chapter shall be con-
22 strued to permit, in the exercise of comity, the surrender
23 of persons who have committed crimes of violence against
24 nationals of the United States in foreign countries without
25 regard to the existence of any treaty of extradition with

1 such foreign government if the Attorney General certifies
2 in writing that—

3 “(1) evidence has been presented by the foreign
4 government that indicates that, if the offenses had
5 been committed in the United States, they would
6 constitute crimes of violence (as defined under sec-
7 tion 16); and

8 “(2) the offenses charged are not of a political
9 nature.

10 “(c) DEFINITION.—As used in this section, the term
11 ‘national of the United States’ has the meaning stated in
12 section 101(a)(22) of the Immigration and Nationality Act
13 (8 U.S.C. 1101(a)(22)).”.

14 (b) FUGITIVES.—Section 3184 of title 18, United
15 States Code, is amended—

16 (1) in the first sentence by inserting after
17 “United States and any foreign government,” the
18 following: “or in cases arising under section
19 3181(b),”;

20 (2) in the first sentence by inserting after
21 “treaty or convention,” the following: “or provided
22 for under section 3181(b),”;

23 (3) in the third sentence by inserting after
24 “treaty or convention,” the following: “or under sec-
25 tion 3181(b),”.

1 **SEC. 517. GAMBLING DEVICES ON UNITED STATES SHIPS.**

2 Section 5 of the Act of January 2, 1951 (commonly
3 known as the “Johnson Act”) (15 U.S.C. 1175), is
4 amended—

5 (1) by inserting “(a) IN GENERAL.—” before
6 “It shall be unlawful”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(b) APPLICATION OF SUBSECTION (a).—

10 “(1) EXCEPTION.—Except as provided in para-
11 graph (2), subsection (a) does not apply to the re-
12 pair, transportation, use, or possession of a gam-
13 bling device on a vessel documented under chapter
14 121 of title 46, United States Code, when the vessel
15 is on a voyage—

16 “(A) on the high seas; or

17 “(B) on waters that are within the admi-
18 ralty and maritime jurisdiction of the United
19 States but out of the jurisdiction of any State.

20 “(2) VOYAGES AND SEGMENTS BEGINNING AND
21 ENDING IN THE SAME STATE OR POSSESSION.—The
22 exception stated in paragraph (1) does not apply to
23 the repair, transportation, possession, or use of a
24 gambling device on a vessel that is on a voyage or
25 segment of a voyage—

1 “(A) that begins and ends in the same
2 State or possession of the United States,

3 “(B) during which the vessel does not
4 make an intervening stop in another State or
5 possession of the United States or a foreign
6 country,

7 if the State or possession of the United States in
8 which the voyage or segment begins and ends has
9 enacted a statute that prohibits such repair, trans-
10 portation, possession, or use.”.

11 **SEC. 518. FBI ACCESS TO TELEPHONE SUBSCRIBER INFOR-**
12 **MATION.**

13 (a) REQUIRED CERTIFICATION.—Section 2709(b) of
14 title 18, United States Code, is amended to read as fol-
15 lows:

16 “(b) REQUIRED CERTIFICATION.—

17 “(1) NAME, ADDRESS, AND LENGTH OF SERV-
18 ICE ONLY.—The Director of the Federal Bureau of
19 Investigation, or the Director’s designee in a posi-
20 tion not lower than Deputy Assistant Director, may
21 request the name, address, and length of service of
22 a person or entity if the Director (or designee in a
23 position not lower than Deputy Assistant Director)
24 certifies in writing to the wire or electronic commu-

1 nication service provider to which the request is
2 made that—

3 “(A) the information sought is relevant to
4 an authorized foreign counterintelligence inves-
5 tigation; and

6 “(B) there are specific and articulable
7 facts giving reason to believe that communica-
8 tion facilities registered in the name of the per-
9 son or entity have been used, through the serv-
10 ices of the provider, in communication with—

11 “(i) an individual who is engaging or
12 has engaged in international terrorism (as
13 defined in section 101 of the Foreign Intel-
14 ligence Surveillance Act of 1978 (50
15 U.S.C. 1801)) or clandestine intelligence
16 activities that involve or may involve a vio-
17 lation of the criminal statutes of the Unit-
18 ed States; or

19 “(ii) a foreign power (as defined in
20 section 101 of the Foreign Intelligence
21 Surveillance Act of 1978 (50 U.S.C.
22 1801)) or an agent of a foreign power (as
23 defined in that section) under cir-
24 cumstances giving reason to believe that
25 the communication concerned international

1 terrorism (as defined in that section) or
2 clandestine intelligence activities that in-
3 volve or may involve a violation of the
4 criminal statutes of the United States.

5 “(2) NAME, ADDRESS, LENGTH OF SERVICE,
6 AND TOLL BILLING RECORDS.—The Director of the
7 Federal Bureau of Investigation, or the Director’s
8 designee in a position not lower than Deputy Assist-
9 ant Director, may request the name, address, length
10 of service, and toll billing records of a person or en-
11 tity if the Director (or designee in a position not
12 lower than Deputy Assistant Director) certifies in
13 writing to the wire or electronic communication serv-
14 ice provider to which the request is made that—

15 “(A) the name, address, length of service,
16 and toll billing records sought are relevant to
17 an authorized foreign counterintelligence inves-
18 tigation; and

19 “(B) there are specific and articulable
20 facts giving reason to believe that the person or
21 entity to whom the information sought pertains
22 is a foreign power (as defined in section 101 of
23 the Foreign Intelligence Surveillance Act of
24 1978 (50 U.S.C. 1801)) or an agent of a for-
25 eign power (as defined in that section).”.

1 (b) REPORT TO JUDICIARY COMMITTEES.—Section
2 2709(e) of title 18, United States Code, is amended by
3 adding after “Senate” the following: “, and the Committee
4 on the Judiciary of the House of Representatives and the
5 Committee on the Judiciary of the Senate,”.

6 **TITLE VI—SEXUAL VIOLENCE,**
7 **CHILD ABUSE, AND VICTIMS’**
8 **RIGHTS**

9 **Subtitle A—Sexual Violence and**
10 **Child Abuse**

11 **SEC. 601. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW**
12 **16 YEARS OF AGE.**

13 Section 2246(2) of title 18, United States Code, as
14 redesignated by section 137(a)(1), is amended—

15 (1) by striking “or” at the end of subparagraph
16 (B);

17 (2) by striking “and” at the end of subpara-
18 graph (C) and inserting “or”; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(D) the intentional touching, not through
22 the clothing, of the genitalia of another person
23 who has not attained the age of 16 years with
24 an intent to abuse, humiliate, harass, degrade,

1 or to arouse or gratify the sexual desire of, any
2 person;”.

3 **SEC. 602. INCREASED PENALTIES FOR RECIDIVIST SEX OF-**
4 **FENDERS.**

5 (a) PENALTY.—Chapter 109A of title 18, United
6 States Code, as amended by section 137(a), is amended—

7 (1) by redesignating section 2246 as section
8 2247; and

9 (2) by inserting after section 2245 the following
10 new section:

11 **“§ 2246. Penalties for subsequent offenses**

12 “Any person who violates a provision of this chapter
13 after a prior conviction under a provision of this chapter
14 or the law of a State (as defined in section 513) for con-
15 duct proscribed by this chapter has become final is punish-
16 able by a term of imprisonment up to twice that otherwise
17 authorized.”.

18 (b) TECHNICAL AMENDMENT.—The chapter analysis
19 for chapter 109A of title 18, United States Code, as
20 amended by section 137(b), is amended by striking the
21 item relating to section 2246 and inserting the following:

“2246. Penalties for subsequent offenses.

“2247. Definitions for chapter.”.

22 **SEC. 603. RESTITUTION FOR VICTIMS OF SEX OFFENSES.**

23 Section 3663(b)(2) of title 18, United States Code,
24 is amended by inserting “or an offense under chapter

1 109A or chapter 110” after “an offense resulting in bodily
2 injury to a victim”.

3 **SEC. 604. HIV TESTING AND PENALTY ENHANCEMENT IN**
4 **SEXUAL ABUSE CASES.**

5 (a) IN GENERAL.—Chapter 109A of title 18, United
6 States Code, as amended by section 602(a), is amended—

7 (1) by redesignating section 2247 as section
8 2248; and

9 (2) by inserting after section 2246 the following
10 new section:

11 **“§ 2247. Testing for human immunodeficiency virus;**
12 **disclosure of test results to victim; effect**
13 **on penalty**

14 “(a) TESTING AT TIME OF PRE-TRIAL RELEASE DE-
15 TERMINATION.—In a case in which a person is charged
16 with an offense under this chapter, a judicial officer issu-
17 ing an order pursuant to section 3142(a) shall include in
18 the order a requirement that a test for the human
19 immunodeficiency virus be performed upon the person,
20 and that follow-up tests for the virus be performed 6
21 months and 12 months following the date of the initial
22 test, unless the judicial officer determines that the conduct
23 of the person created no risk of transmission of the virus
24 to the victim, and so states in the order. The order shall
25 direct that the initial test be performed within 24 hours,

1 or as soon thereafter as is feasible. The person shall not
2 be released from custody until the test is performed.

3 “(b) TESTING AT LATER TIME.—If a person charged
4 with an offense under this chapter was not tested for the
5 human immunodeficiency virus pursuant to subsection (a),
6 the court may at a later time direct that such a test be
7 performed upon the person, and that follow-up tests be
8 performed 6 months and 12 months following the date of
9 the initial test, if it appears to the court that the conduct
10 of the person may have risked transmission of the virus
11 to the victim. A testing requirement under this subsection
12 may be imposed at any time while the charge is pending,
13 or following conviction at any time prior to the person’s
14 completion of service of the sentence.

15 “(c) TERMINATION OF TESTING REQUIREMENT.—A
16 requirement of follow-up testing imposed under this sec-
17 tion shall be canceled if any test is positive for the virus
18 or the person obtains an acquittal on, or dismissal of, all
19 charges under this chapter.

20 “(d) DISCLOSURE OF TEST RESULTS.—The results
21 of any test for the human immunodeficiency virus per-
22 formed pursuant to an order under this section shall be
23 provided to the judicial officer or court. The judicial offi-
24 cer or court shall ensure that the results are disclosed to
25 the victim (or to the victim’s parent or legal guardian, as

1 appropriate), the attorney for the Government, and the
2 person tested.

3 “(e) EFFECT ON PENALTY.—The United States Sen-
4 tencing Commission shall amend the sentencing guidelines
5 for sentences for offenses under this chapter to enhance
6 the sentence if the offender knew or had reason to know
7 that the offender was infected with the human
8 immunodeficiency virus, except where the offender did not
9 engage or attempt to engage in conduct creating a risk
10 of transmission of the virus to the victim.”.

11 (b) TECHNICAL AMENDMENT.—The chapter analysis
12 for chapter 109A of title 18, United States Code, as
13 amended by section 602(b), is amended by striking the
14 item relating to section 2247 and inserting the following:

“2247. Testing for human immunodeficiency virus; disclosure of test results to
victim; effect on penalty.

“2248. Definitions for chapter.”.

15 **SEC. 605. PAYMENT OF COST OF HIV TESTING FOR VICTIM.**

16 Section 503(c)(7) of the Victims’ Rights and Restitu-
17 tion Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by
18 inserting before the period at the end “and the cost of
19 up to 2 tests of the victim for the human
20 immunodeficiency virus during the 12 months following
21 the assault”.

1 **Subtitle B—Victims’ Rights**

2 **SEC. 611. RESTITUTION AMENDMENTS.**

3 (a) Section 3663(b) of title 18, United States Code,
4 is amended—

5 (1) by striking “and” at the end of paragraph

6 (3);

7 (2) by redesignating paragraph (4) as para-
8 graph (5); and

9 (3) by inserting after paragraph (4) the follow-
10 ing new paragraph:

11 “(4) in any case, reimburse the victim for nec-
12 essary child care, transportation, and other expenses
13 related to participation in the investigation or pros-
14 ecution of the offense or attendance at proceedings
15 related to the offense; and”.

16 (b) **SUSPENSION OF FEDERAL BENEFITS.**—Section
17 3663 of title 18, United States Code, is amended—

18 (1) by redesignating subsections (g) and (h) as
19 subsections (h) and (i), respectively; and

20 (2) by inserting after subsection (f) the follow-
21 ing new subsection:

22 “(g)(1) If the defendant is delinquent in making res-
23 titution in accordance with any schedule of payments or
24 any requirement of immediate payment imposed under
25 this section, the court may, after a hearing, suspend the

1 defendant’s eligibility for all Federal benefits until such
2 time as the defendant demonstrates to the court good-
3 faith efforts to return to such schedule.

4 “(2) For purposes of this subsection—

5 “(A) the term ‘Federal benefits’—

6 “(i) means any grant, contract, loan, pro-
7 fessional license, or commercial license provided
8 by an agency of the United States or by appro-
9 priated funds of the United States; and

10 “(ii) does not include any retirement, wel-
11 fare, Social Security, health, disability, veterans
12 benefit, public housing, or other similar benefit,
13 or any other benefit for which payments or
14 services are required for eligibility; and

15 “(B) the term ‘veterans benefit’ means all bene-
16 fits provided to veterans, their families, or survivors
17 by virtue of the service of a veteran in the Armed
18 Forces of the United States.”.

19 **SEC. 612. VICTIM’S RIGHT OF ALLOCUTION IN SENTENCING.**

20 Rule 32 of the Federal Rules of Criminal Procedure
21 is amended—

22 (1) by striking “and” at the end of subdivision
23 (a)(1)(B);

24 (2) by striking the period at the end of subdivi-
25 sion (a)(1)(C) and inserting “; and”;

1 (3) by inserting after subdivision (a)(1)(C) the
2 following:

3 “(D) if sentence is to be imposed for a crime
4 of violence or sexual abuse, address the victim per-
5 sonally if the victim is present at the sentencing
6 hearing and determine if the victim wishes to make
7 a statement and to present any information in rela-
8 tion to the sentence.”;

9 (4) in the penultimate sentence of subdivision
10 (a)(1) by striking “equivalent opportunity” and in-
11 sserting “opportunity equivalent to that of the de-
12 fendant’s counsel”;

13 (5) in the last sentence of subdivision (a)(1) by
14 inserting “the victim,” before “, or the attorney for
15 the Government.”; and

16 (6) by adding at the end the following new sub-
17 division:

18 “(f) DEFINITIONS.—For purposes of this rule—

19 “(1) ‘crime of violence or sexual abuse’ means
20 a crime that involved the use or attempted or threat-
21 ened use of physical force against the person or
22 property of another, or a crime under chapter 109A
23 of title 18, United States Code; and

24 “(2) ‘victim’ means an individual against whom
25 an offense for which a sentence is to be imposed has

1 (B) by adding at the end the following new
2 paragraph:

3 “(4) In addition to ordering restitution of the
4 victim of the offense of which a defendant is con-
5 victed, a court may order restitution of any person
6 who, as shown by a preponderance of evidence, was
7 harmed physically, emotionally, or pecuniarily, by
8 unlawful conduct of the defendant during—

9 (A) the criminal episode during which the
10 offense occurred; or

11 (B) the course of a scheme, conspiracy, or
12 pattern of unlawful activity related to the of-
13 fense.”;

14 (2) in subsection (b)(1)(A) by striking “imprac-
15 tical” and inserting “impracticable”;

16 (3) in subsection (b)(2) by inserting “emotional
17 or” after “resulting in”;

18 (4) in subsection (c) by striking “If the Court
19 decides to order restitution under this section, the”
20 and inserting “The”;

21 (5) by striking subsections (d), (e), (f), (h), and
22 (i), as redesignated by section 611(b)(1);

23 (6) by redesignating subsection (g), as added by
24 section 611(b)(2), as subsection (d); and

1 (7) by adding at the end the following new sub-
2 sections:

3 “(e)(1) The court shall order restitution to a victim
4 in the full amount of the victim’s losses as determined by
5 the court and without consideration of—

6 “(A) the economic circumstances of the of-
7 fender; or

8 “(B) the fact that a victim has received or is
9 entitled to receive compensation with respect to a
10 loss from insurance or any other source.

11 “(2) Upon determination of the amount of restitution
12 owed to each victim, the court shall specify in the restitu-
13 tion order the manner in which and the schedule according
14 to which the restitution is to be paid, in consideration of—

15 “(A) the financial resources and other assets of
16 the offender;

17 “(B) projected earnings and other income of
18 the offender; and

19 “(C) any financial obligations of the offender,
20 including obligations to dependents.

21 “(3) A restoration order may direct the offender to
22 make a single, lump-sum payment, partial payment at
23 specified intervals, or such in-kind payments as may be
24 agreeable to the victim and the offender.

1 “(4) An in-kind payment described in paragraph (3)
2 may be in the form of—

3 “(A) return of property;

4 “(B) replacement of property; or

5 “(C) services rendered to the victim or to a per-
6 son or organization other than the victim.

7 “(f) When the court finds that more than 1 offender
8 has contributed to the loss of a victim, the court may make
9 each offender liable for payment of the full amount of res-
10 titution or may apportion liability among the offenders to
11 reflect the level of contribution and economic cir-
12 cumstances of each offender.

13 “(g) When the court finds that more than 1 victim
14 has sustained a loss requiring restitution by an offender,
15 the court shall order full restitution of each victim but may
16 provide for different payment schedules to reflect the eco-
17 nomic circumstances of each victim.

18 “(h)(1) If the victim has received or is entitled to re-
19 ceive compensation with respect to a loss from insurance
20 or any other source, the court shall order that restitution
21 be paid to the person who provided or is obligated to pro-
22 vide the compensation, but the restitution order shall pro-
23 vide that all restitution of victims required by the order
24 be paid to the victims before any restitution is paid to
25 such a provider of compensation.

1 “(2) The issuance of a restitution order shall not af-
2 fect the entitlement of a victim to receive compensation
3 with respect to a loss from insurance or any other source
4 until the payments actually received by the victim under
5 the restitution order fully compensate the victim for the
6 loss, at which time a person that has provided compensa-
7 tion to the victim shall be entitled to receive any payments
8 remaining to be paid under the restitution order.

9 “(3) Any amount paid to a victim under an order of
10 restitution shall be set off against any amount later recov-
11 ered as compensatory damages by the victim in—

12 “(A) any Federal civil proceeding; and

13 “(B) any State civil proceeding, to the extent
14 provided by the law of the State.

15 “(i) A restitution order shall provide that—

16 “(1) all fines, penalties, costs, restitution pay-
17 ments and other forms of transfers of money or
18 property made pursuant to the sentence of the court
19 shall be made by the offender to an entity des-
20 ignated by the Director of the Administrative Office
21 of the United States Courts for accounting and pay-
22 ment by the entity in accordance with this sub-
23 section;

1 “(2) the entity designated by the Director of
2 the Administrative Office of the United States
3 Courts shall—

4 “(A) log all transfers in a manner that
5 tracks the offender’s obligations and the cur-
6 rent status in meeting those obligations, unless,
7 after efforts have been made to enforce the res-
8 titution order and it appears that compliance
9 cannot be obtained, the court determines that
10 continued recordkeeping under this subpara-
11 graph would not be useful;

12 “(B) notify the court and the interested
13 parties when an offender is 90 days in arrears
14 in meeting those obligations; and

15 “(C) disburse money received from an of-
16 fender so that each of the following obligations
17 is paid in full in the following sequence:

18 “(i) a penalty assessment under sec-
19 tion 3013;

20 “(ii) restitution of all victims; and

21 “(iii) all other fines, penalties, costs,
22 and other payments required under the
23 sentence; and

24 “(3) the offender shall advise the entity des-
25 ignated by the Director of the Administrative Office

1 of the United States Courts of any change in the of-
2 fender's address during the term of the restitution
3 order.

4 “(j) A restitution order shall constitute a lien against
5 all property of the offender and may be recorded in any
6 Federal or State office for the recording of liens against
7 real or personal property.

8 “(k) Compliance with the schedule of payment and
9 other terms of a restitution order shall be a condition of
10 any probation, parole, or other form of release of an of-
11 fender. If a defendant fails to comply with a restitution
12 order, the court may revoke probation or a term of super-
13 vised release, modify the term or conditions of probation
14 or a term of supervised release, hold the defendant in con-
15 tempt of court, enter a restraining order or injunction,
16 order the sale of property of the defendant, accept a per-
17 formance bond, or take any other action necessary to ob-
18 tain compliance with the restitution order. In determining
19 what action to take, the court shall consider the defend-
20 ant's employment status, earning ability, financial re-
21 sources, the willfulness in failing to comply with the res-
22 titution order, and any other circumstances that may have
23 a bearing on the defendant's ability to comply with the
24 restitution order.

25 “(l) An order of restitution may be enforced—

1 “(1) by the United States—

2 “(A) in the manner provided for the collec-
3 tion and payment of fines in subchapter B of
4 chapter 229; or

5 “(B) in the same manner as a judgment in
6 a civil action; and

7 “(2) by a victim named in the order to receive
8 restitution, in the same manner as a judgment in a
9 civil action.

10 “(m) A victim or the offender may petition the court
11 at any time to modify a restitution order as appropriate
12 in view of a change in the economic circumstances of the
13 offender.”.

14 (b) PROCEDURE FOR ISSUING ORDER OF RESTITU-
15 TION.—Section 3664 of title 18, United States Code, is
16 amended—

17 (1) by striking subsection (a);

18 (2) by redesignating subsections (b), (c), (d),
19 and (e) as subsections (a), (b), (c), and (d);

20 (3) by amending subsection (a), as redesignated
21 by paragraph (2), to read as follows:

22 “(a) The court may order the probation service of the
23 court to obtain information pertaining to the amount of
24 loss sustained by any victim as a result of the offense,
25 the financial resources of the defendant, the financial

1 needs and earning ability of the defendant and the defend-
2 ant's dependents, and such other factors as the court
3 deems appropriate. The probation service of the court
4 shall include the information collected in the report of
5 presentence investigation or in a separate report, as the
6 court directs.”; and

7 (4) by adding at the end the following new sub-
8 section:

9 “(e) The court may refer any issue arising in connec-
10 tion with a proposed order of restitution to a magistrate
11 or special master for proposed findings of fact and rec-
12 ommendations as to disposition, subject to a de novo de-
13 termination of the issue by the court.”.

14 **Subtitle C—Crime Victims Fund**

15 **SEC. 621. CRIME VICTIMS FUND.**

16 (a) ELIMINATION OF FUND CEILINGS AND SUNSET
17 PROVISION.—Section 1402 (c) of the Victims of Crime Act
18 of 1984 (42 U.S.C. 10601(c)) is repealed.

19 (b) ALLOCATIONS.—

20 (1) GENERALLY.—Section 1402(d)(2) of the
21 Victims of Crime Act of 1984 (42 U.S.C.
22 10601(d)(2)) is amended to read as follows:

23 “(2) The Fund shall be available as follows:

24 “(A) Of the total deposited in the Fund during
25 a particular fiscal year—

1 “(i) the first \$10,000,000 shall be avail-
2 able for grants under section 1404A;

3 “(ii) the next sums deposited, up to the re-
4 served portion (as described in subparagraph
5 (C)), shall be made available to the judicial
6 branch for administrative costs to carry out the
7 functions of that branch under sections 3611
8 and 3612 of title 18, United States Code; and

9 “(iii) of the sums remaining after the allo-
10 cations under clauses (i) and (ii)—

11 “(I) 4 percent shall be available for
12 grants under section 1404(c)(1); and

13 “(II) 96 percent shall be available in
14 equal amounts for grants under sections
15 1403 and 1404(a).

16 “(B) The Director may retain any portion of
17 the Fund that was deposited during a fiscal year
18 that is in excess of 110 percent of the total amount
19 deposited in the Fund during the preceding fiscal
20 year as a reserve for use in a year in which the
21 Fund falls below the amount available in the pre-
22 vious year. Such reserve may not exceed
23 \$20,000,000.

24 “(C) The reserved portion referred to in sub-
25 paragraph (A) is \$6,200,000 in each of fiscal years

1 1993 through 1996 and \$3,000,000 in each fiscal
2 year thereafter.”.

3 (2) CONFORMING CROSS-REFERENCE.—Section
4 1402(g)(1) of the Victims of Crime Act of 1984 (42
5 U.S.C. 10601(g)(1)) is amended by striking “(iv)”
6 and inserting “(i)”.

7 (c) AMOUNTS AWARDED AND UNSPENT.—Section
8 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C.
9 10601(e)) is amended—

10 (1) in paragraph (1)—

11 (A) by striking “(1) Except as provided in
12 paragraph (2), any” and inserting “Any”;

13 (B) by striking “succeeding fiscal year”
14 and inserting “2 succeeding fiscal years”;

15 (C) by striking “which year” and inserting
16 “which period”; and

17 (D) by striking “the general fund of the
18 Treasury” and inserting “the Fund”; and

19 (2) by striking paragraph (2).

20 **SEC. 622. PERCENTAGE CHANGE IN CRIME VICTIM COM-**
21 **PENSATION FORMULA.**

22 Section 1403(a)(1) of the Victims of Crime Act of
23 1984 (42 U.S.C. 10602(a)(1)) is amended by striking “40
24 percent” and inserting “45 percent”.

1 **SEC. 623. ADMINISTRATIVE COSTS FOR CRIME VICTIM COM-**
2 **PENSATION.**

3 (a) CREATION OF EXCEPTION.—The last sentence of
4 section 1403(a)(1) of the Victims of Crime Act of 1984
5 (42 U.S.C. 10602(a)(1)) is amended by striking “A
6 grant” and inserting “Except as provided in paragraph
7 (3), a grant”.

8 (b) REQUIREMENTS OF EXCEPTION.—Section
9 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C.
10 10602(a)) is amended by adding at the end the following
11 new paragraph:

12 “(3) The Director may permit not more than 5 per-
13 cent of a grant made under this section to be used for
14 the administration of the crime victim compensation pro-
15 gram receiving the grant.”.

16 **SEC. 624. RELATIONSHIP OF CRIME VICTIM COMPENSA-**
17 **TION TO CERTAIN FEDERAL PROGRAMS.**

18 Section 1403 of the Victims of Crime Act of 1984
19 (42 U.S.C. 10602) is amended by adding at the end the
20 following new subsection:

21 “(e) Notwithstanding any other law, if the compensa-
22 tion paid by an eligible crime victim compensation pro-
23 gram would cover costs that a Federal program, or a fed-
24 erally financed State or local program, would otherwise
25 pay—

1 “(1) such crime victim compensation program
2 shall not pay that compensation; and

3 “(2) the other program shall make its payments
4 without regard to the existence of the crime victim
5 compensation program.”.

6 **SEC. 625. USE OF UNSPENT SECTION 1403 MONEY.**

7 Section 1404(a)(1) of the Victims of Crime Act of
8 1984 (42 U.S.C. 10603(a)(1)) is amended—

9 (1) by striking “or for the purpose of grants
10 under section 1403 but not used for that purpose,”;
11 and

12 (2) by adding at the end the following: “The
13 Director, in the Director’s discretion, may use
14 amounts made available under section 1402(d)(2)
15 for the purposes of grants under section 1403 but
16 not used for that purpose, for grants under this sub-
17 section, either in the year such amounts are not so
18 used, or the next year.”.

19 **SEC. 626. UNDERSERVED VICTIMS.**

20 Section 1404(a) of the Victims of Crime Act of 1984
21 (42 U.S.C. 10603(a)) is amended by adding at the end
22 the following new paragraph:

23 “(6) In making the certification required by para-
24 graph (2)(B), the chief executive shall give particular at-

1 tention to children who are victims of violent street
2 crime.”.

3 **SEC. 627. GRANTS FOR DEMONSTRATION PROJECTS.**

4 Section 1404(c)(1)(A) of the Victims of Crime Act
5 of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by insert-
6 ing “demonstration projects and” before “training”.

7 **SEC. 628. ADMINISTRATIVE COSTS FOR CRIME VICTIM AS-**
8 **SISTANCE.**

9 Section 1404(a) of the Victims of Crime Act of 1984
10 (42 U.S.C. 10603(A)), as amended by section 626, is
11 amended—

12 (1) in paragraph (1) by inserting “, except as
13 provided in paragraph (7)” after “programs”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(7) The Director may permit not more than 5 per-
17 cent of sums provided under this subsection to be used
18 by the chief executive of each State for the administration
19 of such sums.”.

20 **SEC. 629. CHANGE OF DUE DATE FOR REQUIRED REPORT.**

21 Section 1407(g) of the Victims of Crime Act of 1984
22 (42 U.S.C. 10604(g)) is amended—

23 (1) by striking “December 31, 1990” and in-
24 serting “May 31, 1993”; and

1 (2) by striking “December 31” the second place
2 it appears and inserting “May 31”.

3 **SEC. 630. MAINTENANCE OF EFFORT.**

4 Section 1407 of the Victims of Crime Act of 1984
5 (42 U.S.C. 10604) is amended by adding at the end the
6 following new subsection:

7 “(h) Each entity receiving sums made available under
8 this Act for administrative purposes shall certify that such
9 sums will not be used to supplant State or local funds,
10 but will be used to increase the amount of such funds that
11 would, in the absence of Federal funds, be made available
12 for these purposes.”.

13 **SEC. 631. DELAYED EFFECTIVE DATE FOR CERTAIN PROVI-**
14 **SIONS.**

15 Sections 721(b), 722, 723, and 728, and the amend-
16 ments made by those sections, shall take effect with re-
17 spect to the first fiscal year that begins after the date of
18 enactment of this Act for which the Director certifies that
19 there are sufficient sums in the Victim Assistance Fund
20 and the Victims Compensation Fund, as of the end of the
21 previous fiscal year, to make the allocations required
22 under such sections and amendments without reducing the
23 then current funding levels of programs supported by such
24 Funds.

1 **Subtitle D—National Child**
2 **Protection Act**

3 **SEC. 641. SHORT TITLE.**

4 This subtitle may be cited as the “National Child
5 Protection Act of 1993”.

6 **SEC. 642. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) more than 2,500,000 reports of suspected
9 child abuse and neglect are made each year, and in-
10 creases have occurred in recent years in the abuse
11 of children by persons who have previously commit-
12 ted crimes of child abuse or other serious crimes;

13 (2) although the great majority of child care
14 providers are caring and dedicated professionals,
15 child abusers and others who harm or prey on chil-
16 dren frequently seek employment in or volunteer for
17 positions that give them access to children;

18 (3) nearly 6,000,000 children received day care
19 in 1990, and this total is growing rapidly to an esti-
20 mated 8,000,000 children by 1995;

21 (4) exposure to child abusers and others who
22 harm or prey on children is harmful to the physical
23 and emotional well-being of children;

24 (5) there is no reliable, centralized national
25 source through which child care organizations may

1 obtain the benefit of a nationwide criminal back-
2 ground check on persons who provide or seek to pro-
3 vide child care;

4 (6) some States maintain automated criminal
5 background files and provide criminal history infor-
6 mation to child care organizations on persons who
7 provide or seek to provide child care; and

8 (7) because State and national criminal justice
9 databases are inadequate to permit effective national
10 background checks, persons convicted of crimes of
11 child abuse or other serious crimes may gain em-
12 ployment at a child care organization.

13 (b) PURPOSES.—The purposes of this Act are—

14 (1) to establish a national system through
15 which child care organizations may obtain the bene-
16 fit of a nationwide criminal background check to de-
17 termine if persons who are current or prospective
18 child care providers have committed child abuse
19 crimes or other serious crimes;

20 (2) to establish minimum criteria for State laws
21 and procedures that permit child care organizations
22 to obtain the benefit of nationwide criminal back-
23 ground checks to determine if persons who are cur-
24 rent or prospective child care providers have commit-
25 ted child abuse crimes or other serious crimes;

1 (3) to provide procedural rights for persons who
2 are subject to nationwide criminal background
3 checks, including procedures to challenge and correct
4 inaccurate background check information;

5 (4) to establish a national system for the re-
6 porting by the States of child abuse crime informa-
7 tion; and

8 (5) to document and study the problem of child
9 abuse by providing statistical and informational data
10 on child abuse and related crimes to the Department
11 of Justice and other interested parties.

12 **SEC. 643. DEFINITIONS.**

13 For the purposes of this subtitle—

14 (1) the term “authorized agency” means a divi-
15 sion or office of a State designated by a State to re-
16 port, receive, or disseminate information under this
17 Act;

18 (2) the term “background check crime” means
19 a child abuse crime, murder, manslaughter, aggra-
20 vated assault, kidnapping, arson, sexual assault, do-
21 mestic violence, incest, indecent exposure, prostitu-
22 tion, promotion of prostitution, and a felony offense
23 involving the use or distribution of a controlled sub-
24 stance;

1 (3) the term “child” means a person who is a
2 child for purposes of the criminal child abuse law of
3 a State;

4 (4) the term “child abuse” means the physical
5 or mental injury, sexual abuse or exploitation, ne-
6 glectful treatment, negligent treatment, or maltreat-
7 ment of a child by any person in violation of the
8 criminal child abuse laws of a State, but does not in-
9 clude discipline administered by a parent or legal
10 guardian to his or her child provided it is reasonable
11 in manner and moderate in degree and otherwise
12 does not constitute cruelty;

13 (5) the term “child abuse crime” means a crime
14 committed under any law of a State that establishes
15 criminal penalties for the commission of child abuse
16 by a parent or other family member of a child or by
17 any other person;

18 (6) the term “child abuse crime information”
19 means the following facts concerning a person who
20 is under indictment for, or has been convicted of, a
21 child abuse crime: full name, social security number,
22 age, race, sex, date of birth, height, weight, hair and
23 eye color, legal residence address, a brief description
24 of the child abuse crime or offenses for which the
25 person is under indictment or has been convicted,

1 and any other information that the Attorney General
2 determines may be useful in identifying persons
3 under indictment for, or convicted of, a child abuse
4 crime;

5 (7) the term “child care” means the provision
6 of care, treatment, education, training, instruction,
7 supervision, or recreation to children;

8 (8) the term “domestic violence” means a fel-
9 ony or misdemeanor involving the use or threatened
10 use of force by—

11 (A) a present or former spouse of the vic-
12 tim;

13 (B) a person with whom the victim shares
14 a child in common;

15 (C) a person who is cohabiting with or has
16 cohabited with the victim as a spouse; or

17 (D) any person defined as a spouse of the
18 victim under the domestic or family violence
19 laws of a State;

20 (9) the term “exploitation” means child pornog-
21 raphy and child prostitution;

22 (10) the term “mental injury” means harm to
23 a child’s psychological or intellectual functioning,
24 which may be exhibited by severe anxiety, depres-
25 sion, withdrawal or outward aggressive behavior, or

1 a combination of those behaviors or by a change in
2 behavior, emotional response, or cognition;

3 (11) the term “national criminal background
4 check system” means the system of information and
5 identification relating to convicted and accused child
6 abuse offenders that is maintained by the Attorney
7 General under this subtitle;

8 (12) the term “negligent treatment” means the
9 failure to provide, for a reason other than poverty,
10 adequate food, clothing, shelter, or medical care so
11 as to seriously endanger the physical health of a
12 child;

13 (13) the term “physical injury” includes lacera-
14 tions, fractured bones, burns, internal injuries, se-
15 vere bruising, and serious bodily harm;

16 (14) the term “provider” means

17 (A) a person who—

18 (i) is employed by or volunteers with
19 a qualified entity;

20 (ii) who owns or operates a qualified
21 entity; or

22 (iii) who has or may have unsuper-
23 vised access to a child to whom the quali-
24 fied entity provides child care; and

25 (B) a person who—

1 (i) seeks to be employed by or volun-
2 teer with a qualified entity;

3 (ii) seeks to own or operate a qualified
4 entity; or

5 (iii) seeks to have or may have unsu-
6 pervised access to a child to whom the
7 qualified entity provides child care;

8 (15) the term “qualified entity” means a busi-
9 ness or organization, whether public, private, for-
10 profit, not-for-profit, or voluntary, that provides
11 child care or child care placement services, including
12 a business or organization that licenses or certifies
13 others to provide child care or child care placement
14 services;

15 (16) the term “sex crime” means an act of sex-
16 ual abuse that is a criminal act;

17 (17) the term “sexual abuse” includes the em-
18 ployment, use, persuasion, inducement, enticement,
19 or coercion of a child to engage in, or assist another
20 person to engage in, sexually explicit conduct or the
21 rape, molestation, prostitution, or other form of sex-
22 ual exploitation of children or incest with children;
23 and

24 (18) the term “State” means a State, the Dis-
25 trict of Columbia, the Commonwealth of Puerto

1 Rico, American Samoa, the Virgin Islands, Guam,
2 and the Trust Territories of the Pacific.

3 **SEC. 644. REPORTING BY THE STATES.**

4 (a) IN GENERAL.—An authorized agency of a State
5 shall report child abuse crime information to the national
6 criminal background check system.

7 (b) PROVISION OF STATE CHILD ABUSE CRIME
8 RECORDS TO THE NATIONAL CRIMINAL BACKGROUND
9 CHECK SYSTEM.—(1) Not later than 180 days after the
10 date of enactment of this Act, the Attorney General
11 shall—

12 (A) investigate the criminal records of each
13 State and determine for each State a timetable by
14 which the State should be able to provide child
15 abuse crime records on an on-line capacity basis to
16 the national criminal background check system;

17 (B) establish guidelines for the reporting of
18 child abuse crime information, including guidelines
19 relating to the format, content, and accuracy of child
20 abuse crime information and other procedures for
21 carrying out this subtitle; and

22 (C) notify each State of the determinations
23 made pursuant to subparagraphs (A) and (B).

24 (2) The Attorney General shall require as a part of
25 the State timetable that the State—

1 (A) achieve, by not later than the date that is
2 3 years after the date of enactment of this Act, at
3 least 80 percent currency of child abuse crime case
4 dispositions in computerized criminal history files for
5 all child abuse crime cases in which there has been
6 an entry of activity within the last 5 years; and

7 (B) continue to maintain such a system.

8 (c) EXCHANGE OF INFORMATION.—An authorized
9 agency of a State shall maintain close liaison with the Na-
10 tional Center on Child Abuse and Neglect, the National
11 Center for Missing and Exploited Children, and the Na-
12 tional Center for the Prosecution of Child Abuse for the
13 exchange of information and technical assistance in cases
14 of child abuse.

15 (d) ANNUAL SUMMARY.—(1) The Attorney General
16 shall publish an annual statistical summary of the child
17 abuse crime information reported under this subtitle.

18 (2) The annual statistical summary described in
19 paragraph (1) shall not contain any information that may
20 reveal the identity of any particular victim of a crime.

21 (e) ANNUAL REPORT.—The Attorney General shall
22 publish an annual summary of each State's progress in
23 reporting child abuse crime information to the national
24 criminal background check system.

1 (f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not
2 later than 180 days after the date of enactment of this
3 Act, the Administrator of the Office of Juvenile Justice
4 and Delinquency Prevention shall begin a study based on
5 a statistically significant sample of convicted child abuse
6 offenders and other relevant information to determine—

7 (A) the percentage of convicted child abuse of-
8 fenders who have more than 1 conviction for an of-
9 fense involving child abuse;

10 (B) the percentage of convicted child abuse of-
11 fenders who have been convicted of an offense in-
12 volving child abuse in more than 1 State;

13 (C) whether there are crimes or classes of
14 crimes, in addition to those defined as background
15 check crimes in section 643, that are indicative of a
16 potential to abuse children; and

17 (D) the extent to which and the manner in
18 which instances of child abuse form a basis for con-
19 victions for crimes other than child abuse crimes.

20 (2) Not later than 1 year after the date of enactment
21 of this Act, the Administrator shall submit a report to the
22 Chairman of the Committee on the Judiciary of the Senate
23 and the Chairman of the Committee on the Judiciary of
24 the House of Representatives containing a description of

1 and a summary of the results of the study conducted pur-
2 suant to paragraph (1).

3 **SEC. 645. BACKGROUND CHECKS.**

4 (a) IN GENERAL.—(1) A State may have in effect
5 procedures (established by or under State statute or regu-
6 lation) to permit a qualified entity to contact an author-
7 ized agency of the State to request a nationwide back-
8 ground check for the purpose of determining whether
9 there is a report that a provider is under indictment for,
10 or has been convicted of, a background check crime.

11 (2) The authorized agency shall access and review
12 State and Federal records of background check crimes
13 through the national criminal background check system
14 and other criminal justice recordkeeping systems and shall
15 respond promptly to the inquiry.

16 (b) GUIDELINES.—(1) The Attorney General shall es-
17 tablish guidelines for State background check procedures
18 established under subsection (a), including procedures for
19 carrying out the purposes of this subtitle.

20 (2) The guidelines established under paragraph (1)
21 shall require—

22 (A) that no qualified entity may request a back-
23 ground check of a provider under subsection (a) un-
24 less the provider first completes and signs a state-
25 ment that—

1 (i) contains the name, address, and date of
2 birth appearing on a valid identification docu-
3 ment (as defined by section 1028(d)(1) of title
4 18, United States Code) of the provider;

5 (ii) the provider is not under indictment
6 for, and has not been convicted of, a back-
7 ground check crime and, if the provider is
8 under indictment for or has been convicted of
9 a background check crime, contains a descrip-
10 tion of the crime and the particulars of the in-
11 dictment or conviction;

12 (iii) notifies the provider that the entity
13 may request a background check under sub-
14 section (a);

15 (iv) notifies the provider of the provider's
16 rights under subparagraph (B); and

17 (v) notifies the provider that prior to the
18 receipt of the background check the qualified
19 entity may choose to deny the provider unsuper-
20 vised access to a child to whom the qualified en-
21 tity provides child care;

22 (B) that each State establish procedures under
23 which a provider who is the subject of a background
24 check under subsection (a) is entitled—

1 (i) to obtain a copy of any background
2 check report and any record that forms the
3 basis for any such report; and

4 (ii) to challenge the accuracy and com-
5 pleteness of any information contained in any
6 such report or record and obtain a prompt de-
7 termination from an authorized agency as to
8 the validity of such challenge;

9 (C) that an authorized agency to which a quali-
10 fied entity has provided notice pursuant to sub-
11 section (a) make reasonable efforts to complete re-
12 search in whatever State and local recordkeeping
13 systems are available and in the national criminal
14 background check system and respond to the quali-
15 fied entity within 15 business days;

16 (D) that the response of an authorized agency
17 to an inquiry pursuant to subsection (a) inform the
18 qualified entity that the background check pursuant
19 to this section—

20 (i) may not reflect all indictments or con-
21 victions for a background check crime;

22 (ii) is not certain to include arrest infor-
23 mation; and

24 (iii) should not be the sole basis for deter-
25 mining the fitness of a provider;

1 (E) that the response of an authorized agency
2 to an inquiry pursuant to subsection (a)—

3 (i) at a minimum, state whether the back-
4 ground check information set forth in the iden-
5 tification document required under subpara-
6 graph (A) is complete and accurate; and

7 (ii) be limited to the information reason-
8 ably required to accomplish the purposes of this
9 subtitle;

10 (F) that no qualified entity may take action ad-
11 verse to a provider, except that the qualified entity
12 may choose to deny the provider unsupervised access
13 to a child to whom the qualified entity provides child
14 care, on the basis of a background check under sub-
15 section (a) until the provider has obtained a deter-
16 mination as to the validity of any challenge under
17 subparagraph (B) or waived the right to make such
18 challenge;

19 (G) that each State establish procedures to en-
20 sure that any background check under subsection
21 (a) and the results thereof shall be requested by and
22 provided only to—

23 (i) qualified entities identified by States;

1 (ii) authorized representatives of a quali-
2 fied entity who have a need to know such infor-
3 mation;

4 (iii) the providers;

5 (iv) law enforcement authorities; or

6 (v) pursuant to the direction of a court of
7 law;

8 (H) that background check information con-
9 veyed to a qualified entity pursuant to subsection (a)
10 shall not be conveyed to any person except as pro-
11 vided under subparagraph (G);

12 (I) that an authorized agency shall not be liable
13 in an action at law for damages for failure to pre-
14 vent a qualified entity from taking action adverse to
15 a provider on the basis of a background check; and

16 (J) that a State employee or a political subdivi-
17 sion of a State or employee thereof responsible for
18 providing information to the national criminal back-
19 ground check system shall not be liable in an action
20 at law for damages for failure to prevent a qualified
21 entity from taking action adverse to a provider on
22 the basis of a background check.

23 (c) EQUIVALENT PROCEDURES.—(1) Notwithstand-
24 ing anything to the contrary in this section, the Attorney
25 General may certify that a State licensing or certification

1 procedure that differs from the procedures described in
2 subsections (a) and (b) shall be deemed to be the equiva-
3 lent of such procedures for purposes of this subtitle, but
4 the procedures described in subsections (a) and (b) shall
5 continue to apply to those qualified entities, providers, and
6 background check crimes that are not governed by or in-
7 cluded within the State licensing or certification proce-
8 dure.

9 (2) The Attorney General shall by regulation estab-
10 lish criteria for certifications under this subsection. Such
11 criteria shall include a finding by the Attorney General
12 that the State licensing or certification procedure accom-
13 plishes the purposes of this subtitle and incorporates a na-
14 tionwide review of State and Federal records of back-
15 ground check offenses through the national criminal back-
16 ground check system.

17 (d) RECORDS EXCHANGE.—The Attorney General
18 may exchange Federal Bureau of Investigation identifica-
19 tion records with authorized agencies for purposes of back-
20 ground checks under subsection (a) and may by regulation
21 authorize further dissemination of such records by author-
22 ized agencies for such purposes.

23 (e) REGULATIONS.—(1) The Attorney General shall
24 by regulation prescribe such other measures as may be
25 required to carry out the purposes of this subtitle, includ-

1 ing measures relating to the security, confidentiality, accu-
2 racy, use, misuse, and dissemination of information, and
3 audits and recordkeeping.

4 (2) The Attorney General shall, to the maximum ex-
5 tent possible, encourage the use of the best technology
6 available in conducting background checks.

7 **SEC. 646. FUNDING FOR IMPROVEMENT OF CHILD ABUSE**
8 **CRIME INFORMATION.**

9 (a) USE OF FORMULA GRANTS FOR IMPROVEMENTS
10 IN STATE RECORDS AND SYSTEMS.—Section 509(b) of
11 title I of the Omnibus Crime Control and Safe Streets Act
12 of 1968 (42 U.S.C. 3759(b)) is amended—

13 (1) in paragraph (2) by striking “and” after
14 the semicolon;

15 (2) in paragraph (3) by striking the period and
16 inserting “; and”; and

17 (3) by adding at the end the following new
18 paragraph:

19 “(4) the improvement of State record systems
20 and the sharing of all of the records described in
21 paragraphs (1), (2), and (3) and the records re-
22 quired by the Attorney General under section 744 of
23 the National Child Protection Act of 1993 with the
24 Attorney General for the purpose of implementing
25 the National Child Protection Act of 1993.”.

1 (b) ADDITIONAL FUNDING GRANTS FOR THE IM-
2 PROVEDMENT OF CHILD ABUSE CRIME INFORMATION.—

3 (1) The Attorney General shall, subject to appropriations
4 and with preference to States that as of the date of enact-
5 ment of this Act have the lowest percent currency of case
6 dispositions in computerized criminal history files, make
7 a grant to each State to be used—

8 (A) for the computerization of criminal history
9 files for the purposes of this subtitle;

10 (B) for the improvement of existing computer-
11 ized criminal history files for the purposes of this
12 subtitle;

13 (C) to improve accessibility to the national
14 criminal background check system for the purposes
15 of this subtitle; and

16 (D) to assist the State in the transmittal of
17 criminal records to, or the indexing of criminal his-
18 tory records in, the national criminal background
19 check system for the purposes of this subtitle.

20 (2) There are authorized to be appropriated for
21 grants under paragraph (1) a total of \$20,000,000 for fis-
22 cal years 1993, 1994, and 1995.

23 (c) WITHHOLDING STATE FUNDS.—Effective 1 year
24 after the date of enactment of this Act, the Attorney Gen-
25 eral may reduce by up to 10 percent the allocation to a

1 State for a fiscal year under title I of the Omnibus Crime
2 Control and Safe Streets Act of 1968 of a State that is
3 not in compliance with the timetable established for that
4 State under section 644 of this Act.

5 **Subtitle E—Jacob Wetterling**
6 **Crimes Against Children Reg-**
7 **istration Act**

8 **SEC. 651. SHORT TITLE.**

9 This subtitle may be cited as the “Jacob Wetterling
10 Crimes Against Children Registration Act”.

11 **SEC. 652. ESTABLISHMENT OF PROGRAM.**

12 (a) IN GENERAL.—

13 (1) STATE GUIDELINES.—The Attorney General
14 shall establish guidelines for State programs requir-
15 ing any person who is convicted of a criminal offense
16 against a victim who is a minor to register a current
17 address with a designated State law enforcement
18 agency for 10 years after release from prison, being
19 placed on parole, or being placed on supervised re-
20 lease.

21 (2) DEFINITION.—For purposes of this sub-
22 section, the term “criminal offense against a victim
23 who is a minor” includes—

24 (A) kidnapping of a minor, except by a
25 noncustodial parent;

1 (B) false imprisonment of a minor, except
2 by a noncustodial parent;

3 (C) criminal sexual conduct toward a
4 minor;

5 (D) solicitation of minors to engage in sex-
6 ual conduct;

7 (E) use of minors in a sexual performance;
8 or

9 (F) solicitation of minors to practice pros-
10 titution.

11 (b) REGISTRATION REQUIREMENT UPON RELEASE,
12 PAROLE, OR SUPERVISED RELEASE.—An approved State
13 registration program established by this section shall con-
14 tain the following requirements:

15 (1) NOTIFICATION.—If a person who is re-
16 quired to register under this section is released from
17 prison, paroled, or placed on supervised release, a
18 State prison officer shall—

19 (A) inform the person of the duty to reg-
20 ister;

21 (B) inform the person that if the person
22 changes residence address, the person shall give
23 the new address to a designated State law en-
24 forcement agency in writing within 10 days;

1 (C) obtain fingerprints and a photograph
2 of the person if these have not already been ob-
3 tained in connection with the offense that trig-
4 gers registration; and

5 (D) require the person to read and sign a
6 form stating that the duty of the person to reg-
7 ister under this section has been explained.

8 (2) TRANSFER OF INFORMATION TO STATE AND
9 THE FBI.—The officer shall, within 3 days after re-
10 ceipt of information described in paragraph (1), for-
11 ward it to a designated State law enforcement agen-
12 cy. The State law enforcement agency shall imme-
13 diately enter the information into the appropriate
14 State law enforcement record system and notify the
15 appropriate law enforcement agency having jurisdic-
16 tion where the person expects to reside. The State
17 law enforcement agency shall also immediately
18 transmit the conviction data and fingerprints to the
19 Identification Division of the Federal Bureau of In-
20 vestigation.

21 (3) ANNUAL VERIFICATION.—On each anniver-
22 sary of a person's initial registration date during the
23 period in which the person is required to register
24 under this section, the designated State law enforce-
25 ment agency shall mail a nonforwardable verification

1 form to the last reported address of the person. The
2 person shall mail the verification form to the officer
3 within 10 days after receipt of the form. The ver-
4 ification form shall be signed by the person, and
5 state that the person still resides at the address last
6 reported to the designated State law enforcement
7 agency. If the person fails to mail the verification
8 form to the designated State law enforcement agen-
9 cy within 10 days after receipt of the form, the per-
10 son shall be in violation of this section unless the
11 person proves that the person has not changed his
12 or her residence address.

13 (4) NOTIFICATION OF LOCAL LAW ENFORCE-
14 MENT AGENCIES OF CHANGES IN ADDRESS.—Any
15 change of address by a person required to register
16 under this section reported to the designated State
17 law enforcement agency shall immediately be re-
18 ported to the appropriate law enforcement agency
19 having jurisdiction where the person is residing.

20 (c) REGISTRATION FOR 10 YEARS.—A person re-
21 quired to register under this section shall continue to com-
22 ply with this section until 10 years have elapsed since the
23 person was released from imprisonment, or placed on pa-
24 role or supervised release.

1 (d) PENALTY.—A person required to register under
2 a State program established pursuant to this section who
3 knowingly fails to so register and keep such registration
4 current shall be subject to criminal penalties in such State.
5 It is the sense of Congress that such penalties should in-
6 clude at least 6 months' imprisonment.

7 (e) PRIVATE DATA.—The information provided under
8 this section is private data on individuals and may be used
9 for law enforcement purposes and confidential background
10 checks conducted with fingerprints for child care services
11 providers.

12 **SEC. 653. STATE COMPLIANCE.**

13 (a) COMPLIANCE DATE.—Each State shall have 3
14 years from the date of the enactment of this Act in which
15 to implement this subtitle.

16 (b) INELIGIBILITY FOR FUNDS.—The allocation of
17 funds under section 506 of title I of the Omnibus Crime
18 Control and Safe Streets Act of 1968 (42 U.S.C. 3756)
19 received by a State not complying with this subtitle 3
20 years after the date of enactment of this Act shall be re-
21 duced by 25 percent and the unallocated funds shall be
22 reallocated to the States in compliance with this section.

1 **Subtitle F—Domestic Violence**

2 **SEC. 661. DOMESTIC VIOLENCE GRANTS.**

3 (a) IN GENERAL.—Title I of the Omnibus Crime
4 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
5 et seq.), as amended by section 523(a), is amended—

6 (1) by redesignating part Q as part R;

7 (2) by redesignating section 1701 as section
8 1801; and

9 (3) by inserting after part P the following new
10 part:

11 **“Part Q—Domestic Violence Intervention**

12 **“SEC. 1701. GRANT AUTHORIZATION.**

13 “The Director of the Bureau of Justice Assistance
14 may make grants to 10 States for the purpose of assisting
15 States in implementing a civil and criminal response to
16 domestic violence.

17 **“SEC. 1702. USE OF FUNDS.**

18 “Grants made by the Director under this part shall
19 be used—

20 “(1) to encourage increased prosecutions for
21 domestic violence crimes;

22 “(2) to report more accurately the incidences of
23 domestic violence;

24 “(3) to facilitate arrests and aggressive pros-
25 ecution policies;

1 “(4) to provide legal advocacy services for vic-
2 tims of domestic violence; and

3 “(5) to improve the knowledge of health profes-
4 sionals regarding domestic violence and facilitate co-
5 operation between health professionals, social service
6 providers, and law enforcement personnel to better
7 assist victims of domestic violence.

8 **“SEC. 1703. APPLICATIONS.**

9 “(a) IN GENERAL.—In order to be eligible to receive
10 a grant under this part for any fiscal year, a State shall
11 submit an application to the Director in such form and
12 containing such information as the Director may reason-
13 ably require.

14 “(b) REQUIREMENTS.—An application under sub-
15 section (a) shall include—

16 “(1) a request for funds for the purposes de-
17 scribed in section 1702;

18 “(2) a description of the programs already in
19 place to combat domestic violence;

20 “(3) assurances that Federal funds received
21 under this part shall be used to supplement, not
22 supplant, non-Federal funds that would otherwise be
23 available for activities funded under this part; and

24 “(4) statistical information, if available, in such
25 form and containing such information that the Di-

1 rector may require regarding domestic violence with-
2 in that State.

3 “(c) COMPREHENSIVE PLAN.—An application under
4 subsection (a) shall include a comprehensive plan that
5 shall contain—

6 “(1) a description of the domestic violence prob-
7 lem within the State targeted for assistance;

8 “(2) a description of the projects to be devel-
9 oped;

10 “(3) a description of the resources available in
11 the State to implement the plan together with a de-
12 scription of the gaps in the plan that cannot be filled
13 with existing resources;

14 “(4) an explanation of how the requested grant
15 will be used to fill those gaps; and

16 “(5) a description of the system the applicant
17 will establish to prevent and reduce domestic vio-
18 lence.

19 **“SEC. 1704. ALLOCATION OF FUNDS; LIMITATIONS ON**
20 **GRANTS.**

21 “(a) STATE MAXIMUM.—No State shall receive more
22 than \$2,500,000 under this part for any fiscal year.

23 “(b) ADMINISTRATIVE COST LIMITATION.—The Di-
24 rector shall use not more than 5 percent of the funds avail-

1 able under this part for the purposes of administration
2 and technical assistance.

3 “(c) RENEWAL OF GRANTS.—A grant under this part
4 may be renewed for up to 2 additional years after the first
5 fiscal year during which the recipient receives its initial
6 grant under this part, subject to the availability of funds,
7 if—

8 “(1) the Director determines that the funds
9 made available to the recipient during the previous
10 year were used in a manner required under the ap-
11 proved application; and

12 “(2) the Director determines that an additional
13 grant is necessary to implement the crime prevention
14 program described in the comprehensive plan as re-
15 quired by section 1703(c).

16 **“SEC. 1705. AWARD OF GRANTS.**

17 “The Director shall consider the following factors in
18 awarding grants to States and shall give preference to
19 States that have—

20 “(1) a law or policy that requires the arrest of
21 a person who police have probable cause to believe
22 has committed an act of domestic violence or prob-
23 able cause to believe has violated a civil protection
24 order;

1 “(2) a law or policy that discourages dual ar-
2 rests;

3 “(3) laws or statewide prosecution policies that
4 authorize and encourage prosecutors to pursue do-
5 mestic violence cases in which a criminal case can be
6 proved, including proceeding without the active in-
7 volvement of the victim if necessary;

8 “(4) statewide guidelines for judges that—

9 “(A) reduce the automatic issuance of mu-
10 tual restraining or protective orders in cases
11 where only 1 spouse has sought a restraining or
12 protective order;

13 “(B) require any history of abuse against
14 a child or against a parent to be considered
15 when making child custody determinations; and

16 “(C) require judicial training on domestic
17 violence and related civil and criminal court is-
18 sues;

19 “(5) policies that provide for the coordination of
20 court and legal victim advocacy services; and

21 “(6) policies that make existing remedies to do-
22 mestic violence easily available to victims of domestic
23 violence, including elimination of court fees and the
24 provision of simple court forms.

1 **“SEC. 1706. REPORTS.**

2 “(a) REPORT TO DIRECTOR.—Each State that re-
3 ceives funds under this part shall submit to the Director
4 a report not later than March 1 of each year that describes
5 progress achieved in carrying out the plan required under
6 section 1703(c).

7 “(b) REPORT TO CONGRESS.—The Director shall
8 submit to the Congress a report by October 1 of each year
9 in which grants are made available under this part con-
10 taining—

11 “(1) a detailed statement regarding grant
12 awards and activities of grant recipients;

13 “(2) a compilation of statistical information
14 submitted by applicants under section 1703(b)(4);
15 and

16 “(3) an evaluation of programs established
17 under this part.

18 **“SEC. 1707. DEFINITIONS.**

19 “For the purposes of this part:

20 “(1) The term ‘Director’ means the Director of
21 the Bureau of Justice Assistance.

22 “(2) The term ‘domestic violence’ means any
23 act or threatened act of violence, including any
24 forceful detention of an individual, that—

25 “(A) results or threatens to result in phys-
26 ical injury; and

1 “(B) is committed by an individual against
2 another individual (including an elderly individ-
3 ual) to whom the individual is or was related by
4 blood or marriage or otherwise legally related or
5 with whom the individual is or was lawfully re-
6 siding.”.

7 (b) TECHNICAL AMENDMENT.—The table of contents
8 of title I of the Omnibus Crime Control and Safe Streets
9 Act of 1968 (42 U.S.C. 3711 et seq.), as amended by sec-
10 tion 523(b), is amended by striking the matter relating
11 to part Q and inserting the following:

“PART Q—DOMESTIC VIOLENCE INTERVENTION

“Sec. 1701. Grant authorization.

“Sec. 1702. Use of funds.

“Sec. 1703. Applications.

“Sec. 1704. Allocation of funds; limitations on grants.

“Sec. 1705. Award of grants.

“Sec. 1706. Reports.

“Sec. 1707. Definitions.

“PART R—TRANSITION; EFFECTIVE DATE; REPEALER

“Sec. 1801. Continuation of rules, authorities, and proceedings.”.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
13 1001(a) of title I of the Omnibus Crime Control and Safe
14 Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by
15 section 523(d), is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(11) There are authorized to be appropriated
18 \$25,000,000 for fiscal year 1993 and such sums as may
19 be necessary for fiscal years 1994 and 1995 to carry out
20 projects under part Q.”.

1 **SEC. 662. REPORT ON BATTERED WOMEN'S SYNDROME.**

2 (a) REPORT.—Not less than 1 year after the date of
3 enactment of this Act, the Attorney General and the Sec-
4 retary of Health and Human Services shall transmit to
5 the Congress a report on the medical and psychological
6 basis of battered women's syndrome and on the extent to
7 which evidence of the syndrome has been held to be admis-
8 sible as evidence of guilt or as a defense in a criminal
9 trial.

10 (b) COMPONENTS OF THE REPORT.—The report de-
11 scribed in subsection (a) shall include—

12 (1) medical and psychological testimony on the
13 validity of battered women's syndrome as a psycho-
14 logical condition;

15 (2) a compilation of State and Federal court
16 cases that have admitted evidence of battered wom-
17 en's syndrome as evidence of guilt or as a defense
18 in criminal trials; and

19 (3) an assessment by State and Federal judges,
20 prosecutors, and defense attorneys on the effects
21 that evidence of battered women's syndrome may
22 have in criminal trials.

23 **Subtitle G—Other Provisions**

24 **SEC. 671. INDUCEMENT OF MINOR TO COMMIT AN OF-**
25 **FENSE.**

26 (a) FINDINGS.—The Congress finds that—

1 (1) children are our most important and yet
2 most fragile human resource;

3 (2) too many young people are induced or
4 forced into performing criminal acts by adults;

5 (3) the greatest effort must be taken to elimi-
6 nate crime in our neighborhoods and our schools;

7 (4) an equal resolve must be taken to punish in-
8 dividuals who attempt to use America's youth as
9 pawns in their criminal enterprises; and

10 (5) adequate penalties can be implemented to
11 eradicate the exploitation of minors to commit of-
12 fenses.

13 (b) AMENDMENT OF TITLE 18, UNITED STATES
14 CODE.—Chapter 1 of title 18, United States Code, is
15 amended by adding at the end the following new section:

16 **“§21. Inducement of minor to commit an offense**

17 “(a) IN GENERAL.—Except to the extent that a
18 greater minimum sentence is provided by other law, a per-
19 son 18 years of age or older who, in any voluntary manner,
20 solicits, counsels, encourages, commands, intimidates, or
21 procures any minor with the intent that the minor shall
22 commit an offense against the United States shall be im-
23 prisoned not less than 3 and not more than 10 years, to
24 be served consecutively with any other sentences that are
25 imposed.

1 “(b) LIMITATION.—In the case of an offense under
2 subsection (a) involving a minor who is 16 years of age
3 or older at the time of the offense, subsection (a) shall
4 apply only when the offender is at least 5 years older than
5 the minor at the time the offense is committed.

6 “(c) SENTENCING.—In imposing a sentence under
7 subsection (a), the court shall consider as a circumstance
8 in aggravation the severity of the offense sought by the
9 adult.

10 “(d) DEFINITION.—For the purposes of this section
11 the term ‘minor’ means a person less than 18 years of
12 age.”.

13 (c) TECHNICAL AMENDMENT.—The chapter analysis
14 for chapter 1 of title 18, United States Code, is amended
15 by adding at the end the following new item:

“21. Inducement of minor to commit an offense.”.

16 **SEC. 672. DISCLOSURE OF RECORDS OF ARRESTS BY CAM-**
17 **PUS POLICE.**

18 Section 438(a)(4)(B)(ii) of the General Education
19 Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended
20 to read as follows:

21 “(ii) records maintained by a law enforcement
22 unit of the education agency or institution that were
23 created by that law enforcement unit for the purpose
24 of law enforcement.”.

1 **SEC. 673. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL**
2 **ASSAULT.**

3 (a) IN GENERAL.—The Attorney General, in con-
4 sultation with the Secretary of Education, shall, by con-
5 tract with an appropriate entity with expertise in college
6 campus security, provide for a national baseline study to
7 research the effectiveness of campus sexual assault policies
8 for institutions of postsecondary education.

9 (b) COMPONENTS OF THE REPORT.—The report de-
10 scribed in subsection (a) shall include an analysis of—

11 (1) the number of reported allegations and esti-
12 mated number of unreported allegations of sexual
13 assault occurring on college and university cam-
14 puses, and to whom the allegations are reported (in-
15 cluding campus authorities, sexual assault victim
16 service entities, and local criminal authorities);

17 (2) the number of campus sexual assault allega-
18 tions reported to campus authorities which are re-
19 ported to criminal authorities;

20 (3) the percentage of campus sexual assault al-
21 legations compared to noncampus sexual assault al-
22 legations which result in eventual criminal prosecu-
23 tion;

24 (4) State laws or regulations pertaining specifi-
25 cally to campus sexual assaults;

1 (5) the adequacy of campus policies and prac-
2 tices in protecting the legal rights and interests of
3 sexual assault victims and the accused, including
4 consideration of—

5 (A) practices that might discourage the re-
6 porting of sexual assaults to local criminal au-
7 thorities, or result in any form of obstruction of
8 justice, and thus undermine the public interest
9 in prosecuting perpetrators of sexual assault;
10 and

11 (B) the ability of campus disciplinary hear-
12 ings to properly address allegations of sexual
13 assault;

14 (6) whether colleges and universities take ade-
15 quate measures to ensure that victims are free of
16 unwanted contact with alleged assailants;

17 (7) the grounds on which colleges and univer-
18 sities are sued in civil court regarding sexual as-
19 saults, the resolution of these cases, and measures
20 that can be taken to prevent future lawsuits;

21 (8) the ways in which colleges and universities
22 respond to allegations of sexual assault, including an
23 assessment of which programs work the best;

24 (9) recommendations to redress concerns raised
25 in the report; and

1 **SEC. 702. PROHIBITION OF RACIALLY DISCRIMINATORY**
2 **POLICIES CONCERNING CAPITAL PUNISH-**
3 **MENT OR OTHER PENALTIES.**

4 (a) **GENERAL RULE.**—The penalty of death and all
5 other penalties shall be administered by the United States
6 and by every State without regard to the race or color
7 of the defendant or victim. Neither the United States nor
8 any State shall prescribe any racial quota or statistical
9 test for the imposition or execution of the death penalty
10 or any other penalty.

11 (b) **DEFINITIONS.**—For purposes of this title—

12 (1) the action of the United States or of a State
13 includes the action of any legislative, judicial, execu-
14 tive, administrative, or other agency or instrumental-
15 ity of the United States or a State, or of any politi-
16 cal subdivision of the United States or a State;

17 (2) the term “State” has the meaning given in
18 section 513 of title 18, United States Code; and

19 (3) the term “racial quota or statistical test”
20 includes any law, rule, presumption, goal, standard
21 for establishing a prima facie case, or mandatory or
22 permissive inference that—

23 (A) requires or authorizes the imposition
24 or execution of the death penalty or another
25 penalty so as to achieve a specified racial pro-

1 portion relating to offenders, convicts, defend-
2 ants, arrestees, or victims; or

3 (B) requires or authorizes the invalidation
4 of, or bars the execution of, sentences of death
5 or other penalties based on the failure of a ju-
6 risdiction to achieve a specified racial propor-
7 tion relating to offenders, convicts, defendants,
8 arrestees, or victims in the imposition or execu-
9 tion of such sentences or penalties.

10 **SEC. 703. GENERAL SAFEGUARDS AGAINST RACIAL PREJU-**
11 **DICE OR BIAS IN THE TRIBUNAL.**

12 In a criminal trial in a court of the United States,
13 or of any State—

14 (1) on motion of the defense attorney or pros-
15 ecutor, the risk of racial prejudice or bias shall be
16 examined on voir dire if there is a substantial likeli-
17 hood in the circumstances of the case that such prej-
18 udice or bias will affect the jury either against or in
19 favor of the defendant;

20 (2) on motion of the defense attorney or pros-
21 ecutor, a change of venue shall be granted if an im-
22 partial jury cannot be obtained in the original venue
23 because of racial prejudice or bias; and

1 (3) neither the prosecutor nor the defense at-
2 torney shall make any appeal to racial prejudice or
3 bias in statements before the jury.

4 **SEC. 704. FEDERAL CAPITAL CASES.**

5 (a) JURY INSTRUCTIONS AND CERTIFICATION.—In a
6 prosecution for an offense against the United States in
7 which a sentence of death is sought, and in which the cap-
8 ital sentencing determination is to be made by a jury, the
9 judge shall instruct the jury that it is not to be influenced
10 by prejudice or bias relating to the race or color of the
11 defendant or victim in considering whether a sentence of
12 death is justified, and that the jury is not to recommend
13 the imposition of a sentence of death unless it has con-
14 cluded that it would recommend the same sentence for
15 such a crime regardless of the race or color of the defend-
16 ant or victim. Upon the return of a recommendation of
17 a sentence of death, the jury shall also return a certificate,
18 signed by each juror, that the juror’s individual decision
19 was not affected by prejudice or bias relating to the race
20 or color of the defendant or victim, and that the individual
21 juror would have made the same recommendation regard-
22 less of the race or color of the defendant or victim.

23 (b) RACIALLY MOTIVATED KILLINGS.—In a prosecu-
24 tion for an offense against the United States for which
25 a sentence of death is authorized, the fact that the killing

1 of the victim was motivated by racial prejudice or bias
2 shall be deemed an aggravating factor whose existence
3 permits consideration of the death penalty, in addition to
4 any other aggravating factors that may be specified by law
5 as permitting consideration of the death penalty.

6 **SEC. 705. EXTENSION OF PROTECTION OF CIVIL RIGHTS**
7 **STATUTES.**

8 (a) SECTION 241.—Section 241 of title 18, United
9 States Code, is amended by striking “inhabitant of” and
10 inserting “person in”.

11 (b) SECTION 242.—Section 242 of title 18, United
12 States Code, is amended by striking “inhabitant of” and
13 inserting “person in”, and by striking “such inhabitant”
14 and inserting “such person”.

15 **TITLE VIII—PUBLIC**
16 **CORRUPTION**

17 **SEC. 801. SHORT TITLE.**

18 This title may be cited as the “Anti-Corruption Act
19 of 1993”.

20 **SEC. 802. PUBLIC CORRUPTION.**

21 (a) OFFENSES.—Chapter 11 of title 18, United
22 States Code, is amended by adding at the end the follow-
23 ing new section:

24 **“§ 226. Public corruption**

25 “(a) STATE AND LOCAL GOVERNMENT.—

1 “(1) HONEST SERVICES.—Whoever, in a cir-
2 cumstance described in paragraph (3), deprives or
3 defrauds, or endeavors to deprive or to defraud, by
4 any scheme or artifice, the inhabitants of a State or
5 political subdivision of a State of the honest services
6 of an official or employee of the State or political
7 subdivision shall be fined under this title, imprisoned
8 not more than 10 years, or both.

9 “(2) FAIR AND IMPARTIAL ELECTIONS.—Who-
10 ever, in a circumstance described in paragraph (3),
11 deprives or defrauds, or endeavors to deprive or to
12 defraud, by any scheme or artifice, the inhabitants
13 of a State or political subdivision of a State of a fair
14 and impartially conducted election process in any
15 primary, run-off, special, or general election—

16 “(A) through the procurement, casting, or
17 tabulation of ballots that are materially false,
18 fictitious, or fraudulent or that are invalid,
19 under the laws of the State in which the elec-
20 tion is held;

21 “(B) through paying or offering to pay any
22 person for voting;

23 “(C) through the procurement or submis-
24 sion of voter registrations that contain false

1 material information, or omit material informa-
2 tion; or

3 “(D) through the filing of any report re-
4 quired to be filed under State law regarding an
5 election campaign that contains false material
6 information or omits material information,

7 shall be fined under this title, imprisoned not more
8 than 10 years, or both.

9 “(3) CIRCUMSTANCES IN WHICH OFFENSE OC-
10 CURS.—The circumstances referred to in paragraphs
11 (1) and (2) are that—

12 “(A) for the purpose of executing or con-
13 cealing a scheme or artifice described in para-
14 graph (1) or (2) or attempting to do so, a per-
15 son—

16 “(i) places in any post office or au-
17 thorized depository for mail matter, any
18 matter or thing to be sent or delivered by
19 the Postal Service, or takes or receives
20 therefrom any such matter or thing, or
21 knowingly causes to be delivered by mail
22 according to the direction thereon, or at
23 the place at which it is directed to be deliv-
24 ered by the person to whom it is ad-
25 dressed, any such matter or thing;

1 “(ii) transmits or causes to be trans-
2 mitted by means of wire, radio, or tele-
3 vision communication in interstate or for-
4 foreign commerce any writings, signs, signals,
5 pictures, or sounds;

6 “(iii) transports or causes to be trans-
7 ported any person or thing, or induces any
8 person to travel in or to be transported in,
9 interstate or foreign commerce; or

10 “(iv) uses or causes the use of any fa-
11 cility of interstate or foreign commerce;

12 “(B) the scheme or artifice affects or con-
13 stitutes an attempt to affect in any manner or
14 degree, or would if executed or concealed affect,
15 interstate or foreign commerce; or

16 “(C) in the case of an offense described in
17 paragraph (2), an objective of the scheme or ar-
18 tifice is to secure the election of an official who,
19 if elected, would have any authority over the
20 administration of funds derived from an Act of
21 Congress totaling \$10,000 or more during the
22 12-month period immediately preceding or fol-
23 lowing the election or date of the offense.

24 “(b) FEDERAL GOVERNMENT.—Whoever deprives or
25 defrauds, or endeavors to deprive or to defraud, by any

1 scheme or artifice, the inhabitants of the United States
2 of the honest services of a public official or a person who
3 has been selected to be a public official shall be fined
4 under this title, imprisoned not more than 10 years, or
5 both.

6 “(c) OFFENSE BY AN OFFICIAL AGAINST AN EM-
7 PLOYEE OR OFFICIAL.—

8 “(1) CRIMINAL OFFENSE.—Whoever, being an
9 official, public official, or person who has been se-
10 lected to be a public official, directly or indirectly
11 discharges, demotes, suspends, threatens, harasses,
12 or in any manner discriminates against an employee
13 or official of the United States or of a State or polit-
14 ical subdivision of a State, or endeavors to do so, in
15 order to carry out or to conceal a scheme or artifice
16 described in subsection (a) or (b), shall be fined
17 under this title, imprisoned not more than 5 years,
18 or both.

19 “(2) CIVIL ACTION.—(A) Any employee or offi-
20 cial of the United States or of a State or political
21 subdivision of a State who is discharged, demoted,
22 suspended, threatened, harassed, or in any manner
23 discriminated against because of lawful acts done by
24 the employee or official as a result of a violation of
25 this section or because of actions by the employee on

1 behalf of himself or herself or others in furtherance
2 of a prosecution under this section (including inves-
3 tigation for, initiation of, testimony for, or assist-
4 ance in such a prosecution) may bring a civil action
5 and obtain all relief necessary to make the employee
6 or official whole, including—

7 “(i) reinstatement with the same seniority
8 status that the employee or official would have
9 had but for the violation;

10 “(ii) 3 times the amount of backpay;

11 “(iii) interest on the backpay; and

12 “(iv) compensation for any special dam-
13 ages sustained as a result of the violation, in-
14 cluding reasonable litigation costs and reason-
15 able attorney’s fees.

16 “(B) An employee or official shall not be af-
17 forded relief under subparagraph (A) if the employee
18 or official participated in the violation of this section
19 with respect to which relief is sought.

20 “(C)(i) A civil action or proceeding authorized
21 by this paragraph shall be stayed by a court upon
22 certification of an attorney for the Government that
23 prosecution of the action or proceeding may ad-
24 versely affect the interests of the Government in a
25 pending criminal investigation or proceeding.

1 “(ii) The attorney for the Government shall
2 promptly notify the court when a stay may be lifted
3 without such adverse effects.

4 “(d) DEFINITIONS.—As used in this section—

5 “(1) the term ‘official’ includes—

6 “(A) any person employed by, exercising
7 any authority derived from, or holding any posi-
8 tion in the government of a State or any sub-
9 division of the executive, legislative, judicial, or
10 other branch of government thereof, including a
11 department, independent establishment, com-
12 mission, administration, authority, board, and
13 bureau, and a corporation or other legal entity
14 established and subject to control by a govern-
15 ment or governments for the execution of a gov-
16 ernmental or intergovernmental program;

17 “(B) any person acting or pretending to
18 act under color of official authority; and

19 “(C) any person who has been nominated,
20 appointed, or selected to be an official or who
21 has been officially informed that he or she will
22 be so nominated, appointed, or selected;

23 “(2) the term ‘person acting or pretending to
24 act under color of official authority’ includes a per-
25 son who represents that he or she controls, is an

1 agent of, or otherwise acts on behalf of an official,
2 public official, and person who has been selected to
3 be a public official;

4 “(3) the terms ‘public official’ and ‘person who
5 has been selected to be a public official’ have the
6 meanings stated in section 201 and also include any
7 person acting or pretending to act under color of of-
8 ficial authority;

9 “(4) the term ‘State’ means a State of the
10 United States, the District of Columbia, Puerto
11 Rico, and any other commonwealth, territory, or
12 possession of the United States; and

13 “(5) the term ‘uses any facility of interstate or
14 foreign commerce’ includes the intrastate use of any
15 facility that may also be used in interstate or foreign
16 commerce.”.

17 (b) TECHNICAL AMENDMENTS.—(1) The chapter
18 analysis for chapter 11 of title 18, United States Code,
19 is amended by adding at the end the following new item:

“226. Public corruption.”.

20 (2) Section 1961(1) of title 18, United States Code,
21 is amended by inserting “section 226 (relating to public
22 corruption),” after “section 224 (relating to sports brib-
23 ery),”.

24 (3) Section 2516(1)(c) of title 18, United States
25 Code, is amended by inserting “section 226 (relating to

1 public corruption),” after “section 224 (bribery in sport-
2 ing contests),”.

3 **SEC. 803. INTERSTATE COMMERCE.**

4 (a) IN GENERAL.—Section 1343 of title 18, United
5 States Code, is amended—

6 (1) by striking “transmits or causes to be
7 transmitted by means of wire, radio, or television
8 communication in interstate or foreign commerce,
9 any writings, signs, signals, pictures, or sounds” and
10 inserting “uses or causes to be used any facility of
11 interstate or foreign commerce”; and

12 (2) by inserting “or attempting to do so” after
13 “for the purpose of executing such scheme or arti-
14 fice”.

15 (b) TECHNICAL AMENDMENTS.—(1) The heading of
16 section 1343 of title 18, United States Code, is amended
17 to read as follows:

18 “§ 1343. **Fraud by use of facility of interstate com-**
19 **merce**”.

20 (2) The chapter analysis for chapter 63 of title 18,
21 United States Code, is amended by amending the item re-
22 lating to section 1343 to read as follows:

“1343. Fraud by use of facility of interstate commerce.”.

1 **SEC. 804. NARCOTICS-RELATED PUBLIC CORRUPTION.**

2 (a) OFFENSES.—Chapter 11 of title 18, United
3 States Code, is amended by inserting after section 219 the
4 following new section:

5 **“§ 220. Narcotics and public corruption**

6 “(a) OFFENSE BY PUBLIC OFFICIAL.—A public offi-
7 cial who, in a circumstance described in subsection (c),
8 directly or indirectly, corruptly demands, seeks, receives,
9 accepts, or agrees to receive or accept anything of value
10 personally or for any other person in return for—

11 “(1) being influenced in the performance or
12 nonperformance of any official act; or

13 “(2) being influenced to commit or to aid in
14 committing, or to collude in, or to allow or make op-
15 portunity for the commission of any offense against
16 the United States or any State,

17 shall be guilty of a class B felony.

18 “(b) OFFENSE BY PERSON OTHER THAN A PUBLIC
19 OFFICIAL.—A person who, in a circumstance described in
20 subsection (c), directly or indirectly, corruptly gives, of-
21 fers, or promises anything of value to any public official,
22 or offers or promises any public official to give anything
23 of value to any other person, with intent—

24 “(1) to influence any official act;

25 “(2) to influence the public official to commit
26 or aid in committing, or to collude in, or to allow or

1 make opportunity for the commission of any offense
2 against the United States or any State; or

3 “(3) to influence the public official to do or to
4 omit to do any act in violation of the official’s lawful
5 duty,

6 shall be guilty of a class B felony.

7 “(c) CIRCUMSTANCES IN WHICH OFFENSE OC-
8 CURS.—The circumstances referred to in subsections (a)
9 and (b) are that the offense involves, is part of, or is in-
10 tended to further or to conceal the illegal possession, im-
11 portation, manufacture, transportation, or distribution of
12 any controlled substance or controlled substance analogue.

13 “(d) DEFINITIONS.—As used in this section—

14 “(1) the terms ‘controlled substance’ and ‘con-
15 trolled substance analogue’ have the meanings stated
16 in section 102 of the Controlled Substances Act (21
17 U.S.C. 802);

18 “(2) the term ‘official act’ means any decision,
19 action, or conduct regarding any question, matter,
20 proceeding, cause, suit, investigation, or prosecution
21 which may at any time be pending, or which may be
22 brought before any public official, in such official’s
23 official capacity, or in such official’s place of trust
24 or profit; and

25 “(3) the term ‘public official’ means—

1 “(A) an officer or employee or person act-
2 ing for or on behalf of the United States, or
3 any department, agency, or branch of Govern-
4 ment thereof in any official function, under or
5 by authority of any such department, agency, or
6 branch of Government;

7 “(B) a juror;

8 “(C) an officer or employee or person act-
9 ing for or on behalf of the government of any
10 State, territory, or possession of the United
11 States (including the District of Columbia), or
12 any political subdivision thereof, in any official
13 function, under or by the authority of any such
14 State, territory, possession, or political subdivi-
15 sion; and

16 “(D) any person who has been nominated
17 or appointed to a position described in subpara-
18 graph (A), (B), or (C), or has been officially in-
19 formed that he or she will be so nominated or
20 appointed.”.

21 (b) TECHNICAL AMENDMENTS.—(1) Section 1961(1)
22 of title 18, United States Code, is amended by inserting
23 “section 220 (relating to narcotics and public corrup-
24 tion),” after “Section 201 (relating to bribery),”.

1 (2) Section 2516(1)(c) of title 18, United States
2 Code, is amended by inserting “section 220 (relating to
3 narcotics and public corruption),” after “section 201
4 (bribery of public officials and witnesses),”.

5 (3) The chapter analysis for chapter 11 of title 18,
6 United States Code, is amended by inserting after the
7 item for section 219 the following new item:

“220. Narcotics and public corruption.”.

8 **TITLE IX—FEDERAL PRISONS**

9 **SEC. 901. AUTHORIZATION OF APPROPRIATIONS FOR NEW** 10 **PRISON CONSTRUCTION.**

11 There is authorized to be appropriated for fiscal year
12 1994 to the buildings and facilities account, Federal Pris-
13 on System, Department of Justice, \$500,000,000 for the
14 planning of, acquisition of sites for, and the construction
15 of new penal and correctional facilities, such appropria-
16 tions to be in addition to any appropriations provided in
17 regular appropriations Acts or continuing resolutions for
18 that fiscal year.

19 **TITLE X—VIOLENT CRIME**

20 **SEC. 1001. SHORT TITLE.**

21 This Act may be cited as the “Life Imprisonment for
22 Egregious Recidivists Act of 1993”.

23 **SEC. 1002. TITLE 18 AMENDMENT.**

24 Section 3581 of title 18, United States Code, is
25 amended by adding at the end the following:

1 “(c) IMPRISONMENT OF CERTAIN VIOLENT FEL-
2 ONS.—

3 “(1) GENERAL RULE.—Notwithstanding any
4 other provision of this title or any other law, in the
5 case of a conviction for a Federal violent felony, the
6 court shall sentence the defendant to prison for life
7 if the defendant has previously been convicted of two
8 other violent felonies.

9 “(2) DEFINITION.—As used in this section the
10 term “violent felony” is a State or Federal crime of
11 violence (as defined in section 16 of this title)—

12 “(A) that involves the threatened use, use,
13 or the risk of use of physical force against the
14 person of another;

15 “(B) for which the maximum authorized
16 imprisonment exceeds one year; and

17 “(C) which is not designated a mis-
18 demeanor by the law that defines the offense.

19 “(3) RULE OF CONSTRUCTION.—This sub-
20 section shall not be construed to prevent the imposi-
21 tion of the death penalty.”.

1 **TITLE XI—INTERNATIONAL**
2 **PARENTAL KIDNAPPING**

3 **SEC. 1101. SHORT TITLE.**

4 This Act may be cited as the “International Parental
5 Kidnapping Crime Act of 1993”.

6 **SEC. 1102. TITLE 18 AMENDMENT.**

7 (a) IN GENERAL.—Chapter 55 (relating to kidnap-
8 ping) of title 18, United States Code, is amended by add-
9 ing at the end the following:

10 **“§ 1204. International parental kidnapping**

11 “(a) Whoever—

12 “(1) removes a child from the United States or
13 retains a child (who has been in the United States)
14 outside the United States—

15 “(A) in order to obstruct the lawful exer-
16 cise of parental rights that are established in a
17 court order;

18 “(B) in order to obstruct the lawful exer-
19 cise of parental rights by the mother of that
20 child, in the case of a child—

21 “(i) whose parents have not been mar-
22 ried;

23 “(ii) with regard to whom paternity
24 has not been judicially established; and

1 “(iii) whose custody has not been judi-
2 cially granted to a person other than the
3 mother; or

4 “(C) in order to obstruct the lawful exer-
5 cise of parental rights during the pendency of
6 judicial proceedings to determine parental
7 rights; or

8 “(2) in any other circumstances removes a child
9 from the United States or retains a child (who has
10 been in the United States) outside the United
11 States, in order to obstruct the lawful exercise of pa-
12 rental rights;

13 shall be fined under this title or imprisoned not more than
14 3 years, or both.

15 “(b) As used in this section—

16 “(1) the term ‘child’ means a person who has
17 not attained the age of 16 years; and

18 “(2) the term ‘parental rights’, with respect to
19 a child, means the right to physical custody of the
20 child—

21 “(A) whether joint or sole (and includes
22 visiting rights); and

23 “(B) whether arising by operation of law,
24 court order, or agreement of the parties.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 55 of title 18, United States
 3 Code, is amended by adding at the end the following:

“1204. International parental kidnapping.”.

4 **SEC. 1103. STATE COURT PROGRAMS REGARDING INTER-**
 5 **NATIONAL PARENTAL CHILD ABDUCTION.**

6 There is authorized to be appropriated \$250,000 to
 7 carry out under the State Justice Institute Act of 1984
 8 (42 U.S.C. 10701–10713) national, regional, and in-State
 9 training and educational programs dealing with criminal
 10 and civil aspects of interstate and international parental
 11 child abduction.

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