

103^D CONGRESS
2^D SESSION

H. R. 2872

To prevent and punish crime, to strengthen the rights of crime victims,
to assist State and local efforts against crime, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1993

Mr. MCCOLLUM (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. ARMEY, Mr. HYDE, Mr. HUNTER, Mr. DELAY, Mr. FISH, Mr. CANADY, Mr. GEKAS, Ms. PRYCE of Ohio, Mr. RAMSTAD, Mr. ROGERS, Mr. SHAW, Mr. SMITH of Texas, Mr. BAKER of California, Mr. BLILEY, Mr. BUNNING, Mr. BUYER, Mr. CAMP, Mr. CASTLE, Mr. COBLE, Mr. COX, Mr. DOOLITTLE, Mr. EWING, Mrs. FOWLER, Mr. GOSS, Mr. GRAMS, Mr. GREENWOOD, Mr. HORN, Mr. KIM, Mr. KOLBE, Mr. KYL, Mr. LEWIS of Florida, Mr. LINDER, Mr. MCDADE, Mr. MCKEON, Mr. MICA, Ms. MOLINARI, Mr. MOORHEAD, Mr. OXLEY, Mr. SOLOMON, Mr. SMITH of Michigan, Mr. TORKILDSEN, Mrs. VUCANOVICH, Mr. WALKER, Mr. WELDON, Mr. ZELIFF, Mr. ZIMMER, Mr. LAZIO, Mr. MCHUGH, Mr. BALLENGER, and Mr. GALLEGLY) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 22, 1994

Additional sponsors: Mr. CRANE, Mr. DORNAN, Mr. SCHIFF, Mr. FIELDS of Texas, Mr. MACTHLEY, Mr. WALSH, Mr. DICKEY, Mr. TALENT, Mr. ROTH, Mr. ARCHER, Mr. QUINN, Mr. TAYLOR of North Carolina, Mr. HOBSON, Mr. POMBO, Mr. BARTLETT of Maryland, Mr. SANTORUM, Mr. EMERSON, Mr. MILLER of Florida, Mr. LEVY, Mr. BEREUTER, Mr. ROHRABACHER, Mr. PAXON, Mr. HOUGHTON, Mr. BOEHNER, Mr. THOMAS of Wyoming, Mr. BACHUS of Alabama, Mr. SAXTON, Mr. DREIER, Mr. BATEMAN, Mr. PORTMAN, Ms. DUNN, Mr. HERGER, Mr. PACKARD, Mr. COLLINS of Georgia, Mr. INHOFE, Mr. KASICH, Mr. SCHAEFER, Mr. GOODLATTE, Mr. LEWIS of California, Mr. PETRI, Mr. EVERETT, Mr. ROYCE, and Mr. FAWELL

Deleted sponsor: Mr. PORTER (added September 30, 1993; deleted October 7, 1993)

A BILL

To prevent and punish crime, to strengthen the rights of crime victims, to assist State and local efforts against crime, and for other purposes.

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 “Crime Control Act of 1993”.

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

Sec. 1. Short title and table of contents.

TITLE I—PROTECTION OF NEIGHBORHOODS, FAMILIES, AND
 CHILDREN

Subtitle A—Safe Schools

Sec. 101. Increased penalties for drug trafficking near schools.

Sec. 102. Federal safe school districts.

Sec. 103. Enhanced penalty for violation of the Gun-Free School Zones Act.

Subtitle B—Secure Neighborhoods

Sec. 111. Enhanced local law enforcement.

Sec. 112. Authorization of appropriations.

Sec. 113. Community policing grants.

Sec. 114. Criminal street gangs offenses.

Sec. 115. Drive-by shootings.

Sec. 116. Addition of anti-gang Byrne grant funding objective.

Sec. 117. Increased penalties for drug trafficking near public housing.

Subtitle C—Crimes Against Children

Sec. 131. Death penalty for murder during the sexual exploitation of children.

Sec. 132. Increased penalties for sex offenses against victims below the age of
 16.

Sec. 133. Penalties for international trafficking in child pornography.

Sec. 134. State legislation regarding child pornography.

Sec. 135. National registration of convicted child abusers.

Sec. 136. Increased penalties for assaults against children.

Sec. 137. Offense of inducing minors or other persons to use steroids.

Sec. 138. Increased penalties for drug distribution to pregnant women.

Sec. 139. Interstate enforcement of child support orders.

- Sec. 140. Crimes involving the use of minors as RICO predicates.
- Sec. 141. Increased penalties for using minors in drug trafficking and drug distribution to minors.
- Sec. 142. Increased penalties for using a minor in commission of a Federal offense.
- Sec. 143. International parental kidnapping.
- Sec. 144. State court programs regarding international parental child abduction.

Subtitle D—Punishment of Serious Juvenile Offenders

- Sec. 151. Serious juvenile drug offenses as armed career criminal act predicates.
- Sec. 152. Adult prosecution of serious juvenile offenders.
- Sec. 153. Amendments concerning records of crimes committed by juveniles.

TITLE II—EQUAL PROTECTION FOR VICTIMS

Subtitle A—Victims' Rights

- Sec. 201. Right of the victim to fair treatment in legal proceedings.
- Sec. 202. Right of the victim to an impartial jury.
- Sec. 203. Victim's right of allocution in sentencing.
- Sec. 204. Enforcement of restitution orders through suspension of Federal benefits.
- Sec. 205. Prohibition of retaliatory killings of witnesses, victims and informants.

Subtitle B—Admissibility of Evidence

- Sec. 211. Admissibility of evidence of similar crimes in sex offense cases.
- Sec. 212. Extension and strengthening of rape victim shield law.
- Sec. 213. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
- Sec. 214. Admissibility of certain evidence.

Subtitle C—Protecting the Integrity of the Judicial Process

- Sec. 221. General safeguards against racial prejudice or bias in the tribunal.
- Sec. 222. Protection of jurors and witnesses in capital cases.
- Sec. 223. Protection of court officers and jurors.
- Sec. 224. Death penalty for murder of Federal witnesses.

TITLE III—PROTECTION OF WOMEN

Subtitle A—Spouse Abuse and Stalking

- Sec. 301. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.
- Sec. 302. Full faith and credit for protective orders.

Subtitle B—Victims of Sexual Violence

- Sec. 311. Civil remedy for victims of sexual violence.
- Sec. 312. Extension and strengthening of restitution.
- Sec. 313. Pre-trial detention in sex offense cases.

Subtitle C—Punishment of Sex Offenders

- Sec. 321. Death penalty for rape and child molestation murders.
- Sec. 322. Increased penalties for recidivist sex offenders.
- Sec. 323. Sentencing guidelines increase for sex offenses.
- Sec. 324. HIV testing and penalty enhancement in sexual offense cases.

TITLE IV—PREVENTION OF TERRORISM

Subtitle A—Enhanced Controls on Entry into the United States

- Sec. 401. Exclusion based on membership in terrorist organization advocacy of terrorism.
- Sec. 402. Admissions fraud.
- Sec. 403. Inspection and exclusion by immigration officers.
- Sec. 404. Judicial review.
- Sec. 405. Conforming amendments.
- Sec. 406. Effective date.

Subtitle B—Deportation of Alien Terrorists

- Sec. 411. Removal of alien terrorists.

Subtitle C—Penalties for Engaging in Terrorism

- Sec. 421. Providing material support to terrorism.
- Sec. 422. Sentencing guidelines increase for terrorist crimes.
- Sec. 423. Extension of the statute of limitations for certain terrorism offenses.
- Sec. 424. Enhanced penalties for certain offenses.
- Sec. 425. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
- Sec. 426. Amendment to Federal Aviation Act.
- Sec. 427. Offenses of violence against maritime navigation or fixed platforms.
- Sec. 428. Weapons of mass destruction.
- Sec. 429. National task force on counterterrorism.
- Sec. 430. Death penalty for death caused by the use of a bomb or other destructive device.

TITLE V—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A—Deportation of Criminal Aliens

- Sec. 501. Expediting criminal alien deportation and exclusion.
- Sec. 502. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 503. Expansion in definition of “aggravated felony”.
- Sec. 504. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 505. Judicial deportation.
- Sec. 506. Restricting defenses to deportation for certain criminal aliens.
- Sec. 507. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 508. Miscellaneous and technical changes.
- Sec. 509. Authorization of appropriations for criminal alien information system.

Subtitle B—Prevention and Punishment of Alien Smuggling

- Sec. 511. Border patrol agents.
- Sec. 512. Border patrol investigators.

- Sec. 513. Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority.
- Sec. 514. Enhanced penalties for employers who knowingly employ smuggled aliens.
- Sec. 515. Enhanced penalties for certain alien smuggling.
- Sec. 516. Expanded forfeiture for smuggling or harboring illegal aliens.

TITLE VI—TAKING CRIMINALS OFF THE STREET

Subtitle A—Expanding Prison Capacity

- Sec. 601. Use of private activity bonds.
- Sec. 602. Federal-State partnerships for regional prisons.
- Sec. 603. Non-applicability of Davis-Bacon to prison construction.

Subtitle B—Miscellaneous

- Sec. 611. Restricted Federal court jurisdiction in imposing remedies on State and Federal prison systems.

TITLE VII—PUNISHMENT AND DETERRENCE

Subtitle A—Capital Offenses

- Sec. 701. Procedures for enforcing death penalty.
- Sec. 702. Equal Justice Act.
- Sec. 703. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
- Sec. 704. Federal capital cases.
- Sec. 705. Extension of protection of civil rights statutes.
- Sec. 706. Federal death penalties.
- Sec. 707. Conforming and technical amendments.

Subtitle B—Violent Felonies and Drug Offenses

- Sec. 711. Drug testing of Federal offenders on post-conviction release.
- Sec. 712. Life imprisonment or death penalty for third Federal violent felony conviction.
- Sec. 713. Strengthening the Armed Career Criminals Act.
- Sec. 714. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.
- Sec. 715. Mandatory penalties for firearms possession by violent felons and serious drug offenders.
- Sec. 716. Mandatory minimum sentence for unlawful possession of a firearm by convicted felon, fugitive from justice, or transferor or receiver of stolen firearm.
- Sec. 717. Increase in general penalty for violation of Federal firearms laws.
- Sec. 718. Increase in enhanced penalties for possession of firearm in connection with crime of violence or drug trafficking crime.
- Sec. 719. Smuggling firearms in aid of drug trafficking or violent crime.
- Sec. 720. Definition of conviction under chapter 44.
- Sec. 721. Definition of serious drug offense under the Armed Career Criminal Act.
- Sec. 722. Definition of burglary under the Armed Career Criminal Act.
- Sec. 723. Temporary prohibition against possession of a firearm by, or transfer of a firearm to, persons convicted of a drug crime.

Subtitle C—Enhanced Penalties for Criminal Use of Firearms and Explosives

Chapter 1—Instant Check System for Handgun Purchases

- Sec. 731. Definitions.
- Sec. 732. State instant criminal check systems for handgun purchases.
- Sec. 733. Amendment of chapter 44 of title 18, United States Code.
- Sec. 734. Establishment and operation of criminal history system.
- Sec. 735. Operation of system for purpose of screening handgun purchasers.
- Sec. 736. Improvement of criminal justice records.
- Sec. 737. Access to State criminal records.
- Sec. 738. Improvements in State records.
- Sec. 739. Funding of State criminal records systems and dedication of funds.
- Sec. 740. Authorization of appropriations.

Chapter 2—Other Firearms Provisions

- Sec. 741. Increased penalty for interstate gun trafficking.
- Sec. 742. Prohibition against transactions involving stolen firearms which have moved in interstate or foreign commerce.
- Sec. 743. Enhanced penalties for use of firearms in connection with counterfeiting or forgery.
- Sec. 744. Increased penalty for knowingly false, material Statement in firearm purchase from licensed dealer.
- Sec. 745. Revocation of supervised release for possession of a firearm in violation of release condition.
- Sec. 746. Receipt of firearms by nonresident.
- Sec. 747. Disposition of forfeited firearms.
- Sec. 748. Conspiracy to violate Federal firearms or explosives laws.
- Sec. 749. Theft of firearms or explosives from licensee.
- Sec. 750. Penalties for theft of firearms or explosives.
- Sec. 751. Prohibition against disposing of explosives to prohibited persons.
- Sec. 752. Prohibition against theft of firearms or explosives.
- Sec. 753. Increased penalty for second offense of using an explosive to commit a felony.
- Sec. 754. Possession of explosives by felons and others.
- Sec. 755. Possession of explosives during the commission of a felony.
- Sec. 756. Summary destruction of explosives subject to forfeiture.
- Sec. 757. Elimination of outmoded parole language.

Subtitle D—Miscellaneous

- Sec. 761. Increased penalties for travel act crimes involving violence and conspiracy to commit contract killings.
- Sec. 762. Criminal offense for failing to obey an order to land a private aircraft.
- Sec. 763. Amendment to the Mansfield amendment to permit maritime law enforcement operations in archipelagic waters.
- Sec. 764. Enhancement of penalties for drug trafficking in prisons.
- Sec. 765. Removal of tv broadcast license contingent on broadcast of public service announcements regarding drug abuse.

TITLE VIII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES.

Subtitle A—Post Conviction Petitions: General Habeas Corpus Reform.

- Sec. 801. Period of limitation for filing writ of habeas corpus following final judgment of a State court.
- Sec. 802. Authority of appellate judges to issue certificates of probable cause for appeal in habeas corpus and Federal collateral relief proceedings.
- Sec. 803. Conforming amendment to the rules of appellate procedure.
- Sec. 804. Discretion to deny habeas corpus application despite failure to exhaust State remedies.
- Sec. 805. Period of limitation for Federal prisoners filing for collateral remedy.

Subtitle B—Special Procedures for Collateral Proceedings in Capital Cases.

- Sec. 811. Death penalty litigation procedures.

Subtitle C—Funding for Litigation of Federal Habeas Corpus Petitions in Capital Cases.

- Sec. 821. Funding for death penalty prosecutions.

TITLE IX—PUBLIC CORRUPTION

- Sec. 901. Offenses.
- Sec. 902. Interstate commerce.
- Sec. 903. Narcotics-related public corruption.

TITLE X—FUNDING

- Sec. 1001. Reduction in overhead costs incurred in federally sponsored research.
- Sec. 1002. Overhead expense reduction.

1 **TITLE I—PROTECTION OF**
 2 **NEIGHBORHOODS, FAMILIES,**
 3 **AND CHILDREN**

4 **Subtitle A—Safe Schools**

5 **SEC. 101. INCREASED PENALTIES FOR DRUG TRAFFICKING**
 6 **NEAR SCHOOLS.**

7 Section 419 of the Controlled Substances Act (21
 8 U.S.C. 860) is amended—

9 (1) in subsection (a) by striking “one year” and
 10 inserting “3 years”; and

11 (2) in subsection (b) by striking “three years”
 12 each place it appears and inserting “5 years”.

1 **SEC. 102. FEDERAL SAFE SCHOOL DISTRICTS.**

2 (a) ELECTION TO QUALIFY.—

3 (1) IN GENERAL.—By decision of a local edu-
4 cational agency or by referendum of the voters in a
5 school district served by a local educational agency,
6 a school district may elect to qualify as a Federal
7 safe school district under this section.

8 (2) DEFINITION.—For purposes of this section,
9 the term “local educational agency” shall have the
10 meaning given such term in section 1471(12) of the
11 Elementary and Secondary Education Act of 1965.

12 (b) FUNDING FOR ENHANCED SCHOOL SECURITY.—

13 (1) IN GENERAL.—The Attorney General may
14 make a grant to a local educational agency serving
15 a Federal safe school district or to a local law en-
16 forcement agency with jurisdiction over the school
17 district, as appropriate, to pay for enhanced school
18 security measures.

19 (2) ENHANCED SCHOOL SECURITY MEAS-
20 URES.—The measures that may be funded by a
21 grant under paragraph (1) include—

22 (A) equipping schools with metal detectors,
23 fences, closed circuit cameras, and other phys-
24 ical security measures;

1 (B) providing increased police patrols in
2 and around schools, including police hired pur-
3 suant to this title;

4 (C) mailings to parents at the beginning of
5 the school year stating that the possession of a
6 gun or other weapon in school will not be toler-
7 ated by school authorities;

8 (D) signs on each school indicating that
9 the school is part of a Federal Safe School Dis-
10 trict; and

11 (E) gun hotlines.

12 **SEC. 103. ENHANCED PENALTY FOR VIOLATION OF THE**
13 **GUN-FREE SCHOOL ZONES ACT.**

14 (a) IN GENERAL.—Section 924(a)(4) of title 18,
15 United States Code, is amended—

16 (1) by striking “not more than 5 years” the 1st
17 place such term appears and inserting “not less than
18 5 years and not more than 10 years”; and

19 (2) by striking the 3rd sentence.

20 (b) TECHNICAL AMENDMENT.—Section 924(a)(1)(B)
21 of such title is amended by striking “(q)” and inserting
22 “(r)”.

1 **Subtitle B—Secure Neighborhoods**

2 **SEC. 111. ENHANCED LOCAL LAW ENFORCEMENT.**

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.) 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:

10 **“PART Q—COPS ON THE STREET GRANTS**

11 **“SEC. 1701. GRANT AUTHORIZATION.**

12 “The Director of the Bureau of Justice Assistance
13 may make not less than 50, but not more than 100 grants
14 to units of local government for the purposes of increasing
15 police presence in the community.

16 **“SEC. 1702. APPLICATION.**

17 “(a) IN GENERAL.—To be eligible to receive a grant
18 under this part, a chief executive of a unit of local govern-
19 ment, shall submit an application to the Director. The ap-
20 plication shall contain the information required under sub-
21 section (b) and be in such form and contain such other
22 information as the Director may reasonably require.

23 “(b) GENERAL CONTENTS.—Each application under
24 subsection (a) shall include a crime reduction plan which
25 includes—

1 “(1) a request for funds available under this
2 part for the purposes described in section 1701;

3 “(2) a description of the areas and populations
4 to be served by the grant and a description of the
5 crime problems within the areas targeted for assist-
6 ance;

7 “(3) information required to be considered by
8 the Director under section 1704;

9 “(4) assurances that Federal funds received
10 under this part shall be used to supplement, not
11 supplant, non-Federal funds that would otherwise be
12 available for activities funded under this part;

13 “(5) detailed accounts of expenditures for law
14 enforcement for the preceding 5-year period prior to
15 receiving a grant under this part;

16 “(6) detailed accounts of local expenditures for
17 law enforcement during any prior years in which
18 grants were received under this part;

19 “(7) a description of how a portion of the grant
20 would be used to ensure the safety of public and pri-
21 vate elementary and secondary schools; and

22 “(8) an evaluation component, including per-
23 formance standards and quantifiable goals to be
24 used to determine project progress and the data to

1 be collected to measure progress toward meeting the
2 plan's goals.

3 **“SEC. 1703. ADMINISTRATIVE COSTS; GRANT RENEWAL.**

4 “(a) ADMINISTRATIVE COST LIMITATION.—The Di-
5 rector shall use not more than 5 percent of the funds avail-
6 able under this part for the purposes of administration,
7 technical assistance, and evaluation.

8 “(b) RENEWAL OF GRANTS.—A grant under this
9 part may be renewed, subject to the availability of funds,
10 if the Director determines that the funds made available
11 to the recipient during the previous year were used in a
12 manner required under the approved application and the
13 requirements of this part.

14 **“SEC. 1704. SELECTION OF RECIPIENTS.**

15 “In awarding grants to units of local government
16 under this part, the Director shall consider—

17 “(1) the crime rate per capita in the unit of
18 local government for violent crime, including murder,
19 rape, robbery, assault with a weapon, and kidnap-
20 ping; and

21 “(2) the rate of increase of violent crime in
22 such unit of local government over the most recent
23 3-year period for which statistics are available.

1 **“SEC. 1705. REPORTS.**

2 “(a) REPORT TO DIRECTOR.—Recipients who receive
3 funds under this part shall submit to the Director not
4 later than March 1 of each year a report that describes
5 progress achieved in carrying out the plan required under
6 section 1702(b).

7 “(b) REPORT TO CONGRESS.—The Director shall
8 submit to the Congress a report by October 1 of each year
9 that shall contain a detailed statement regarding grant
10 awards, activities of grant recipients, and an evaluation
11 of projects established under this part.

12 **“SEC. 1706. DEFINITION.**

13 “For the purposes of this part, the term ‘Director’
14 means the Director of the Bureau of Justice Assistance.”

15 (b) CONFORMING AMENDMENT.—The table of con-
16 tents of title I of the Omnibus Crime Control and Safe
17 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended
18 by striking the matter relating to part Q and inserting
19 the following:

“PART Q—COMMUNITY POLICING; COP ON THE BEAT GRANTS

“Sec. 1701. Grant authorization.

“Sec. 1702. Application.

“Sec. 1703. Allocation of funds; limitation on grants.

“Sec. 1704. Award of grants.

“Sec. 1705. Reports.

“Sec. 1706. Definitions.

“PART R—TRANSITION; EFFECTIVE DATE; REPEALER

“Sec. 1801. Continuation of rules, authorities, and proceedings.”.

1 **SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 1001(a) of title I of the Omnibus Crime Con-
3 trol and Safe Streets Act of 1968 (42 U.S.C. 3793) is
4 amended by adding at the end the following:

5 “(12) There are authorized to be appropriated
6 \$330,000,000 for each of the fiscal years 1994 through
7 1998 to carry out the projects under part Q.”.

8 **SEC. 113. COMMUNITY POLICING GRANTS.**

9 (a) IN GENERAL.—Title I of the Omnibus Crime
10 Control and Safe Streets Act of 1968 (42 U.S.C. 3711
11 et seq.), as amended by section 112(a), is amended—

12 (1) by redesignating part R as part S;

13 (2) by redesignating section 1801 as section
14 1901; and

15 (3) by inserting after part Q the following new
16 part:

17 **“PART R—COMMUNITY POLICING GRANTS**

18 **“SEC. 1801. GRANT AUTHORIZATION.**

19 “(a) GRANT PROJECTS.—The Director of the Bureau
20 of Justice Assistance may make grants to units of local
21 government and to community groups to establish or ex-
22 pand cooperative efforts between police and a community
23 for the purposes of increasing police presence in the
24 community, including—

25 “(1) developing innovative neighborhood-ori-
26 ented policing programs;

1 “(2) providing new technologies to reduce the
2 amount of time officers spend processing cases in-
3 stead of patrolling the community;

4 “(3) purchasing equipment to improve commu-
5 nications between officers and the community and to
6 improve the collection, analysis, and use of informa-
7 tion about crime-related community problems;

8 “(4) developing policies that reorient police em-
9 phasis from reacting to crime to preventing crime;

10 “(5) creating decentralized police substations
11 throughout the community to encourage interaction
12 and cooperation between the public and law enforce-
13 ment personnel on a local level;

14 “(6) providing training and problem solving for
15 community crime problems;

16 “(7) providing training in cultural differences
17 for law enforcement officials;

18 “(8) developing community-based crime preven-
19 tion programs, such as safety programs for senior
20 citizens, community anticrime groups, and other
21 anticrime awareness programs;

22 “(9) developing crime prevention programs in
23 communities that have experienced a recent increase
24 in gang-related violence; and

1 “(10) developing projects following the model
2 under subsection (b).

3 “(b) MODEL PROJECT.—The Director shall develop
4 a written model that informs community members regard-
5 ing—

6 “(1) how to identify the existence of a drug or
7 gang house;

8 “(2) what civil remedies, such as public nui-
9 sance violations and civil suits in small claims court,
10 are available; and

11 “(3) what mediation techniques are available
12 between community members and individuals who
13 have established a drug or gang house in the com-
14 munity.

15 **“SEC. 1802. APPLICATION.**

16 “(a) IN GENERAL.—(1) To be eligible to receive a
17 grant under this part, a chief executive of a unit of local
18 government, a duly authorized representative of a com-
19 bination of local governments within a geographic region,
20 or a community group shall submit an application to the
21 Director in such form and containing such information as
22 the Director may reasonably require.

23 “(2) In an application under paragraph (1), a single
24 office, or agency (public, private, or nonprofit) shall be
25 designated as responsible for the coordination, implemen-

1 tation, administration, accounting, and evaluation of serv-
2 ices described in the application.

3 “(b) GENERAL CONTENTS.—Each application under
4 subsection (a) shall include—

5 “(1) a request for funds available under this
6 part for the purposes described in section 1801;

7 “(2) a description of the areas and populations
8 to be served by the grant; and

9 “(3) assurances that Federal funds received
10 under this part shall be used to supplement, not
11 supplant, non-Federal funds that would otherwise be
12 available for activities funded under this part.

13 “(c) COMPREHENSIVE PLAN.—Each application shall
14 include a comprehensive plan that contains—

15 “(1) a description of the crime problems within
16 the areas targeted for assistance;

17 “(2) a description of the projects to be devel-
18 oped;

19 “(3) a description of the resources available in
20 the community to implement the plan together with
21 a description of the gaps in the plan that cannot be
22 filled with existing resources;

23 “(4) an explanation of how the requested grant
24 shall be used to fill those gaps;

1 “(5) a description of the system the applicant
2 shall establish to prevent and reduce crime problems;
3 and

4 “(6) an evaluation component, including per-
5 formance standards and quantifiable goals the appli-
6 cant shall use to determine project progress, and the
7 data the applicant shall collect to measure progress
8 toward meeting project goals.

9 **“SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON**
10 **GRANTS.**

11 “(a) ALLOCATION.—The Director shall allocate not
12 less than 75 percent of the funds available under this part
13 to units of local government or combinations of such units
14 and not more than 20 percent of the funds available under
15 this part to community groups.

16 “(b) ADMINISTRATIVE COST LIMITATION.—The Di-
17 rector shall use not more than 5 percent of the funds avail-
18 able under this part for the purposes of administration,
19 technical assistance, and evaluation.

20 “(c) RENEWAL OF GRANTS.—A grant under this part
21 may be renewed, subject to the availability of funds, if the
22 Director determines that the funds made available to the
23 recipient during the previous year were used in a manner
24 required under the approved application and if the recipi-

1 ent can demonstrate significant progress toward achieving
2 the goals of the plan required under section 1802(c).

3 “(d) FEDERAL SHARE.—The Federal share of a
4 grant made under this part may not exceed 75 percent
5 of the total costs of the projects described in the applica-
6 tion submitted under section 1802 for the fiscal year for
7 which the projects receive assistance under this part.

8 **“SEC. 1804. AWARD OF GRANTS.**

9 “(a) SELECTION OF RECIPIENTS.—The Director
10 shall consider the following factors in awarding grants to
11 units of local government or combinations of such units
12 under this part:

13 “(1) NEED AND ABILITY.—Demonstrated need
14 and evidence of the ability to provide the services de-
15 scribed in the plan required under section 1802(c).

16 “(2) COMMUNITY-WIDE RESPONSE.—Evidence
17 of the ability to coordinate community-wide response
18 to crime.

19 “(3) MAINTAIN PROGRAM.—The ability to
20 maintain a program to control and prevent crime
21 after funding under this part is no longer available.

22 “(b) GEOGRAPHIC DISTRIBUTION.—The Director
23 shall attempt to achieve, to the extent practicable, an equi-
24 table geographic distribution of grant awards.

1 **“SEC. 1805. REPORTS.**

2 “(a) REPORT TO DIRECTOR.—Recipients who receive
3 funds under this part shall submit to the Director not
4 later than March 1 of each year a report that describes
5 progress achieved in carrying out the plan required under
6 section 1802(c).

7 “(b) REPORT TO CONGRESS.—The Director shall
8 submit to the Congress a report by October 1 of each year
9 containing—

10 “(1) a detailed statement regarding grant
11 awards and activities of grant recipients; and

12 “(2) an evaluation of projects established under
13 this part.

14 **“SEC. 1806. DEFINITIONS.**

15 “In this part—

16 “‘community group’ means a community-based
17 nonprofit organization that has a primary purpose of
18 crime prevention.

19 “‘Director’ means the Director of the Bureau
20 of Justice Assistance.”.

21 (b) TECHNICAL AMENDMENT.—The table of contents
22 of title I of the Omnibus Crime Control and Safe Streets
23 Act of 1968 (42 U.S.C. 3711 et seq.), as amended by sec-
24 tion 112(b), is amended by striking the matter relating
25 to part R and inserting the following:

“PART R—COMMUNITY POLICING GRANTS

“Sec. 1801. Grant authorization.
 “Sec. 1802. Application.
 “Sec. 1803. Allocation of funds; limitations on grants.
 “Sec. 1804. Award of grants.
 “Sec. 1805. Reports.
 “Sec. 1806. Definitions.

“PART S—TRANSITION; EFFECTIVE DATE; REPEALER

“Sec. 1901. Continuation of rules, authorities, and proceedings.”.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
 2 1001(a) of title I of the Omnibus Crime Control and Safe
 3 Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by
 4 section 112(c), is amended—

5 (1) in paragraph (3) by striking “and Q” and
 6 inserting “Q and R”; and

7 (2) by adding at the end the following new
 8 paragraph:

9 “(13) There are authorized to be appropriated
 10 \$70,000,000 for each of the fiscal years 1994 through
 11 1998.”.

12 **SEC. 114. CRIMINAL STREET GANGS OFFENSES.**

13 (a) OFFENSE.—Title 18, United States Code, is
 14 amended by inserting after chapter 93 the following:

15 **“CHAPTER 94—PROHIBITED PARTICIPATION IN**
 16 **CRIMINAL STREET GANGS AND GANG CRIME**

“Sec.
 “1930. Prohibited activity.
 “1931. Penalties.
 “1932. Investigative authority.

17 **“§ 1930. Prohibited activity**

18 “(a) DEFINITIONS.—As used in this chapter—

1 “(1) the term ‘predicate gang crime’ means—

2 “(A) any act or threat, or attempted act or
3 threat, which is chargeable under Federal or
4 State law and punishable by imprisonment for
5 more than 1 year, involving murder, assault,
6 kidnapping, robbery, extortion, burglary, arson,
7 property damage or destruction, obstruction of
8 justice, tampering with or retaliating against a
9 witness, victim, or informant, or manufacturing,
10 importing, receiving, concealing, purchasing,
11 selling, possessing, or otherwise dealing in a
12 controlled substance or controlled substance
13 analogue (as those terms are defined in section
14 102 of the Controlled Substances Act (21
15 U.S.C. 802));

16 “(B) any act, punishable by imprisonment
17 for more than 1 year, which is indictable under
18 any of the following provisions of title 18,
19 United States Code: sections 922 and
20 924(a)(2), (b), (c), (g), or (h) (relating to re-
21 ceipt, possession, and transfer of firearms); sec-
22 tion 1503 (relating to obstruction of justice);
23 section 1510 (relating to obstruction of criminal
24 investigations); section 1512 (relating to tam-
25 pering with a witness, victim, or informant);

1 section 1513 (relating to retaliating against a
2 witness, victim, or informant); or

3 “(C) any act indictable under subsection
4 (b)(5) of this section;

5 “(2) the term ‘criminal street gang’ means any
6 organization, or group, of 5 or more individuals,
7 whether formal or informal, who act in concert, or
8 agree to act in concert, for a period in excess of 30
9 days, with a purpose that any of those individuals
10 alone, or in any combination, commit or will commit,
11 2 or more predicate gang crimes, one of which must
12 occur after the enactment of this chapter and the
13 last of which occurred within 10 years (excluding
14 any period of imprisonment) after the commission of
15 a prior predicate gang crime;

16 “(3) the term ‘participate in a criminal street
17 gang’ means to act in concert with a criminal street
18 gang with intent to commit, or that any other indi-
19 vidual associated with the criminal street gang will
20 commit, 1 or more predicate gang crimes; and

21 “(4) the term ‘State’ means a State of the
22 United States, the District of Columbia, and any
23 commonwealth, territory, or possession of the United
24 States.

25 “(b) UNLAWFUL ACTS.—It shall be unlawful—

1 “(1) to commit, or to attempt to commit, a
2 predicate gang crime with intent to promote or fur-
3 ther the activities of a criminal street gang or for
4 the purpose of gaining entrance to or maintaining or
5 increasing position in such a gang;

6 “(2) to participate, or attempt to participate, in
7 a criminal street gang, or conspire to do so;

8 “(3) to command, counsel, persuade, induce,
9 entice, or coerce any individual to participate in a
10 criminal street gang;

11 “(4) to employ, use, command, counsel, per-
12 suade, induce, entice, or coerce any individual to
13 commit, cause to commit, or facilitate the commis-
14 sion of, a predicate gang crime, with intent to pro-
15 mote the activities of a criminal street gang or for
16 the purpose of gaining entrance to or maintaining or
17 increasing position in such a gang; or

18 “(5) to use any communication facility, as de-
19 fined in section 403(b) of the Controlled Substances
20 Act (21 U.S.C. 843(b)), in causing or facilitating the
21 commission, or attempted commission, of a predicate
22 gang crime with intent to promote or further the ac-
23 tivities of a criminal street gang or for the purpose
24 of gaining entrance to or maintaining or increasing
25 position in such a gang. Each separate use of a com-

1 munication facility shall be a separate offense under
2 this subsection.

3 **“§ 1931. Penalties**

4 “(a) PENALTIES OF UP TO 20 YEARS OR LIFE IM-
5 PRISONMENT.—Any person who violates section 1930(b)
6 (1) or (2) shall be punished by imprisonment for not more
7 than 20 years, or by imprisonment for any term of years
8 or for life if the violation is based on a predicate gang
9 crime for which the maximum penalty includes life impris-
10 onment, and if any person commits such a violation after
11 1 or more prior convictions for such a predicate gang
12 crime, that is not part of the instant violation, such person
13 shall be sentenced to a term of imprisonment which shall
14 not be less than 10 years and which may be for any term
15 of years exceeding 10 years or for life.

16 “(b) PENALTIES BETWEEN 5 AND 10 YEARS.—Any
17 person who violates section 1930 (b)(3) or (b)(4) shall be
18 sentenced to imprisonment for not less than 5 and not
19 more than 10 years, and if the individual who was the
20 subject of the act was less than 18 years of age, such per-
21 son shall be imprisoned for 10 years. A term of imprison-
22 ment under this subsection shall run consecutively to any
23 other term of imprisonment, including that imposed for
24 any other violation of this chapter.

1 “(c) PENALTIES OF UP TO 5 YEARS.—Any person
2 who violates section 1930(b)(5) shall be punished by im-
3 prisonment for not more than 5 years.

4 “(d) ADDITIONAL PENALTIES.—In addition to the
5 other penalties set forth in this section—

6 “(1) any person who violates section 1930(b)
7 (1) or (2), 1 of whose predicate gang crimes involves
8 murder or conspiracy to commit murder which re-
9 sults in the taking of a life, and who commits, coun-
10 sels, commands, induces, procures, or causes that
11 murder, shall be punished by death or by imprison-
12 ment for life;

13 “(2) any person who violates section 1930(b)
14 (1) or (2), 1 of whose predicate gang crimes involves
15 attempted murder or conspiracy to commit murder,
16 shall be sentenced to a term of imprisonment which
17 shall not be less than 20 years and which may be
18 for any term of years exceeding 20 years or for life;
19 and

20 “(3) any person who violates section 1930(b)
21 (1) or (2), and who at the time of the offense occu-
22 pied a position of organizer or supervisor, or other
23 position of management in that street gang, shall be
24 sentenced to a term of imprisonment which shall not

1 be less than 15 years and which may be for any
2 term of years exceeding 15 years or for life.

3 For purposes of paragraph (3) of this subsection, if it is
4 shown that the defendant counseled, commanded, induced,
5 or procured 5 or more individuals to participate in a street
6 gang, there shall be a rebuttable presumption that the de-
7 fendant occupied a position of organizer or supervisor, or
8 other position of management in the gang.

9 “(e) FORFEITURE.—Whoever violates section
10 1930(b) (1) or (2) shall, in addition to any other penalty
11 and irrespective of any provision of State law, forfeit to
12 the United States—

13 “(1) any property constituting, or derived from,
14 any proceeds the person obtained, directly or indi-
15 rectly, as a result of the violation; and

16 “(2) any property used, or intended to be used,
17 in any manner or part, to commit, or to facilitate
18 the commission of, the violation.

19 The provisions of section 413(b), (c), and (e) through (p)
20 of the Controlled Substances Act (21 U.S.C. 853(b), (c),
21 and (e) through (p)) shall apply to a forfeiture under this
22 section.

23 **“§ 1932. Investigative authority**

24 “The Attorney General and the Secretary of the
25 Treasury shall have the authority to investigate offenses

1 under this chapter. This authority shall be exercised in
 2 accordance with an agreement which shall be entered into
 3 by the Attorney General and the Secretary of the
 4 Treasury.”.

5 (b) CLERICAL AMENDMENT.—The table of chapters
 6 for part I of title 18, United States Code, is amended by
 7 inserting after the item for chapter 93 the following:

**“94. Prohibited participation in criminal street gangs
 and gang crimes 1930”.**

8 (c) SENTENCING GUIDELINES INCREASE FOR GANG
 9 CRIMES.—The United States Sentencing Commission
 10 shall at the earliest opportunity amend the sentencing
 11 guidelines to increase by at least 4 levels the base offense
 12 level for any felony committed for the purpose of gaining
 13 entrance into, or maintaining or increasing position in, a
 14 criminal street gang. For purposes of this subsection,
 15 “criminal street gang” means any organization, or group,
 16 of 5 or more individuals, whether formal or informal, who
 17 act in concert, or agree to act in concert, for a period in
 18 excess of 30 days, with the intent that any of those indi-
 19 viduals alone, or in any combination, commit or will com-
 20 mit, 2 or more acts punishable under State or Federal
 21 law by imprisonment for more than 1 year.

1 **SEC. 115. DRIVE-BY SHOOTINGS.**

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

5 **“§ 931. Drive-by shootings**

6 “(a) Whoever knowingly discharges a firearm at a
7 person—

8 “(1) in the course of or in furtherance of drug
9 trafficking activity; or

10 “(2) from a motor vehicle;

11 shall be punished by imprisonment for up to 25 years, and
12 if death results shall be punished by death or by imprison-
13 ment for any term of years or for life.

14 “(b) For purposes of this section, the term ‘drug traf-
15 ficking activity’ means a drug trafficking crime as defined
16 in section 929(a)(2) of this title, or a pattern or series
17 of acts involving one or more drug trafficking crimes.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 44 of title 18, United States
20 Code, is amended by adding at the end the following:

“931. Drive-by shootings.”.

21 **SEC. 116. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING**

22 **OBJECTIVE.**

23 Section 501(b) of title I of the Omnibus Crime Con-
24 trol and Safe Streets Act of 1968 (42 U.S.C. 3751) is
25 amended—

1 (1) in paragraph (20) by striking “and” at the
2 end;

3 (2) in paragraph (21) by striking the period
4 and inserting “; and”; and

5 (3) by inserting after paragraph (21) the fol-
6 lowing new paragraph:

7 “(22) law enforcement and prevention programs
8 relating to gangs, or to youth who are involved or
9 at risk of involvement in gangs.”.

10 **SEC. 117. INCREASED PENALTIES FOR DRUG TRAFFICKING**
11 **NEAR PUBLIC HOUSING.**

12 Section 419 of the Controlled Substances Act (21
13 U.S.C. 860) is amended—

14 (1) in subsection (a) by striking “playground,
15 or within” and inserting “playground, or housing
16 facility owned by a public housing authority, or
17 within”; and

18 (2) in subsection (b) by striking “playground,
19 or within” and inserting “playground, or housing
20 facility owned by a public housing authority, or
21 within”.

1 **Subtitle C—Crimes Against**
2 **Children**

3 **SEC. 131. DEATH PENALTY FOR MURDER DURING THE SEX-**
4 **UAL EXPLOITATION OF CHILDREN.**

5 Section 2251(d) of title 18, United States Code, is
6 amended by adding at the end the following: “Whoever,
7 in the course of an offense under this section, engages in
8 conduct that results in the death of a person, shall be pun-
9 ished by death or imprisoned for any term of years or for
10 life.”.

11 **SEC. 132. INCREASED PENALTIES FOR SEX OFFENSES**
12 **AGAINST VICTIMS BELOW THE AGE OF 16.**

13 Paragraph (2) of section 2247 of title 18, United
14 States Code, as so redesignated by section 403(a) is
15 amended—

16 (1) in subparagraph (B) by striking “or” after
17 the semicolon;

18 (2) in subparagraph (C) by striking “; and”
19 and inserting “; or”; and

20 (3) by inserting a new subparagraph (D) as
21 follows:

22 “(D) the intentional touching, not through the
23 clothing, of the genitalia of another person who has
24 not attained the age of 16 years with an intent to

1 abuse, humiliate, harass, degrade, or arouse or grat-
2 ify the sexual desire of any person;”.

3 **SEC. 133. PENALTIES FOR INTERNATIONAL TRAFFICKING**
4 **IN CHILD PORNOGRAPHY.**

5 (a) IMPORT RELATED OFFENSE.—Chapter 110 of
6 title 18, United States Code, is amended by adding at the
7 end the following:

8 **“§ 2258. Production of sexually explicit depictions of**
9 **a minor for importation into the United**
10 **States**

11 “(a) Any person who, outside the United States, em-
12 ploys, uses, persuades, induces, entices, or coerces any
13 minor to engage in, or who has a minor assist any other
14 person to engage in, or who transports any minor with
15 the intent that such minor engage in any sexually explicit
16 conduct for the purpose of producing any visual depiction
17 of such conduct, shall be punished as provided under sub-
18 section (c), if such person intends, knows, or has reason
19 to know that such visual depiction will be imported into
20 the United States or into waters within a distance of 12
21 miles of the coast of the United States.

22 “(b) Whoever, outside the United States, knowingly
23 receives, transports, ships, distributes, sells, or possesses
24 with intent to transport, ship, sell, or distribute any visual
25 depiction of a minor engaging in sexually explicit conduct

1 if the production of such visual depiction involved the use
2 of a minor engaging in sexually explicit conduct, shall be
3 published as provided under subsection (c), if such person
4 intends, knows, or has reason to know that such visual
5 depiction will be imported into the United States or into
6 waters within a distance of 12 miles of the coast of the
7 United States.

8 “(c) Any individual who violates this section, or con-
9 spires or attempts to do so, shall be fined under this title,
10 or imprisoned not more than 10 years, or both, but, if
11 such individual has a prior conviction under this chapter
12 or chapter 109A of this title, such individual shall be fined
13 according to the provisions of this title, or imprisoned not
14 less than five years nor more than 15 years, or both.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 110 of title 18, United States
17 Code, is amended by adding at the end the following:

“2258. Production of sexually explicit depictions of a minor for importation into
the United States”.

18 (c) TECHNICAL AMENDMENT.—Section 2251(d) of
19 title 18, United States Code, is amended—

20 (1) by striking “not more than \$100,000” and
21 inserting “under this title”;

22 (2) by striking “not more than \$200,000” and
23 inserting “under this title”; and

1 (3) by striking “not more than \$250,000” and
2 inserting “under this title”.

3 (d) SECTION 2251 PENALTY ENHANCEMENT.—Sec-
4 tion 2251(d) of title 18, United States Code, is amended
5 by striking “this section” the second place it appears and
6 inserting “this chapter or chapter 109A of this title”.

7 (e) SECTION 2252 PENALTY ENHANCEMENT.—Sec-
8 tion 2252(b)(1) of title 18, United States Code, is amend-
9 ed by striking “this section” and inserting “this chapter
10 or chapter 109A of this title”.

11 (f) CONSPIRACY AND ATTEMPT.—Sections 2251(d)
12 and 2252(b) of title 18, United States Code, are each
13 amended by inserting “, or attempts or conspires to do
14 so,” after “violates” each place it appears.

15 (g) RICO AMENDMENT.—Section 1961(l) of title 18,
16 United States Code, is amended by striking “2251–2252”
17 and inserting “2251, 2252, or 2258”.

18 (h) TRANSPORTATION OF MINORS.—Section 2423 of
19 title 18, United States Code, is amended—

20 (1) by inserting “(a)” before “Whoever”; and

21 (2) by adding at the end the following:

22 “(b) Whoever travels in interstate or foreign com-
23 merce, or conspires to do so, for the purpose of engaging
24 in any sexual act (as the term ‘sexual act’ is defined in
25 section 2245 of this title) with a person under 18 years

1 of age which would be in violation of chapter 109A of this
2 title if such sexual act occurred in the special maritime
3 and territorial jurisdiction of the United States,” after
4 “offense,”.

5 **SEC. 134. STATE LEGISLATION REGARDING CHILD POR-**
6 **NOGRAPHY.**

7 (a) IN GENERAL.—Not later than the end of the 18th
8 month beginning after the date of the enactment of this
9 Act, each State shall enact legislation complying with
10 guidelines established under subsection (b), and maintain
11 such legislation in effect thereafter. Compliance with the
12 preceding sentence shall be a condition to the receipt by
13 a State of any grant, cooperative agreement, or other as-
14 sistance under—

15 (1) section 1404 of the Victims of Crime Act
16 (42 U.S.C. 10603); and

17 (2) the Child Abuse Prevention and Treatment
18 Act (42 U.S.C. 1501 et seq.).

19 (b) GUIDELINES.—The Attorney General shall estab-
20 lish guidelines for State legislation prohibiting the produc-
21 tion, distribution, receipt, or possession of materials de-
22 picting a person under 18 years of age engaging in sexu-
23 ally explicit conduct and providing for a maximum impris-
24 onment of at least one year and for the forfeiture of assets

1 used in the commission or support of, or gained from, such
2 offenses.

3 **SEC. 135. NATIONAL REGISTRATION OF CONVICTED CHILD**
4 **ABUSERS.**

5 (a) STATES TO REGISTER PERSONS CONVICTED OF
6 OFFENSES AGAINST CHILDREN.—

7 (1) IN GENERAL.—Each State shall establish
8 and maintain a registration program under this sec-
9 tion requiring persons convicted of a criminal offense
10 against a victim who is a child to register a current
11 address and other information that the Attorney
12 General deems relevant, with a designated State law
13 enforcement agency for 10 years after being released
14 from prison or otherwise being freed from detention
15 after the conviction becomes final.

16 (2) ATTORNEY GENERAL TO ESTABLISH GUIDE-
17 LINES.—The Attorney General shall establish guide-
18 lines for State registration programs under this
19 section.

20 (3) MANDATORY ELEMENTS OF GUIDELINES.—
21 Such guidelines shall include provision for—

22 (A) a requirement that the State obtain
23 the fingerprints, physical description, and cur-
24 rent photographs of each registered person;

1 (B) annual updating of the information
2 contained in the registry by each registered per-
3 son; and

4 (C) criminal penalties for failing to comply
5 with the registration requirements.

6 (b) STATES TO REPORT.—

7 (1) IN GENERAL.—Each State shall report to
8 the Attorney General, in such form and manner as
9 the Attorney General shall prescribe—

10 (A) information about each conviction for
11 a criminal offense against a victim who is a
12 child; and

13 (B) the information on the registry that
14 State is required to establish and maintain
15 under subsection (a).

16 (2) ANNUAL SUMMARY OF CONVICTIONS.—The
17 Attorney General shall publish an annual summary
18 of convictions for offenses involving the physical,
19 psychological, or emotional injuring, sexual abuse or
20 exploitation, neglectful treatment, or maltreatment,
21 of children, based on information reported under
22 this section.

23 (c) SANCTION FOR NONCOMPLIANCE BY STATE.—If
24 a State fails to comply with an obligation under subsection
25 (a) or (b) during the period that begins 3 years after the

1 date of the enactment of this Act, the allocation of funds
2 under section 506 of title I of the Omnibus Crime Control
3 and Safe Streets Act of 1968 (42 U.S.C. 3756) shall be
4 reduced by 25 percent, and the unallocated funds shall
5 be reallocated to the States complying with those obliga-
6 tions.

7 (d) BACKGROUND CHECKS.—

8 (1) IN GENERAL.—A State may permit quali-
9 fied entities to obtain from an authorized agency of
10 the State a nationwide background check for the
11 purpose of determining whether there is a report
12 that a provider has been convicted of a background
13 check crime.

14 (2) ATTORNEY GENERAL TO PROVIDE INFORMA-
15 TION.—The Attorney General, in accordance with
16 such rules and subject to such conditions as the At-
17 torney General shall prescribe, shall provide to au-
18 thorized agencies of States information possessed by
19 the Department of Justice that would enable the
20 agency to make the background check described in
21 paragraph (1). In making such rules and setting
22 such conditions, the Attorney General shall take care
23 to assure—

24 (A) the currency and accuracy of the infor-
25 mation; and

1 (B) that the States maintain procedures to
2 permit providers to check and correct informa-
3 tion relating to such providers.

4 (e) DEFINITIONS.—As used in this Act—

5 (1) the term “child” means a person who has
6 not attained the age of 18 years;

7 (2) the term “State” includes the District of
8 Columbia, Puerto Rico, and any other territory or
9 possession of the United States;

10 (3) the term “authorized agency of the State”
11 means the agency of the State the State designates
12 to carry out the background checks described in sec-
13 tion 5;

14 (4) the term “qualified entity” means a busi-
15 ness or organization of any sort that provides child
16 care or child care placement services, including a
17 business or organization that licenses or certifies
18 others to provide such services;

19 (5) the term “provider” means any person
20 who—

21 (A) seeks or has contact with a child while
22 that child is receiving care from a qualified en-
23 tity; and

24 (B) seeks employment or ownership of a
25 qualified entity; and

1 (6) the term “background check crime” means,
2 with respect to a provider, any crime committed by
3 that provider that, as determined under rules pre-
4 scribed by the Attorney General, may affect the
5 safety of children under the care of a qualified entity
6 with respect to which that provider has a relation-
7 ship described in paragraph (5).

8 **SEC. 136. INCREASED PENALTIES FOR ASSAULTS AGAINST**
9 **CHILDREN.**

10 (a) SIMPLE ASSAULT.—Section 113(e) of title 18,
11 United States Code, is amended by striking “by fine” and
12 all that follows through the period and inserting “—

13 “(A) if the victim of the assault is an individual
14 who has not attained the age of 16 years, by a fine
15 under this title or imprisonment for not more than
16 one year, or both; and

17 “(B) by a fine under this title or imprisonment
18 for not more than three months, or both, in any
19 other case.”.

20 (b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY
21 INJURY.—Section 113 of title 18, United States Code, is
22 amended by adding at the end the following:

23 “(7) Assault resulting in substantial bodily in-
24 jury to an individual who has not attained the age

1 of 16 years, by a fine under this title or imprison-
2 ment for not more than 5 years, or both.”.

3 (c) TECHNICAL AND STYLISTIC CHANGES TO SEC-
4 TION 113.—Section 113 of title 18, United States Code,
5 is amended—

6 (1) in paragraph (b), by striking “of not more
7 than \$3,000” and inserting “under this title”;

8 (2) in paragraph (c), by striking “of not more
9 than \$1,000” and inserting “under this title”;

10 (3) in paragraph (d), by striking “of not more
11 than \$500” and inserting “under this title”;

12 (4) in paragraph (e), by striking “of not more
13 than \$300” and inserting “under this title”;

14 (5) by modifying the left margin of each of
15 paragraphs (a) through (f) so that they are indented
16 2 ems;

17 (6) by redesignating paragraphs (a) through (f)
18 as paragraphs (1) through (6); and

19 (7) by inserting “(a)” before “Whoever”.

20 (d) DEFINITIONS.—Section 113 of title 18, United
21 States Code, is amended by adding at the end the
22 following:

23 “(b) As used in this subsection—

24 “(1) the term ‘substantial bodily injury’ means
25 bodily injury which involves—

1 “(A) a temporary but substantial disfigure-
2 ment; or

3 “(B) a temporary but substantial loss or
4 impairment of the function of any bodily mem-
5 ber, organ, or mental faculty; and

6 “(2) the term ‘serious bodily injury’ has the
7 meaning given that term in section 1365 of this
8 title.”.

9 (e) ASSAULTS IN INDIAN COUNTRY.—Section
10 1153(a) of title 18, United States Code, is amended by
11 inserting “(as defined in section 1365 of this title), an
12 assault against an individual who has not attained the age
13 of 16 years” after “serious bodily injury”.

14 **SEC. 137. OFFENSE OF INDUCING MINORS OR OTHER PER-**
15 **SONS TO USE STEROIDS.**

16 Section 404 of the Controlled Substances Act (21
17 U.S.C 844) is amended by inserting after subsection (a)
18 the following new subsection:

19 “(b)(1) Whoever, being a physical trainer or adviser
20 to a person, attempts to persuade or induce the person
21 to possess or use anabolic steroids in violation of sub-
22 section (a), shall be fined under title 18, United States
23 Code, imprisoned not more than 2 years (or if the person
24 attempted to be persuaded or induced was less than 18
25 years of age at the time of the offense, 5 years), or both.

1 “(2) As used in this subsection, the term ‘physical
2 trainer or adviser’ means a professional or amateur coach,
3 manager, trainer, instructor, or other such person who
4 provides athletic or physical instruction, training, advice,
5 assistance, or any other such service to any person.”.

6 **SEC. 138. INCREASED PENALTIES FOR DRUG DISTRIBUTION**
7 **TO PREGNANT WOMEN.**

8 The United States Sentencing Commission shall
9 amend the sentencing guidelines to increase by at least
10 4 levels the base offense level for an offense under section
11 2241 (relating to aggravated sexual abuse) or section
12 2242 (relating to sexual abuse) of title 18, United States
13 Code, and shall consider whether any other changes are
14 warranted in the guidelines provisions applicable to such
15 offenses to ensure realization of the objectives of sentenc-
16 ing. In amending the guidelines in conformity with this
17 section, the Sentencing Commission shall review the ap-
18 propriateness and adequacy of existing offense character-
19 istics and adjustments applicable to such offenses, taking
20 into account the heinousness of sexual abuse offenses, the
21 severity and duration of the harm caused to victims, and
22 any other relevant factors. In any subsequent amendment
23 to the sentencing guidelines, the Sentencing Commission
24 shall maintain minimum guidelines sentences for the of-

1 fenses referenced in this section which are at least equal
2 to those required by this section.

3 **SEC. 139. INTERSTATE ENFORCEMENT OF CHILD SUPPORT**
4 **ORDERS.**

5 (a) TITLE 28 AMENDMENT.—Chapter 115 of title 28,
6 United States Code, is amended by inserting after section
7 1738A the following new section:

8 **“§ 1738B. Full faith and credit given to child support**
9 **orders**

10 “(a) GENERAL RULE.—The appropriate authorities
11 of each State shall enforce according to its terms, and
12 shall not modify except as provided in subsection (e), any
13 child support order made consistently with the provisions
14 of this section by a court of another State.

15 “(b) DEFINITIONS.—As used in this section, the
16 term—

17 “(1) ‘child’ means any person under 18 years of
18 age, and includes an individual 18 or more years of
19 age for whom a child support order has been issued
20 pursuant to the laws of a State;

21 “(2) ‘child’s State’ means the State in which a
22 child currently resides;

23 “(3) ‘child support order’ means a judgment,
24 decree, or order of a court requiring the payment of
25 money, or the provision of a benefit, including health

1 insurance, whether in periodic amounts or lump
2 sum, for the support of a child and includes perma-
3 nent and temporary orders, initial orders and modi-
4 fications, ongoing support, and arrearages;

5 “(4) ‘child support’ means a payment of money
6 or provision of a benefit described in paragraph (3)
7 for the support of a child;

8 “(5) ‘contestant’ means a person, including a
9 parent, who claims a right to receive child support
10 or against whom a right to receive child support is
11 claimed or asserted, and includes States and political
12 subdivisions to whom the right to obtain a child sup-
13 port order has been assigned;

14 “(6) ‘court’ means a court, administrative proc-
15 ess, or quasi-judicial process of a State which is au-
16 thorized by State law to establish the amount of
17 child support payable by a contestant or modify the
18 amount of child support payable by a contestant;

19 “(7) ‘modification’ and ‘modify’ refer to a
20 change in a child support order which affects the
21 amount, scope, or duration of such order and modi-
22 fies, replaces, supersedes, or otherwise is made sub-
23 sequent to such child support order, whether or not
24 made by the same court as such child support order;
25 and

1 “(8) ‘State’ means a State of the United
2 States, the District of Columbia, the Commonwealth
3 of Puerto Rico, the territories and possessions of the
4 United States, and Indian country as defined in sec-
5 tion 1151 of title 18.

6 “(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—
7 A child support order made by a court of a State is con-
8 sistent with the provisions of this section only if—

9 “(1) such court, pursuant to the laws of the
10 State in which such court is located, had jurisdiction
11 to hear the matter and enter such an order and had
12 personal jurisdiction over the contestants; and

13 “(2) reasonable notice and opportunity to be
14 heard was given to the contestants.

15 “(d) CONTINUING JURISDICTION.—A court of a
16 State which has made a child support order consistently
17 with the provisions of this section has continuing, exclusive
18 jurisdiction of that order when such State is the child’s
19 State or the residence of any contestant unless another
20 State, acting in accordance with subsection (e), has modi-
21 fied that order.

22 “(e) AUTHORITY TO MODIFY ORDERS.—A court of
23 a State may modify a child support order with respect to
24 a child that is made by a court of another State, if—

1 “(1) it has jurisdiction to make such a child
2 support order; and

3 “(2) the court of the other State no longer has
4 continuing, exclusive jurisdiction of the child support
5 order because such State no longer is the child’s
6 State or the residence of any contestant, or each
7 contestant has filed written consent for the State to
8 modify the order and assume continuing, exclusive
9 jurisdiction of such order.

10 “(f) ENFORCEMENT OF PRIOR ORDERS.—A court of
11 a State which no longer has continuing, exclusive jurisdic-
12 tion of a child support order may enforce such order with
13 respect to unsatisfied obligations which accrued before the
14 date on which a modification of such order is made under
15 subsection (e).”.

16 (b) CONFORMING AMENDMENT.—The table of sec-
17 tions at the beginning of chapter 115 of title 28, United
18 States Code, is amended by inserting after the item relat-
19 ing to section 1738A the following:

“1738B. Full faith and credit given to child support orders.”.

20 **SEC. 140. CRIMES INVOLVING THE USE OF MINORS AS RICO**
21 **PREDICATES.**

22 Paragraph (1) of section 1961 of title 18, United
23 States Code, is amended—

24 (1) by striking “or” before “(E)”; and

1 (2) by inserting before the semicolon at the end
2 of the paragraph the following: “, or (F) any offense
3 against the United States that is punishable by im-
4 prisonment for more than 1 year and that involved
5 the use of a person below the age of 18 years in the
6 commission of the offense”.

7 **SEC. 141. INCREASED PENALTIES FOR USING MINORS IN**
8 **DRUG TRAFFICKING AND DRUG DISTRIBUTION TO MINORS.**
9

10 (a) DRUG DISTRIBUTION TO MINOR BY RECIDIVIST.—Section 418(b) of the Controlled Substances Act
11 VIST.—Section 418(b) of the Controlled Substances Act
12 (21 U.S.C. 859(b)) is amended by striking “one year” and
13 inserting “3 years”.

14 (b) USE OF MINOR IN TRAFFICKING BY RECIDIVIST.—Section 420(c) of the Controlled Substances Act
15 VIST.—Section 420(c) of the Controlled Substances Act
16 (21 U.S.C. 861(b)) is amended by striking “one year” and
17 inserting “3 years”.

18 (c) CONCURRENT VIOLATION OF PROHIBITION OF
19 USE OF MINORS AND TRAFFICKING NEAR SCHOOLS.—
20 Section 419(b) of the Controlled Substances Act (21
21 U.S.C. 860(b)) is amended by inserting “, or under cir-
22 cumstances involving a violation of section 420(a),” before
23 “is punishable”.

1 **SEC. 142. INCREASED PENALTIES FOR USING A MINOR IN**
2 **COMMISSION OF A FEDERAL OFFENSE.**

3 (a) IN GENERAL.—Chapter 1 of title 18, United
4 States Code, is amended by adding at the end the
5 following:

“§ 21. Use of children in Federal offenses

6 “(a) Except as otherwise provided by law, whoever,
7 being at least 18 years of age, uses a child to commit a
8 Federal offense, or to assist in avoiding detection or ap-
9 prehension for a Federal offense, shall—

10 “(1) after a previous conviction under this sub-
11 section has become final, be subject to 3 times the
12 maximum imprisonment and 3 times the maximum
13 fine otherwise provided for the Federal offense in
14 which the child is used; and

15 “(2) in any other case, be subject to 2 times the
16 maximum imprisonment and 2 times the maximum
17 fine for such offense.

18 “(b) As used in this section—

19 “(1) the term ‘child’ means a person who is
20 under 18 years of age; and

21 “(2) the term ‘uses’ means employs, hires, uses,
22 persuades, induces, entices, or coerces.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 1 of title 18, United States

1 Code, is amended by adding at the end the following new
2 item:

“21. Use of children in Federal offenses.”.

3 **SEC. 143. INTERNATIONAL PARENTAL KIDNAPPING.**

4 (a) IN GENERAL.—Chapter 55 (relating to kidnap-
5 ping) of title 18, United States Code, is amended by add-
6 ing at the end the following:

“§ 1204. International parental kidnapping

7 “(a) Whoever—

8 “(1) removes a child from the United States or
9 retains a child (who has been in the United States)
10 outside the United States—

11 “(A) in order to obstruct the lawful exer-
12 cise of parental rights that are established in a
13 court order;

14 “(B) in order to obstruct the lawful exer-
15 cise of parental rights by the mother of that
16 child, in the case of a child—

17 “(i) whose parents have not been mar-
18 ried;

19 “(ii) with regard to whom paternity
20 has not been judicially established; and

21 “(iii) whose custody has not been judi-
22 cially granted to a person other than the
23 mother; or

1 “(C) in order to obstruct the lawful exer-
2 cise of parental rights during the pendency of
3 judicial proceedings to determine parental
4 rights; or

5 “(2) in any other circumstances removes a child
6 from the United States or retains a child (who has
7 been in the United States) outside the United
8 States, in order to obstruct the lawful exercise of pa-
9 rental rights;
10 shall be fined under this title or imprisoned not more
11 than 3 years, or both.

12 “(b) As used in this section—

13 “(1) the term ‘child’ means a person who has
14 not attained the age of 16 years; and

15 “(2) the term ‘parental rights’, with respect to
16 a child, means the right to physical custody of the
17 child—

18 “(A) whether joint or sole (and includes
19 visiting rights); and

20 “(B) whether arising by operation of law,
21 court order, or agreement of the parties.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 55 of title 18, United States
24 Code, is amended by adding at the end the following:

“1204. International parental kidnapping.”.

1 **SEC. 144. STATE COURT PROGRAMS REGARDING INTER-**
2 **NATIONAL PARENTAL CHILD ABDUCTION.**

3 There is authorized to be appropriated \$250,000 to
4 carry out under the State Justice Institute Act of 1984
5 (42 U.S.C. 10701–10713) national, regional, and in-State
6 training and educational programs dealing with criminal
7 and civil aspects of interstate and international parental
8 child abduction.

9 **Subtitle D—Punishment of Serious**
10 **Juvenile Offenders**

11 **SEC. 151. SERIOUS JUVENILE DRUG OFFENSES AS ARMED**
12 **CAREER CRIMINAL ACT PREDICATES.**

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

- 15 (1) by striking “or” at the end of clause (i);
16 (2) by adding “or” at the end of clause (ii); and
17 (3) by adding at the end the following:

18 “(iii) any act of juvenile delinquency
19 that if committed by an adult would be a
20 serious drug offense described in this para-
21 graph;”.

22 **SEC. 152. ADULT PROSECUTION OF SERIOUS JUVENILE OF-**
23 **FENDERS.**

24 Section 5032 of title 18, United States Code, is
25 amended—

- 26 (1) in the first undesignated paragraph—

1 (A) by striking “an offense described in
2 section 401 of the Controlled Substances Act
3 (21 U.S.C 841), or section 1002(a), 1003,
4 1005, 1009, or 1010(b)(1), (2), or (3) of the
5 Controlled Substances Import and Export Act
6 (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1),
7 (2), (3)),” and inserting “an offense (or a con-
8 spiracy or attempt to commit an offense) de-
9 scribed in section 401, or 404 (insofar as the
10 violation involves more than 5 grams of a mix-
11 ture or substance which contains cocaine base),
12 of the Controlled Substances Act (21 U.S.C.
13 841, 844, or 846), section 1002(a), 1003, 1005,
14 1009, 1010(b)(1), (2), or (3), of the Controlled
15 Substances Import and Export Act (21 U.S.C.
16 952(a), 953, 955, 959, 960(b)(1), (2), or (3),
17 or 963),”; and

18 (B) by striking “922(p)” and inserting
19 “924(b), (g), or (h)”;
20 (2) in the fourth undesignated paragraph—

21 (A) by striking “an offense described in
22 section 401 of the Controlled Substances Act
23 (21 U.S.C. 841), or section 1002(a), 1005, or
24 1009 of the Controlled Substances Import and
25 Export Act (21 U.S.C. 952(a), 955, 959)” and

1 inserting “an offense (or a conspiracy or at-
2 tempt to commit an offense) described in sec-
3 tion 401, or 404 (insofar as the violation in-
4 volves more than 5 grams of a mixture or sub-
5 stance which contains cocaine base), of the Con-
6 trolled Substances Act (21 U.S.C. 841, 844, or
7 846), section 1002(a), 1005, 1009, 1010(b)(1),
8 (2), or (3), of the Controlled Substances Import
9 and Export Act (21 U.S.C. 952(a), 955, 959,
10 960(b)(1), (2), or (3), or 963), or section
11 924(b), (g), or (h) of this title,”; and

12 (B) by striking “subsection (b)(1)(A), (B),
13 or (C), (d), or (e) of section 401 of the Con-
14 trolled Substances Act, or section 1002(a),
15 1003, 1009, or 1010(b)(1), (2), or (3) of the
16 Controlled Substances Import and Export Act
17 (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2),
18 (3))” and inserting “or an offense (or conspir-
19 acy or attempt to commit an offense) described
20 in section 401(b)(1)(A), (B), or (C), (d), or (e),
21 or 404 (insofar as the violation involves more
22 than 5 grams of a mixture or substance which
23 contains cocaine base), of the Controlled Sub-
24 stances Act (21 U.S.C. 841(b)(1)(A), (B), or
25 (C), (d), or (e), 844, or 846) or section

1 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of
2 the Controlled Substances Import and Export
3 Act (21 U.S.C. 952(a), 953, 959, 960(b)(1),
4 (2), or (3), or 963)”; and

5 (3) in the fifth undesignated paragraph by add-
6 ing at the end the following: “In considering the na-
7 ture of the offense, as required by this paragraph,
8 the court shall consider the extent to which the juve-
9 nile played a leadership role in an organization, or
10 otherwise influenced other persons to take part in
11 criminal activities, involving the use or distribution
12 of controlled substances or firearms. Such a factor,
13 if found to exist, shall weigh heavily in favor of a
14 transfer to adult status, but the absence of this fac-
15 tor shall not preclude such a transfer.”.

16 **SEC. 153. AMENDMENTS CONCERNING RECORDS OF**
17 **CRIMES COMMITTED BY JUVENILES.**

18 (a) IN GENERAL.—Section 5038 of title 18, United
19 States Code, is amended by striking subsections (d) and
20 (f), redesignating subsection (e) as subsection (d), and by
21 adding at the end new subsections (e) and (f) as follows:

22 “(e) Whenever a juvenile has been found guilty of
23 committing an act which if committed by an adult would
24 be an offense described in clause (3) of the first paragraph
25 of section 5032 of this title, the juvenile shall be

1 fingerprinted and photographed, and the fingerprints and
2 photograph shall be sent to the Federal Bureau of Inves-
3 tigation, Identification Division. The court shall also
4 transmit to the Federal Bureau of Investigation, Identi-
5 fication Division, the information concerning the adjudica-
6 tion, including name, date of adjudication, court, offenses,
7 and sentence, along with the notation that the matter was
8 a juvenile adjudication. The fingerprints, photograph, and
9 other records and information relating to a juvenile de-
10 scribed in this subsection, or to a juvenile who is pros-
11 ecuted as an adult, shall be made available in the manner
12 applicable to adult defendants.

13 “(f) In addition to any other authorization under this
14 section for the reporting, retention, disclosure, or avail-
15 ability of records or information, if the law of the State
16 in which a Federal juvenile delinquency proceeding takes
17 place permits or requires the reporting, retention, disclo-
18 sure, or availability of records or information relating to
19 a juvenile or to a juvenile delinquency proceeding or adju-
20 dication in certain circumstances, then such reporting, re-
21 tention, disclosure, or availability is permitted under this
22 section whenever the same circumstances exist.”.

23 (b) REPEAL.—Section 3607 of title 18, United States
24 Code, is repealed, and the corresponding item in the chap-
25 ter analysis for chapter 229 of title 18 is deleted.

1 (c) CONFORMING AMENDMENT.—Section 401(b)(4)
2 of the Controlled Substances Act (21 U.S.C. 841(b)(4))
3 is amended by striking “and section 3607 of title 18”.

4 **TITLE II—EQUAL PROTECTION**
5 **FOR VICTIMS**

6 **Subtitle A—Victims’ Rights**

7 **SEC. 201. RIGHT OF THE VICTIM TO FAIR TREATMENT IN**
8 **LEGAL PROCEEDINGS.**

9 The following rules, to be known as the Rules of Pro-
10 fessional Conduct for Lawyers in Federal Practice, are
11 enacted:

12 **“RULES OF PROFESSIONAL CONDUCT FOR**
13 **LAWYERS IN FEDERAL PRACTICE**

“Rule 1. Scope

“Rule 2. Abuse of Victims and Others Prohibited

“Rule 3. Duty of Enquiry in Relation to Client

“Rule 4. Duty to Expedite Litigation

“Rule 5. Duty to Prevent Commission of Crime

14 **“Rule 1. Scope**

15 “(a) These rules apply to the conduct of lawyers in
16 their representation of clients in relation to proceedings
17 and potential proceedings before Federal tribunals.

18 “(b) For purposes of these rules, ‘Federal tribunal’
19 and ‘tribunal’ mean a court of the United States.

20 **“Rule 2. Abuse of Victims and Others Prohibited**

21 “(a) A lawyer shall not engage in any action or course
22 of conduct for the purpose of increasing the expense of

1 litigation for any person, other than a liability under an
2 order or judgment of a tribunal.

3 “(b) A lawyer shall not engage in any action or course
4 of conduct that has no substantial purpose other than to
5 distress, harass, embarrass, burden, or inconvenience an-
6 other person.

7 “(c) A lawyer shall not offer evidence that the lawyer
8 knows to be false or attempt to discredit evidence that the
9 lawyer knows to be true.

10 **“Rule 3. Duty of Enquiry in Relation to Client**

11 “A lawyer shall attempt to elicit from the client a
12 truthful account of the material facts concerning the mat-
13 ters in issue. In representing a client charged with a
14 crime, the duty of enquiry under this rule includes—

15 “(1) attempting to elicit from the client a mate-
16 rially complete account of the alleged criminal activ-
17 ity if the client acknowledges involvement in the al-
18 leged activity; and

19 “(2) attempting to elicit from the client the ma-
20 terial facts relevant to a defense of alibi if the client
21 denies such involvement.

22 **“Rule 4. Duty to Expedite Litigation**

23 “(a) A lawyer shall seek to bring about the expedi-
24 tious conduct and conclusion of litigation.

1 “(b) A lawyer shall not seek a continuance or other-
2 wise attempt to delay or prolong proceedings in the hope
3 or expectation that—

4 “(1) evidence will become unavailable;

5 “(2) evidence will become more subject to im-
6 peachment or otherwise less useful to another party
7 because of the passage of time; or

8 “(3) an advantage will be obtained in relation
9 to another party because of the expense, frustration,
10 distress, or other hardship resulting from prolonged
11 or delayed proceedings.

12 **“Rule 5. Duty to Prevent Commission of Crime**

13 “(a) A lawyer may disclose information relating to
14 the representation of a client to the extent necessary to
15 prevent the commission of a crime or other unlawful act.

16 “(b) A lawyer shall disclose information relating to
17 the representation of a client where disclosure is required
18 by law. A lawyer shall also disclose such information to
19 the extent necessary to prevent—

20 “(1) the commission of a crime involving the
21 use or threatened use of force against another, or a
22 substantial risk of death or serious bodily injury to
23 another; or

24 “(2) the commission of a crime of sexual as-
25 sult or child molestation.

1 “(c) For purposes of this rule, ‘crime’ means a crime
2 under the law of the United States or the law of a State,
3 and ‘unlawful act’ means an act in violation of the law
4 of the United States or the law of a State.”.

5 **SEC. 202. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.**

6 Rule 24(b) of the Federal Rules of Criminal Proce-
7 dure is amended by striking “the Government is entitled
8 to 6 peremptory challenges and the defendant or defend-
9 ants jointly to 10 peremptory challenges” and inserting
10 “each side is entitled to 6 peremptory challenges”.

11 **SEC. 203. VICTIM’S RIGHT OF ALLOCUTION IN SENTENCING.**

12 Rule 32 of the Federal Rules of Criminal Procedure
13 is amended—

14 (1) by striking “and” at the end of subdivision

15 (a)(1)(B);

16 (2) by striking the period at the end of subdivi-
17 sion (a)(1)(C) and inserting “; and”;

18 (3) by inserting after subdivision (a)(1)(C) the
19 following: “(D) if sentence is to be imposed for a
20 crime of violence or sexual abuse, address the victim
21 personally if the victim is present at the sentencing
22 hearing and determine if the victim wishes to make
23 a statement and to present any information in rela-
24 tion to the sentence.”;

1 (4) in the penultimate sentence of subdivision
2 (a)(1) by striking “equivalent opportunity” and in-
3 serting “opportunity equivalent to that of the de-
4 fendant’s counsel”;

5 (5) in the last sentence of subdivision (a)(1) by
6 inserting “the victim,” before “, or the attorney for
7 the Government.”; and

8 (6) by adding at the end the following new
9 subdivision:

10 “(f) DEFINITIONS.—For purposes of this rule—

11 “(1) ‘crime of violence or sexual abuse’ means
12 a crime that involved the use or attempted or threat-
13 ened use of physical force against the person or
14 property of another, or a crime under chapter 109A
15 of title 18, United States Code; and

16 “(2) ‘victim’ means an individual against whom
17 an offense for which a sentence is to be imposed has
18 been committed, but the right of allocution under
19 subdivision (a)(1)(D) may be exercised instead by—

20 “(A) a parent or legal guardian if the vic-
21 tim is below the age of 18 years or incompetent;

22 or

23 “(B) one or more family members or rel-
24 atives designated by the court if the victim is
25 deceased or incapacitated,

1 if such person or persons are present at the sentenc-
2 ing hearing, regardless of whether the victim is
3 present.”.

4 **SEC. 204. ENFORCEMENT OF RESTITUTION ORDERS**
5 **THROUGH SUSPENSION OF FEDERAL BENE-**
6 **FITS.**

7 Section 3663 of title 18, United States Code, is
8 amended—

9 (1) by redesignating subsections (g) and (h) as
10 subsections (h) and (i), respectively; and

11 (2) by inserting after subsection (f) the follow-
12 ing new subsection:

13 “(g)(1) If the defendant is delinquent in making res-
14 titution in accordance with any schedule of payments or
15 any requirement of immediate payment imposed under
16 this section, the court may, after a hearing, suspend the
17 defendant’s eligibility for all Federal benefits until such
18 time as the defendant demonstrates to the court good-
19 faith efforts to return to such schedule.

20 “(2) For purposes of this subsection—

21 “(A) the term ‘Federal benefits’—

22 “(i) means any grant, contract, loan, pro-
23 fessional license, or commercial license provided
24 by an agency of the United States or appro-
25 priated funds of the United States; and

1 “(ii) does not include any retirement, wel-
2 fare, Social Security, health, disability, veterans
3 benefit, public housing, or other similar benefit,
4 or any other benefit for which payments or
5 services are required for eligibility; and

6 “(B) the term ‘veterans benefit’ means all bene-
7 fits provided to veterans, their families, or survivors
8 by virtue of the service of a veteran in the Armed
9 Forces of the United States.”.

10 **SEC. 205. PROHIBITION OF RETALIATORY KILLINGS OF**
11 **WITNESSES, VICTIMS AND INFORMANTS.**

12 Section 1513 of title 18, United States Code, is
13 amended—

14 (1) by redesignating subsections (a) and (b) as
15 subsections (b) and (c), respectively; and

16 (2) by inserting a new subsection (a) as follows:

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 of this title; and

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

10 **Subtitle B—Admissibility of** 11 **Evidence**

12 **SEC. 211. ADMISSIBILITY OF EVIDENCE OF SIMILAR** 13 **CRIMES IN SEX OFFENSE CASES.**

14 The Federal Rules of Evidence are amended by add-
15 ing after Rule 412 the following new rules:

16 **“Rule 413. Evidence of Similar Crimes in Sexual Assault Cases**

17 “(a) EVIDENCE ADMISSIBLE.—In a criminal case in
18 which the defendant is accused of an offense of sexual as-
19 sault, evidence of the defendant’s commission of another
20 offense or offenses of sexual assault is admissible, and
21 may be considered for its bearing on any matter to which
22 it is relevant.

23 “(b) DISCLOSURE TO DEFENDANT.—In a case in
24 which the government intends to offer evidence under this
25 Rule, the attorney for the government shall disclose the

1 evidence to the defendant, including statements of wit-
2 nesses or a summary of the substance of any testimony
3 that is expected to be offered, at least 15 days before the
4 scheduled date of trial or at such later time as the court
5 may allow for good cause.

6 “(c) EFFECT ON OTHER RULES.—This Rule shall
7 not be construed to limit the admission or consideration
8 of evidence under any other Rule.

9 “(d) DEFINITION.—For purposes of this Rule and
10 Rule 415, ‘offense of sexual assault’ means a crime under
11 Federal law or the law of a State (as defined in section
12 513 of title 18, United States Code) that involved—

13 “(1) any conduct proscribed by chapter 109A of
14 title 18, United States Code;

15 “(2) contact, without consent, between any part
16 of the defendant’s body or an object and the genitals
17 or anus of another person;

18 “(3) contact, without consent, between the geni-
19 tals or anus of the defendant and any part of an-
20 other person’s body;

21 “(4) deriving sexual pleasure or gratification
22 from the infliction of death, bodily injury, or phys-
23 ical pain on another person; or

24 “(5) an attempt or conspiracy to engage in con-
25 duct described in any of paragraphs (1) through (4).

1 **“Rule 414. Evidence of Similar Crimes in Child Molestation**
2 **Cases**

3 “(a) EVIDENCE ADMISSIBLE.—In a criminal case in
4 which the defendant is accused of an offense of child mo-
5 lestation, evidence of the defendant’s commission of an-
6 other offense or offenses of child molestation is admissible,
7 and may be considered for its bearing on any matter to
8 which it is relevant.

9 “(b) DISCLOSURE TO DEFENDANT.—In a case in
10 which the government intends to offer evidence under this
11 Rule, the attorney for the government shall disclose the
12 evidence to the defendant, including statements of wit-
13 nesses or a summary of the substance of any testimony
14 that is expected to be offered, at least 15 days before the
15 scheduled date of trial or at such later time as the court
16 may allow for good cause.

17 “(c) EFFECT ON OTHER RULES.—This Rule shall
18 not be construed to limit the admission or consideration
19 of evidence under any other Rule.

20 “(d) DEFINITION.—For purposes of this Rule and
21 Rule 415, ‘child’ means a person below the age of 14
22 years, and ‘offense of child molestation’ means a crime
23 under Federal law or the law of a State (as defined in
24 section 513 of title 18, United States Code) that in-
25 volved—

1 “(1) any conduct proscribed by chapter 109A of
2 title 18, United States Code, that was committed in
3 relation to a child;

4 “(2) any conduct proscribed by chapter 110 of
5 title 18, United States Code;

6 “(3) contact between any part of the defend-
7 ant’s body or an object and the genitals or anus of
8 a child;

9 “(4) contact between the genitals or anus of the
10 defendant and any part of the body of a child;

11 “(5) deriving sexual pleasure or gratification
12 from the infliction of death, bodily injury, or phys-
13 ical pain on a child; or

14 “(6) an attempt or conspiracy to engage in con-
15 duct described in any of paragraphs (1) through (5).

16 **“Rule 415. Evidence of Similar Acts in Civil Cases Concerning**
17 **Sexual Assault or Child Molestation**

18 “(a) EVIDENCE ADMISSIBLE.—In a civil case in
19 which a claim for damages or other relief is predicated
20 on a party’s alleged commission of conduct constituting
21 an offense of sexual assault or child molestation, evidence
22 of that party’s commission of another offense or offenses
23 of sexual assault or child molestation is admissible and
24 may be considered as provided in Rule 413 and Rule 414
25 of these Rules.

1 “(b) DISCLOSURE TO OTHER PARTIES.—A party who
2 intends to offer evidence under this Rule shall disclose the
3 evidence to the party against whom it will be offered, in-
4 cluding statements of witnesses or a summary of the sub-
5 stance of any testimony that is expected to be offered, at
6 least 15 days before the scheduled date of trial or at such
7 later time as the court may allow for good cause.

8 “(c) EFFECT ON OTHER RULES.—This Rule shall
9 not be construed to limit the admission or consideration
10 of evidence under any other Rule.”.

11 **SEC. 212. EXTENSION AND STRENGTHENING OF RAPE VIC-**
12 **TIM SHIELD LAW.**

13 (a) AMENDMENTS TO RAPE VICTIM SHIELD LAW.—
14 Rule 412 of the Federal Rules of Evidence is amended—

15 (1) in subdivisions (a) and (b), by striking
16 “criminal case” and inserting “criminal or civil
17 case”;

18 (2) in subdivisions (a) and (b), by striking “an
19 offense under chapter 109A of title 18, United
20 States Code,” and inserting “an offense or civil
21 wrong involving conduct proscribed by chapter 109A
22 of title 18, United States Code, whether or not the
23 conduct occurred in the special maritime and terri-
24 torial jurisdiction of the United States or in a Fed-
25 eral prison,”;

1 (3) in subdivision (a), by striking “victim of
2 such offense” and inserting “victim of such con-
3 duct”;

4 (4) in subdivision (c)—

5 (A) by striking in paragraph (1) “the per-
6 son accused of committing an offense under
7 chapter 109A of title 18, United States Code”
8 and inserting “the accused”; and

9 (B) by inserting at the end of paragraph
10 (3) the following: “An order admitting evidence
11 under this paragraph shall explain the reason-
12 ing leading to the finding of relevance, and the
13 basis of the finding that the probative value of
14 the evidence outweighs the danger of unfair
15 prejudice notwithstanding the potential of the
16 evidence to humiliate and embarrass the alleged
17 victim and to result in unfair or biased infer-
18 ences.”; and

19 (5) in subdivision (d), by striking “an offense
20 under chapter 109A of title 18, United States Code”
21 and inserting “the conduct proscribed by chapter
22 109A of title 18, United States Code,”.

23 (b) INTERLOCUTORY APPEAL.—Section 3731 of title
24 18, United States Code, is amended by inserting after the
25 second paragraph the following:

1 “An appeal by the United States before trial shall
2 lie to a court of appeals from an order of a district court
3 admitting evidence of an alleged victim’s past sexual be-
4 havior in a criminal case in which the defendant is charged
5 with an offense involving conduct proscribed by chapter
6 109A of this title, whether or not the conduct occurred
7 in the special maritime and territorial jurisdiction of the
8 United States or in a Federal prison.”.

9 **SEC. 213. INADMISSIBILITY OF EVIDENCE TO SHOW PROVO-**
10 **CATION OR INVITATION BY VICTIM IN SEX**
11 **OFFENSE CASES.**

12 The Federal Rules of Evidence are amended by add-
13 ing after Rule 415 (as added by section 421 of this Act)
14 the following:

15 **“Rule 416. Inadmissibility of evidence to show invita-**
16 **tion or provocation by victim in sexual**
17 **abuse cases**

18 “In a criminal case in which a person is accused of
19 an offense involving conduct proscribed by chapter 109A
20 of title 18, United States Code, whether or not the conduct
21 occurred in the special maritime and territorial jurisdic-
22 tion of the United States or in a Federal prison, evidence
23 is not admissible to show that the alleged victim invited
24 or provoked the commission of the offense. This Rule does
25 not limit the admission of evidence of consent by the al-

1 leged victim if the issue of consent is relevant to liability
2 and the evidence is otherwise admissible under these
3 Rules.”.

4 **SEC. 214. ADMISSIBILITY OF CERTAIN EVIDENCE.**

5 (a) IN GENERAL.—Chapter 223 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 3510. Admissibility of evidence obtained by search**
9 **or seizure**

10 “(a) EVIDENCE OBTAINED BY OBJECTIVELY REA-
11 SONABLE SEARCH OR SEIZURE.—Evidence which is ob-
12 tained as a result of a search or seizure shall not be ex-
13 cluded in a proceeding in a court of the United States
14 on the ground that the search or seizure was in violation
15 of the fourth amendment to the Constitution of the United
16 States, if the search or seizure was carried out in cir-
17 cumstances justifying an objectively reasonable belief that
18 it was in conformity with the fourth amendment. The fact
19 that evidence was obtained pursuant to and within the
20 scope of a warrant constitutes prima facie evidence of the
21 existence of such circumstances.

22 “(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR
23 RULE.—Evidence shall not be excluded in a proceeding
24 in a court of the United States on the ground that it was
25 obtained in violation of a statute, an administrative rule

1 or regulation, or a rule of procedure unless exclusion is
2 expressly authorized by statute or by a rule prescribed by
3 the Supreme Court pursuant to statutory authority.

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

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 223 of title 18, United States
9 Code, is amended by adding at the end the following:

“3510. Admissibility of evidence obtained by search or seizure.”.

10 **Subtitle C—Protecting the**
11 **Integrity of the Judicial Process**

12 **SEC. 221. GENERAL SAFEGUARDS AGAINST RACIAL PREJU-**
13 **DICE OR BIAS IN THE TRIBUNAL.**

14 In a criminal trial in a court of the United States,
15 or of any State—

16 (1) on motion of the defense attorney or pros-
17 ecutor, the risk of racial prejudice or bias shall be
18 examined on voir dire if there is a substantial likeli-
19 hood in the circumstances of the case that such prej-
20 udice or bias will affect the jury either against or in
21 favor of the defendant;

22 (2) on motion of the defense attorney or pros-
23 ecutor, a change of venue shall be granted if an im-
24 partial jury cannot be obtained in the original venue
25 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. 222. PROTECTION OF JURORS AND WITNESSES IN**
5 **CAPITAL CASES.**

6 Section 3432 of title 18, United States Code, is
7 amended by inserting before the period the following: “,
8 except that such list of the veniremen and witnesses need
9 not be furnished if the court finds by a preponderance of
10 the evidence that providing the list may jeopardize the life
11 or safety of any person”.

12 **SEC. 223. PROTECTION OF COURT OFFICERS AND JURORS.**

13 Section 1503 of title 18, United States Code, is
14 amended—

15 (1) by designating the current text as sub-
16 section (a);

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

20 (3) by adding at the end the following:

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

23 “(1) in the case of a killing, the punishment
24 provided in sections 1111 and 1112 of this title;

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 twenty
5 years; and

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

8 (4) in subsection (a), as designated by this sec-
9 tion, by striking “commissioner” each place it ap-
10 pears and inserting “magistrate judge”.

11 **SEC. 224. DEATH PENALTY FOR MURDER OF FEDERAL WIT-**
12 **NESSES.**

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

15 “(A) in the case of murder as defined in section
16 1111 of this title, the death penalty or imprisonment
17 for life, and in the case of any other killing, the pun-
18 ishment provided in section 1112 of this title;”.

1 **TITLE III—PROTECTION OF**
2 **WOMEN**
3 **Subtitle A—Spouse Abuse and**
4 **Stalking**

5 **SEC. 301. INTERSTATE TRAVEL TO COMMIT SPOUSE ABUSE**
6 **OR TO VIOLATE PROTECTIVE ORDER; INTER-**
7 **STATE STALKING.**

8 (a) OFFENSE.—Part 1 of title 18, United States
9 Code, is amended by inserting after chapter 110 the
10 following:

11 **“CHAPTER 110A—DOMESTIC VIOLENCE AND**
12 **OFFENSES AGAINST THE FAMILY**

“Sec.
“2261. Domestic violence and stalking.

13 **“§ 2261. Domestic violence and stalking**

14 “(a) OFFENSE.—Whoever, in a circumstance de-
15 scribed in subsection (c), causes or attempts to cause bod-
16 ily injury to, engages in sexual abuse against, or violates
17 a protective order in relation to, another shall be pun-
18 ished—

19 “(1) if death results, by death or by imprison-
20 ment for any term of years or for life;

21 “(2) if permanent disfigurement or life-threat-
22 ening bodily injury results, by imprisonment for not
23 more than 20 years;

1 “(3) if serious bodily injury results, or if a fire-
2 arm, knife, or other dangerous weapon is possessed,
3 carried, or used during the commission of the of-
4 fense, by imprisonment for not more than 10 years;
5 and

6 “(4) in any other case, by imprisonment for not
7 more than five years.

8 If, however, the defendant engages in sexual abuse and
9 the penalty authorized for such conduct under chapter
10 109A exceeds the penalty which would otherwise be au-
11 thorized under this subsection, then the penalty authorized
12 for such conduct under chapter 109A shall apply.

13 “(b) MANDATORY PENALTIES.—A sentence under
14 this section shall include at least 3 months of imprison-
15 ment if the offense involves the infliction of bodily injury
16 on or the commission of sexual abuse against the victim.
17 A sentence under this section shall include at least 6
18 months of imprisonment if the offense involves the viola-
19 tion of a protective order and the defendant has previously
20 violated a protective order in relation to the same victim.

21 “(c) REQUIRED CIRCUMSTANCES.—The circumstance
22 referred to in subsection (a) of this section is that the de-
23 fendant traveled in interstate or foreign commerce, or
24 transported or caused another to move in interstate or for-

1 eign commerce, with the intention of committing or in fur-
2 therance of committing the offense, and—

3 “(1) the victim was a spouse or former spouse
4 of the defendant, was cohabiting with or had
5 cohabited with the defendant, or had a child in com-
6 mon with the defendant; or

7 “(2) the defendant on two or more occasions—

8 “(A) has caused or attempted or threat-
9 ened to cause death or serious bodily injury to
10 or engaged in sexual abuse in relation to the
11 victim; or

12 “(B) has engaged in any conduct that
13 caused or was intended to cause apprehension
14 by the victim that the victim would be subjected
15 to death, serious bodily injury, or sexual abuse.

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

17 “(1) the term ‘protective order’ means an order
18 issued by a court of a State prohibiting or limiting
19 violence against, harassment of, contact or commu-
20 nication with, or physical proximity to another per-
21 son;

22 “(2) the term ‘sexual abuse’ means any conduct
23 proscribed by chapter 109A of this title, whether or
24 not the conduct occurs in the special maritime and

1 territorial jurisdiction of the United States or in a
2 Federal prison;

3 “(3) the terms ‘serious bodily injury’ and ‘bod-
4 ily injury’ have the meanings, respectively, given
5 those terms in section 1365(g) of this title; and

6 “(4) the term ‘State’ has the meaning given
7 that term in section 513(c)(5) of this title.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters
9 at the beginning of Part 1 of title 18, United States Code,
10 is amended by inserting after the item for chapter 110
11 the following:

“110A. Domestic violence and offenses against the family 2261”.

12 **SEC. 302. FULL FAITH AND CREDIT FOR PROTECTIVE OR-**
13 **DERS.**

14 (a) REQUIREMENT OF FULL FAITH AND CREDIT.—
15 Chapter 110A of title 18, United States Code, as enacted
16 by section 141 of this Act, is amended by adding at the
17 end the following:

18 **“§ 2262. Full faith and credit for protective orders**

19 “(a) A protective order issued by a court of a State
20 shall have the same full faith and credit in a court in an-
21 other State that it would have in a court of the State in
22 which issued, and shall be enforced by the courts of any
23 State as if it were issued in that State.

24 “(b) As used in this section—

1 “(1) the term ‘protective order’ means an order
2 prohibiting or limiting violence against, harassment
3 of, contact or communication with, or physical prox-
4 imity to another person; and

5 “(2) the term ‘State’ has the meaning given in
6 section 513(c)(5) of this title.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 110A of title 18, United States
9 Code, as enacted by section 141 of this Act, is amended
10 by inserting at the end the following:

 “2262. Full faith and credit for protective orders.”.

11 **Subtitle B—Victims of Sexual**
12 **Violence**

13 **SEC. 311. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIO-**
14 **LENCE.**

15 (a) CAUSE OF ACTION.—Whoever, in violation of the
16 Constitution or laws of the United States, engages in sex-
17 ual violence against another, shall be liable to the injured
18 party in an action under this section. The relief available
19 in such an action shall include compensatory and punitive
20 damages and any appropriate equitable or declaratory
21 relief.

22 (b) DEFINITION.—For purposes of this section, “sex-
23 ual violence” means any conduct proscribed by chapter
24 109A of title 18, United States Code, whether or not the

1 conduct occurs in the special maritime and territorial ju-
2 risdiction of the United States or in a Federal prison.

3 (c) ATTORNEY'S FEES.—The Civil Rights Attorney's
4 Fees Award Act of 1976 (42 U.S.C. 1988) is amended
5 by striking “or” after “Public Law 92–318” and by in-
6 serting after “1964” the following: “, or section 411 of
7 the Sexual Assault Prevention Act of 1993,”.

8 **SEC. 312. EXTENSION AND STRENGTHENING OF RESTITU-**
9 **TION.**

10 Section 3663 of title 18, United States Code, is
11 amended—

12 (1) in subsection (b), by inserting “or an of-
13 fense under chapter 109A, chapter 110, or section
14 2261 of this title” after “an offense resulting in bod-
15 ily injury to a victim” in paragraph (2);

16 (2) in subsection (b)—

17 (A) by striking “and” at the end of para-
18 graph (3);

19 (B) by redesignating paragraph (4) as
20 paragraph (5); and

21 (C) by inserting after paragraph (4) the
22 following:

23 “(4) in any case, reimburse the victim for lost
24 income and necessary child care, transportation, and
25 other expenses related to participation in the inves-

1 tigation or prosecution of the offense or attendance
2 at proceedings related to the offense; and”;

3 (3) in subsection (d), by inserting at the end
4 the following: “However, the court shall issue an
5 order requiring restitution of the full amount of the
6 victim’s losses and expenses for which restitution is
7 authorized under this section in imposing sentence
8 for an offense under chapter 109A, chapter 110 or
9 section 2261 of this title, unless the Government
10 and the victim do not request such restitution.”.

11 **SEC. 313. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.**

12 Section 3156(a)(4) of title 18, United States Code,
13 is amended—

14 (1) by striking “, or” at the end of subpara-
15 graph (A) and inserting a semicolon;

16 (2) by striking the period at the end of sub-
17 paragraph (B) and inserting “; or”; and

18 (3) by adding after subparagraph (B) the
19 following:

20 “(C) any felony under chapter 109A, chapter
21 110, or section 2261 of this title.”.

1 **Subtitle C—Punishment of Sex**
2 **Offenders**

3 **SEC. 321. DEATH PENALTY FOR RAPE AND CHILD MOLES-**
4 **TATION MURDERS.**

5 (a) OFFENSE.—Chapter 109A of title 18, United
6 States Code, is amended by redesignating section 2245 as
7 section 2246, and by adding the following new section:

8 **“§ 2245. Sexual abuse resulting in death**

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

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 109A of title 18, United States
15 Code, is amended by striking the item for section 2245
16 and adding the following:

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

17 **SEC. 322. INCREASED PENALTIES FOR RECIDIVIST SEX OF-**
18 **FENDERS.**

19 (a) REDESIGNATION.—Sections 2245 and 2246 of
20 title 18, United States Code, as so designated by section
21 137, are redesignated sections 2246 and 2247, respec-
22 tively.

1 (b) PENALTIES FOR SUBSEQUENT OFFENSES.—
 2 Chapter 109A of title 18, United States Code, is amended
 3 by inserting the following new section after section 2244:

4 **“§ 2245. Penalties for subsequent offenses**

5 “Any person who violates this chapter, after a prior
 6 conviction under this chapter or the law of a State (as
 7 defined in section 513 of this title) for conduct proscribed
 8 by this chapter has become final, is punishable by a term
 9 of imprisonment up to twice that otherwise authorized.”.

10 (c) CLERICAL AMENDMENT.—The table of sections
 11 at the beginning of chapter 109A of title 18, United States
 12 Code, as amended by section 137, is amended—

13 (1) by striking “2245” and inserting “2246”;

14 (2) by striking “2246” and inserting “2247”;

15 and

16 (3) by inserting after the item relating to sec-
 17 tion 2244 the following:

“2245. Penalties for subsequent offenses.”.

18 **SEC. 323. SENTENCING GUIDELINES INCREASE FOR SEX**
 19 **OFFENSES.**

20 The United States Sentencing Commission shall
 21 amend the sentencing guidelines to increase by at least
 22 4 levels the base offense level for an offense under section
 23 2241 (relating to aggravated sexual abuse) or section
 24 2242 (relating to sexual abuse) of title 18, United States
 25 Code, and shall consider whether any other changes are

1 warranted in the guidelines provisions applicable to such
2 offenses to ensure realization of the objectives of sentenc-
3 ing. In amending the guidelines in conformity with this
4 section, the Sentencing Commission shall review the ap-
5 propriateness and adequacy of existing offense character-
6 istics and adjustments applicable to such offenses, taking
7 into account the heinousness of sexual abuse offenses, the
8 severity and duration of the harm caused to victims, and
9 any other relevant factors. In any subsequent amendment
10 to the sentencing guidelines, the Sentencing Commission
11 shall maintain minimum guidelines sentences for the of-
12 fenses referenced in this section which are at least equal
13 to those required by this section.

14 **SEC. 324. HIV TESTING AND PENALTY ENHANCEMENT IN**
15 **SEXUAL OFFENSE CASES.**

16 (a) IN GENERAL.—Chapter 109A of title 18, United
17 States Code, is amended by adding at the end the follow-
18 ing:

19 **“§ 2248. Testing for human immunodeficiency virus;**
20 **disclosure of test results to victim; effect**
21 **on penalty**

22 “(a) TESTING AT TIME OF PRE-TRIAL RELEASE DE-
23 TERMINATION.—In a case in which a person is charged
24 with an offense under this chapter, a judicial officer issu-
25 ing an order pursuant to section 3142(a) of this title shall

1 include in the order a requirement that a test for the
2 human immunodeficiency virus be performed upon the
3 person, and that follow-up tests for the virus be performed
4 six months and twelve months following the date of the
5 initial test, unless the judicial officer determines that the
6 conduct of the person created no risk of transmission of
7 the virus to the victim, and so states in the order. The
8 order shall direct that the initial test be performed within
9 24 hours, or as soon thereafter as feasible. The person
10 shall not be released from custody until the test is per-
11 formed.

12 “(b) TESTING AT LATER TIME.—If a person charged
13 with an offense under this chapter was not tested for the
14 human immunodeficiency virus pursuant to subsection (a),
15 the court may at a later time direct that such a test be
16 performed upon the person, and that follow-up tests be
17 performed six months and twelve months following the
18 date of the initial test, if it appears to the court that the
19 conduct of the person may have risked transmission of the
20 virus to the victim. A testing requirement under this sub-
21 section may be imposed at any time while the charge is
22 pending, or following conviction at any time prior to the
23 person’s completion of service of the sentence.

24 “(c) TERMINATION OF TESTING REQUIREMENT.—A
25 requirement of follow-up testing imposed under this sec-

1 tion shall be canceled if any test is positive for the virus
2 or the person obtains an acquittal on, or dismissal of, all
3 charges under this chapter.

4 “(d) DISCLOSURE OF TEST RESULTS.—The results
5 of any test for the human immunodeficiency virus per-
6 formed pursuant to an order under this section shall be
7 provided to the judicial officer or court. The judicial offi-
8 cer or court shall ensure that the results are disclosed to
9 the victim (or to the victim’s parent or legal guardian, as
10 appropriate), the attorney for the Government, and the
11 person tested.

12 “(e) EFFECT ON PENALTY.—The United States Sen-
13 tencing Commission shall amend existing guidelines for
14 sentences for offenses under this chapter to enhance the
15 sentence if the offender knew or had reason to know that
16 he was infected with the human immunodeficiency virus,
17 except where the offender did not engage or attempt to
18 engage in conduct creating a risk of transmission of the
19 virus to the victim.”.

20 (b) CLERICAL AMENDMENT.—The table of chapters
21 at the beginning of chapter 109A of title 18, United States
22 Code, is amended by inserting at the end the following
23 new item:

“2248. Testing for human immunodeficiency virus; disclosure of test results to
victim; effect on penalty.”.

1 **TITLE IV—PREVENTION OF**
2 **TERRORISM**
3 **Subtitle A—Enhanced Controls on**
4 **Entry into the United States**

5 **SEC. 401. EXCLUSION BASED ON MEMBERSHIP IN TER-**
6 **RORIST ORGANIZATION OF ADVOCACY OF**
7 **TERRORISM.**

8 Section 212(a)(3)(B) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

10 (1) in clause (i)(II) by inserting “or” at the
11 end;

12 (2) by adding after clause (i)(II) the following:

13 “(III) is a member of an organization
14 that engages in terrorist activity or who
15 actively supports or advocates terrorist
16 activity.”;

17 (3) by adding after clause (iii) the following:

18 “(iv) **TERRORIST ORGANIZATION DE-**
19 **FINED.**—As used in this Act, the term ‘terrorist
20 organization’ means an organization which com-
21 mits terrorist activity as determined by the At-
22 torney General, in consultation with the Sec-
23 retary of State.”.

1 **SEC. 402. ADMISSIONS FRAUD.**

2 (a) EXCLUSION FOR FRAUDULENT DOCUMENTS AND
3 FAILURE TO PRESENT DOCUMENTS.—Section
4 212(a)(6)(C) of the Immigration and Nationality Act (8
5 U.S.C. 1182(a)(6)(C)) is amended—

6 (1) by striking “(C) MISREPRESENTATION” and
7 inserting in lieu thereof the following:

8 “(C) FRAUD, MISREPRESENTATION, AND
9 FAILURE TO PRESENT DOCUMENTS”;

10 (2) by adding at the end the following new
11 clause:

12 “(iii) FRAUDULENT DOCUMENTS AND
13 FAILURE TO PRESENT DOCUMENTS.—

14 “(I) Any alien who, in seeking
15 entry to the United States or board-
16 ing a common carrier for the purpose
17 of coming to the United States, pre-
18 sents any document which, in the de-
19 termination of the immigration offi-
20 cer, is forged, counterfeit, altered,
21 falsely made, stolen, or inapplicable to
22 the alien presenting the document, or
23 otherwise contains a misrepresenta-
24 tion of a material fact, is excludable.

25 “(II) Any alien who, in boarding
26 a common carrier for the purpose of

1 coming to the United States, presents
2 a document that relates or purports to
3 relate to the alien’s eligibility to enter
4 the United States, and fails to present
5 such document to an immigration offi-
6 cer upon arrival at a port of entry
7 into the United States, is exclud-
8 able.”.

9 (b) AVAILABILITY OF ASYLUM AND OTHER DISCRE-
10 TIONARY RELIEF.—

11 (1) Section 208 of the Immigration and Nation-
12 ality Act (8 U.S.C. 1158) is amended by adding at
13 the end the following new subsection:

14 “(e)(1) APPLICATION OF FRAUD EXCLUSION.—Not-
15 withstanding subsection (a) and except as provided in
16 paragraph (2), any alien who is excludable under section
17 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i) may not apply
18 for or be granted asylum.

19 “(2) EXCEPTION.—The limitation under paragraph
20 (1) shall not apply if the action upon which the exclusion
21 is based was pursuant to direct departure from a country
22 in which (A) the alien has a credible fear of persecution,
23 or (B) there is a significant danger that the alien would
24 be returned to a country in which the alien would have
25 a credible fear of persecution.

1 “(3) DEFINITION.—As used in this subsection, the
2 term ‘credible fear of persecution’ means (A) that it is
3 more probable than not that the statements made by the
4 alien in support of his or her claim are true, and (B) that
5 there is a significant possibility, in light of such state-
6 ments and of such other facts as are known to the officer
7 about country conditions, that the alien could establish
8 eligibility as a refugee within the meaning of section
9 101(a)(42)(A).”.

10 (2) Section 212(c) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1182(c)) is amended in the
12 third sentence by inserting before the period “or to
13 any alien who is excludable pursuant to section
14 212(a)(6)(C)(iii)”.

15 **SEC. 403. INSPECTION AND EXCLUSION BY IMMIGRATION**
16 **OFFICERS.**

17 Section 235(b) of the Immigration and Nationality
18 Act (8 U.S.C. 1225(b)) is amended to read as follows:

19 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
20 OFFICERS.—

21 “(1) An immigration officer shall inspect each
22 alien who is seeking entry to the United States.

23 “(2)(A) If the examining immigration officer
24 determines that an alien seeking entry—

1 “(i)(I) is excludable under section
2 212(a)(6)(C)(iii), or

3 “(II) is excludable under section
4 212(a)(7)(A)(i),

5 “(ii) does not have any reasonable basis for
6 legal entry into the United States, and

7 “(iii) does not indicate an intention to
8 apply for asylum under section 208,
9 the alien shall be specially excluded from entry into
10 the United States without a hearing.

11 “(B) The examining immigration officer shall
12 refer to an immigration officer, specially trained to
13 conduct interviews and make determinations bearing
14 on eligibility for asylum, any alien who is (i) exclud-
15 able under section 212(a)(6)(C)(iii) or section
16 212(a)(7)(A) (i) and (ii) who has indicated an inten-
17 tion to apply for asylum. Such an alien shall not be
18 considered to have entered the United States for
19 purposes of this Act.

20 “(C) An alien under subparagraph (B) who is
21 determined by an immigration officer, specially
22 trained to conduct interviews and make determina-
23 tions bearing on eligibility for asylum, to be exclud-
24 able and ineligible for the exception under section

1 208(e)(2), shall be specially excluded and deported
2 from the United States without further hearing.

3 “(3)(A) Except as provided in subparagraph
4 (B), if the examining immigration officer determines
5 that an alien seeking entry is not clearly and beyond
6 a doubt entitled to enter, the alien shall be detained
7 for a hearing before an immigration judge.

8 “(B) The provisions of subparagraph (A) shall
9 not apply—

10 “(i) to an alien crewman,

11 “(ii) to an alien described in paragraph
12 (2)(A) or (2)(C), or

13 “(iii) if the conditions described in section
14 273(d) exist.

15 “(4) The decision of the examining immigration
16 officer, if favorable to the admission of any alien,
17 shall be subject to challenge by any other immigra-
18 tion officer and such challenge shall operate to take
19 the alien, whose privilege to enter is so challenged,
20 before an immigration judge for a hearing on exclu-
21 sion of the alien.

22 “(5) The Attorney General shall establish pro-
23 cedures that ensure that aliens are not specially ex-
24 cluded under paragraph (2)(A) without an inquiry

1 into their reasons for seeking entry into the United
2 States.

3 “(6)(A) Subject to subparagraph (B), an alien
4 has not entered the United States for purposes of
5 this Act unless and until such alien has been in-
6 spected and admitted by an immigration officer pur-
7 suant to this subsection.

8 “(B) An alien who (i) is physically present in
9 the United States, (ii) has been physically present in
10 the United States for a continuous period of one
11 year, and (iii) has not been inspected and admitted
12 by an immigration officer may be said to have en-
13 tered the United States without inspection. Such an
14 alien is subject to deportation pursuant to section
15 241(a)(1)(B).”.

16 **SEC. 404. JUDICIAL REVIEW.**

17 Section 235 of the Immigration and Nationality Act
18 (8 U.S.C. 1225) (as amended by section 732) is amended
19 by adding after subsection (c) the following new sub-
20 sections:

21 “(d) **HABEAS CORPUS REVIEW.**—Notwithstanding
22 any other provision of law, no court shall have jurisdiction
23 to review, except by petition for habeas corpus, any deter-
24 mination made with respect to an alien found excludable
25 pursuant to section 212(a)(6)(C)(iii) or section

1 212(a)(7)(A)(i). In any such case, review by habeas corpus
2 shall be limited to examination of whether the petitioner
3 (1) is an alien, and (2) was ordered excluded from the
4 United States pursuant to section 235(b)(2).

5 “(e) OTHER LIMITS ON JUDICIAL REVIEW AND AC-
6 TION.—Notwithstanding any other provision of law, no
7 court shall have jurisdiction (1) to review the procedures
8 established by the Attorney General for the determination
9 of exclusion pursuant to section 212(a)(6)(C)(iii) or sec-
10 tion 212(a)(7)(A)(i), or (2) to enter declaratory or injunc-
11 tive relief with respect to the implementation of subsection
12 (b)(2). Regardless of the nature of the suit or claim, no
13 court shall have jurisdiction except by habeas corpus peti-
14 tion as provided in subsection (d) to consider the validity
15 of any adjudication or determination of special exclusion
16 or to provide declaratory or injunctive relief with respect
17 to the special exclusion of any alien.

18 “(f) COLLATERAL ENFORCEMENT PROCEEDINGS.—
19 In any action brought for the assessment of penalties for
20 improper entry or re-entry of an alien under section 275
21 or 276, no court shall have jurisdiction to hear claims col-
22 laterally attacking the validity of orders of exclusion, spe-
23 cial exclusion, or deportation entered under sections 235,
24 236, and 242.”.

1 **SEC. 405. CONFORMING AMENDMENTS.**

2 Section 237(a) of the Immigration and Nationality
3 Act (8 U.S.C. 1227(a)) is amended—

4 (1) in the second sentence of paragraph (1) by
5 striking out “Deportation” and inserting in lieu
6 thereof “Subject to section 235(b)(2), deportation”;
7 and

8 (2) in the first sentence of paragraph (2) by
9 striking out “If” and inserting in lieu thereof “Sub-
10 ject to section 235(b)(2), if”.

11 **SEC. 406. EFFECTIVE DATE.**

12 Except as otherwise provided, the amendments made
13 by this subtitle shall take effect on the date of the enact-
14 ment of this Act and shall apply to aliens who arrive in
15 or seek admission to the United States on or after such
16 date.

17 **Subtitle B—Deportation of Alien**
18 **Terrorists**

19 **SEC. 411. REMOVAL OF ALIEN TERRORISTS.**

20 The Immigration and Nationality Act (8 U.S.C. 1101
21 et seq.) is amended by inserting the following new section:

22 “REMOVAL OF ALIEN TERRORISTS

23 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
24 tion—

25 “(1) the term ‘alien terrorist’ means any alien
26 described in section 241(a)(4)(B);

1 “(2) the term ‘classified information’ has the
2 same meaning as defined in section 1(a) of the Clas-
3 sified Information Procedures Act (18 U.S.C. App.
4 IV);

5 “(3) the term ‘national security’ has the same
6 meaning as defined in section 1(b) of the Classified
7 Information Procedures Act (18 U.S.C. App. IV);

8 “(4) the term ‘special court’ means the court
9 described in subsection (c) of this section; and

10 “(5) the term ‘special removal hearing’ means
11 the hearing described in subsection (e) of this sec-
12 tion.

13 “(b) APPLICATION FOR USE OF PROCEDURES.—The
14 provisions of this section shall apply whenever the Attor-
15 ney General certifies under seal to the special court that—

16 “(1) the Attorney General or Deputy Attorney
17 General has approved of the proceeding under this
18 section;

19 “(2) an alien terrorist is physically present in
20 the United States; and

21 “(3) removal of such alien terrorist by deporta-
22 tion proceedings described in sections 242, 242A, or
23 242B would pose a risk to the national security of
24 the United States because such proceedings would
25 disclose classified information.

1 “(c) SPECIAL COURT.—(1) The Chief Justice of the
2 United States shall publicly designate up to 7 judges from
3 up to 7 United States judicial districts to hear and decide
4 cases arising under this section, in a manner consistent
5 with the designation of judges described in section 103(a)
6 of the Foreign Intelligence Surveillance Act (50 U.S.C.
7 1803(a)).

8 “(2) The Chief Justice may, in his discretion, des-
9 ignate the same judges under this section as are des-
10 igned pursuant to 50 U.S.C. 1803(a).

11 “(d) INVOCATION OF SPECIAL COURT PROCE-
12 DURE.—(1) When the Attorney General makes the appli-
13 cation described in subsection (b), a single judge of the
14 special court shall consider the application in camera and
15 ex parte.

16 “(2) The judge shall invoke the procedures of sub-
17 section (e), if the judge determines that there is probable
18 cause to believe that—

19 “(A) the alien who is the subject of the applica-
20 tion has been correctly identified,

21 “(B) a deportation proceeding described in sec-
22 tions 242, 242A, or 242B would pose a risk to the
23 national security of the United States because such
24 proceedings would disclose classified information,
25 and

1 “(C) the threat posed by the alien’s physical
2 presence is immediate and involves the risk of death
3 or serious bodily harm.

4 “(e) SPECIAL REMOVAL HEARING.—(1) Except as
5 provided in paragraph (4), the special removal hearing au-
6 thorized by a showing of probable cause described in sub-
7 section (d)(2) shall be open to the public.

8 “(2) The alien shall have a right to be present at such
9 hearing and to be represented by counsel. Any alien finan-
10 cially unable to obtain counsel shall be entitled to have
11 counsel assigned to represent such alien. Counsel may be
12 appointed as described in section 3006A of title 18, United
13 States Code.

14 “(3) The alien shall have a right to introduce evi-
15 dence on his own behalf, and except as provided in para-
16 graph (4), shall have a right to cross-examine any witness
17 or request that the judge issue a subpoena for the pres-
18 ence of a named witness.

19 “(4) The judge shall authorize the introduction in
20 camera and ex parte of any item of evidence for which
21 the judge determines that public disclosure would pose a
22 risk to the national security of the United States because
23 it would disclose classified information.

1 “(5) With respect to any evidence described in para-
2 graph (4), the judge shall cause to be delivered to the alien
3 either—

4 “(A)(i) the substitution for such evidence of a
5 statement admitting relevant facts that the specific
6 evidence would tend to prove, or (ii) the substitution
7 for such evidence of a summary of the specific evi-
8 dence; or

9 “(B) if disclosure of even the substituted evi-
10 dence described in subparagraph (A) would create a
11 substantial risk of death or serious bodily harm to
12 any person, a statement informing the alien that no
13 such summary is possible.

14 “(6) If the judge determines—

15 “(A) that the substituted evidence described in
16 paragraph (4)(B) will provide the alien with sub-
17 stantially the same ability to make his defense as
18 would disclosure of the specific evidence, or

19 “(B) that disclosure of even the substituted evi-
20 dence described in paragraph (5)(A) would create a
21 substantial risk of death or serious bodily harm to
22 any person,

23 then the determination of deportation (described in sub-
24 section (f)) may be made pursuant to this section.

1 “(f) DETERMINATION OF DEPORTATION.—(1) If the
2 determination in subsection (e)(6)(A) has been made, the
3 judge shall, considering the evidence on the record as a
4 whole, require that the alien be deported if the Attorney
5 General proves, by clear and convincing evidence, that the
6 alien is subject to deportation because he is an alien as
7 described in section 241(a)(4)(B).

8 “(2) If the determination in subsection (e)(6)(B) has
9 been made, the judge shall, considering the evidence re-
10 ceived (in camera and otherwise), require that the alien
11 be deported if the Attorney General proves, by clear, con-
12 vincing, and unequivocal evidence, that the alien is subject
13 to deportation because he is an alien as described in sec-
14 tion 241(a)(4)(B).

15 “(g) APPEALS.—(1) The alien may appeal a deter-
16 mination under subsection (f) to the court of appeals for
17 the Federal Circuit, by filing a notice of appeal with such
18 court within 20 days of the determination under such sub-
19 section.

20 “(2)(A) The Attorney General may appeal a deter-
21 mination under subsection (d), (e), or (f) to the court of
22 appeals for the Federal Circuit, by filing a notice of appeal
23 with such court within 20 days of the determination under
24 any one of such subsections.

1 “(B) When requested by the Attorney General, the
2 entire record of the proceeding under this section shall be
3 transmitted to the court of appeals under seal. If the At-
4 torney General is appealing a determination under sub-
5 section (d) or (e), the court of appeals shall consider such
6 appeal in camera and ex parte.”.

7 **Subtitle C—Penalties for Engaging**
8 **in Terrorism**

9 **SEC. 421. PROVIDING MATERIAL SUPPORT TO TERRORISM.**

10 (a) OFFENSE.—Chapter 113A of title 18, United
11 States Code, is amended by adding the following new sec-
12 tion:

13 **“§ 2339A. Providing material support to terrorists**

14 “Whoever, within the United States, provides mate-
15 rial support or resources or conceals or disguises the na-
16 ture, location, source, or ownership of material support or
17 resources, knowing or intending that they are to be used
18 to facilitate a violation of section 32, 36, 351, 844(f) or
19 (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281,
20 2331, or 2339 of this title, or section 902(i) of the Federal
21 Aviation Act of 1958, as amended (49 U.S.C. App.
22 1472(i)), or to facilitate the concealment or an escape
23 from the commission of any of the foregoing, shall be fined
24 under this title, imprisoned not more than 10 years, or
25 both. For purposes of this section, material support or re-

1 sources shall include, but not be limited to, currency or
2 other financial securities, lodging, training, safehouses,
3 false documentation or identification, communications
4 equipment, facilities, weapons, lethal substances, explo-
5 sives, personnel, transportation, and other physical as-
6 sets.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 113A of title 18, United States Code, is amended by
9 adding the following:

“2339A. Providing material support to terrorists.”.

10 **SEC. 422. SENTENCING GUIDELINES INCREASE FOR TER-**
11 **RORIST CRIMES.**

12 The United States Sentencing Commission is directed
13 to amend its sentencing guidelines to provide an increase
14 of not less than three levels in the base offense level for
15 any felony, whether committed within or outside the Unit-
16 ed States, that involves or is intended to promote inter-
17 national terrorism, unless such involvement or intent is
18 itself an element of the crime.

19 **SEC. 423. EXTENSION OF THE STATUTE OF LIMITATIONS**
20 **FOR CERTAIN TERRORISM OFFENSES.**

21 (a) IN GENERAL.—Chapter 213 of title 18, United
22 States Code, is amended by inserting after section 2385
23 the following:

1 **“§ 3286. Extension of statute of limitations for certain**
2 **terrorism offenses**

3 “Notwithstanding the provisions of section 3282, no
4 person shall be prosecuted, tried, or punished for any of-
5 fense involving a violation of section 32 (aircraft destruc-
6 tion), section 36 (airport violence), section 112 (assaults
7 upon diplomats), section 351 (crimes against Congress-
8 men or Cabinet officers), section 1116 (crimes against dip-
9 lomats), section 1203 (hostage taking), section 1361 (will-
10 ful injury to government property), section 1751 (crimes
11 against the President), section 2280 (maritime violence),
12 section 2281 (maritime platform violence), section 2331
13 (terrorist acts abroad against United States nationals),
14 section 2339 (use of weapons of mass destruction), or sec-
15 tion 2340A (torture) of this title or section 902(i), (j),
16 (k), (l), or (n) of the Federal Aviation Act of 1958, as
17 amended (49 U.S.C. App. 1572(i), (j), (k), (l), or (n)),
18 unless the indictment is found or the information is insti-
19 tuted within 10 years after such offense shall have been
20 committed.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 213 of title 18, United States
23 Code, is amended by inserting below the item for:

“3285. Criminal contempt.”

24 the following:

“3286. Extension of statute of limitations for certain terrorism offenses.”.

1 **SEC. 424. ENHANCED PENALTIES FOR CERTAIN OFFENSES.**

2 (a) TITLE 50.—(1) Section 1705(b) of title 50, Unit-
3 ed States Code, is amended by replacing “\$50,000” with
4 “\$1,000,000”.

5 (2) Section 1705(a) of title 50, United States Code,
6 is amended by replacing “\$10,000” with “\$1,000,000”.

7 (b) TITLE 18.—(1) Section 1541 of title 18, United
8 States Code, is amended by replacing “\$500” with
9 “\$250,000” and by replacing “one year” with “five
10 years”.

11 (2) Sections 1542, 1543, 1544 and 1546 of title 18,
12 United States Code, are each amended by replacing
13 “\$2,000” with “\$250,000” and by replacing “five years”
14 with “ten years”.

15 (3) Section 1545 of title 18, United States Code, is
16 amended by replacing “\$2,000” with “\$250,000” and by
17 replacing “three years” with “ten years”.

18 **SEC. 425. IMPLEMENTATION OF THE 1988 PROTOCOL FOR**
19 **THE SUPPRESSION OF UNLAWFUL ACTS OF**
20 **VIOLENCE AT AIRPORTS SERVING INTER-**
21 **NATIONAL CIVIL AVIATION.**

22 (a) OFFENSE.—Chapter 2 of title 18, United States
23 Code, is amended by adding at the end the following:

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

2 “(a) Whoever, in a circumstance described in sub-
3 section (b) of this section, unlawfully and intentionally,
4 using any device, substance or weapon—

5 “(1) performs an act of violence against a per-
6 son at an airport serving international civil aviation
7 which causes or is likely to cause serious injury or
8 death; or

9 “(2) destroys or seriously damages the facilities
10 of an airport serving international civil aviation or a
11 civil aircraft not in service located thereon or dis-
12 rupts the services of the airport;

13 if such an act endangers or is likely to endanger safety
14 at that airport, or attempts to do such an act, shall be
15 fined under this title or imprisoned not more than 20
16 years, or both, and if the death of any person results from
17 conduct prohibited by this subsection, shall be punished
18 by death or imprisoned for any term of years or for life.

19 “(b) The circumstances referred to in subsection (a)
20 of this section are—

21 “(1) the prohibited activity takes place in the
22 United States; or

23 “(2) the prohibited activity takes place outside
24 of the United States and the offender is later found
25 in the United States.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 2 of title 18, United States
3 Code, is amended by adding at the end the following:

“36. Violence at international airports.”.

4 (c) EFFECTIVE DATE.—This section shall take effect
5 on the later of—

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

7 (2) the date the Protocol for the Suppression of
8 Unlawful Acts of Violence at Airports Serving Inter-
9 national Civil Aviation, Supplementary to the Con-
10 vention for the Suppression of Unlawful Acts
11 Against the Safety of Civil Aviation, done at Mon-
12 treal on 23 September 1971, has come into force
13 and the United States has become a party to the
14 Protocol.

15 **SEC. 426. AMENDMENT TO FEDERAL AVIATION ACT.**

16 Section 902(n) of the Federal Aviation Act of 1958
17 (49 U.S.C. App. 1472(n)) is amended by—

18 (1) striking out paragraph (3); and

19 (2) redesignating paragraph (4) as paragraph
20 (3).

21 **SEC. 427. OFFENSES OF VIOLENCE AGAINST MARITIME**
22 **NAVIGATION OR FIXED PLATFORMS.**

23 (a) OFFENSE.—Chapter 111 of title 18, United
24 States Code, is amended by adding at the end the follow-
25 ing:

1 **“§ 2280. Violence against maritime navigation**

2 “(a) Whoever, in a circumstance described in sub-
3 section (c) of this section, unlawfully and intentionally—

4 “(1) seizes or exercises control over a ship by
5 force or threat thereof or any other form of intimi-
6 dation;

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

10 “(3) destroys a ship or causes damage to a ship
11 or to its cargo which is likely to endanger the safe
12 navigation of that ship;

13 “(4) places or causes to be placed on a ship, by
14 any means whatsoever, a device or substance which
15 is likely to destroy that ship, or cause damage to
16 that ship or its cargo which endangers or is likely
17 to endanger the safe navigation of that ship;

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

22 “(6) communicates information, knowing the
23 information to be false and under circumstances in
24 which such information may reasonably be believed,
25 thereby endangering the safe navigation of a ship;

1 “(7) injures or kills any person in connection
2 with the commission or the attempted commission of
3 any of the offenses set forth in paragraphs (1) to
4 (6); or

5 “(8) attempts to do anything prohibited under
6 paragraphs (1) through (7);

7 shall be fined under this title or imprisoned not more than
8 20 years, or both, and if the death of any person results
9 from conduct prohibited by this subsection, shall be pun-
10 ished by death or imprisoned for any term of years or for
11 life.

12 “(b) Whoever threatens to engage in conduct prohib-
13 ited under paragraphs (2), (3) or (5) of subsection (a)
14 of this section, with apparent determination and will to
15 carry the threat into execution, if the threatened conduct
16 is likely to endanger the safe navigation of the ship in
17 question, shall be fined under this title or imprisoned not
18 more than five years, or both.

19 “(c) The circumstances referred to in subsection (a)
20 are—

21 “(1) in the case of a covered ship—

22 “(A) such activity is committed—

23 “(i) against or on board a ship flying
24 the flag of the United States at the time
25 the prohibited activity is committed;

1 “(ii) in the United States; or

2 “(iii) by a national of the United
3 States or by a stateless person whose ha-
4 bitual residence is in the United States;

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

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

10 “(2) in the case of a ship navigating or sched-
11 uled to navigate solely within the territorial sea or
12 internal waters of a country other than the United
13 States, the offender is later found in the United
14 States after such activity is committed; and

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

18 “(d) The master of a covered ship flying the flag of
19 the United States who has reasonable grounds to believe
20 that he has on board his ship any person who has commit-
21 ted an offense under Article 3 of the Convention for the
22 Suppression of Unlawful Acts Against the Safety of Mari-
23 time Navigation may deliver such person to the authorities
24 of a State Party to that Convention. Before delivering
25 such person to the authorities of another country, the

1 master shall notify in an appropriate manner the Attorney
2 General of the United States of the alleged offense and
3 await instructions from the Attorney General as to what
4 action he should take. When delivering the person to a
5 country which is a State Party to the Convention, the mas-
6 ter shall, whenever practicable, and if possible before en-
7 tering the territorial sea of such country, notify the au-
8 thorities of such country of his intention to deliver such
9 person and the reason therefor. If the master delivers such
10 person, he shall furnish the authorities of such country
11 with the evidence in the master's possession that pertains
12 to the alleged offense.

13 “(e) As used in this section, the term—

14 “(1) ‘ship’ means a vessel of any type whatso-
15 ever not permanently attached to the sea-bed, in-
16 cluding dynamically supported craft, submersibles or
17 any other floating craft, but such term does not in-
18 clude a warship, a ship owned or operated by a gov-
19 ernment when being used as a naval auxiliary or for
20 customs or police purposes, or a ship which has been
21 withdrawn from navigation or laid up;

22 “(2) ‘covered ship’ means a ship that is navi-
23 gating or is scheduled to navigate into, through or
24 from waters beyond the outer limit of the territorial

1 sea of a single country or a lateral limit of that
2 country's territorial sea with an adjacent country;

3 “(3) ‘national of the United States’ has the
4 meaning given such term in section 101(a)(22) of
5 the Immigration and Nationality Act (8 U.S.C.
6 1101(a)(22));

7 “(4) ‘territorial sea of the United States’ means
8 all waters extending seaward to 12 nautical miles
9 from the baselines of the United States determined
10 in accordance with international law; and

11 “(5) ‘United States’, when used in a geographi-
12 cal sense, includes the Commonwealth of Puerto
13 Rico, the Commonwealth of the Northern Marianas
14 Islands and all territories and possessions of the
15 United States.

16 **“§ 2281. Violence against maritime fixed platforms**

17 “(a) Whoever, in a circumstance described in sub-
18 section (c) of this section, unlawfully and intentionally—

19 “(1) seizes or exercises control over a fixed
20 platform by force or threat thereof or any other
21 form of intimidation;

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

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

3 “(4) places or causes to be placed on a fixed
4 platform, by any means whatsoever, a device or sub-
5 stance which is likely to destroy that fixed platform
6 or likely to endanger its safety;

7 “(5) injures or kills any person in connection
8 with the commission or the attempted commission of
9 any of the offenses set forth in paragraphs (1) to
10 (4); or

11 “(6) attempts to do anything prohibited under
12 paragraphs (1)–(5);

13 shall be fined under this title or imprisoned not more than
14 twenty years, or both; and if death results to any person
15 from conduct prohibited by this subsection, shall be pun-
16 ished by death or imprisoned for any term of years or for
17 life.

18 “(b) Whoever threatens to engage in conduct prohib-
19 ited under paragraphs (2) or (3) of subsection (a), with
20 apparent determination and will to carry the threat into
21 execution, if the threatened conduct is likely to endanger
22 the safety of the fixed platform, shall be fined under this
23 title or imprisoned not more than five years, or both.

24 “(c) The circumstances referred to in subsection (a)
25 are—

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

3 “(A) that is located on the continental
4 shelf of the United States;

5 “(B) that is located on the continental
6 shelf of another country, by a national of the
7 United States or by a stateless person whose
8 habitual residence is in the United States; or

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

11 “(2) during the commission of such activity
12 against or on board a fixed platform located on a
13 continental shelf, a national of the United States is
14 seized, threatened, injured or killed; or

15 “(3) such activity is committed against or on
16 board a fixed platform located outside the United
17 States and beyond the continental shelf of the Unit-
18 ed States and the offender is later found in the
19 United States.

20 “(d) As used in this section, the term—

21 “(1) ‘continental shelf’ means the sea-bed and
22 subsoil of the submarine areas that extend beyond a
23 country’s territorial sea to the limits provided by
24 customary international law as reflected in Article
25 76 of the 1982 Convention on the Law of the Sea;

1 “(2) ‘fixed platform’ means an artificial island,
2 installation or structure permanently attached to the
3 sea-bed for the purpose of exploration or exploitation
4 of resources or for other economic purposes;

5 “(3) ‘national of the United States’ has the
6 meaning given such term in section 101(a)(22) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(22));

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

13 “(5) ‘United States’, when used in a geographi-
14 cal sense, includes the Commonwealth of Puerto
15 Rico, the Commonwealth of the Northern Marianas
16 Islands and all territories and possessions of the
17 United States.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 111 of title 18, United States
20 Code, is amended by adding at the end the following:

“2280. Violence against maritime navigation.

“2281. Violence against maritime fixed platforms.”.

21 (c) EFFECTIVE DATES.—This section shall take ef-
22 fect on the later of—

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

1 (2)(A) in the case of section 2280 of title 18,
2 United States Code, the date the Convention for the
3 Suppression of Unlawful Acts Against the Safety of
4 Maritime Navigation has come into force and the
5 United States has become a party to that Conven-
6 tion; and

7 (B) in the case of section 2281 of title 18,
8 United States Code, the date the Protocol for the
9 Suppression of Unlawful Acts Against the Safety of
10 Fixed Platforms Located on the Continental Shelf
11 has come into force and the United States has be-
12 come a party to that Protocol.

13 **SEC. 428. WEAPONS OF MASS DESTRUCTION.**

14 (a) OFFENSE.—Chapter 113A of title 18, United
15 States Code, is amended by adding at the end the follow-
16 ing:

17 **“§ 2339. Use of weapons of mass destruction**

18 “(a) Whoever uses, or attempts or conspires to use,
19 a weapon of mass destruction—

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

22 “(2) against any person within the United
23 States; or

24 “(3) against any property that is owned, leased
25 or used by the United States or by any department

1 or agency of the United States, whether the property
2 is within or outside of the United States;
3 shall be imprisoned for any term of years or for life, and
4 if death results, shall be punished by death or imprisoned
5 for any term of years or for life.

6 “(b) For purposes of this section—

7 “(1) ‘national of the United States’ has the
8 meaning given in section 101(a)(22) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1101(a)(22));
10 and

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

12 “(a) any destructive device as defined in
13 section 921 of this title;

14 “(b) poison gas;

15 “(c) any weapon involving a disease orga-
16 nism; or

17 “(d) any weapon that is designed to release
18 radiation or radioactivity at a level dangerous
19 to human life.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 at the beginning of chapter 113A of title 18, United States
22 Code, is amended by adding the following:

“2339. Use of weapons of mass destruction.”.

1 **SEC. 429. NATIONAL TASK FORCE ON**
2 **COUNTERTERRORISM.**

3 (a) ESTABLISHMENT.—The President shall establish
4 a National Task Force on Counterterrorism comprised of
5 the following seven members: the Deputy Attorney Gen-
6 eral of the United States, the Deputy Director of Oper-
7 ations of the Central Intelligence Agency or the Deputy
8 Director of Central Intelligence, the Coordinator for Ter-
9 rorism of the Department of State, an Assistant Secretary
10 of Commerce as designated by the Secretary of Commerce,
11 the Secretary of Defense for Special Operations Low In-
12 tensity Conflict, the National Security Advisor or the Dep-
13 uty National Security Advisor for Special Operations Low
14 Intensity Conflict, and the Assistant Secretary of Treas-
15 ury for Enforcement. The Deputy Attorney General shall
16 serve as the Chairperson of the Task Force and shall co-
17 ordinate all antiterrorism activities of the intelligence com-
18 munity of the United States Government.

19 (b) DUTIES.—The National Task Force on
20 Counterterrorism shall—

21 (1) formulate a definition as to what constitutes
22 terrorism;

23 (2) define those intelligence assets dedicated for
24 collection of information on terrorism;

1 (3) define the methods for the Task Force to be
2 the central processor and distributor of intelligence
3 on terrorism;

4 (4) outline all preventive and reactive policy is-
5 sues with regards to terrorism;

6 (5) define the methods for the Task Force to
7 have overall operational control for counterterrorist
8 and terrorist anti-proliferation operations, both overt
9 and covert;

10 (6) report to Congress no later than six months
11 after the date of enactment of this Act, and each 90
12 days thereafter for the remainder of the two-year pe-
13 riod beginning on such date, as to how the Task
14 Force will implement paragraphs (1) through (5) of
15 this section; and

16 (7) beginning 60 days after the date on which
17 the report is submitted under paragraph (6), imple-
18 ment paragraphs (1) through (5) in accordance with
19 the report.

20 (c) CHIEF AND DEPUTY CHIEF OF STAFF.—The Na-
21 tional Task Force on Counterterrorism shall have a chief
22 of staff and a deputy chief of staff who shall be appointed
23 by the task force. The chief of staff shall be paid at a
24 rate not to exceed the rate of basic pay payable for the
25 highest rate payable for the Senior Executive Service.

1 **SEC. 430. DEATH PENALTY FOR DEATH CAUSED BY THE**
2 **USE OF A BOMB OR OTHER DESTRUCTIVE**
3 **DEVICE.**

4 Section 924 of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(i) CAUSING DEATH THROUGH THE USE OF A
7 BOMB OR OTHER DESTRUCTIVE DEVICE.—

8 “(1) PENALTY.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), a person who intentionally or with
11 reckless disregard for human life causes the
12 death of a person through the use of a bomb or
13 other destructive device shall be sentenced to
14 life imprisonment without release or to death if
15 it is determined that imposition of a sentence of
16 death is justified.

17 “(B) LIMITATION.—No person may be
18 sentenced to the death penalty who was less
19 than 18 years of age at the time of the of-
20 fense.”.

1 **TITLE V—CRIMINAL ALIENS AND**
2 **ALIEN SMUGGLING**
3 **Subtitle A—Deportation of**
4 **Criminal Aliens**

5 **SEC. 501. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
6 **EXCLUSION.**

7 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
8 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
9 is amended by adding at the end the following new sub-
10 paragraph:

11 “(E) CONVICTED DEFINED.—In this para-
12 graph, the term ‘convicted’ means a judge or
13 jury has found the alien guilty or the alien has
14 entered a plea of guilty or nolo contendere,
15 whether or not the alien appeals therefrom.”.

16 (b) DEPORTATION OF CONVICTED ALIENS.—

17 (1) IMMEDIATE DEPORTATION.—Section 242(h)
18 of such Act (8 U.S.C. 1252(h)) is amended—

19 (A) by striking “(h) An alien” and insert-
20 ing “(h)(1) Subject to paragraph (2), an alien”;
21 and

22 (B) by adding at the end the following new
23 paragraph:

24 “(2) An alien sentenced to imprisonment may be de-
25 ported prior to the termination of such imprisonment by

1 the release of the alien from confinement, if the Service
2 petitions the appropriate court or other entity with author-
3 ity concerning the alien to release the alien into the
4 custody of the Service for execution of an order of
5 deportation.”.

6 (2) PROHIBITION OF REENTRY INTO THE
7 UNITED STATES.—Section 212(a)(2) of such Act (8
8 U.S.C. 1182(a)(2)) is amended—

9 (A) by redesignating subparagraph (F) as
10 subparagraph (G); and

11 (B) by inserting after subparagraph (E)
12 the following new subparagraph:

13 “(F) ALIENS DEPORTED BEFORE SERVING
14 MINIMUM PERIOD OF CONFINEMENT.—In addi-
15 tion to any other period of exclusion which may
16 apply an alien deported pursuant to section
17 242(h)(2) is excludable during the minimum pe-
18 riod of confinement to which the alien was sen-
19 tenced.”.

20 (c) EXECUTION OF DEPORTATION ORDERS.—Section
21 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
22 ing at the end the following: “An order of deportation may
23 not be executed until all direct appeals relating to the con-
24 viction which is the basis of the deportation order have
25 been exhausted.”.

1 **SEC. 502. AUTHORIZING REGISTRATION OF ALIENS ON**
2 **CRIMINAL PROBATION OR CRIMINAL PA-**
3 **ROLE.**

4 Section 263(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”
6 and inserting “(5) aliens who are or have been on criminal
7 probation or criminal parole within the United States, and
8 (6)”.

9 **SEC. 503. EXPANSION IN DEFINITION OF “AGGRAVATED**
10 **FELONY”.**

11 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1101(a)(43)) is amended to read as follows:

14 “(43) The term ‘aggravated felony’ means—

15 “(A) murder;

16 “(B) any illicit trafficking in any con-
17 trolled substance (as defined in section 102 of
18 the Controlled Substances Act), including any
19 drug trafficking crime as defined in section
20 924(c) of title 18, United States Code;

21 “(C) any illicit trafficking in any firearms
22 or destructive devices as defined in section 921
23 of title 18, United States Code, or in explosive
24 materials as defined in section 841(c) of title
25 18, United States Code;

1 “(D) any offense described in sections
2 1951 through 1963 of title 18, United States
3 Code;

4 “(E) any offense described in—

5 “(i) subsections (h) or (i) of section
6 842, title 18, United States Code, or sub-
7 section (d), (e), (f), (g), (h), or (i) of sec-
8 tion 844 of title 18, United States Code
9 (relating to explosive materials offenses),

10 “(ii) paragraph (1), (2), (3), (4), or
11 (5) of section 922(g), or section 922(j),
12 section 922(n), section 922(o), section
13 922(p), section 922(r), section 924(b), or
14 section 924(h) of title 18, United States
15 Code (relating to firearms offenses), or

16 “(iii) section 5861 of title 26, United
17 States Code (relating to firearms offenses);

18 “(F) any crime of violence (as defined in
19 section 16 of title 18, United States Code, not
20 including a purely political offense) for which
21 the term of imprisonment imposed (regardless
22 of any suspension of such imprisonment) is at
23 least 5 years;

24 “(G) any theft offense (including receipt of
25 stolen property) or any burglary offense, where

1 a sentence of 5 years imprisonment or more
2 may be imposed;

3 “(H) any offense described in section 875,
4 section 876, section 877, or section 1202 of
5 title 18, United States Code (relating to the de-
6 mand for or receipt of ransom);

7 “(I) any offense described in section 2251,
8 section 2251A or section 2252 of title 18, Unit-
9 ed States Code (relating to child pornography);

10 “(J) any offense described in section 1084
11 of title 18, United States Code, where a sen-
12 tence of 5 years imprisonment or more may be
13 imposed;

14 “(K) any offense relating to commercial
15 bribery, counterfeiting, forgery or trafficking in
16 vehicles whose identification numbers have been
17 altered, where a sentence of 5 years imprison-
18 ment or more may be imposed;

19 “(L) any offense—

20 “(i) relating to the owning, control-
21 ling, managing or supervising of a pros-
22 titution business,

23 “(ii) described in section 2421
24 through 2424 of title 18, United States
25 Code, for commercial advantage, or

1 “(iii) described in sections 1581
2 through 1585, or section 1588, of title 18,
3 United States Code (relating to peonage,
4 slavery, and involuntary servitude);

5 “(M) any offense relating to perjury or
6 subornation of perjury where a sentence of 5
7 years imprisonment or more may be imposed;

8 “(N) any offense described in—

9 “(i) section 793 (relating to gathering
10 or transmitting national defense informa-
11 tion), section 798 (relating to disclosure of
12 classified information), section 2153 (relat-
13 ing to sabotage) or section 2381 or section
14 2382 (relating to treason) of title 18, Unit-
15 ed States Code, or

16 “(ii) section 421 of title 50, United
17 States Code (relating to protecting the
18 identity of undercover intelligence agents);

19 “(O) any offense—

20 “(i) involving fraud or deceit where
21 the loss to the victim or victims exceeded
22 \$200,000; or

23 “(ii) described in section 7201 of title
24 26, United States Code (relating to tax

1 evasion), where the tax loss to the Govern-
2 ment exceeds \$200,000;

3 “(P) any offense described in section
4 274(a)(1) of the Immigration and Nationality
5 Act (relating to alien smuggling) for the pur-
6 pose of commercial advantage;

7 “(Q) any violation of section 1546(a) of
8 title 18, United States Code (relating to docu-
9 ment fraud), for the purpose of commercial ad-
10 vantage; or

11 “(R) any offense relating to failing to ap-
12 pear before a court pursuant to a court order
13 to answer to or dispose of a charge of a felony,
14 where a sentence of 2 years or more may be im-
15 posed;

16 or any attempt or conspiracy to commit any such
17 act. Such term applies to offenses described in this
18 paragraph whether in violation of Federal or State
19 law and applies to such offenses in violation of the
20 laws of a foreign country for which the term of im-
21 prisonment was completed within the previous 15
22 years.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to all convictions entered before,
25 on, or after the date of enactment of this Act.

1 **SEC. 504. DEPORTATION PROCEDURES FOR CERTAIN**
2 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
3 **NENT RESIDENTS.**

4 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR
5 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
6 gration and Nationality Act (8 U.S.C. 1252a) is amended
7 by adding at the end the following:

8 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
9 MANENT RESIDENTS.—

10 “(1) Notwithstanding section 242, and subject
11 to paragraph (5), the Attorney General may issue a
12 final order of deportation against any alien described
13 in paragraph (2) whom the Attorney General deter-
14 mines to be deportable under section
15 241(a)(2)(A)(iii) (relating to conviction of an aggra-
16 vated felony).

17 “(2) An alien is described in this paragraph if
18 the alien—

19 “(A) was not lawfully admitted for perma-
20 nent residence at the time that proceedings
21 under this section commenced, or

22 “(B) had permanent resident status on a
23 conditional basis (as described in section 216)
24 at the time that proceedings under this section
25 commenced.

1 “(3) The Attorney General may delegate the
2 authority in this section to the Commissioner or to
3 any District Director of the Service.

4 “(4) No alien described in this section shall be
5 eligible for—

6 “(A) any relief from deportation that the
7 Attorney General may grant in his discretion,
8 or

9 “(B) relief under section 243(h).

10 “(5) The Attorney General may not execute any
11 order described in paragraph (1) until 14 calendar
12 days have passed from the date that such order was
13 issued, in order that the alien has an opportunity to
14 apply for judicial review under section 106.”.

15 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the
16 Immigration and Nationality Act (8 U.S.C. 1105a) is
17 amended—

18 (1) in the first sentence of subsection (a), by in-
19 serting “or pursuant to section 242A” after “under
20 section 242(b)”;

21 (2) in subsection (a)(1) and subsection (a)(3),
22 by inserting “(including an alien described in section
23 242A)” after “aggravated felony”; and

24 (3) by adding at the end the following new sub-
25 section:

1 “(d) Notwithstanding subsection (c), a petition for
2 review or for habeas corpus on behalf of an alien described
3 in section 242A(c) may only challenge whether the alien
4 is in fact an alien described in such section, and no court
5 shall have jurisdiction to review any other issue.”.

6 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-
7 tion 242A of the Immigration and Nationality Act (8
8 U.S.C. 1252a) is amended as follows:

9 (1) In subsection (a)—

10 (A) by striking “(a) IN GENERAL.—” and
11 inserting “(b) DEPORTATION OF PERMANENT
12 RESIDENT ALIENS.—(1) IN GENERAL.—”; and

13 (B) by inserting in the first sentence “per-
14 manent resident” after “correctional facilities
15 for”;

16 (2) In subsection (b)—

17 (A) by striking “(b) IMPLEMENTATION.—”
18 and inserting “(2) IMPLEMENTATION.—”; and

19 (B) by striking “respect to an” and insert-
20 ing “respect to a permanent resident”;

21 (3) By striking out subsection (c);

22 (4) In subsection (d)—

23 (A) by striking “(d) EXPEDITED PRO-
24 CEEDINGS.—(1)” and inserting “(3) EXPE-
25 DITED PROCEEDINGS.—(A)”;

1 (B) by inserting “permanent resident”
2 after “in the case of any”; and

3 (C) by striking “(2)” and inserting “(B)”;

4 (5) In subsection (e)—

5 (A) by striking “(e) REVIEW.—(1)” and
6 inserting “(4) REVIEW.—(A)”;

7 (B) by striking the second sentence; and

8 (C) by striking “(2)” and inserting “(B)”;

9 (6) By inserting after the section heading the
10 following new subsection:

11 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
12 convicted of an aggravated felony shall be conclusively pre-
13 sumed to be deportable from the United States.”; and

14 (7) The heading of such section is amended to
15 read as follows:

“EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
COMMITTING AGGRAVATED FELONIES”.

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to all aliens against whom deporta-
18 tion proceedings are initiated after the date of enactment
19 of this Act.

20 **SEC. 505. JUDICIAL DEPORTATION.**

21 (a) JUDICIAL DEPORTATION.—Section 242A of the
22 Immigration and Nationality Act (8 U.S.C. 1252a) is
23 amended by inserting at the end the following new sub-
24 section:

1 “(d) JUDICIAL DEPORTATION.—

2 “(1) AUTHORITY.—Notwithstanding any other
3 provision of this Act, a United States district court
4 shall have jurisdiction to enter a judicial order of de-
5 portation at the time of sentencing against an alien
6 whose criminal conviction causes such alien to be de-
7 portable under section 241(a)(2)(A)(iii) (relating to
8 conviction of an aggravated felony), if such an order
9 has been requested prior to sentencing by the United
10 States Attorney with the concurrence of the Com-
11 missioner.

12 “(2) PROCEDURE.—

13 “(A) The United States Attorney shall pro-
14 vide notice of intent to request judicial deporta-
15 tion promptly after the entry in the record of
16 an adjudication of guilt or guilty plea. Such no-
17 tice shall be provided to the court, to the alien,
18 and to the alien’s counsel of record.

19 “(B) Notwithstanding section 242B, the
20 United States Attorney, with the concurrence of
21 the Commissioner, shall file at least 20 days
22 prior to the date set for sentencing a charge
23 containing factual allegations regarding the
24 alienage of the defendant and satisfaction by

1 the defendant of the definition of aggravated
2 felony.

3 “(C) If the court determines that the de-
4 fendant has presented substantial evidence to
5 establish prima facie eligibility for relief from
6 deportation under section 212(c), the Commis-
7 sioner shall provide the court with a rec-
8 ommendation and report regarding the alien’s
9 eligibility for relief under such section. The
10 court shall either grant or deny the relief
11 sought.

12 “(D)(i) The alien shall have a reasonable
13 opportunity to examine the evidence against
14 him or her, to present evidence on his or her
15 own behalf, and to cross-examine witnesses pre-
16 sented by the Government.

17 “(ii) The court, for the purposes of deter-
18 mining whether to enter an order described in
19 paragraph (1), shall only consider evidence that
20 would be admissible in proceedings conducted
21 pursuant to section 242(b).

22 “(iii) Nothing in this subsection shall limit
23 the information a court of the United States
24 may receive or consider for the purposes of im-
25 posing an appropriate sentence.

1 “(iv) The court may order the alien de-
2 ported if the Attorney General demonstrates by
3 clear and convincing evidence that the alien is
4 deportable under this Act.

5 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-
6 DICIAL ORDER OF DEPORTATION.—

7 “(A)(i) A judicial order of deportation or
8 denial of such order may be appealed by either
9 party to the court of appeals for the circuit in
10 which the district court is located.

11 “(ii) Except as provided in clause (iii),
12 such appeal shall be considered consistent with
13 the requirements described in section 106.

14 “(iii) Upon execution by the defendant of
15 a valid waiver of the right to appeal the convic-
16 tion on which the order of deportation is based,
17 the expiration of the period described in section
18 106(a)(1), or the final dismissal of an appeal
19 from such conviction, the order of deportation
20 shall become final and shall be executed at the
21 end of the prison term in accordance with the
22 terms of the order.

23 “(B) As soon as is practicable after entry
24 of a judicial order of deportation, the Commis-
25 sioner shall provide the defendant with written

1 notice of the order or deportation, which shall
2 designate the defendant's country of choice for
3 deportation and any alternate country pursuant
4 to section 243(a).

5 “(4) DENIAL OF JUDICIAL ORDER.—Denial of a
6 request for a judicial order of deportation shall not
7 preclude the Attorney General from initiating depor-
8 tation proceedings pursuant to section 242 upon the
9 same ground of deportability or upon any other
10 ground of deportability provided under section
11 241(a).”.

12 (b) TECHNICAL AND CONFORMING CHANGES.—The
13 ninth sentence of section 242(b) of the Immigration and
14 Nationality Act (8 U.S.C. 1252(b)) is amended by striking
15 out “The” and inserting in lieu thereof, “Except as pro-
16 vided in section 242A(d), the”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to all aliens whose adjudication of
19 guilt or guilty plea is entered in the record after the date
20 of enactment of this Act.

21 **SEC. 506. RESTRICTING DEFENSES TO DEPORTATION FOR**
22 **CERTAIN CRIMINAL ALIENS.**

23 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
24 NENT RESIDENCE.—The last sentence of section 212(c)
25 of the Immigration and Nationality Act (8 U.S.C.

1 1182(c)) is amended by striking out “has served for such
2 felony or felonies” and all that follows through the period
3 and inserting in lieu thereof “has been sentenced for such
4 felony or felonies to a term of imprisonment of at least
5 5 years, provided that the time for appealing such convic-
6 tion or sentence has expired and the sentence has become
7 final.”.

8 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
9 TATION.—Section 243(h)(2) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

11 (1) striking out the final sentence and inserting
12 in lieu thereof the following new subparagraph:

13 “(E) the alien has been convicted of an ag-
14 gravated felony.”; and

15 (2) striking out the “or” at the end of subpara-
16 graph (C) and inserting “or” at the end of subpara-
17 graph (D).

18 **SEC. 507. ENHANCING PENALTIES FOR FAILING TO DE-**
19 **PART, OR REENTERING, AFTER FINAL ORDER**
20 **OF DEPORTATION.**

21 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
22 migration and Nationality Act (8 U.S.C. 1252(e)) is
23 amended—

24 (1) by striking out “paragraph (2), (3), or 4
25 of” the first time it appears, and

1 (2) by striking out “shall be imprisoned not
2 more than ten years” and inserting in lieu thereof,
3 “shall be imprisoned not more than two years, or
4 shall be imprisoned not more than ten years if the
5 alien is a member of any of the classes described in
6 paragraph (2), (3), or (4) of section 241(a).”.

7 (b) REENTRY.—Section 276(b) of the Immigration
8 and Nationality Act (8 U.S.C. 1326(b)) is amended—

9 (1) in paragraph (1), by (A) inserting after
10 “commission of” the following: “three or more mis-
11 demeanors or”, and (B) striking out “5” and insert-
12 ing in lieu thereof “10”,

13 (2) in paragraph (2), by striking out “15” and
14 inserting in lieu thereof “20”, and

15 (3) by adding at the end the following sentence:
16 “For the purposes of this subsection, the term ‘depor-
17 tation’ shall include any agreement where an alien stipu-
18 lates to deportation during a criminal trial under either
19 Federal or State law.”.

20 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
21 TATION ORDER.—Section 276 of the Immigration and Na-
22 tionality Act (8 U.S.C. 1326) is amended by inserting
23 after subsection (b) the following new subsection:

24 “(c) In any criminal proceeding under this section,
25 no alien may challenge the validity of the deportation

1 order described in subsection (a)(1) or subsection (b) un-
2 less the alien demonstrates—

3 “(1) that the alien exhausted the administrative
4 remedies (if any) that may have been available to
5 seek relief against such order,

6 “(2) that the deportation proceedings at which
7 such order was issued improperly deprived the alien
8 of the opportunity for judicial review, and

9 “(3) that the entry of such order was fun-
10 damentally unfair.”.

11 **SEC. 508. MISCELLANEOUS AND TECHNICAL CHANGES.**

12 (a) FORM OF DEPORTATION HEARINGS.—The sec-
13 ond sentence of section 242(b) of the Immigration and
14 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
15 ing before the period the following: “; except that nothing
16 in this subsection shall preclude the Attorney General
17 from authorizing proceedings by electronic or telephonic
18 media (with or without the consent of the alien) or, where
19 waived or agreed to by the parties, in the absence of the
20 alien.”.

21 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
22 REQUIREMENTS.— No amendment made by this Act and
23 nothing in section 242(i) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1252(i)), shall be construed to create
25 any right or benefit, substantive or procedural, which is

1 legally enforceable by any party against the United States,
2 its agencies, its officers or any other person.

3 **SEC. 509. AUTHORIZATION OF APPROPRIATIONS FOR**
4 **CRIMINAL ALIEN INFORMATION SYSTEM.**

5 There is authorized to be appropriated to carry out
6 section 242(a)(3)(A) of the Immigration and Nationality
7 Act, \$5,000,000 for fiscal year 1994 and \$2,000,000 for
8 each of the fiscal years 1995, 1996, 1997, and 1998.

9 **Subtitle B—Prevention and**
10 **Punishment of Alien Smuggling**

11 **SECTION 511. BORDER PATROL AGENTS.**

12 In addition to such amounts as are otherwise author-
13 ized to be appropriated, there is authorized to be appro-
14 priated for each of the fiscal years 1994, 1995, 1996,
15 1997, 1998, for salaries and expenses of the Border Patrol
16 such amounts as may be necessary to provide for an in-
17 crease in the number of agents of the Border Patrol by
18 3,000 full-time equivalent agent positions beyond the
19 number of such positions at the Border Patrol on July
20 1, 1993.

21 **SEC. 512. BORDER PATROL INVESTIGATORS.**

22 In addition to such amounts as are otherwise author-
23 ized to be appropriated, there is authorized to be appro-
24 priated for each of the fiscal years 1994, 1995, 1996,
25 1997, 1998, for salaries and expenses of the Border Patrol

1 such amounts as may be necessary to provide for an in-
2 crease in the number of investigators of the Border Patrol
3 by 1,000 full-time equivalent investigator positions beyond
4 the number of such positions at the Border Patrol on July
5 1, 1993.

6 **SEC. 513. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**
7 **ING ACTIVITY FOR PURPOSES OF RACK-**
8 **ETEERING INFLUENCED AND CORRUPT OR-**
9 **GANIZATIONS (RICO) ENFORCEMENT AU-**
10 **THORITY.**

11 Section 1961(1) of title 18, United States Code, is
12 amended—

13 (1) by striking “or” before “(E) any act”, and

14 (2) by inserting before the period at the end the
15 following: “, or (F) any act which is indictable under
16 section 274(a)(1) of the Immigration and National-
17 ity Act (relating to alien smuggling)”.

18 **SEC. 514. ENHANCED PENALTIES FOR EMPLOYERS WHO**
19 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

20 (a) **ADDITIONAL CRIMINAL PENALTY.**—Section
21 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

22 (1) by striking “or” at the end of subparagraph
23 (C),

24 (2) by striking the comma at the end of sub-
25 paragraph (D) and inserting “; or”,

1 (3) by inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) contracts or agrees with another party for
4 that party to provide, for employment by the person
5 or another, an alien who is not authorized to be em-
6 ployed in the United States, knowing that such
7 party intends to cause such alien to be brought into
8 the United States in violation of the laws of the
9 United States,” and

10 (4) by striking “five years” and inserting “ten
11 years”.

12 (b) TREATMENT OF SMUGGLING AS AN AGGRAVATED
13 FELONY.—The first sentence of section 101(a)(43) (8
14 U.S.C. 1101(a)(43)) is amended by inserting “or any of-
15 fense under section 274(a)” before “for which the term
16 of imprisonment”.

17 **SEC. 515. ENHANCED PENALTIES FOR CERTAIN ALIEN**
18 **SMUGGLING.**

19 Section 274(a)(1) of the Immigration and Nationality
20 Act (8 U.S.C. 1324(a)(1)) is amended by striking “five
21 years” and inserting “ten years”.

22 **SEC. 516. EXPANDED FORFEITURE FOR SMUGGLING OR**
23 **HARBORING ILLEGAL ALIENS.**

24 Subsection 274(b) of the Immigration and National-
25 ity Act (8 U.S.C. 1324(b)) is amended—

1 (1) by amending paragraph (1) to read as fol-
2 lows:

3 “(b) SEIZURE AND FORFEITURE.—(1) Any property,
4 real or personal, which facilitates or is intended to facili-
5 tate, or which has been used in or is intended to be used
6 in the commission of a violation of subsection (a) or of
7 sections 274A(a)(1) or 274A(a)(2), or which constitutes
8 or is derived from or traceable to the proceeds obtained
9 directly or indirectly from a commission of a violation of
10 subsection (a), shall be subject to seizure and forfeiture,
11 except that—

12 “(A) no property, used by any person as a com-
13 mon carrier in the transaction of business as a com-
14 mon carrier shall be forfeited under the provisions of
15 this section unless it shall appear that the owner or
16 other person in charge of such property was a con-
17 senting party or privy to the illegal act;

18 “(B) no property shall be forfeited under the
19 provisions of this section by reason of any act or
20 omission established by the owner thereof to have
21 been committed or omitted by any person other than
22 such owner while such property was unlawfully in
23 the possession of a person other than the owner in
24 violation of the criminal laws of the United States
25 or of any State; and

1 “(C) no property shall be forfeited under this
2 paragraph to the extent of an interest of any owner,
3 by reason of any act or omission established by that
4 owner to have been committed or omitted without
5 the knowledge or consent of the owner, unless such
6 action or omission was committed by an employee or
7 agent of the owner, and facilitated or was intended
8 to facilitate, or was used in or intended to be used
9 in, the commission of a violation of subsection (a) or
10 of section 274A(a)(1) or 274A(a)(2) which was com-
11 mitted by the owner or which intended to further the
12 business interests of the owner, or to confer any
13 other benefit upon the owner.”.

14 (2) in paragraph (2)—

15 (A) by striking “conveyance” both places it
16 appears and inserting in lieu thereof “prop-
17 erty”; and

18 (B) by striking “is being used in” and in-
19 serting in lieu thereof “is being used in, is fa-
20 cilitating, has facilitated, or was intended to fa-
21 cilitate”;

22 (3) in paragraphs (4) and (5) by striking “a
23 conveyance” and “conveyance” each place such
24 phrase or word appears and inserting in lieu thereof
25 “property”; and

1 (4) in paragraph (4) by—

2 (A) striking “or” at the end of subpara-
3 graph (C),

4 (B) by striking the period at the end of
5 subparagraph (D) and inserting “; or”, and

6 (C) by inserting at the end the following
7 new subparagraph:

8 “(E) transfer custody and ownership of
9 forfeited property to any Federal, State, or
10 local agency pursuant to the Tariff Act of
11 1930, as amended (19 U.S.C. 1616a(c)).”.

12 **TITLE VI—TAKING CRIMINALS**
13 **OFF THE STREET**
14 **Subtitle A—Expanding Prison**
15 **Capacity**

16 **SEC. 601. USE OF PRIVATE ACTIVITY BONDS.**

17 (a) IN GENERAL.—Subsection (a) of section 142 of
18 the Internal Revenue Code of 1986 (defining exempt facil-
19 ity bond) is amended by striking “or” at the end of para-
20 graph (11), by striking the period at the end of paragraph
21 (12) and inserting “, or”, and by adding at the end thereof
22 the following new paragraph:

23 “(13) correctional facilities.”

1 (b) DEFINITION.—Section 142 of such Code is
2 amended by adding at the end thereof the following new
3 subsection:

4 “(k) CORRECTIONAL FACILITIES.—For purposes of
5 subsection (a)(13), the term ‘correctional facilities’ means
6 facilities for the confinement or rehabilitation of offenders
7 or individuals charged with or convicted of criminal of-
8 fenses, including prisons, jails, detention centers and drug
9 and alcohol rehabilitation centers. Correctional facilities
10 shall be treated in all events as serving the general pub-
11 lic.”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to obligations issued after the date
14 of the enactment of this Act.

15 **SEC. 602. FEDERAL-STATE PARTNERSHIPS FOR REGIONAL**
16 **PRISONS.**

17 (a) CREATED BY ATTORNEY GENERAL.—The Attor-
18 ney General shall—

19 (1) establish a Regional Prison Task Force
20 comprised of—

21 (A) the Director of the Federal Bureau of
22 Prisons; and

23 (B) a senior correctional officer of each
24 State wishing to participate, who is designated

1 for this purpose by the Governor of the State;
2 and

3 (2) create a plan, in consultation with the Re-
4 gional Prison Task Force for the establishment of a
5 nationwide regional prison system, and report that
6 plan to the Committees on the Judiciary and Appro-
7 priations of the House of Representatives and the
8 Senate not later than 180 days after the date of the
9 enactment of this Act.

10 (b) SCOPE OF PLAN.—The plan shall—

11 (1) define the boundaries and number of re-
12 gions in which regional prisons will be placed;

13 (2) establish the terms of the partnership
14 agreements that States must enter into with the At-
15 torney General in order to participate in the regional
16 prison system;

17 (3) set forth the extent of the role of the Fed-
18 eral Bureau of Prisons in administering the prisons;

19 (4) determine the way 2 or more States in a re-
20 gion will share responsibility for the activities associ-
21 ated with the regional prisons; and

22 (5) specify both the Federal responsibility and
23 the State responsibility (which shall not be less than
24 50 percent) for construction costs and operating
25 costs of the regional prisons.

1 (c) STATE ELIGIBILITY.—No State may send any
2 prisoner to be held at a regional prison established under
3 this section unless such State, as determined by the Attor-
4 ney General—

5 (1) enters into a partnership agreement under
6 subsection (a) and abides substantially by its terms;

7 (2) establishes minimum mandatory sentences
8 of 10 years for persons who are convicted of a seri-
9 ous felony and are subsequently convicted of a crime
10 of violence involving the use of a firearm or a crime
11 of violence involving a sexual assault;

12 (3) establishes a truth in sentencing policy
13 under which offenders will serve no less than 85 per-
14 cent of the term of imprisonment to which they are
15 sentenced—

16 (A) after the date the State enters into the
17 partnership agreement, with respect to crimes
18 of violence involving the use of a firearm or a
19 crime of violence involving a sexual assault; and

20 (B) after a date set by the State which is
21 not later than 2 years after that State enters
22 into such agreement, with respect to all other
23 crimes of violence and serious drug trafficking
24 offenses;

1 (4) provides pretrial detention similar to that
2 provided in the Federal system under section 3142
3 of title 18, United States Code;

4 (5) takes steps to eliminate court imposed limi-
5 tations on its prison capacity resulting from consent
6 decrees or statutory provisions; and

7 (6) provides adequate assurances that—

8 (A) such State will not use the regional
9 prison system to supplant any part of its own
10 system; and

11 (B) funds provided by the State for the
12 construction of regional prisons under this sec-
13 tion will be in addition to what would otherwise
14 have been made available for the construction
15 and operation of prisons by the State.

16 (d) PRISONER ELIGIBILITY.—A State which is eligi-
17 ble under this section may send prisoners convicted of
18 State crimes to serve their prison sentence in the regional
19 prison established under this section if—

20 (1) the prisoner has been convicted of not less
21 than 2 crimes of violence or serious drug trafficking
22 offenses and then commits a crime of violence in-
23 volving the use of a firearm or a crime of violence
24 involving a sexual assault; or

1 (2) the prisoner is an illegal alien convicted of
2 a felony offense punishable by more than 1 year’s
3 imprisonment.

4 (e) DEFINITIONS.—As used in this section—

5 (1) the term “crime of violence” is a felony of-
6 fense that is—

7 (A) punishable by imprisonment for a term
8 exceeding one year; and

9 (B) a crime of violence as defined in sec-
10 tion 16 of title 18, United States Code;

11 (2) the term “serious drug trafficking offense”
12 is a felony offense that is—

13 (A) punishable by imprisonment for a term
14 exceeding one year; and

15 (B) defined in section 924(e)(2)(A) of title
16 18, United States Code;

17 (3) the term “serious felony” means a felony
18 punishable by imprisonment for a term exceeding 1
19 year, or any act of juvenile delinquency involving the
20 use or carrying of a firearm, knife, or destructive de-
21 vice that would be punishable by imprisonment for
22 such term if committed by an adult, that—

23 (A) has as an element the use, attempted
24 use, or threatened use of physical force against
25 the person of another;

1 (B) is burglary, arson, or extortion, in-
2 volves use of explosives, or otherwise involves
3 conduct that presents a serious potential risk of
4 physical injury to another; or

5 (C) involves conduct in violation of section
6 401 of the Controlled Substances Act that con-
7 sists of illegal distribution of a controlled sub-
8 stance;

9 (4) the term “crime of violence involving a sex-
10 ual assault” is a crime of violence that is an offense
11 as defined in chapter 109A of title 18, United States
12 Code; and

13 (5) the term “State” includes the District of
14 Columbia, Puerto Rico, and any other territory or
15 possession of the United States.

16 (f) REGIONAL PRISON FUND.—There is established
17 in the Treasury the Regional Prison Fund. The Regional
18 Prison Fund shall consist of—

19 (1) sums appropriated to it by Act of Congress;

20 (2) notwithstanding section 1401 of the Victims
21 of Crime Act of 1984 (42 U.S.C. 10601) or any
22 other provision of law, the total of criminal fines de-
23 posited in the Crime Victims Fund during each fis-
24 cal year (beginning after the date of the enactment
25 of this Act) that exceeds \$150,000,000; and

1 (3) notwithstanding any other provision of law,
2 any portion of the Department of Justice Asset For-
3 feiture Fund that the Attorney General determines
4 is remaining after distributions of—

5 (A) funds to be shared with State and
6 local law enforcement;

7 (B) funds to pay warehouse and appraisal
8 fees and innocent lien holders; and

9 (C) funds for Federal law enforcement.

10 (g) TRANSFERS.—The Secretary of the Treasury
11 shall from time to time make appropriate transfers be-
12 tween funds to implement subsection (f).

13 (h) USE OF REGIONAL PRISON FUND.—The Attor-
14 ney General may use any sums in the Regional Prison
15 Fund to carry out this section.

16 (i) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Regional Prison
18 Fund—

19 (1) \$1,000,000,000 for each of fiscal years
20 1994 through 1996; and

21 (2) such sums as may be necessary thereafter
22 through fiscal year 2004.

1 **SEC. 603. NON-APPLICABILITY OF DAVIS-BACON TO PRISON**
 2 **CONSTRUCTION.**

3 (a) FEDERAL PRISON CONSTRUCTION.—Section 1 of
 4 the Davis-Bacon Act of March 3, 1991 (46 Stat. 1494,
 5 as amended, 40 U.S.C. 276a) is amended by adding at
 6 the end the following new subsection:

7 “(c) The requirements of this section shall not apply
 8 to contracts for construction, alteration, and/or repair of
 9 institutions used to incarcerate persons held under author-
 10 ity of any enactment of Congress.”.

11 (d) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall become effective on the date of enact-
 13 ment of this Act.

14 **Subtitle B—Miscellaneous**

15 **SEC. 611. RESTRICTED FEDERAL COURT JURISDICTION IN**
 16 **IMPOSING REMEDIES ON STATE AND FED-**
 17 **ERAL PRISON SYSTEMS.**

18 (a) IN GENERAL.—Title 28, United States Code is
 19 amended by inserting after chapter 176 the following new
 20 chapter:

21 **“CHAPTER 177—ACTIONS CHALLENGING**
 22 **CONDITIONS OF CONFINEMENT**

“Sec.

“3401. Limitations on remedies.

“3402. Consent decrees.

“3403. Modification of orders or decrees.

1 **“§ 3401. Limitations on remedies**

2 “(a)(1) If the district court, in any action challenging
3 the constitutionality of conditions of confinement in any
4 prison, jail, detention facility, or other correctional institu-
5 tion housing persons accused or convicted of a crime or
6 juveniles adjudicated delinquent, finds that one or more
7 conditions of confinement are in violation of the United
8 States Constitution, the court shall narrowly tailor any re-
9 lief to fit the nature and extent of the violations and shall
10 make the order no more intrusive than absolutely nec-
11 essary to ensure that the violations are remedied. The
12 court shall have no jurisdiction—

13 “(A) to impose a ceiling on the population of
14 any institution or to require any adjustment of the
15 release dates of inmates; or

16 “(B) to prohibit the use of tents or prefab-
17 ricated structures for housing inmates.

18 **“§ 3402. Consent decrees**

19 “(a) No consent decree in any action challenging the
20 constitutionality of conditions of confinement in any pris-
21 on, jail, detention facility, or other correctional institution
22 housing persons accused or convicted of a crime or juve-
23 niles adjudicated delinquent shall provide relief greater
24 than the minimum required to bring the conditions of con-
25 finement into substantial compliance with the United
26 States Constitution.

1 “(b) In entering a consent decree, the court shall
2 make a written finding that the relief provided in the de-
3 cree is no greater than the minimum required to bring
4 the conditions of confinement into substantial compliance
5 with the United States Constitution. If it appears to the
6 court that the relief provided in the decree is greater than
7 the minimum required, the court may recommend changes
8 in the decree.

9 **“§ 3403. Modification of orders or decrees**

10 “(a)(1) Upon motion of a defendant at any time, the
11 court may conduct a hearing on whether an order or de-
12 cree described in section 3401 or 3402 of this title should
13 be modified in light of—

14 “(A) changed factual circumstances affecting
15 the operation of the order or decree, whether or not
16 foreseeable;

17 “(B) a change or clarification of the governing
18 law, whether or not foreseeable;

19 “(C) a succession in office of an official respon-
20 sible for having consented to a decree;

21 “(D) the government’s financial constraints or
22 any other matter affecting public safety or the pub-
23 lic interest; or

24 “(E) any ground provided in Rule 60(b) of the
25 Federal Rules of Civil Procedure.

1 “(2) The court shall conduct such a hearing if the
 2 motion was filed more than one year after the date of the
 3 order or decree or the date on which the last previous
 4 modification hearing was conducted, whichever is later.

5 “(b) If the court denies a motion to modify an order
 6 or consent decree under subsection (a) of this section, the
 7 court shall make a written finding that the relief provided
 8 in the order or decree, as of the date of decision, is no
 9 greater than the minimum required to bring the conditions
 10 of confinement into substantial compliance with the
 11 United States Constitution.”.

12 (b) CLERICAL AMENDMENT.—The table of chapters
 13 at the beginning of part VI of title 28, United States Code,
 14 is amended by inserting after the item relating to chapter
 15 176 the following:

“177. **Actions Challenging Conditions of Confinement 3401**”.

16 **TITLE VII—PUNISHMENT AND**
 17 **DETERRENCE**

18 **Subtitle A—Capital Offenses**

19 **SEC. 701. PROCEDURES FOR ENFORCING DEATH PENALTY.**

20 Title 18 of the United States Code is Amended—

21 (1) by adding the following new chapter after
 22 chapter 227:

23 **“CHAPTER 228—DEATH PENALTY**
 24 **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.

1 **“§ 3591. Sentence of death**

2 “A defendant who has been found guilty of—

3 “(1) an offense described in section 794 or sec-
4 tion 2381 of this title;

5 “(2) an offense described in section 1751(c) of
6 this title if the offense, as determined beyond a rea-
7 sonable doubt at a hearing under section 3593, con-
8 stitutes an attempt to murder the President of the
9 United States and results in bodily injury to the
10 President or comes dangerously close to causing the
11 death of the President;

12 “(3) an offense referred to in section 408(c)(1)
13 of the Controlled Substances Act (21 U.S.C.
14 848(c)(1)), committed as part of a continuing crimi-
15 nal enterprise offense under the conditions described
16 in subsection (b) of that section which involved not
17 less than twice the quantity of controlled substance
18 described in subsection (b)(2)(A) or twice the gross
19 receipts described in subsection (b)(2)(B);

1 “(4) an offense referred to in section 408(c)(1)
2 of the Controlled Substances Act (21 U.S.C.
3 848(c)(1)), committed as part of a continuing crimi-
4 nal enterprise offense under that section, where the
5 defendant is a principal administrator, organizer, or
6 leader of such an enterprise, and the defendant, in
7 order to obstruct the investigation or prosecution of
8 the enterprise or an offense involved in the enter-
9 prise, attempts to kill or knowingly directs, advises,
10 authorizes, or assists another to attempt to kill any
11 public officer, juror, witness, or members of the fam-
12 ily or household of such a person;

13 “(5) an offense constituting a felony violation of
14 the Controlled Substances Act (21 U.S.C. 801 et
15 seq.) or the Controlled Substances Import and Ex-
16 port Act (21 U.S.C. 951 et seq.), or the Maritime
17 Drug Law Enforcement Act (46 U.S.C. App. 1901
18 et seq.), where the defendant, intending to cause
19 death or acting with reckless disregard for human
20 life, engages in such a violation, and the death of
21 another person results in the course of the violation
22 or from the use of the controlled substance involved
23 in the violation; or

24 “(6) any other offense for which a sentence of
25 death is provided, if the defendant, as determined

1 beyond a reasonable doubt at a hearing under sec-
2 tion 3593, caused the death of a person inten-
3 tionally, knowingly, or through recklessness mani-
4 festing extreme indifference to human life, or caused
5 the death of a person through the intentional inflic-
6 tion of serious bodily injury;

7 shall be sentenced to death if, after consideration of the
8 factors set forth in section 3592 in the course of a hearing
9 held pursuant to section 3593, it is determined that impo-
10 sition of a sentence of death is justified. However, no per-
11 son may be sentenced to death who was less than eighteen
12 years of age at the time of the offense.

13 **“§3592. Factors to be considered in determining**
14 **whether to recommend a sentence of**
15 **death**

16 “(a) MITIGATING FACTORS.—In determining wheth-
17 er to recommend a sentence of death, the jury, or if there
18 is no jury, the court, shall consider whether any aspect
19 of the defendant’s character, background, or record, or
20 any circumstance of the offense that the defendant may
21 proffer as a mitigating factor exists, including the follow-
22 ing:

23 “(1) MENTAL CAPACITY.—The defendant’s
24 mental capacity to appreciate the wrongfulness of

1 his conduct or to conform his conduct to the require-
2 ments of law was significantly impaired.

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

5 “(3) PARTICIPATION IN OFFENSE MINOR.—The
6 defendant’s participation in the offense, which was
7 committed by another, was relatively minor.

8 “(4) NO SIGNIFICANT CRIMINAL HISTORY.—
9 The defendant did not have a significant history of
10 other criminal conduct.

11 “(5) DISTURBANCE.—The defendant committed
12 the offense under severe mental or emotional dis-
13 turbance.

14 “(6) VICTIM’S CONSENT.—The victim consented
15 to the criminal conduct that resulted in the victim’s
16 death.

17 “(b) AGGRAVATING FACTORS FOR ESPIONAGE AND
18 TREASON.—In determining whether to recommend a sen-
19 tence of death for an offense described in section 3591(1),
20 the jury, or if there is no jury, the court, shall consider
21 any aggravating factor for which notice has been provided
22 under section 3593 of this title, including the following
23 factors:

24 “(1) PREVIOUS ESPIONAGE OR TREASON CON-
25 VICTION.—The defendant has previously been con-

1 victed of another offense involving espionage or trea-
2 son for which a sentence of life imprisonment or
3 death was authorized by statute.

4 “(2) RISK OF SUBSTANTIAL DANGER TO NA-
5 TIONAL SECURITY.—In the commission of the of-
6 fense the defendant knowingly created a grave risk
7 to the national security.

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

11 “(c) AGGRAVATING FACTORS FOR HOMICIDE AND
12 FOR ATTEMPTED MURDER OF THE PRESIDENT.—In de-
13 termining whether to recommend a sentence of death for
14 an offense described in paragraph (2) or (6) of section
15 3591 of this title, the jury, or if there is no jury, the court,
16 shall consider any aggravating factor for which notice has
17 been provided under section 3593 of this title, including
18 the following factors:

19 “(1) CONDUCT OCCURRED DURING COMMISSION
20 OF SPECIFIED CRIMES.—The conduct resulting in
21 death occurred during the commission or attempted
22 commission of, or during the immediate flight from
23 the commission of, an offense under section 32 (de-
24 struction of aircraft or aircraft facilities), section 33
25 (destruction of motor vehicles or motor vehicle facili-

1 ties), section 36 (violence at international airports),
2 section 351 (violence against Members of Congress,
3 Cabinet officers, or Supreme Court Justices), section
4 751 (prisoners in custody of institution or officer),
5 section 794 (gathering or delivering defense informa-
6 tion to aid foreign government), section 844(d)
7 (transportation of explosives in interstate commerce
8 for certain purposes), section 844(f) (destruction of
9 Government property by explosives), section 844(i)
10 (destruction of property affecting interstate com-
11 merce by explosives), section 1116 (killing or at-
12 tempted killing of diplomats), section 1118 (pris-
13 oners serving life term), section 1201 (kidnapping),
14 section 1203 (hostage taking), section 1751 (violence
15 against the President or Presidential staff), section
16 1992 (wrecking trains), chapter 109A (sexual
17 abuse), chapter 110 (sexual abuse of children), sec-
18 tion 2261 (domestic violence and stalking) section
19 2280 (maritime violence), section 2281 (maritime
20 platform violence), section 2332 (terrorist acts
21 abroad against United States nationals), section
22 2339 (use of weapons of mass destruction), section
23 2381 (treason), or section 2423 (transportation of
24 minors for sexual activity) of this title, section 1826
25 of title 28 (persons in custody as recalcitrant wit-

1 nesses or hospitalized following insanity acquittal),
2 or section 902 (i) or (n) of the Federal Aviation Act
3 of 1958, as amended (49 U.S.C. App. 1472 (i) or
4 (n) (aircraft piracy)).

5 “(2) INVOLVEMENT OF FIREARM OR PREVIOUS
6 CONVICTION OF VIOLENT FELONY INVOLVING FIRE-
7 ARM.—The defendant—

8 “(A) during and in relation to the commis-
9 sion of the offense or in escaping or attempting
10 to escape apprehension used or possessed a fire-
11 arm as defined in section 921 of this title; or

12 “(B) has previously been convicted of a
13 Federal or State offense punishable by a term
14 of imprisonment of more than one year, involv-
15 ing the use or attempted or threatened use of
16 a firearm, as defined in section 921 of this title,
17 against another person.

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

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

11 “(5) GRAVE RISK OF DEATH TO ADDITIONAL
12 PERSONS.—The defendant, in the commission of the
13 offense or in escaping or attempting to escape ap-
14 prehension, knowingly created a grave risk of death
15 to one or more persons in addition to the victim of
16 the offense.

17 “(6) HEINOUS, CRUEL OR DEPRAVED MANNER
18 OF COMMISSION.—The defendant committed the of-
19 fense in an especially heinous, cruel, or depraved
20 manner in that it involved torture or serious physical
21 abuse to the victim.

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

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

5 “(9) SUBSTANTIAL PLANNING AND
6 PREMEDITATION.—The defendant committed the of-
7 fense after substantial planning and premeditation.

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

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

13 “(A) the President of the United States,
14 the President-elect, the Vice President, the Vice
15 President-elect, the Vice President-designate,
16 or, if there was no Vice President, the officer
17 next in order of succession to the office of the
18 President of the United States, or any person
19 acting as President under the Constitution and
20 laws of the United States;

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

23 “(C) a foreign official listed in section
24 1116(b)(3)(A) of this title, if that official was
25 in the United States on official business; or

1 “(D) a Federal public servant who was
2 outside of the United States or who was a Fed-
3 eral judge, a Federal law enforcement officer,
4 an employee (including a volunteer or contract
5 employee) of a Federal prison, or an official of
6 the Federal Bureau of Prisons—

7 “(i) while such public servant was en-
8 gaged in the performance of his official du-
9 ties;

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

12 “(iii) because of such public servant’s
13 status as a public servant.

14 For purposes of this paragraph, the terms ‘Presi-
15 dent-elect’ and ‘Vice President-elect’ mean such per-
16 sons as are the apparent successful candidates for
17 the offices of President and Vice President, respec-
18 tively, as ascertained from the results of the general
19 elections held to determine the electors of President
20 and Vice President in accordance with title 3,
21 United States Code, sections 1 and 2; a ‘Federal law
22 enforcement officer’ is a public servant authorized
23 by law or by a Government agency or Congress to
24 conduct or engage in the prevention, investigation,
25 or prosecution of an offense; ‘Federal prison’ means

1 a Federal correctional, detention, or penal facility,
2 Federal community treatment center, or Federal
3 halfway house, or any such prison operated under
4 contract with the Federal Government; and ‘Federal
5 judge’ means any judicial officer of the United
6 States, and includes a justice of the Supreme Court
7 and a United States magistrate judge.

8 “(12) PRIOR CONVICTION OF SEXUAL ASSAULT
9 OR CHILD MOLESTATION.—

10 “(A) IN GENERAL.—In the case of an of-
11 fense under chapter 109A (sexual abuse) or
12 chapter 110 (sexual abuse of children), the de-
13 fendant has previously been convicted of a
14 crime of sexual assault or crime of child moles-
15 tation.

16 “(B) DEFINITIONS.—As used in this para-
17 graph—

18 “(i) the term ‘crime of sexual assault’
19 means a crime under Federal or State law
20 that involves—

21 “(I) contact between any part of
22 the defendant’s body or an object and
23 the genitals or anus of another per-
24 son, without the consent of that per-
25 son;

1 “(II) contact between the geni-
2 tals or anus of the defendant and any
3 part of the body of another person,
4 without the consent of that person;

5 “(III) deriving sexual pleasure or
6 gratification from the infliction of
7 death, bodily injury, or physical pain
8 on another person; or

9 “(IV) an attempt or conspiracy
10 to engage in any conduct described in
11 subclauses (I) through (III) of this
12 clause;

13 “(ii) the term ‘crime of child molesta-
14 tion’ means a crime of sexual assault in
15 which a child was the victim of the assault,
16 and for the purposes of this clause, a child
17 shall be considered not to have consented
18 to any of the contact referred to in clause
19 (i); and

20 “(iii) the term ‘child’ means a person
21 below the age of 14 years.”.

22 “(d) AGGRAVATING FACTORS FOR DRUG OFFENSE
23 DEATH PENALTY.—In determining whether to rec-
24 ommend a sentence of death for an offense described in
25 paragraph (3), (4), or (5) of section 3591, the jury, or

1 if there is no jury, the court, shall consider any aggravat-
2 ing factor for which notice has been provided under section
3 3593 of this title, including the following factors:

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

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

21 “(3) PREVIOUS SERIOUS DRUG FELONY CONVICT-
22 ION.—The defendant has previously been convicted
23 of another Federal or State offense involving the
24 manufacture, distribution, importation, or possession
25 of a controlled substance (as defined in section 102

1 of the Controlled Substances Act (21 U.S.C. 802))
2 for which a sentence of five or more years of impris-
3 onment was authorized by statute.

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

11 “(5) DISTRIBUTION TO PERSONS UNDER TWEN-
12 TY-ONE.—The offense, or a continuing criminal en-
13 terprise of which the offense was a part, involved
14 conduct proscribed by section 418 of the Controlled
15 Substances Act which was committed directly by the
16 defendant or for which the defendant would be liable
17 under section 2 of this title.

18 “(6) DISTRIBUTION NEAR SCHOOLS.—The of-
19 fense, or a continuing criminal enterprise of which
20 the offense was a part, involved conduct proscribed
21 by section 419 of the Controlled Substances Act
22 which was committed directly by the defendant or
23 for which the defendant would be liable under sec-
24 tion 2 of this title.

1 “(7) USING MINORS IN TRAFFICKING.—The of-
2 fense or a continuing criminal enterprise of which
3 the offense was a part, involved conduct proscribed
4 by section 420 of the Controlled Substances Act
5 which was committed directly by the defendant or
6 for which the defendant would be liable under sec-
7 tion 2 of this title.

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

15 **“§ 3593. Special hearing to determine whether to rec-**
16 **ommend a sentence of death**

17 “(a) NOTICE BY THE GOVERNMENT.—Whenever the
18 Government intends to seek the death penalty for an of-
19 fense described in section 3591, the attorney for the Gov-
20 ernment shall file with the court and serve on the defend-
21 ant a notice of such intent. The notice shall be provided
22 a reasonable time before the trial or acceptance of a guilty
23 plea, or at such later time before trial as the court may
24 permit for good cause. If the court permits a late filing
25 of the notice upon a showing of good cause, the court shall

1 ensure that the defendant has adequate time to prepare
2 for trial. The notice shall set forth the aggravating factor
3 or factors the Government will seek to prove as the basis
4 for the death penalty. The factors for which notice is pro-
5 vided under this subsection may include factors concerning
6 the effect of the offense on the victim and the victim's
7 family. The court may permit the attorney for the Govern-
8 ment to amend the notice upon a showing of good cause.

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

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

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

1 “(A) the defendant was convicted upon a
2 plea of guilty;

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

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

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

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

13 A jury impaneled pursuant to paragraph (2) shall consist
14 of twelve members, unless, at any time before the conclu-
15 sion of the hearing, the parties stipulate, with the approval
16 of the court, that it shall consist of a lesser number.

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

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

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

1 tion is presented relating to such a listed factor) any
2 other aggravating factor for which notice has been
3 so provided.

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

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

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

22 “(e) RETURN OF A FINDING CONCERNING A SEN-
23 TENCE OF DEATH.—If an aggravating factor required to
24 be considered under section 3592 is found to exist, the
25 jury, or if there is no jury, the court, shall then consider

1 whether the aggravating factor or factors found to exist
2 under subsection (d) outweigh any mitigating factor or
3 factors. The jury, or if there is no jury, the court shall
4 recommend a sentence of death if it unanimously finds at
5 least one aggravating factor and no mitigating factor or
6 if it finds one or more aggravating factors which outweigh
7 any mitigating factors. In any other case, it shall not rec-
8 ommend a sentence of death. The jury shall be instructed
9 that it must avoid any influence of sympathy, sentiment,
10 passion, prejudice, or other arbitrary factors in its deci-
11 sion, and should make such a recommendation as the in-
12 formation warrants.

13 “(f) SPECIAL PRECAUTION TO ASSURE AGAINST DIS-
14 CRIMINATION.—In a hearing held before a jury, the court,
15 prior to the return of a finding under subsection (e), shall
16 instruct the jury that, in considering whether to rec-
17 ommend a sentence of death, it shall not be influenced
18 by prejudice or bias relating to the race, color, religion,
19 national origin, or sex of the defendant or of any victim
20 and that the jury is not to recommend a sentence of death
21 unless it has concluded that it would recommend a sen-
22 tence of death for the crime in question regardless of the
23 race, color, religion, national origin, or sex of the defend-
24 ant or of any victim. The jury, upon return of a finding
25 under subsection (e), shall also return to the court a cer-

1 tificate, signed by each juror, that prejudice or bias relat-
2 ing to the race, color, religion, national origin, or sex of
3 the defendant or any victim did not affect the juror's indi-
4 vidual decision and that the individual juror would have
5 recommended the same sentence for the crime in question
6 regardless of the race, color, religion, national origin, or
7 sex of the defendant or any victim.

8 **“§ 3594. Imposition of a sentence of death**

9 “Upon the recommendation under section 3593(e)
10 that a sentence of death be imposed, the court shall sen-
11 tence the defendant to death. Otherwise the court shall
12 impose a sentence, other than death, authorized by law.
13 Notwithstanding any other provision of law, if the maxi-
14 mum term of imprisonment for the offense is life imprison-
15 ment, the court may impose a sentence of life imprison-
16 ment without the possibility of release.

17 **“§ 3595. Review of a sentence of death**

18 “(a) APPEAL.—In a case in which a sentence of death
19 is imposed, the sentence shall be subject to review by the
20 court of appeals upon appeal by the defendant. Notice of
21 appeal of the sentence must be filed within the time speci-
22 fied for the filing of a notice of appeal of the judgment
23 of conviction. An appeal of the sentence under this section
24 may be consolidated with an appeal of the judgment of

1 conviction and shall have priority over all other non-capital
2 matters in the court of appeals.

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

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

6 “(2) the information submitted during the sen-
7 tencing hearing;

8 “(3) the procedures employed in the sentencing
9 hearing; and

10 “(4) the special findings returned under section
11 3593(d).

12 “(c) DECISION AND DISPOSITION.—

13 “(1) If the court of appeals determines that—

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

17 “(B) the evidence and information support
18 the special findings of the existence of an ag-
19 gravating factor or factors; and

20 “(C) the proceedings did not involve any
21 other prejudicial error requiring reversal of the
22 sentence that was properly preserved for and
23 raised on appeal;

24 it shall affirm the sentence.

1 “(2) In any other case, the court of appeals
2 shall remand the case for reconsideration under sec-
3 tion 3593 or for imposition of another authorized
4 sentence as appropriate, except that the court shall
5 not reverse a sentence of death on the ground that
6 an aggravating factor was invalid or was not sup-
7 ported by the evidence and information if at least
8 one aggravating factor required to be considered
9 under section 3592 remains which was found to
10 exist and the court, on the basis of the evidence sub-
11 mitted at trial and the information submitted at the
12 sentencing hearing, finds no mitigating factor or
13 finds that the remaining aggravating factor or fac-
14 tors which were found to exist outweigh any mitigat-
15 ing factors.

16 “(3) The court of appeals shall state in writing
17 the reasons for its disposition of an appeal of a sen-
18 tence of death under this section.

19 **“§ 3596. Implementation of a sentence of death**

20 “(a) IN GENERAL.—A person sentenced to death
21 under this chapter shall be committed to the custody of
22 the Attorney General until exhaustion of the procedures
23 for appeal of the judgment of conviction and review of the
24 sentence. When the sentence is to be implemented, the At-
25 torney General shall release the person sentenced to death

1 to the custody of a United States Marshal. The Marshal
2 shall supervise implementation of the sentence in the man-
3 ner prescribed by the law of the State in which the sen-
4 tence is imposed, or in the manner prescribed by the law
5 of another State designated by the court if the law of the
6 State in which the sentence was imposed does not provide
7 for implementation of a sentence of death.

8 “(b) SPECIAL BARS TO EXECUTION.—A sentence of
9 death shall not be carried out upon a person who lacks
10 the mental capacity to understand the death penalty and
11 why it was imposed on that person, or upon a woman while
12 she is pregnant.

13 “(c) PERSONS MAY DECLINE TO PARTICIPATE.—No
14 employee of any State department of corrections, the Fed-
15 eral Bureau of Prisons, or the United States Marshals
16 Service, and no person providing services to that depart-
17 ment, bureau, or service under contract shall be required,
18 as a condition of that employment or contractual obliga-
19 tion, to be in attendance at or to participate in any execu-
20 tion carried out under this section if such participation
21 is contrary to the moral or religious convictions of the em-
22 ployee. For purposes of this subsection, the term ‘partici-
23 pate in any execution’ includes personal preparation of the
24 condemned individual and the apparatus used for the exe-

1 cution, and supervision of the activities of other personnel
2 in carrying out such activities.

3 **“§ 3597. Use of State facilities**

4 “A United States Marshal charged with supervising
5 the implementation of a sentence of death may use appro-
6 priate State or local facilities for the purpose, may use
7 the services of an appropriate State or local official or of
8 a person such an official employs for the purpose, and
9 shall pay the costs thereof in an amount approved by the
10 Attorney General.

11 **“§ 3598. Appointment of counsel**

12 “(a) REPRESENTATION OF INDIGENT DEFEND-
13 ANTS.—This section shall govern the appointment of coun-
14 sel for any defendant against whom a sentence of death
15 is sought, or on whom a sentence of death has been im-
16 posed, for an offense against the United States, where the
17 defendant is or becomes financially unable to obtain ade-
18 quate representation. Such a defendant shall be entitled
19 to appointment of counsel from the commencement of trial
20 proceedings until one of the conditions specified in section
21 3599(b) of this title has occurred. This section shall not
22 affect the appointment of counsel and the provision of an-
23 cillary legal services under section 848(q) (4) through (10)
24 of title 21, United States Code.

1 “(b) REPRESENTATION BEFORE FINALITY OF JUDG-
2 MENT.—A defendant within the scope of this section shall
3 have counsel appointed for trial representation as provided
4 in section 3005 of this title. At least one counsel so ap-
5 pointed shall continue to represent the defendant until the
6 conclusion of direct review of the judgment, unless re-
7 placed by the court with other qualified counsel.

8 “(c) REPRESENTATION AFTER FINALITY OF JUDG-
9 MENT.—When a judgment imposing a sentence of death
10 has become final through affirmance by the Supreme
11 Court on direct review, denial of certiorari by the Supreme
12 Court on direct review, or expiration of the time for seek-
13 ing direct review in the court of appeals or the Supreme
14 Court, the Government shall promptly notify the district
15 court that imposed the sentence. Within ten days of re-
16 ceipt of such notice, the district court shall proceed to
17 make a determination whether the defendant is eligible
18 under this section for appointment of counsel for subse-
19 quent proceedings. On the basis of the determination, the
20 court shall issue an order: (1) appointing one or more
21 counsel to represent the defendant upon a finding that the
22 defendant is financially unable to obtain adequate rep-
23 resentation and wishes to have counsel appointed or is un-
24 able competently to decide whether to accept or reject ap-
25 pointment of counsel; (2) finding, after a hearing if nec-

1 essary, that the defendant rejected appointment of counsel
2 and made the decision with an understanding of its legal
3 consequences; or (3) denying the appointment of counsel
4 upon a finding that the defendant is financially able to
5 obtain adequate representation. Counsel appointed pursu-
6 ant to this subsection shall be different from the counsel
7 who represented the defendant at trial and on direct re-
8 view unless the defendant and counsel request a continu-
9 ation or renewal of the earlier representation.

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

11 In relation to a defendant who is entitled to appointment
12 of counsel under this section, at least one counsel ap-
13 pointed for trial representation must have been admitted
14 to the bar for at least five years and have at least three
15 years of experience in the trial of felony cases in the fed-
16 eral district courts. If new counsel is appointed after judg-
17 ment, at least one counsel so appointed must have been
18 admitted to the bar for at least five years and have at
19 least three years of experience in the litigation of felony
20 cases in the Federal courts of appeals or the Supreme
21 Court. The court, for good cause, may appoint counsel
22 who does not meet these standards, but whose back-
23 ground, knowledge, or experience would otherwise enable
24 him or her to properly represent the defendant, with due

1 consideration of the seriousness of the penalty and the na-
2 ture of the litigation.

3 “(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—
4 Except as otherwise provided in this section, the provisions
5 of section 3006A of this title shall apply to appointments
6 under this section.

7 “(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—
8 The ineffectiveness or incompetence of counsel during pro-
9 ceedings on a motion under section 2255 of title 28,
10 United States Code, in a capital case shall not be a ground
11 for relief from the judgment or sentence in any proceed-
12 ing. This limitation shall not preclude the appointment of
13 different counsel at any stage of the proceedings.

14 **“§ 3599. Collateral attack on judgment imposing sen-
15 tence of death**

16 “(a) TIME FOR MAKING SECTION 2255 MOTION.—
17 In a case in which sentence of death has been imposed,
18 and the judgment has become final as described in section
19 3598(c) of this title, a motion in the case under section
20 2255 of title 28, United States Code, must be filed within
21 ninety days of the issuance of the order relating to ap-
22 pointment of counsel under section 3598(c) of this title.
23 The court in which the motion is filed, for good cause
24 shown, may extend the time for filing for a period not
25 exceeding sixty days. A motion described in this section

1 shall have priority over all noncapital matters in the dis-
2 trict court, and in the court of appeals on review of the
3 district court's decision.

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

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

16 “(2) upon completion of district court and court
17 of appeals review under section 2255 of title 28,
18 United States Code, the motion under that section
19 is denied and (A) the time for filing a petition for
20 certiorari has expired and no petition has been filed;
21 (B) a timely petition for certiorari was filed and the
22 Supreme Court denied the petition; or (C) a timely
23 petition for certiorari was filed and upon consider-
24 ation of the case, the Supreme Court disposed of it

1 in a manner that left the capital sentence undis-
2 turbed; or

3 “(3) before a district court, in the presence of
4 counsel and after having been advised of the con-
5 sequences of his decision, the defendant waives the
6 right to file a motion under section 2255 of title 28,
7 United States Code.

8 “(c) FINALITY OF THE DECISION ON REVIEW.—If
9 one of the conditions specified in subsection (b) has oc-
10 curred, no court thereafter shall have the authority to
11 enter a stay of execution or grant relief in the case un-
12 less—

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

15 “(2) the failure to raise the claim was (A) the
16 result of governmental action in violation of the Con-
17 stitution or laws of the United States; (B) the result
18 of the Supreme Court recognition of a new Federal
19 right that is retroactively applicable; or (C) based on
20 a factual predicate that could not have been discov-
21 ered through the exercise of reasonable diligence in
22 time to present the claim in earlier proceedings; and

23 “(3) the facts underlying the claim would be
24 sufficient, if proven, to undermine the court’s con-

1 fidence in the determination of guilt on the offense
2 or offenses for which the death penalty was imposed.

3 **“§ 3600. Application in Indian country**

4 “Notwithstanding sections 1152 and 1153 of this
5 title, no person subject to the criminal jurisdiction of an
6 Indian tribal government shall be subject to a capital sen-
7 tence under this chapter for any offense the Federal juris-
8 diction for which is predicated solely on Indian country
9 as defined in section 1151 of this title and which has oc-
10 curred within the boundaries of such Indian country, un-
11 less the governing body of the tribe has made an election
12 that this chapter have effect over land and persons subject
13 to its criminal jurisdiction.”; and

14 (2) in the table of chapters at the beginning of
15 part II, by adding the following new item after the
16 item relating to chapter 227:

“228. Death penalty procedures 3591.”.

17 **SEC. 702. EQUAL JUSTICE ACT.**

18 (a) DEATH PENALTY FOR CIVIL RIGHTS MUR-
19 DERS.—

20 (1) CONSPIRACY AGAINST RIGHTS.—Section
21 241 of title 18, United States Code, is amended by
22 striking “shall be subject to imprisonment for any
23 term of years or for life” and inserting “shall be
24 punished by death or imprisonment for any term of
25 years or for life”.

1 (2) DEPRIVATION OF RIGHTS UNDER COLOR OF
2 LAW.—Section 242 of title 18, United States Code,
3 is amended by striking “shall be subject to imprison-
4 ment for any term of years or for life” and inserting
5 “shall be punished by death or imprisonment for any
6 term of years or for life”.

7 (3) FEDERALLY PROTECTED ACTIVITIES.—Sec-
8 tion 245(b) of title 18, United States Code, is
9 amended by striking “shall be subject to imprison-
10 ment for any term of years or for life” and inserting
11 “shall be punished by death or imprisonment for any
12 term of years or for life”.

13 (4) DAMAGE TO RELIGIOUS PROPERTY; OB-
14 STRUCTION OF THE FREE EXERCISE OF RELIGIOUS
15 RIGHTS.—Section 247(c)(1) of title 18, United
16 States Code, is amended by inserting “the death
17 penalty or” before “imprisonment”.

18 **SEC. 703. PROHIBITION OF RACIALLY DISCRIMINATORY**
19 **POLICIES CONCERNING CAPITAL PUNISH-**
20 **MENT OR OTHER PENALTIES.**

21 (a) GENERAL RULE.—The penalty of death and all
22 other penalties shall be administered by the United States
23 and by every State without regard to the race or color
24 of the defendant or victim. Neither the United States nor
25 any State shall prescribe any racial quota or statistical

1 test for the imposition or execution of the death penalty
2 or any other penalty.

3 (b) DEFINITIONS.—For purposes of this subtitle—

4 (1) the action of the United States or of a State
5 includes the action of any legislative, judicial, execu-
6 tive, administrative, or other agency or instrumental-
7 ity of the United States or a State, or of any politi-
8 cal subdivision of the United States or a State;

9 (2) the term “State” has the meaning given in
10 section 541 of title 18, United States Code; and

11 (3) the term “racial quota or statistical test”
12 includes any law, rule, presumption, goal, standard
13 for establishing a prima facie case, or mandatory or
14 permissive inference that—

15 (A) requires or authorizes the imposition
16 or execution of the death penalty or another
17 penalty so as to achieve a specified racial pro-
18 portion relating to offenders, convicts, defend-
19 ants, arrestees, or victims; or

20 (B) requires or authorizes the invalidation
21 of, or bars the execution of, sentences of death
22 or other penalties based on the failure of a ju-
23 risdiction to achieve a specified racial propor-
24 tion relating to offenders, convicts, defendants,

1 arrestees, or victims in the imposition or execu-
2 tion of such sentences or penalties.

3 **SEC. 704. FEDERAL CAPITAL CASES.**

4 In a prosecution for an offense against the United
5 States for which a sentence of death is authorized, the
6 fact that the killing of the victim was motivated by racial
7 prejudice or bias shall be deemed an aggravating factor
8 whose existence permits consideration of the death pen-
9 alty, in addition to any other aggravating factors that may
10 be specified by law as permitting consideration of the
11 death penalty.

12 **SEC. 705. EXTENSION OF PROTECTION OF CIVIL RIGHTS**
13 **STATUTES.**

14 (a) SECTION 241.—Section 241 of title 18, United
15 States Code, is amended by striking “inhabitant of” and
16 inserting in lieu thereof “person in”.

17 (b) SECTION 242.—Section 242 of title 18, United
18 States Code, is amended by striking “inhabitant of” and
19 inserting in lieu thereof “person in”, and by striking “such
20 inhabitant” and inserting in lieu thereof “such person”.

21 **SEC. 706. FEDERAL DEATH PENALTIES.**

22 (a) MURDER BY FEDERAL PRISONERS.—Chapter 51
23 of title 18, United States Code, is amended—

24 (1) by adding at the end the following:

1 **“§ 1118. Murder by a Federal prisoner**

2 “(a) Whoever, while confined in a Federal prison
3 under a sentence for a term of life imprisonment, murders
4 another shall be punished by death or by life imprisonment
5 without the possibility of release.

6 “(b) For purposes of this section—

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

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

17 (2) by amending the table of sections by adding
18 at the end:

“1118. Murder by a Federal prisoner.”.

19 (b) MURDER OF FEDERAL, STATE, AND LOCAL LAW
20 ENFORCEMENT OFFICERS.—Section 1114 of title 18,
21 United States Code, is amended by striking “be punished
22 as provided under sections 1111 and 1112 of this title,
23 except that” and inserting “, or any State or local law
24 enforcement officer while assisting, or on account of hav-
25 ing assisted, any Federal officer or employee covered by

1 this section in the performance of duties, in the case of
2 murder as defined in section 1111 of this title, be pun-
3 ished by death or imprisonment for life, and, in the case
4 of manslaughter as defined in section 1112 of this title,
5 be punished as provided in that section, and”.

6 (c) HOMICIDES AND ATTEMPTED HOMICIDES IN-
7 VOLVING FIREARMS IN FEDERAL FACILITIES.—Section
8 930 of title 18, United States Code, is amended—

9 (1) in subsection (a), by striking “(c)” and in-
10 sserting “(d)”;

11 (2) by inserting after subsection (b) the follow-
12 ing:

13 “(c) Whoever kills or attempts to kill any person in
14 the course of a violation of subsection (a) or (b), or in
15 the course of an attack on a Federal facility involving the
16 use of a firearm or other dangerous weapon, shall—

17 “(1) in the case of a killing constituting murder
18 as defined in section 1111(a) of this title, be pun-
19 ished by death or imprisoned for any term of years
20 or for life; and

21 “(2) in the case of any other killing or an at-
22 tempted killing, be subject to the penalties provided
23 for engaging in such conduct within the special mar-
24 itime and territorial jurisdiction of the United States
25 under sections 1112 and 1113 of this title.”;

1 (3) in subsection (d)(2), by striking “(c)” and
2 inserting “(d)”;

3 (4) in subsection (g), by striking “(d)” each
4 place it appears and inserting “(e)”;

5 (5) by redesignating subsections (c), (d), (e), (f)
6 and (g) as subsections (d), (e), (f), (g), and (h), re-
7 spectively.

8 (d) DEATH PENALTY FOR CIVIL RIGHTS MUR-
9 DERS.—

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

16 (2) DEPRIVATION OF RIGHTS UNDER COLOR OF
17 LAW.—Section 242 of title 18, United States Code,
18 is amended by striking “shall be subject to imprison-
19 ment for any term of years or for life” and inserting
20 “shall be punished by death or imprisonment for any
21 term of years or for life”.

22 (3) FEDERALLY PROTECTED ACTIVITIES.—Sec-
23 tion 245(b) of title 18, United States Code, is
24 amended by striking “shall be subject to imprison-
25 ment for any term of years or for life” and inserting

1 “shall be punished by death or imprisonment for any
2 term of years or for life”.

3 (4) DAMAGE TO RELIGIOUS PROPERTY; OB-
4 STRUCTION OF THE FREE EXERCISE OF RELIGIOUS
5 RIGHTS.—Section 247(c)(1) of title 18, United
6 States Code, is amended by inserting “the death
7 penalty or” before “imprisonment”.

8 (e) DEATH PENALTY FOR GUN MURDERS.—Section
9 924 of title 18, United States Code, as amended by section
10 430 of this Act, is amended by adding at the end the fol-
11 lowing:

12 “(j) Whoever, in the course of a violation of sub-
13 section (c) of this section, causes the death of a person
14 through the use of a firearm, shall—

15 “(1) if the killing is a murder as defined in sec-
16 tion 1111 of this title, be punished by death or by
17 imprisonment for any term of years or for life; and

18 “(2) if the killing is manslaughter as defined in
19 section 1112 of this title, be punished as provided in
20 that section.”.

21 (f) MURDER BY ESCAPED PRISONERS.—

22 (1) IN GENERAL.—Chapter 51 of title 18, Unit-
23 ed States Code, as amended by section 110, is
24 amended by adding at the end the following:

1 **“§ 1119. Murder by escaped prisoners**

2 “(a) Whoever, having escaped from a Federal prison
3 where such person was confined under a sentence for a
4 term of life imprisonment, kills another shall be punished
5 as provided in sections 1111 and 1112 of this title.

6 “(b) As used in this section, the terms ‘Federal pris-
7 on’ and ‘term of life imprisonment’ have the meanings
8 given those terms in section 1118 of this title.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions at the beginning of chapter 51 of title 18,
11 United States Code, is amended by adding at the
12 end the following:

“1119. Murder by escaped prisoners.”.

13 (g) TORTURE.—

14 (1) IN GENERAL.—Part I of title 18, United
15 States Code, is amended by inserting after chapter
16 113A the following new chapter:

17 **“CHAPTER 113B—TORTURE**

“Sec.

“2340. Definitions.

“2340A. Torture.

“2340B. Exclusive remedies.

18 **“§ 2340. Definitions**

19 “As used in this chapter—

20 “(1) the term ‘torture’ means an act committed
21 by a person acting under the color of law specifically
22 intended to inflict severe physical or mental pain or

1 suffering (other than pain or suffering incidental to
2 lawful sanctions) upon another person within his
3 custody or physical control;

4 “(2) the term ‘severe mental pain or suffering’
5 means the prolonged mental harm caused by or re-
6 sulting from—

7 “(A) the intentional infliction or threat-
8 ened infliction of severe physical pain or suffer-
9 ing;

10 “(B) the administration or application, or
11 threatened administration or application, of
12 mind altering substances or other procedures
13 calculated to disrupt profoundly the senses or
14 the personality;

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

16 “(D) the threat that another person will
17 imminently be subjected to death, severe phys-
18 ical pain or suffering, or the administration or
19 application of mind altering substances or other
20 procedures calculated to disrupt profoundly the
21 senses or personality; and

22 “(3) the term ‘United States’ includes all areas
23 under the jurisdiction of the United States including
24 any of the places within the provisions of sections 5
25 and 7 of this title and section 101(38) of the Fed-

1 eral Aviation Act of 1958, as amended (49 U.S.C.
2 App. 1301(38)).

3 **“§ 2340A. Torture**

4 “(a) Whoever, outside the United States and in a cir-
5 cumstance described in subsection (b) of this section, com-
6 mits or attempts to commit torture shall be fined under
7 this title or imprisoned not more than 20 years, or both,
8 and if death results to any person from conduct prohibited
9 by this subsection, shall be punished by death or impris-
10 oned for any term of years or for life.

11 “(b) The circumstances referred to in subsection (a)
12 of this section are—

13 “(1) the alleged offender is a national of the
14 United States; or

15 “(2) the alleged offender is present in the Unit-
16 ed States, irrespective of the nationality of the vic-
17 tim or the alleged offender.

18 **“§ 2340B. Exclusive remedies**

19 “Nothing in this chapter shall be construed as pre-
20 cluding the application of State or local laws on the same
21 subject, nor shall anything in this chapter be construed
22 as creating any substantive or procedural right enforceable
23 by law by any party in any civil proceeding.”.

24 (2) CLERICAL AMENDMENT.—The table of
25 chapters for part I of title 18, United States Code,

1 is amended by inserting after the item for chapter
2 113A the following new item:

“**113B. Torture** **2340.**”.

3 (3) EFFECTIVE DATE.—This subsection shall
4 take effect on the later of—

5 (1) the date of enactment of this section;

6 or

7 (2) the date the United States has become
8 a party to the Convention Against Torture and
9 Other Cruel, Inhuman or Degrading Treatment
10 or Punishment.

11 (h) CARJACKING RESULTING IN DEATH.—Section
12 2119 of title 18, United States Code, is amended—

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

14 (2) by striking “, possessing a firearm as de-
15 fined in section 921 of this title,”;

16 (3) by striking “shall—” and all that follows
17 through the end of the existing section and inserting
18 “shall be punished as provided in subsection (c) of
19 this section.”; and

20 (4) by adding at the end the following:

21 “(b) Whoever, in furtherance of a State or Federal
22 crime of violence, obstructs, impedes, or makes unauthor-
23 ized physical contact with, a motor vehicle of another, if
24 such vehicle has been transported, shipped, or received in

1 interstate or foreign commerce, shall be punished as pro-
2 vided in subsection (c) of this section.

3 “(c) A person violating this section shall—

4 “(1) be fined under this title or imprisoned not
5 more than 15 years, or both;

6 “(2) if serious bodily injury (as defined in sec-
7 tion 1365 of this title) results, be fined under this
8 title or imprisoned not more than 25 years, or both;
9 and

10 “(3) if death results, be fined under this title
11 or imprisoned for any number of years up to life, or
12 both, and shall be subject to the penalty of death.”.

13 **SEC. 707. CONFORMING AND TECHNICAL AMENDMENTS.**

14 (a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FA-
15 CILITIES.—Section 34 of title 18, United States Code, is
16 amended by striking the comma after “imprisonment for
17 life” and all that follows through the end of the section
18 and inserting a period.

19 (b) ESPIONAGE.—Section 794(a) of title 18, United
20 States Code, is amended by striking the period at the end
21 of the section and inserting the following: “, except that
22 the sentence of death shall not be imposed unless the jury
23 or, if there is no jury, the court, further finds beyond a
24 reasonable doubt at a hearing under section 3593 of this
25 title that the offense directly concerned nuclear weaponry,

1 military spacecraft and satellites, early warning systems,
2 or other means of defense or retaliation against large-scale
3 attack; war plans; communications intelligence or cryp-
4 tographic information; sources or methods of intelligence
5 or counterintelligence operations; or any other major
6 weapons system or major element of defense strategy.”.

7 (c) TRANSPORTING EXPLOSIVES.—Section 844(d) of
8 title 18, United States Code, is amended by striking “as
9 provided in section 34 of this title”.

10 (d) MALICIOUS DESTRUCTION OF FEDERAL PROP-
11 erty BY EXPLOSIVES.—Section 844(f) of title 18, United
12 States Code, is amended by striking “as provided in sec-
13 tion 34 of this title”.

14 (e) MALICIOUS DESTRUCTION OF INTERSTATE PROP-
15 erty BY EXPLOSIVES.—Section 844(i) of title 18, United
16 States Code, is amended by striking “as provided in sec-
17 tion 34 of this title”.

18 (f) MURDER.—Section 1111(b) of title 18, United
19 States Code, is amended to read as follows:

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

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

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

4 (g) KILLING OFFICIAL GUESTS AND INTERNATION-
5 ALLY PROTECTED PERSONS.—Subsection (a) of section
6 1116 of title 18, United States Code, is amended by in-
7 serting a period after “title” and striking the remainder
8 of the subsection.

9 (h) KIDNAPPING.—Section 1201(a) of title 18, Unit-
10 ed States Code, is amended by inserting after “or for life”
11 the following: “and, if the death of any person results,
12 shall be punished by death or life imprisonment”.

13 (i) HOSTAGE TAKING.—Section 1203(a) of title 18,
14 United States Code, is amended by inserting after “or for
15 life” the following “and, if the death of any person results,
16 shall be punished by death or life imprisonment”.

17 (j) MAILABILITY OF INJURIOUS ARTICLES.—The last
18 paragraph of section 1716 of title 18, United States Code,
19 is amended by striking the comma after “imprisonment
20 for life” and all that follows through the end of the para-
21 graph and inserting a period.

22 (k) PRESIDENTIAL ASSASSINATION.—Subsection (c)
23 of section 1751 of title 18, United States Code, is amend-
24 ed to read as follows:

1 “(c) Whoever attempts to murder or kidnap any indi-
2 vidual designated in subsection (a) of this section shall be
3 punished (1) by imprisonment for any term of years or
4 for life, or (2) by death or imprisonment for any term of
5 years or for life if the conduct constitutes an attempt to
6 murder the President of the United States and results in
7 bodily injury to the President or otherwise comes dan-
8 gerously close to causing the death of the President.”.

9 (l) MURDER FOR HIRE.—Section 1958(a) of title 18
10 of the United States Code is amended by striking “and
11 if death results, shall be subject to imprisonment for any
12 term of years or for life, or shall be fined not more than
13 \$50,000, or both” and inserting “and if death results,
14 shall be punished by death or life imprisonment, or shall
15 be fined in accordance with this title, or both”.

16 (m) VIOLENT CRIMES IN AID OF RACKETEERING AC-
17 TIVITY.—Paragraph (1) of subsection (a) of section 1959
18 of title 18, United States Code, is amended to read as
19 follows:

20 “(1) for murder, by death or life imprisonment,
21 or a fine in accordance with this title, or
22 both; and for kidnapping, by imprisonment for
23 any term of years or for life, or a fine in accordance
24 with this title, or both;”.

1 (n) WRECKING TRAINS.—The second to the last
2 paragraph of section 1992 of title 18, United States Code,
3 is amended by striking the comma after “imprisonment
4 for life” and all that follows through the end of the section
5 and inserting a period.

6 (o) BANK ROBBERY.—Section 2113(e) of title 18,
7 United States Code, is amended by striking “or punished
8 by death if the verdict of the jury shall so direct” and
9 inserting “or if death results shall be punished by death
10 or life imprisonment”.

11 (p) TERRORIST ACTS.—Section 2332(a)(1) of title
12 18, United States Code, is amended to read as follows:

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

17 (q) AIRCRAFT HIJACKING.—Section 903 of the Fed-
18 eral Aviation Act of 1958 (49 U.S.C. App. 1473), is
19 amended by striking subsection (c).

20 (r) CONTROLLED SUBSTANCES ACT.—Section 408 of
21 the Controlled Substances Act is amended by striking sub-
22 sections (g)–(p), (q) (1)–(3) and (r).

23 (s) GENOCIDE.—Section 1091(b)(1) of title 18, Unit-
24 ed States Code, is amended by striking “a fine of not more
25 than \$1,000,000 and imprisonment for life;” and inserting

1 “death or imprisonment for life and a fine of not more
2 than \$1,000,000;”.

3 (t) INAPPLICABILITY TO UNIFORM CODE OF MILI-
4 TARY JUSTICE.—Chapter 228 of title 18, United States
5 Code, as added by this Act, shall not apply to prosecutions
6 under the Uniform Code of Military Justice (10 U.S.C.
7 801 et seq.).

8 **Subtitle B—Violent Felonies and** 9 **Drug Offenses**

10 **SEC. 711. DRUG TESTING OF FEDERAL OFFENDERS ON** 11 **POST-CONVICTION RELEASE.**

12 (a) DRUG TESTING PROGRAM.—(1) Chapter 229 of
13 title 18, United States Code, is amended by adding at the
14 end the following:

15 **“§ 3608. Drug testing of Federal offenders on post-** 16 **conviction release**

17 “The Director of the Administrative Office of the
18 United States Courts, in consultation with the Attorney
19 General and the Secretary of Health and Human Services,
20 shall, as soon as is practicable after the effective date of
21 this section, establish a program of drug testing of Federal
22 offenders on post-conviction release. The program shall in-
23 clude such standards and guidelines as the Director may
24 determine necessary to ensure the reliability and accuracy
25 of the drug testing programs. In each district where it is

1 feasible to do so, the chief probation officer shall arrange
2 for the drug testing of defendants on post-conviction re-
3 lease pursuant to a conviction for a felony or other offense
4 described in section 3563(a)(4) of this title.”.

5 (2) The table of sections at the beginning of chapter
6 229 of title 18, United States Code, is amended by adding
7 at the end the following:

“3608. Drug testing of Federal offenders on post-conviction release.”.

8 (b) DRUG TESTING CONDITION FOR PROBATION.—

9 (1) Section 3563(a) of title 18, United States
10 Code, is amended—

11 (A) in paragraph (2), by striking out
12 “and”;

13 (B) in paragraph (3), by striking out the
14 period and inserting “; and”; and

15 (C) by adding after paragraph (3) the fol-
16 lowing:

17 “(4) for a felony, an offense involving a firearm
18 as defined in section 921 of this title, a drug or nar-
19 cotic offense as defined in section 404(c) of the Con-
20 trolled Substances Act (21 U.S.C. 844(c)), or a
21 crime of violence as defined in section 16 of this
22 title, that the defendant refrain from any unlawful
23 use of the controlled substance and submit to peri-
24 odic drug tests (as determined by the court) for use
25 of a controlled substance. This latter condition may

1 be suspended or ameliorated upon request of the Di-
2 rector of the Administrative Office of the United
3 States Courts, or the Director's designee. In addi-
4 tion, the Court may decline to impose this condition
5 for any individual defendant, if the defendant's
6 presentence report or other reliable sentencing infor-
7 mation indicates a low risk of future substance
8 abuse by the defendant. A defendant who tests posi-
9 tive may be detained pending verification of a drug
10 test result.".

11 (2) DRUG TESTING FOR SUPERVISED RE-
12 LEASE.—Section 3583(d) of title 18, United States
13 Code, is amended by inserting after the first sen-
14 tence the following: "For a defendant convicted of a
15 felony or other offense described in section
16 3563(a)(4) of this title, the court shall also order, as
17 an explicit condition of supervised release, that the
18 defendant refrain from any unlawful use of a con-
19 trolled substance and submit to periodic drug tests
20 (as determined by the court), for use of a controlled
21 substance. This latter condition may be suspended
22 or ameliorated as provided in section 3563(a)(4) of
23 this title.".

24 (3) DRUG TESTING IN CONNECTION WITH PA-
25 ROLE.—Section 4209(a) of title 18, United States

1 Code, is amended by inserting after the first sen-
2 tence the following: “If the parolee has been con-
3 victed of a felony or other offense described in sec-
4 tion 3563(a)(4) of this title, the Commission shall
5 also impose as a condition of parole that the parolee
6 refrain from any unlawful use of a controlled sub-
7 stance and submit to periodic drug tests (as deter-
8 mined by the Commission) for use of a controlled
9 substance. This latter condition may be suspended
10 or ameliorated as provided in section 3563(a)(4) of
11 this title.”.

12 (c) REVOCATION OF RELEASE.—

13 (1) REVOCATION OF PROBATION.—The last
14 sentence of section 3565(a) of title 18, United
15 States Code, is amended by inserting “or unlawfully
16 uses a controlled substance or refuses to cooperate
17 in drug testing, thereby violating the condition im-
18 posed by section 3563(a)(4),” after “3563(a)(3)”.

19 (2) REVOCATION OF SUPERVISED RELEASE.—
20 Section 3583(g) of title 18, United States Code, is
21 amended by inserting “or unlawfully uses a con-
22 trolled substance or refuses to cooperate in drug
23 testing imposed as a condition of supervised re-
24 lease,” after “substance”.

1 (3) REVOCATION OF PAROLE.—Section 4214(f)
2 of title 18, United States Code, is amended by in-
3 serting after “substance” the following: “, or who
4 unlawfully uses a controlled substance or refuses to
5 cooperate in drug testing imposed as a condition of
6 parole,”.

7 **SEC. 712. LIFE IMPRISONMENT OR DEATH PENALTY FOR**
8 **THIRD FEDERAL VIOLENT FELONY CONVICT-**
9 **TION.**

10 Section 3581 of title 18, United States Code, is
11 amended by adding at the end the following:

12 “(c) PUNISHMENT OF CERTAIN VIOLENT FELONS.—

13 “(1) GENERAL RULE.—Notwithstanding any
14 other provision of this title or any other law, in the
15 case of a conviction for a Federal violent felony, the
16 court shall sentence the defendant to prison for life
17 if the defendant has previously been convicted of two
18 other violent felonies and if a death results from the
19 violent felony, the defendant shall be subject to the
20 death penalty.

21 “(2) DEFINITION.—As used in this section the
22 term “violent felony” is a State or Federal crime of
23 violence (as defined in section 16 of this title)—

1 “(A) that involves the threatened use, use,
2 or the risk of use of physical force against the
3 person of another;

4 “(B) for which the maximum authorized
5 imprisonment exceeds one year; and

6 “(C) which is not designated a mis-
7 demeanor by the law that defines the offense.

8 “(3) RULE OF CONSTRUCTION.—This sub-
9 section shall not be construed to prevent the imposi-
10 tion of the death penalty.”.

11 **SEC. 713. STRENGTHENING THE ARMED CAREER CRIMI-**
12 **NALS ACT.**

13 Section 924(e)(2)(A) of title 18, United States Code,
14 as amended by section 151 of this Act, is amended—

15 (1) in clause (ii), by striking “or” at the end;

16 (2) in clause (iii), by adding “or” at the end;

17 and

18 (3) by adding at the end the following:

19 “(iv) an offense under State law which, if
20 it had been prosecuted as a violation of the
21 Controlled Substances Act at the time of the of-
22 fense and because of the type and quantity of
23 the controlled substance involved, would have
24 been punishable by a maximum term of impris-
25 onment of ten years or more;”.

1 **SEC. 714. ENHANCED PENALTY FOR USE OF SEMIAUTO-**
2 **MATIC FIREARM DURING A CRIME OF VIO-**
3 **LENCE OR DRUG TRAFFICKING OFFENSE.**

4 (a) ENHANCED PENALTY.—Section 924(c)(1) of title
5 18, United States Code, is amended by inserting “, or
6 semiautomatic firearm,” after “short-barreled shotgun”.

7 (b) SEMIAUTOMATIC FIREARM DEFINED.—Section
8 921(a) of such title is amended by adding at the end the
9 following:

10 “(29) The term ‘semiautomatic firearm’ means any
11 repeating firearm which utilizes a portion of the energy
12 of a firing cartridge to extract the fired cartridge case and
13 chamber the next round, and which requires a separate
14 pull of the trigger to fire each cartridge.”.

15 **SEC. 715. MANDATORY PENALTIES FOR FIREARMS POSSES-**
16 **SION BY VIOLENT FELONS AND SERIOUS**
17 **DRUG OFFENDERS.**

18 (a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title
19 18, United States Code, is amended by inserting “, and
20 if the violation is of section 922(g)(1) by a person who
21 has a previous conviction for a violent felony (as defined
22 in subsection (e)(2)(B) of this section) or a serious drug
23 offense (as defined in subsection (e)(2)(A) of this section),
24 a sentence imposed under this paragraph shall include a
25 term of imprisonment of not less than five years” before
26 the period.

1 (b) 2 PRIOR CONVICTIONS.—Section 924 of such
2 title, as amended by sections 430 and 706(e) of this Act,
3 is amended by adding at the end the following:

4 “(k)(1) Notwithstanding subsection (a)(2) of this sec-
5 tion, any person who violates section 922(g) and has 2
6 previous convictions by any court referred to in section
7 922(g)(1) for a violent felony (as defined in subsection
8 (e)(2)(B) of this section) or a serious drug offense (as de-
9 fined in subsection (e)(2)(A) of this section) committed
10 on occasions different from one another shall be fined
11 under this title, imprisoned not less than 10 years and
12 not more than 20 years, or both.

13 “(2) Notwithstanding any other provision of law, the
14 court shall not suspend the sentence of, or grant a proba-
15 tionary sentence to, a person described in paragraph (1)
16 of this subsection with respect to the conviction under sec-
17 tion 922(g).”.

18 **SEC. 716. MANDATORY MINIMUM SENTENCE FOR UNLAW-**
19 **FUL POSSESSION OF A FIREARM BY CON-**
20 **VICTED FELON, FUGITIVE FROM JUSTICE, OR**
21 **TRANSFEROR OR RECEIVER OF STOLEN**
22 **FIREARM.**

23 (a) IN GENERAL.—Section 924(a) of title 18, United
24 States Code, is amended—

1 (1) in paragraph (1), by striking “paragraph
2 (2) or (3) of”; and

3 (2) by adding at the end the following:

4 “(5) Whoever knowingly possesses a firearm in viola-
5 tion of paragraph (1) or (2) of section 922(g), or in viola-
6 tion of subsection (i) or (j), shall be imprisoned not less
7 than 5 years. Notwithstanding any other provision of law,
8 the court shall not place on probation or suspend the sen-
9 tence of any person convicted under this paragraph, nor
10 shall the term of imprisonment imposed under this para-
11 graph run concurrently with any other term of imprison-
12 ment imposed under any other provision of law.”.

13 **SEC. 717. INCREASE IN GENERAL PENALTY FOR VIOLATION**
14 **OF FEDERAL FIREARMS LAWS.**

15 Section 924(a)(1) of title 18, United States Code, is
16 amended—

17 (1) by striking “\$5,000” and inserting
18 “\$10,000”; and

19 (2) by striking “five” and inserting “10”.

20 **SEC. 718. INCREASE IN ENHANCED PENALTIES FOR POS-**
21 **SESSION OF FIREARM IN CONNECTION WITH**
22 **CRIME OF VIOLENCE OR DRUG TRAFFICKING**
23 **CRIME.**

24 Section 924(c)(1) of title 18, United States Code, is
25 amended—

1 (1) by striking “five” and inserting “10”; and

2 (2) by striking “twenty” and inserting “30”.

3 **SEC. 719. SMUGGLING FIREARMS IN AID OF DRUG TRAF-**
4 **FICKING OR VIOLENT CRIME.**

5 Section 924 of title 18, United States Code, as
6 amended by sections 430, 706(e), and 715(b) of this Act,
7 is amended by adding at the end the following:

8 “(l) Whoever, with the intent to engage in or to pro-
9 mote conduct which—

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

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

18 “(3) constitutes a crime of violence (as defined
19 in subsection (c)(3) of this section;

20 smuggles or knowingly brings into the United States a
21 firearm, or attempts to do so, shall be imprisoned for not
22 more than ten years, fined under this title, or both.”.

23 **SEC. 720. DEFINITION OF CONVICTION UNDER CHAPTER 44.**

24 Section 921(a)(20) of title 18, United States Code,
25 is amended in the 3rd sentence by inserting “(other than

1 for a violent felony (as defined in section 924(e)(2)(B))
2 involving the threatened or actual use of a firearm or ex-
3 plosive, or for a serious drug offense (as defined in section
4 924(e)(2)(A)))” after “Any conviction”.

5 **SEC. 721. DEFINITION OF SERIOUS DRUG OFFENSE UNDER**
6 **THE ARMED CAREER CRIMINAL ACT.**

7 Section 924(e)(2)(A) of title 18, United States Code,
8 as amended by sections 151 and 713 of this Act, is amend-
9 ed—

10 (1) by striking “or” at the end of clause (iii);

11 (2) by inserting “or” at the end of clause (iv);

12 and

13 (3) by adding at the end the following:

14 “(v) an offense under State law that, if it were
15 prosecuted as a violation of the Controlled Sub-
16 stances Act (21 U.S.C. 801 et seq.) as that Act pro-
17 vided at the time of the offense, would be punishable
18 by a maximum term of imprisonment of 10 years or
19 more;”.

20 **SEC. 722. DEFINITION OF BURGLARY UNDER THE ARMED**
21 **CAREER CRIMINAL ACT.**

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

24 (1) by striking “and” at the end of subpara-
25 graph (B);

1 (2) by striking the period at the end of sub-
2 paragraph (C) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(D) the term ‘burglary’ means a crime that—

5 “(i) consists of entering or remaining sur-
6 reptitiously in a building that is the property of
7 another person with intent to engage in conduct
8 constituting a Federal or State offense; and

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

11 **SEC. 723. TEMPORARY PROHIBITION AGAINST POSSESSION**
12 **OF A FIREARM BY, OR TRANSFER OF A FIRE-**
13 **ARM TO, PERSONS CONVICTED OF A DRUG**
14 **CRIME.**

15 (a) TEMPORARY PROHIBITION.—Section 922 of title
16 18, United States Code, is amended by adding at the end
17 the following:

18 “(s)(1)(A) Except as provided in paragraph (2), it
19 shall be unlawful for any individual who has been con-
20 victed in any court of a drug crime to possess a firearm
21 during the period described in subparagraph (B).

22 “(B) The period described in this subparagraph is the
23 period that begins with the date the individual committed
24 the drug crime and ends 5 years after the most recent
25 date (occurring after the commission of such crime) on

1 which the individual has committed a drug crime or has
2 violated any Federal or State law relating to firearms.

3 “(2) Paragraph (1) shall not apply with respect to
4 convictions occurring on or before the date of the enact-
5 ment of this subsection.

6 “(t)(1)(A) Except as provided in paragraph (2), it
7 shall be unlawful for any person to transfer a firearm to
8 any individual knowing or having reasonable cause to be-
9 lieve that the individual is under indictment for a drug
10 crime.

11 “(B)(i) Except as provided in paragraph (2), it shall
12 be unlawful for any person, during the period described
13 in clause (ii), to transfer a firearm to any individual know-
14 ing or having reasonable cause to believe that the individ-
15 ual has been convicted in any court of a drug crime.

16 “(ii) The period described in this clause is the period
17 that begins with the date the individual committed the
18 drug crime and ends 5 years after the most recent date
19 (occurring after the commission of such crime) on which
20 the individual has committed a drug crime or has violated
21 any Federal or State law relating to firearms.

22 “(2) The second sentence of subsection (d) shall
23 apply in like manner to paragraph (1) of this subsection.”.

1 (b) PENALTY.—Section 924(a)(1)(B) of such title, as
2 amended by section 103(b) of this Act, is amended by
3 striking “or (r)” and inserting “(r), (s)(1), or (t)(1)”.

4 (c) ENHANCED PENALTIES FOR POSSESSION OF A
5 FIREARM DURING A DRUG CRIME.—Section 924 of such
6 title, as amended by sections 430, 706(e), 715(b), and 719
7 of this Act, is amended by adding at the end the following:

8 “(m) Whoever, during and in relation to a drug crime
9 (including a drug crime which provides for an enhanced
10 punishment if committed by the use of a deadly or dan-
11 gerous weapon or device) for which he may be prosecuted
12 in a court of the United States, possesses a firearm, in
13 addition to the punishment provided for such drug crime,
14 may be sentenced to imprisonment for not less than 15
15 days and not more than 2 years, and shall be fined not
16 less than \$2,500 and not more than \$10,000, and if the
17 firearm is a machine gun, or is equipped with a firearm
18 silencer or firearm muffler, shall be sentenced to imprison-
19 ment for 15 years. In the case of a second or subsequent
20 conviction under this subsection, such person shall be sen-
21 tenced to imprisonment for not less than 15 days and not
22 more than 2 years, and shall be fined not less than \$2,500
23 and not more than \$10,000, and if the firearm is a ma-
24 chine gun, or is equipped with a firearm silencer or fire-
25 arm muffler, shall be sentenced to imprisonment for 30

1 years. Notwithstanding any other provision of law, the
2 court shall not place on probation or suspend the sentence
3 of any person convicted of a violation of this subsection,
4 nor shall the term of imprisonment imposed under this
5 subsection run concurrently with any other term of impris-
6 onment including that imposed for the drug crime in
7 which the firearm was possessed.”.

8 (d) DEFINITION OF DRUG CRIME.—Section 921(a)
9 of such title, as amended by section 714(b) of this Act,
10 is amended by adding at the end the following:

11 “(30) The term ‘drug crime’ means any offense
12 (other than a drug trafficking crime) punishable by im-
13 prisonment under—

14 “(A) any Act specified in section 924(c)(2); or

15 “(B) any State law involving the possession,
16 distribution, or manufacture of a controlled sub-
17 stance (as defined in section 102 of the Controlled
18 Substances Act).”.

19 **Subtitle C—Enhanced Penalties for**
20 **Criminal Use of Firearms and**
21 **Explosives**

22 **Chapter 1—Instant Check System for**
23 **Handgun Purchases**

24 **SEC. 731. DEFINITIONS.**

25 As used in this chapter:

1 (1) The term “background check crime” means
2 a crime punishable by imprisonment for a term ex-
3 ceeding 1 year within the meaning of section
4 921(a)(20) of title 18, United States Code.

5 (2) The term “handgun” has the meaning given
6 such term in section 921(a)(31) of title 18, United
7 States Code.

8 (3) The term “licensee” means a licensed im-
9 porter, licensed manufacturer, or licensed dealer, as
10 defined in paragraphs (9), (10), and (11), respec-
11 tively, of section 921(a) of title 18, United States
12 Code.

13 (4) The term “State” means a State, the Dis-
14 trict of Columbia, the Commonwealth of Puerto
15 Rico, American Samoa, the Virgin Islands, Guam,
16 and the Trust Territories of the Pacific.

17 **SEC. 732. STATE INSTANT CRIMINAL CHECK SYSTEMS FOR**
18 **HANDGUN PURCHASES.**

19 (a) IN GENERAL.—Not later than the date that is
20 12 months after the date of the enactment of this chapter,
21 each State shall establish and maintain a system that, on
22 receipt of an inquiry from a licensee pursuant to section
23 922(u)(1)(A) of title 18, United States Code, immediately
24 researches the criminal history of a prospective handgun
25 transferee, advises the licensee whether its records dem-

1 onstrate that such transferee is prohibited from receiving
2 a handgun by reason of subsection (g) or (n) of section
3 922 of such title, and, if such transferee is not so prohib-
4 ited, provides the licensee a unique identification number
5 with respect to the transfer.

6 (b) ADDITIONAL REQUIREMENTS.—A State instant
7 criminal check system shall—

8 (1) provide for the privacy and security of the
9 information contained in the system at least to the
10 extent of the protections and remedies provided in
11 section 552a(g) of title 5, United States Code;

12 (2) ensure that information provided to the sys-
13 tem by a licensee pursuant to section
14 922(u)(1)(B)(i) of title 18, United States Code, is
15 not retained in any form whatsoever, is not conveyed
16 to any person except a person who has a need to
17 know to carry out the purpose of that section, and
18 is not used for any purpose other than to carry out
19 that section; and

20 (3) provide to a prospective handgun transferee
21 who is denied receipt of a handgun on the basis of
22 information provided by the system a procedure for
23 the correction of erroneous information as otherwise
24 set forth in this chapter.

25 (c) PROHIBITIONS ON USES OF INFORMATION.—

1 (1) RECORDATION BY THE GOVERNMENT.—No
2 record or portion thereof generated by an inquiry
3 concerning or a search of the criminal history of a
4 prospective transferee under a State instant criminal
5 check system established under subsection (a) shall
6 be recorded at or transferred to a facility owned,
7 managed, or controlled by the United States or any
8 State or political subdivision thereof.

9 (2) REGISTRATION OF OWNERSHIP.—Neither
10 the United States, nor a State, nor any political sub-
11 division thereof may use information provided by a
12 licensee pursuant to a State instant criminal check
13 system established under subsection (a) of this sec-
14 tion to establish any system for the registration of
15 handguns, handgun owners, or handgun transactions
16 or dispositions, except with respect to persons who
17 are prohibited from receiving a handgun by reason
18 of subsection (g) or (n) of section 922 of title 18,
19 United States Code.

20 **SEC. 733. AMENDMENT OF CHAPTER 44 OF TITLE 18,**
21 **UNITED STATES CODE.**

22 (a) DEFINITIONS.—Section 921(a) of title 18, United
23 States Code, as amended by sections 714(b) and 723(d)
24 of this Act, is amended by adding at the end the following:

25 “(31) The term ‘handgun’ means—

1 “(A) a firearm (other than a firearm that is a
2 curio or relic under criteria established by the Sec-
3 retary by regulation) that has a short stock and is
4 designed to be held and fired by the use of a single
5 hand; and

6 “(B) any combination of parts designed and in-
7 tended to be assembled into such a firearm and from
8 which such a firearm can be readily assembled.”.

9 (b) IDENTIFICATION PROCEDURE.—Section 922 of
10 such title, as amended by section 721(a) of this Act, is
11 amended by adding at the end the following:

12 “(u)(1) Upon a State instant criminal check system
13 becoming operational pursuant to chapter 1 of subtitle C
14 of title VII of the Crime Control Act of 1993, and notice
15 by an appropriate State official by certified mail to each
16 licensee in the State that such system is operational, a
17 licensed importer, licensed manufacturer, or licensed deal-
18 er shall not knowingly transfer a handgun from the busi-
19 ness inventory of such licensee to any other person who
20 is not licensed under this chapter before the completion
21 of the transfer unless—

22 “(A) the licensee contacts the State instant
23 criminal check system; and

24 “(B)(i) the State system notifies the licensee
25 that the system has not located any record that

1 demonstrates that the receipt of a handgun by such
2 other person would violate subsection (g) or (n); or

3 “(ii) at least 8 hours have elapsed since the li-
4 censee first contacted the system with respect to the
5 transfer, and the system has not notified the licensee
6 that the information available to the system dem-
7 onstrates that the receipt of a handgun by the per-
8 son would violate subsection (g) or (n).

9 “(2) Paragraph (1) shall not apply to a handgun
10 transfer between a licensee and another person if—

11 “(A) the other person presents to the licensee
12 a valid permit or license issued by the State or a po-
13 litical subdivision of the State in which the transfer
14 is to occur that authorizes the person to purchase,
15 possess, or carry a firearm;

16 “(B) the Secretary has, under section 5812 of
17 the Internal Revenue Code of 1986, approved the
18 transfer;

19 “(C) the ability of the licensee to exchange in-
20 formation with the system described in paragraph
21 (1) is impaired for a period of more than 8 hours
22 due to natural or human disaster, insurrection, riot,
23 hurricane, other act of God, or other circumstance
24 beyond the control of the licensee; or

1 “(D) on application of the licensee, the State
2 instant criminal check system has certified that com-
3 pliance with paragraph (1)(B)(i) is impracticable be-
4 cause of the inability of the licensee to communicate
5 with the system due to the remote location of the li-
6 censed premises.

7 “(3) If the State instant criminal check system noti-
8 fies the licensee that the information available to the sys-
9 tem does not demonstrate that the receipt of a handgun
10 by the person would violate subsection (g) or (n), and the
11 licensee transfers a handgun to the person, the licensee
12 shall include in the record of the transfer the unique iden-
13 tification number provided by the system with respect to
14 the transfer.

15 “(4)(A) If the licensee knowingly transfers a handgun
16 to a person and willfully fails to comply with paragraph
17 (1) with respect to the transfer and, at the time of the
18 transfer, the State instant criminal check system was op-
19 erating and information was available to the system dem-
20 onstrating that receipt of a handgun by the person would
21 violate subsection (g) or (n), the Secretary may, after no-
22 tice and opportunity for a hearing, suspend for not more
23 than 12 months or revoke any license issued to the licensee
24 under section 923, and may impose on the licensee a civil
25 fine of not more than \$10,000.

1 “(B) Any action by the Secretary under subpara-
2 graph (A) of this paragraph shall be subject to the proce-
3 dures and remedies provided in subsections (e) and (f) of
4 section 923.

5 “(5) A State employee responsible for providing infor-
6 mation through a State instant criminal check system
7 shall not be liable in an action at law for damages for
8 failure to prevent the sale or transfer of a handgun to
9 a person whose receipt or possession of a handgun is un-
10 lawful.

11 “(6) Notwithstanding any law, rule, or regulation of
12 a State or political subdivision of a State that requires
13 a waiting period prior to the receipt or sale of a handgun,
14 after a State instant criminal check system has been
15 placed in operation, a licensee may transfer, and a person
16 may receive, a handgun immediately upon notification of
17 the licensee pursuant to subparagraph (1)(B)(i). No per-
18 mit or license shall be required by any State or political
19 subdivision of a State for such transfer or receipt.”.

20 (c) PENALTIES.—Section 924(a) of title 18, United
21 States Code, as amended by section 716(a) of this Act,
22 is amended by adding at the end the following:

23 “(6) A person who willfully violates section 922(u)
24 shall be fined not more than \$2,000, imprisoned not more
25 than 1 year, or both.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect 120 days after the date of
3 the enactment of this chapter.

4 **SEC. 734. ESTABLISHMENT AND OPERATION OF CRIMINAL**
5 **HISTORY SYSTEM.**

6 (a) ESTABLISHMENT OF THE SYSTEM.—Each State
7 shall establish a system accessible by telephone, and may
8 establish other electronic means in addition to telephonic
9 communication, that any licensee, law enforcement officer,
10 or court of law may contact for criminal history informa-
11 tion. Information available to a licensee shall be limited
12 to information concerning a background check crime or
13 other information concerning whether receipt of a hand-
14 gun by a prospective transferee would violate subsection
15 (g) or (n) of section 922 of title 18, United States Code.
16 Information available to law enforcement officers and to
17 courts of law shall include information concerning any ar-
18 rest or conviction for any crime.

19 (b) CONTINUOUS OPERATION.—Each State shall
20 take such steps as are necessary to ensure that the system
21 operates continuously and without closing, at all times and
22 days of each year for purposes of inquiries from law en-
23 forcement officers, licensees, and courts.

1 **SEC. 735. OPERATION OF SYSTEM FOR PURPOSE OF**
2 **SCREENING HANDGUN PURCHASERS.**

3 (a) ACCURACY OF RESPONSES.—Each State shall
4 take such steps as are necessary to ensure that not more
5 than 2 percent of initial telephone responses of the system
6 contain erroneous determinations that receipt of a hand-
7 gun by a prospective handgun transferee would violate
8 subsection (g) or (n) of section 922 of title 18, United
9 States Code.

10 (b) NOTIFICATION OF LICENSEES.—On establish-
11 ment of a system under this section, each respective State
12 shall notify the Secretary of the Treasury, and the Sec-
13 retary shall notify each licensee, of the existence and pur-
14 pose of the system and the telephone number and other
15 electronic means that may be used to contact the system.

16 (c) OPERATION OF THE SYSTEM.—

17 (1) REQUIREMENTS FOR PROVISION OF INFOR-
18 MATION.—The system established under this section
19 shall not provide information to any person who
20 places a telephone call to the system with respect to
21 a person unless—

22 (A) the system verifies that the caller is a
23 licensee; and

24 (B) the licensee—

25 (i) states that a person seeks to pur-
26 chase a handgun from the licensee; and

1 (ii) provides the name, birth date, and
2 social security account number (or if the
3 transferee does not have a social security
4 account number, other identifying informa-
5 tion about the proposed transferee as re-
6 quired to make a valid identification).

7 (2) INFORMATION TO BE PROVIDED.—

8 (A) IN GENERAL.—If the system receives a
9 telephone call with respect to the transfer of a
10 handgun to a person and the requirements of
11 paragraph (1) of this subsection are met, the
12 system shall, in accordance with subparagraph
13 (B) of this paragraph—

14 (i) if the receipt of a handgun by the
15 person would violate subsection (g) or (n)
16 of section 922 of title 18, United States
17 Code, inform the licensee that the transfer
18 is disapproved; and

19 (ii) if such a receipt would not be
20 such a violation—

21 (I) assign a unique identification
22 number to the transfer;

23 (II) provide the licensee with the
24 number; and

1 (III) destroy all records of the
2 system with respect to the call (other
3 than the identifying number and the
4 date the number was assigned) and all
5 records of the system relating to the
6 person or the transfer.

7 (B) TIMING.—

8 (i) PROMPT RESPONSE REQUIRED.—
9 The system shall make every effort to pro-
10 vide to the caller the information required
11 by subparagraph (A) immediately or by re-
12 turn telephone call without delay.

13 (ii) RULES GOVERNING DELAYED RE-
14 SPONSES.—If the system is unable to re-
15 spond immediately to the inquiry due to
16 circumstances beyond the control of the
17 system, the system shall—

18 (I) advise the caller that the re-
19 sponse of the system will be delayed
20 and state the reasons for the delay
21 and the estimated length of the delay;
22 and

23 (II) make every effort to provide
24 the information required by subpara-
25 graph (A) within 8 hours after the li-

1 censee first contacted the system with
2 respect to the transfer.

3 (d) CORRECTION OF ERRONEOUS SYSTEM.—

4 (1) ADMINISTRATIVE PROCEDURES.—If the sys-
5 tem established under this section informs a licensee
6 that receipt of a handgun by a person would violate
7 subsection (g) or (n) of section 922 of title 18, Unit-
8 ed States Code, the person may request the system
9 to provide the person with a detailed explanation, in
10 writing, of the reasons therefor. Within 5 days after
11 receipt of such a request, the system shall comply
12 with the request. The requestor may submit to the
13 system information to correct, clarify, or supplement
14 records of the system with respect to the requestor.
15 Within 5 days after receipt of such information, the
16 system shall consider such information, investigate
17 the matter further, correct all erroneous records re-
18 lating to the requestor, and notify any department
19 or agency of the United States or of any State or
20 political subdivision of a State that was the source
21 of the erroneous records or such errors.

22 (2) PRIVATE COURSE OF ACTION.—After all ad-
23 ministrative remedies are exhausted and such
24 records are not corrected, a person disapproved for
25 the purchase or receipt of a handgun because the

1 system established under this section provided erro-
2 neous information relating to the person may bring
3 an action in any court of competent jurisdiction
4 against the United States, or any State or political
5 subdivision of a State that is the source of the erro-
6 neous information, for damages (including con-
7 sequential damages), injunctive relief, mandamus,
8 and such other relief as the court may deem appro-
9 priate. If the person prevails in the action, the court
10 shall allow the person a reasonable attorney's fee as
11 part of the costs.

12 **SEC. 736. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.**

13 The Attorney General shall expedite—

14 (1) the incorporation of the remaining State
15 criminal history records into the Federal criminal
16 records systems maintained by the Federal Bureau
17 of Investigation; and

18 (2) the development of hardware and software
19 systems to link State criminal history check systems
20 into the National Crime Information Center.

21 **SEC. 737. ACCESS TO STATE CRIMINAL RECORDS.**

22 (a) MEANS OF COMMUNICATION.—Not later than 60
23 days after the date of the enactment of this chapter, the
24 Attorney General shall—

1 (1) determine the type of computer hardware
2 and software that shall be used to operate the Fed-
3 eral criminal records system and the means by which
4 State criminal records system shall communicate
5 with the Federal system;

6 (2) investigate the criminal records system of
7 each State and determine for each State the extent
8 of such accessible criminal records that each State
9 shall be able to provide thereafter to the Federal
10 system by the effective date of section 733; and

11 (3) notify each State of the determination made
12 pursuant to paragraphs (1) and (2).

13 (b) FEDERAL SYSTEM.—Not later than the effective
14 date of section 733, the Attorney General shall provide
15 to each State access to the Federal Crime Information
16 Center, including the records of other States through a
17 network, for the purpose of permitting the State to con-
18 duct instant criminal background checks required by that
19 section.

20 **SEC. 738. IMPROVEMENTS IN STATE RECORDS.**

21 (a) IN GENERAL.—Section 509(b) of title I of the
22 Omnibus Crime Control and Safe Streets Act of 1968 (42
23 U.S.C. 3759(b)) is amended—

24 (1) by striking “and” at the end of paragraph
25 (2);

1 (2) by striking the period at the end of para-
2 graph (3) and inserting “; and”; and

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

5 “(4) the improvement of State record systems
6 and the sharing of all of the records described in
7 paragraphs (1), (2), and (3) and the records re-
8 quired by this Act with the Attorney General for the
9 purpose of implementing this Act.”.

10 (b) ADDITIONAL FUNDING.—Section 509 of title I of
11 the Omnibus Crime Control and Safe Streets Act of 1968
12 (42 U.S.C. 3759) is amended by adding at the end the
13 following:

14 “(e) In addition to other funds authorized in this Act,
15 there are authorized to be appropriated for fiscal year
16 1994, to be available until expended, \$21,000,000 for the
17 purpose of implementing subsection (b)(4).”.

18 (c) WITHHOLDING FUNDS.—

19 (1) Effective on the effective date of section
20 733 of this Act, the Attorney General may refuse to
21 make grants under title I of the Omnibus Crime
22 Control and Safe Streets Act of 1968 to a State that
23 does not establish and operate a State criminal
24 background check system in compliance with this
25 chapter. No State that receives funds pursuant to

1 this chapter may charge more than \$3 per trans-
2 action to check for the existence of a felony record
3 of a prospective purchaser of a handgun.

4 (2) Effective 1 year after the date of the enact-
5 ment of this chapter, the Attorney General may re-
6 duce by up to 10 percent the allocation to a State
7 for a fiscal year under title I of the Omnibus Crime
8 Control and Safe Streets Act of 1968 of a State that
9 is not in compliance with this chapter, and the por-
10 tion of the amounts that are appropriated for alloca-
11 tion to the States under such title for the fiscal year
12 that is equal to the amount of the reduction shall
13 thereby be rescinded.

14 **SEC. 739. FUNDING OF STATE CRIMINAL RECORDS SYS-**
15 **TEMS AND DEDICATION OF FUNDS.**

16 (a) INCREASE IN SPECIAL ASSESSMENTS.—Section
17 3013(a) of title 18, United States Code, is amended—

18 (1) in paragraph (1)(A)(iii), by striking “\$25”
19 and inserting “\$30”;

20 (2) in paragraph (2)(A), by striking “\$50” and
21 inserting “\$75”; and

22 (3) in paragraph (2)(B), by striking “\$200”
23 and inserting “\$250”.

24 (b) SYSTEMS FOR SCREENING HANDGUN PUR-
25 CHASERS AND FOR CRIMINAL JUSTICE PURPOSES.—Not-

1 withstanding any other law, \$5 of each assessment col-
2 lected under section 3013(a)(1)(A)(iii) of title 18, United
3 States Code, \$25 of each assessment collected under sub-
4 section (a)(2)(A) of that section, and \$50 of each assess-
5 ment collected under subsection (a)(2)(B) of that section
6 shall be paid to the States, in proportion to the respective
7 populations thereof, for the purposes of carrying out this
8 chapter.

9 **SEC. 740. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) IN GENERAL.—There are authorized to be appro-
11 priated such sums as are necessary to carry out this chap-
12 ter.

13 (b) LIMITATION ON USE.—No appropriation, grant,
14 or fund authorized under this chapter shall be used for
15 any purpose other than the creation, maintenance, and op-
16 eration of systems for access to criminal history records
17 and screening systems for handgun purchasers as provided
18 in this chapter.

19 **Chapter 2—Other Firearms Provisions**

20 **SEC. 741. INCREASED PENALTY FOR INTERSTATE GUN**
21 **TRAFFICKING.**

22 Section 924 of title 18, United States Code, as
23 amended by sections 430, 706(e), 715(b), 719, and 723(c)
24 of this Act, is amended by adding at the end the following:

1 “(n) Whoever, with the intent to engage in conduct
2 which constitutes a violation of section 922(a)(1)(A), trav-
3 els 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. 742. 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. 743. ENHANCED PENALTIES FOR USE OF FIREARMS IN**
22 **CONNECTION WITH COUNTERFEITING OR**
23 **FORGERY.**

24 Section 924(c)(1) of title 18, United States Code, is
25 amended by inserting “or during and in relation to any

1 felony punishable under chapter 25,” after “United
2 States,”.

3 **SEC. 744. INCREASED PENALTY FOR KNOWINGLY FALSE,**
4 **MATERIAL STATEMENT IN FIREARM PUR-**
5 **CHASE FROM LICENSED DEALER.**

6 Section 924(a) of title 18, United States Code, is
7 amended—

8 (1) in paragraph (1)(B), by striking “(a)(6),”;
9 and

10 (2) in paragraph (2), by inserting “(a)(6),”
11 after “subsection”.

12 **SEC. 745. REVOCATION OF SUPERVISED RELEASE FOR POS-**
13 **SESSION OF A FIREARM IN VIOLATION OF RE-**
14 **LEASE CONDITION.**

15 Section 3583 of title 18, United States Code, is
16 amended by adding at the end the following:

17 “(h) MANDATORY REVOCATION FOR POSSESSION OF
18 A FIREARM.—If the court has provided, as a condition of
19 supervised release, that the defendant refrain from pos-
20 sessing a firearm, and if the defendant is in actual posses-
21 sion of a firearm (as defined in section 921) at any time
22 prior to the expiration or termination of the term of super-
23 vised release, the court shall, after a hearing pursuant to
24 the provisions of the Federal Rules of Criminal Procedure
25 that are applicable to probation revocation, revoke the

1 term of supervised release and, subject to subsection (e)(3)
2 of this section, require the defendant to serve in prison
3 all or part of the term of supervised release without credit
4 for time previously served on post release supervision.”.

5 **SEC. 746. RECEIPT OF FIREARMS BY NONRESIDENT.**

6 Section 922(a) of title 18, United States Code, is
7 amended—

8 (1) in paragraph (7), by striking “and” at the
9 end;

10 (2) in paragraph (8), by striking the period at
11 the end and inserting “; and”; and

12 (3) by adding at the end the following:

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

18 **SEC. 747. DISPOSITION OF FORFEITED FIREARMS.**

19 Section 5872(b) of the Internal Revenue Code of
20 1986 is amended to read as follows:

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

24 “(1) the Secretary may retain the firearm for
25 official use of the Department of the Treasury or, if

1 not so retained, offer to transfer the weapon without
2 charge to any other executive department or inde-
3 pendent establishment of the Government for official
4 use by it and, if the offer is accepted, so transfer the
5 firearm;

6 “(2) if the firearm is not disposed of pursuant
7 to paragraph (1), is a firearm other than a machine
8 gun or a firearm forfeited for a violation of this
9 chapter, is a firearm that in the opinion of the Sec-
10 retary is not so defective that its disposition pursu-
11 ant to this paragraph would create an unreasonable
12 risk of a malfunction likely to result in death or bod-
13 ily injury, and is a firearm which (in the judgment
14 of the Secretary, taking into consideration evidence
15 of present value and evidence that like firearms are
16 not available except as collector’s items, or that the
17 value of like firearms available in ordinary commer-
18 cial channels is substantially less) derives a substan-
19 tial part of its monetary value from the fact that it
20 is novel, rare, or because of its association with some
21 historical figure, period, or event, the Secretary may
22 sell the firearm, after public notice, at public sale to
23 a dealer licensed under chapter 44 of title 18,
24 United States Code;

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

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

9 **SEC. 748. CONSPIRACY TO VIOLATE FEDERAL FIREARMS**
10 **OR EXPLOSIVES LAWS.**

11 (a) FIREARMS.—Section 924 of title 18, United
12 States Code, as amended by sections 430, 706(e), 715(b),
13 719, 723(c), and 741 of this Act, is amended by adding
14 at the end the following:

15 “(o) 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 such title is
20 amended by adding at the end the following:

21 “(k) Whoever conspires to commit any offense pun-
22 ishable under this chapter shall be subject to the same
23 penalties as those prescribed for the offense the commis-
24 sion of which was the object of the conspiracy.”.

1 **SEC. 749. THEFT OF FIREARMS OR EXPLOSIVES FROM LI-**
2 **CENSEE.**

3 (a) FIREARMS.—Section 924 of title 18, United
4 States Code, as amended by sections 430, 706(e), 715(b),
5 719, 723(c), 741, and 748(a) of this Act, is amended by
6 adding at the end the following:

7 “(p) Whoever steals any firearm from a licensed im-
8 porter, licensed manufacturer, licensed dealer, or licensed
9 collector shall be fined under this title, imprisoned not
10 more than ten years, or both.”

11 (b) EXPLOSIVES.—Section 844 of such title, as
12 amended by section 748(b) of this Act, is amended by add-
13 ing at the end the following:

14 “(l) Whoever steals any explosive material from a li-
15 censed importer, licensed manufacturer, licensed dealer, or
16 permittee shall be fined under this title, imprisoned not
17 more than ten years, or both.”

18 **SEC. 750. PENALTIES FOR THEFT OF FIREARMS OR EXPLO-**
19 **SIVES.**

20 (a) FIREARMS.—Section 924 of title 18, United
21 States Code, as amended by sections 430, 706(e), 715(b),
22 719, 723(c), 741, 748(a), and 749(a) of this Act, is
23 amended by adding at the end the following:

24 “(q) Whoever steals any firearm which is moving as,
25 or is a part of, or which has moved in, interstate or foreign

1 commerce shall be imprisoned for not less than two nor
2 more than ten years, fined under this title, or both.”.

3 (b) EXPLOSIVES.—Section 844 of such title, as
4 amended by sections 748(b) and 749(b) of this Act, is
5 amended by adding at the end the following:

6 “(m) Whoever steals any explosive materials which
7 are moving as, or are a part of, or which have moved in,
8 interstate or foreign commerce shall be imprisoned not less
9 than two nor more than ten years, fined under this title,
10 or both.”.

11 **SEC. 751. PROHIBITION AGAINST DISPOSING OF EXPLO-**
12 **SIVES TO PROHIBITED PERSONS.**

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

15 **SEC. 752. PROHIBITION AGAINST THEFT OF FIREARMS OR**
16 **EXPLOSIVES.**

17 (a) FIREARMS.—Section 924 of title 18, United
18 States Code, as amended by sections 430, 706(e), 715(b),
19 719, 722(c), 741, 748(a), 749(a), and 750(a) of this Act,
20 is amended by adding at the end the following:

21 “(r) Whoever steals any firearm which is moving as,
22 or is a part of, or which has moved in, interstate or foreign
23 commerce shall be imprisoned for not less than two nor
24 more than ten years, fined under this title, or both.”.

1 (b) EXPLOSIVES.—Section 844 of such title, as
2 amended by sections 748(b), 749(b), and 750(b) of this
3 Act, is amended by adding at the end the following:

4 “(n) 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 two nor more than ten years, fined under this title,
8 or both.”.

9 **SEC. 753. INCREASED PENALTY FOR SECOND OFFENSE OF**
10 **USING AN EXPLOSIVE TO COMMIT A FELONY.**

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

13 **SEC. 754. POSSESSION OF EXPLOSIVES BY FELONS AND**
14 **OTHERS.**

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

17 **SEC. 755. POSSESSION OF EXPLOSIVES DURING THE COM-**
18 **MISSION OF A FELONY.**

19 Section 844(h) of title 18, United States Code, is
20 amended—

21 (1) in paragraph (2), by striking “carries” and
22 inserting “possesses”; and

23 (2) in the 3rd sentence, by striking “carried”
24 and inserting “possessed”.

1 **SEC. 756. SUMMARY DESTRUCTION OF EXPLOSIVES SUB-**
2 **JECT TO FORFEITURE.**

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

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

6 (2) by adding at the end the following:

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

17 “(3) Within sixty days after any destruction made
18 pursuant to paragraph (2), the owner of, including any
19 person having an interest in, the property so destroyed
20 may make application to the Secretary for reimbursement
21 of the value of the property. If the claimant establishes
22 to the satisfaction of the Secretary that—

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

1 “(B) any unlawful involvement or use of the
2 property was without the claimant’s knowledge, con-
3 sent, or willful blindness,
4 the Secretary shall make an allowance to the claimant not
5 exceeding the value of the property destroyed.”.

6 **SEC. 757. ELIMINATION OF OUTMODED PAROLE LAN-**
7 **GUAGE.**

8 Section 924 of title 18, United States Code, is
9 amended—

10 (1) in subsection (c)(1), by striking “No person
11 sentenced under this subsection shall be eligible for
12 parole during the term of imprisonment imposed
13 herein.”; and

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

17 **Subtitle D—Miscellaneous**

18 **SEC. 761. INCREASED PENALTIES FOR TRAVEL ACT CRIMES**
19 **INVOLVING VIOLENCE AND CONSPIRACY TO**
20 **COMMIT CONTRACT KILLINGS.**

21 (a) TRAVEL ACT PENALTIES.—Section 1952(a) of
22 title 18, United States Code, is amended by striking “and
23 thereafter performs or attempts to perform any of the acts
24 specified in subparagraphs (1), (2), and (3), shall be fined
25 not more than \$10,000 or imprisoned for not more than

1 five years, or both.” and inserting “and thereafter per-
2 forms or attempts to perform—

3 “(A) an act described in paragraph (1) or (3)
4 shall be fined under this title, imprisoned not more
5 than 5 years, or both; or

6 “(B) an act described in paragraph (2) shall be
7 fined under this title, imprisoned for not more than
8 20 years, or both, and if death results shall be im-
9 prisoned for any term of years or for life.”.

10 (b) MURDER CONSPIRACY PENALTIES.—Section
11 1958(a) of title 18, United States Code, is amended by
12 inserting “or who conspires to do so” before “shall be
13 fined” the first place it appears.

14 **SEC. 762. CRIMINAL OFFENSE FOR FAILING TO OBEY AN**
15 **ORDER TO LAND A PRIVATE AIRCRAFT.**

16 (A) IN GENERAL.—Chapter 109 of title 18, United
17 States Code, is amended by adding at the end the follow-
18 ing new section:

19 **“§ 2237. Order to land**

20 “(a)(1) A pilot or operator of an aircraft that has
21 crossed the border of the United States, or an aircraft
22 subject to the jurisdiction of the United States operating
23 outside the United States, who intentionally fails to obey
24 an order to land issued by an authorized Federal law en-
25 forcement officer who has observed conduct or is otherwise

1 in possession of information establishing reasonable sus-
2 picion that the aircraft is being used unlawfully in viola-
3 tion of the laws of the United States relating to controlled
4 substances as that term is defined in section 102(6) of
5 the Controlled Substances Act, or section 1956 or 1957
6 of this title (relating to money launderings), shall be fined
7 under this title, or imprisoned for not more than 2 years,
8 or both.

9 “(2) The Secretary of the Treasury and the Secretary
10 of Transportation, in consultation with the Attorney Gen-
11 eral, shall make rules governing the means by which a
12 Federal Law enforcement officer may communicate an
13 order to land to a pilot or operator of an aircraft.

14 “(3) This section does not limit the authority of a
15 customs officer under section 581 of the Tariff Act of
16 1930 or another law the Customs Service enforces or ad-
17 ministers, or the authority of a Federal law enforcement
18 officer under a law of the United States to order an air-
19 craft to land.

20 “(b) A foreign nation may consent or waive objection
21 to the United States enforcing the laws of the United
22 States by radio, telephone, or similar oral or electronic
23 means. Consent or waiver may be proven by certification
24 of the Secretary of State or the Secretary’s designee.

25 “(c) For purposes of this section—

1 “(1) the term ‘aircraft subject to the jurisdic-
2 tion of the United States’ includes—

3 “(A) an aircraft located over the United
4 States or the customs waters of the United
5 States;

6 “(B) an aircraft located in the airspace of
7 a foreign nation, when that nation consents to
8 United States enforcement of United States
9 law; and

10 “(C) over the high seas, an aircraft with-
11 out nationality, an aircraft of the United States
12 registry, or an aircraft registered in a foreign
13 nation that has consented or waived objection
14 to the United States enforcement of United
15 States law; and

16 “(2) the term ‘Federal law enforcement officer’
17 has the same meaning that term has in section 115
18 of this title.

19 “(d) An aircraft that is used in violation of this sec-
20 tion is liable in rem for a fine imposed under this section;

21 “(e) An aircraft that is used in violation of this sec-
22 tion may be seized and forfeited. The laws relating to sei-
23 zure and forfeiture for violation of the customs laws, in-
24 cluding available defenses such as innocent owner provi-

1 sions, apply to aircraft seized or forfeited under this sec-
2 tion.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 109 of title 18, United States
5 Code, is amended by adding at the end the following new
6 item:

“2237. Order to land.”

7 **SEC. 763. AMENDMENT TO THE MANSFIELD AMENDMENT**
8 **TO PERMIT MARITIME LAW ENFORCEMENT**
9 **OPERATIONS IN ARCHIPELAGIC WATERS.**

10 Section 481(c)(4) of Public Law 87–195 (22 U.S.C.
11 2291(c)) is amended by inserting “, and archipelagic wa-
12 ters” after “territorial sea”.

13 **SEC. 764. ENHANCEMENT OF PENALTIES FOR DRUG TRAF-**
14 **FICKING IN PRISONS.**

15 Section 1791 of title 18, United States Code, is
16 amended—

17 (1) in subsection (c), by inserting before “Any”
18 the following new sentence: “Any punishment im-
19 posed under subsection (b) for a violation of this
20 section involving a controlled substance shall be con-
21 secutive to any other sentence imposed by any court
22 for an offense involving such a controlled sub-
23 stance.”.

24 (2) in subsection (d)(1)(A) by inserting after “a
25 firearm or destructive device” the following, “or a

1 controlled substance in schedule I or II, other than
2 marijuana or a controlled substance referred to in
3 subparagraph (C) of this subsection”;

4 **SEC. 765. REMOVAL OF TV BROADCAST LICENSE CONTIN-**
5 **GENT ON BROADCAST OF PUBLIC SERVICE**
6 **ANNOUNCEMENTS REGARDING DRUG ABUSE.**

7 Section 311 of the Communications Act of 1934 is
8 amended by adding at the end the following new sub-
9 section:

10 “(e)(1) As part of its obligations to ensure that
11 broadcast licenses are issued consistent with the public in-
12 terest, convenience, and necessity, the Commission shall,
13 in its review of any application for renewal of a commer-
14 cial or noncommercial television broadcast license, con-
15 sider the extent to which the licensee has participated in
16 efforts to educate and inform the public as to the dangers
17 of drug abuse and appropriate methods for obtaining
18 treatment. The Commission shall not find that a renewal
19 of such a license is consistent with the public interest, con-
20 venience, and necessity unless the applicant demonstrates
21 that the station has broadcast public service announce-
22 ments concerning drug and substance abuse and treat-
23 ment during each hour of its broadcasting day, and that
24 the duration of such announcements is equal to not less

1 than 5 percent of the duration of the commercial adver-
2 tisements broadcast by that station during that hour.

3 “(2) The Commission shall, in each annual report
4 submitted under section 4(k) after the date of enactment
5 of this subsection, include an analysis of broadcasters’
6 progress in meeting the requirements of this subsection.
7 Such report shall include statistics concerning the propor-
8 tion of broadcast time devoted to public service announce-
9 ments generally, and to meeting the requirements of this
10 subsection.”.

11 **TITLE VIII—ELIMINATION OF**
12 **DELAYS IN CARRYING OUT**
13 **SENTENCES.**

14 **Subtitle A—Post Conviction Peti-**
15 **tions: General Habeas Corpus**
16 **Reform.**

17 **SEC. 801. PERIOD OF LIMITATION FOR FILING WRIT OF HA-**
18 **BEAS CORPUS FOLLOWING FINAL JUDGMENT**
19 **OF A STATE COURT.**

20 Section 2244 of title 28, United States Code, is
21 amended by adding at the end the following:

22 “(d) A one-year period of limitation shall apply to an
23 application for a writ of habeas corpus by a person in cus-
24 tody pursuant to the judgment of a State court. The limi-

1 tation period shall run from the latest of the following
2 times:

3 “(1) The time at which State remedies are ex-
4 hausted.

5 “(2) The time at which the impediment to filing
6 an application created by State action in violation of
7 the Constitution or laws of the United States is re-
8 moved, where the applicant was prevented from fil-
9 ing by such State action.

10 “(3) The time at which the Federal right as-
11 serted was initially recognized by the Supreme
12 Court, where the right has been newly recognized by
13 the Court and is retroactively applicable.

14 “(4) The time at which the factual predicate of
15 the claim or claims presented could have been dis-
16 covered through the exercise of reasonable dili-
17 gence.”.

18 **SEC. 802. AUTHORITY OF APPELLATE JUDGES TO ISSUE**
19 **CERTIFICATES OF PROBABLE CAUSE FOR AP-**
20 **PEAL IN HABEAS CORPUS AND FEDERAL COL-**
21 **LATERAL RELIEF PROCEEDINGS.**

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

1 **“§ 2253. Appeal**

2 “(a) In a habeas corpus proceeding or a proceeding
3 under section 2255 of this title before a circuit or district
4 judge, the final order shall be subject to review, on appeal,
5 by the court of appeals for the circuit where the proceed-
6 ing is had.

7 “(b) There shall be no right of appeal from such an
8 order in a proceeding to test the validity of a warrant to
9 remove, to another district or place for commitment or
10 trial, a person charged with a criminal offense against the
11 United States, or to test the validity of his detention pend-
12 ing removal proceedings.

13 “(c) An appeal may not be taken to the court of ap-
14 peals from the final order in a habeas corpus proceeding
15 where the detention complained of arises out of process
16 issued by a State court, or from the final order in a pro-
17 ceeding under section 2255 of this title, unless a circuit
18 justice or judge issues a certificate of probable cause.”.

19 **SEC. 803. CONFORMING AMENDMENT TO THE RULES OF AP-**
20 **PELLATE PROCEDURE.**

21 Federal Rule of Appellate Procedure 22 is amended
22 to read as follows:

23 “RULE 22

24 “HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

25 “(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-
26 BEAS CORPUS.—An application for a writ of habeas cor-

1 pus shall be made to the appropriate district court. If ap-
2 plication is made to a circuit judge, the application will
3 ordinarily be transferred to the appropriate district court.
4 If an application is made to or transferred to the district
5 court and denied, renewal of the application before a cir-
6 cuit judge is not favored; the proper remedy is by appeal
7 to the court of appeals from the order of the district court
8 denying the writ.

9 “(b) NECESSITY OF CERTIFICATE OF PROBABLE
10 CAUSE FOR APPEAL.—In a habeas corpus proceeding in
11 which the detention complained of arises out of process
12 issued by a State court, and in a motion proceeding pursu-
13 ant to section 2255 of title 28, United States Code, an
14 appeal by the applicant or movant may not proceed unless
15 a circuit judge issues a certificate of probable cause. If
16 a request for a certificate of probable cause is addressed
17 to the court of appeals, it shall be deemed addressed to
18 the judges thereof and shall be considered by a circuit
19 judge or judges as the court deems appropriate. If no ex-
20 press request for a certificate is filed, the notice of appeal
21 shall be deemed to constitute a request addressed to the
22 judges of the court of appeals. If an appeal is taken by
23 a State or the Government or its representative, a certifi-
24 cate of probable cause is not required.”.

1 **SEC. 804. DISCRETION TO DENY HABEAS CORPUS APPLICA-**
2 **TION DESPITE FAILURE TO EXHAUST STATE**
3 **REMEDIES.**

4 Section 2254(b) of title 28, United State Code, is
5 amended to read as follows:

6 “(b) An application for a writ of habeas corpus in
7 behalf of a person in custody pursuant to the judgment
8 of a State court shall not be granted unless it appears
9 that the applicant has exhausted the remedies available
10 in the courts of the State, or that there is either an ab-
11 sence of available State corrective process or the existence
12 of circumstances rendering such process ineffective to pro-
13 tect the rights of the applicant. An application may be
14 denied on the merits notwithstanding the failure of the
15 applicant to exhaust the remedies available in the courts
16 of the State.”.

17 **SEC. 805. PERIOD OF LIMITATION FOR FEDERAL PRIS-**
18 **ONERS FILING FOR COLLATERAL REMEDY.**

19 Section 2255 of title 28, United States Code, is
20 amended by striking the second paragraph and the penul-
21 timate paragraph thereof, and by adding at the end the
22 following new paragraphs:

23 “A two-year period of limitation shall apply to a mo-
24 tion under this section. The limitation period shall run
25 from the latest of the following times:

1 “(1) The time at which the judgment of conviction becomes final.

2
3 “(2) The time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action.

4
5
6
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8 “(3) The time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

9
10 “(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.”.

11
12
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15
16 **Subtitle B—Special Procedures for**
17 **Collateral Proceedings in Capital**
18 **Cases**

19 **SEC. 811. DEATH PENALTY LITIGATION PROCEDURES.**

20 Title 28, United States Code, is amended by inserting
21 the following new chapter immediately following chapter
22 153:

1 **“CHAPTER 154—SPECIAL HABEAS CORPUS**2 **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; successive petitions.

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

“2259. Evidentiary hearings; scope of Federal review; district court adjudication.

“2260. Certificate of probable cause inapplicable.

“2261. Application to State unitary review procedures.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

3 **“§ 2256. Prisoners in State custody subject to capital**
4 **sentence; appointment of counsel; re-**
5 **quirement of rule of court or statute; pro-**
6 **cedures for appointment**

7 “(a) This chapter shall apply to cases arising under
8 section 2254 brought by prisoners in State custody who
9 are subject to a capital sentence. It shall apply only if the
10 provisions of subsections (b) and (c) are satisfied.

11 “(b) This chapter is applicable if a State establishes
12 by rule of its court of last resort or by statute a mecha-
13 nism for the appointment, compensation and payment of
14 reasonable litigation expenses of competent counsel in
15 State postconviction proceedings brought by indigent pris-
16 oners whose capital convictions and sentences have been
17 upheld on direct appeal to the court of last resort in the
18 State or have otherwise become final for State law pur-

1 poses. The rule of court or statute must provide standards
2 of competency for the appointment of such counsel.

3 “(c) Any mechanism for the appointment, compensa-
4 tion and reimbursement of counsel as provided in sub-
5 section (b) must offer counsel to all State prisoners under
6 capital sentence and must provide for the entry of an
7 order by a court of record: (1) appointing one or more
8 counsel to represent the prisoner upon a finding that the
9 prisoner is indigent and accepted the offer or is unable
10 competently to decide whether to accept or reject the offer;
11 (2) finding, after a hearing if necessary, that the prisoner
12 rejected the offer of counsel and made the decision with
13 an understanding of its legal consequences; or (3) denying
14 the appointment of counsel upon a finding that the pris-
15 oner is not indigent.

16 “(d) No counsel appointed pursuant to subsections
17 (b) and (c) to represent a State prisoner under capital
18 sentence shall have previously represented the prisoner at
19 trial or on direct appeal in the case for which the appoint-
20 ment is made unless the prisoner and counsel expressly
21 request continued representation.

22 “(e) The ineffectiveness or incompetence of counsel
23 during State or Federal collateral postconviction proceed-
24 ings in a capital case shall not be a ground for relief in
25 a proceeding arising under section 2254 of this chapter.

1 This limitation shall not preclude the appointment of dif-
2 ferent counsel, on the court’s own motion or at the request
3 of the prisoner, at any phase of State or Federal
4 postconviction proceedings on the basis of the ineffective-
5 ness or incompetence of counsel in such proceedings.

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

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

17 “(b) A stay of execution granted pursuant to sub-
18 section (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;

24 “(2) upon completion of district court and court
25 of appeals review under section 2254 the petition for

1 relief is denied and (A) the time for filing a petition
2 for certiorari has expired and no petition has been
3 filed; (B) a timely petition for certiorari was filed
4 and the Supreme Court denied the petition; or (C)
5 a timely petition for certiorari was filed and upon
6 consideration of the case, the Supreme Court dis-
7 posed of it in a manner that left the capital sentence
8 undisturbed; or

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

14 “(c) If one of the conditions in subsection (b) has
15 occurred, no Federal court thereafter shall have the au-
16 thority to enter a stay of execution or grant relief in a
17 capital case unless—

18 “(1) the basis for the stay and request for relief
19 is a claim not previously presented in the State or
20 Federal courts;

21 “(2) the failure to raise the claim is (A) the re-
22 sult of State action in violation of the Constitution
23 or laws of the United States; (B) the result of the
24 Supreme Court recognition of a new Federal right
25 that is retroactively applicable; or (C) based on a

1 factual predicate that could not have been discovered
2 through the exercise of reasonable diligence in time
3 to present the claim for State or Federal
4 postconviction review; and

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

9 **“§2258. Filing of habeas corpus petition; time re-**
10 **quirements; tolling rules**

11 “Any petition for habeas corpus relief under section
12 2254 must be filed in the appropriate district court within
13 one hundred and eighty days from the filing in the appro-
14 priate State court of record of an order under section
15 2256(c). The time requirements established by this section
16 shall be tolled—

17 “(1) from the date that a petition for certiorari
18 is filed in the Supreme Court until the date of final
19 disposition of the petition if a State prisoner files
20 the petition to secure review by the Supreme Court
21 of the affirmance of a capital sentence on direct re-
22 view by the court of last resort of the State or other
23 final State court decision on direct review;

24 “(2) during any period in which a State pris-
25 oner under capital sentence has a properly filed re-

1 quest for postconviction review pending before a
2 State court of competent jurisdiction; if all State fil-
3 ing rules are met in a timely manner, this period
4 shall run continuously from the date that the State
5 prisoner initially files for postconviction review until
6 final disposition of the case by the highest court of
7 the State, but the time requirements established by
8 this section are not tolled during the pendency of a
9 petition for certiorari before the Supreme Court ex-
10 cept as provided in paragraph (1); and

11 “(3) during an additional period not to exceed
12 sixty days, if (A) a motion for an extension of time
13 is filed in the Federal district court that would have
14 proper jurisdiction over the case upon the filing of
15 a habeas corpus petition under section 2254; and
16 (B) a showing of good cause is made for the failure
17 to file the habeas corpus petition within the time pe-
18 riod established by this section.

19 **“§ 2259. Evidentiary hearings; scope of Federal re-**
20 **view; district court adjudication**

21 “(a) Whenever a State prisoner under a capital sen-
22 tence files a petition for habeas corpus relief to which this
23 chapter applies, the district court shall—

24 “(1) determine the sufficiency of the record for
25 habeas corpus review based on the claims actually

1 presented and litigated in the State courts except
2 when the prisoner can show that the failure to raise
3 or develop a claim in the State courts is (A) the re-
4 sult of State action in violation of the Constitution
5 or laws of the United States; (B) the result of the
6 Supreme Court recognition of a new Federal right
7 that is retroactively applicable; or (C) based on a
8 factual predicate that could not have been discovered
9 through the exercise of reasonable diligence in time
10 to present the claim for State postconviction review;
11 and

12 “(2) conduct any requested evidentiary hearing
13 necessary to complete the record for habeas corpus
14 review.

15 “(b) Upon the development of a complete evidentiary
16 record, the district court shall rule on the claims that are
17 properly before it.

18 **“§ 2260. Certificate of probable cause inapplicable**

19 “The requirement of a certificate of probable cause
20 in order to appeal from the district court to the court of
21 appeals does not apply to habeas corpus cases subject to
22 the provisions of this chapter except when a second or suc-
23 cessive petition is filed.

1 **“§ 2261. Application to State unitary review proce-**
2 **dure**

3 “(a) For purposes of this section, a ‘unitary review’
4 procedure means a State procedure that authorizes a per-
5 son under sentence of death to raise, in the course of di-
6 rect review of the judgment, such claims as could be raised
7 on collateral attack. The provisions of this chapter shall
8 apply, as provided in this section, in relation to a State
9 unitary review procedure if the State establishes by rule
10 of its court of last resort or by statute a mechanism for
11 the appointment, compensation and payment of reasonable
12 litigation expenses of competent counsel in the unitary re-
13 view proceedings, including expenses relating to the litiga-
14 tion of collateral claims in the proceedings. The rule of
15 court or statute must provide standards of competency for
16 the appointment of such counsel.

17 “(b) A unitary review procedure, to qualify under this
18 section, must include an offer of counsel following trial
19 for the purpose of representation on unitary review, and
20 entry of an order, as provided in section 2256(c), concern-
21 ing appointment of counsel or waiver or denial of appoint-
22 ment of counsel for that purpose. No counsel appointed
23 to represent the prisoner in the unitary review proceedings
24 shall have previously represented the prisoner at trial in
25 the case for which the appointment is made unless the

1 prisoner and counsel expressly request continued represen-
2 tation.

3 “(c) Sections 2257, 2258, 2259, 2260, and 2262
4 shall apply in relation to cases involving a sentence of
5 death from any State having a unitary review procedure
6 that qualifies under this section. References to State ‘post-
7 conviction review’ and ‘direct review’ in those sections
8 shall be understood as referring to unitary review under
9 the State procedure. The references in sections 2257(a)
10 and 2258 to ‘an order under section 2256(c)’ shall be un-
11 derstood as referring to the post-trial order under sub-
12 section (b) concerning representation in the unitary review
13 proceedings, but if a transcript of the trial proceedings
14 is unavailable at the time of the filing of such an order
15 in the appropriate State court, then the start of the one
16 hundred and eighty day limitation period under section
17 2258 shall be deferred until a transcript is made available
18 to the prisoner or his counsel.

19 **“§ 2262. Limitation periods for determining petitions**

20 “(a) The adjudication of any petition under section
21 2254 of title 28, United States Code, that is subject to
22 this chapter, and the adjudication of any motion under
23 section 2255 of title 28, United States Code, by a person
24 under sentence of death, shall be given priority by the dis-
25 trict court and by the court of appeals over all noncapital

1 matters. The adjudication of such a petition or motion
2 shall be subject to the following time limitations:

3 “(1) A Federal district court shall determine
4 such a petition or motion within 180 days of filing.

5 “(2)(A) The court of appeals shall hear and de-
6 termine any appeal relating to such a petition or
7 motion within 180 days after the notice of appeal is
8 filed.

9 “(B) The court of appeals shall decide any ap-
10 plication for rehearing en banc within 30 days of the
11 filing of such application unless a responsive plead-
12 ing is required in which case the court of appeals
13 shall decide the application within 30 days of the fil-
14 ing of the responsive pleading. If en banc consider-
15 ation is granted, the en banc court shall determine
16 the appeal within 180 days of the decision to grant
17 such consideration.

18 “(b) The time limitations under subsection (a) shall
19 apply to an initial petition or motion, and to any second
20 or successive petition or motion. The same limitations
21 shall also apply to the re-determination of a petition or
22 motion or related appeal following a remand by the court
23 of appeals or the Supreme Court for further proceedings,
24 and in such a case the limitation period shall run from
25 the date of the remand.

1 “(c) The time limitations under this section shall not
2 be construed to entitle a petitioner or movant to a stay
3 of execution, to which the petitioner or movant would oth-
4 erwise not be entitled, for the purpose of litigating any
5 petition, motion, or appeal.

6 “(d) The failure of a court to meet or comply with
7 the time limitations under this section shall not be a
8 ground for granting relief from a judgment of conviction
9 or sentence. The State or Government may enforce the
10 time limitations under this section by applying to the court
11 of appeals or the Supreme Court for a writ of mandamus.

12 “(e) The Administrative Office of United States
13 Courts shall report annually to Congress on the compli-
14 ance by the courts with the time limits established in this
15 section.

16 **“§ 2263. Rule of construction**

17 “‘This chapter shall be construed to promote the expe-
18 ditious conduct and conclusion of State and Federal court
19 review in capital cases.’”.

20 (b) CLERICAL AMENDMENT.—The table of chapters
21 at the beginning of part VI of title 28, United States Code,
22 is amended by inserting after the item relating to chapter
23 153 the following new item:

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

1 **Subtitle C—Funding for Litigation**
2 **of Federal Habeas Corpus Peti-**
3 **tions in Capital Cases**

4 **SEC. 821. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

5 Part E of title I of the Omnibus Crime Control and
6 Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is
7 amended by adding at the end the following new section:

8 “SEC. 515. Notwithstanding any other provision of
9 this subpart, the Director shall provide grants to the
10 States, from the funding allocated pursuant to section
11 511, for the purpose of supporting litigation pertaining to
12 Federal habeas corpus petitions in capital cases. The total
13 funding available for such grants within any fiscal year
14 shall be equal to the funding provided to capital resource
15 centers, pursuant to Federal appropriation, in the same
16 fiscal year.”.

17 **TITLE IX—PUBLIC CORRUPTION**

18 **SEC. 901. OFFENSES.**

19 (a) OFFENSES.—Chapter 11 of title 18, United
20 States Code, is amended by adding at the end the follow-
21 ing:

22 **“§ 226. Public corruption**

23 “(a) STATE AND LOCAL GOVERNMENT.—

24 “(1) HONEST SERVICES.—Whoever, in a cir-
25 cumstance described in paragraph (3), deprives or

1 defrauds, or endeavors to deprive or to defraud, by
2 any scheme or artifice, the inhabitants of a State of
3 the honest services of an official of that State, shall
4 be fined under this title, or imprisoned for not more
5 than 10 years, or both.

6 “(2) FAIR AND IMPARTIAL ELECTIONS.—Who-
7 ever, in a circumstance described in paragraph (3),
8 deprives or defrauds, or endeavors to deprive or to
9 defraud, by any scheme or artifice, the inhabitants
10 of a State of a fair and impartially conducted elec-
11 tion process in any primary, run-off, special, or gen-
12 eral election—

13 “(A) through the procurement, casting, or
14 tabulation of ballots that are materially false,
15 fictitious, or fraudulent, or that are invalid,
16 under the laws of the State in which the elec-
17 tion is held;

18 “(B) through paying or offering to pay any
19 person for voting;

20 “(C) through the procurement or submis-
21 sion of voter registrations that contain false
22 material information, or omit material informa-
23 tion; or

24 “(D) through the filing of any report re-
25 quired to be filed under State law regarding an

1 election campaign that contains false material
2 information or omits material information;
3 shall be fined under this title or imprisoned for not
4 more than 10 years, or both.

5 “(3) CIRCUMSTANCES IN WHICH OFFENSE OC-
6 CURS.—The circumstances referred to in paragraphs
7 (1) and (2) are that—

8 “(A) for the purpose of executing or con-
9 cealing a scheme or artifice described in para-
10 graph (1) or (2) or attempting to do so, a per-
11 son—

12 “(i) places in any post office or au-
13 thorized depository for mail matter, any
14 matter or thing to be sent or delivered by
15 the Postal Service, or takes or receives
16 from any such post office or depository,
17 any such matter or thing, or knowingly
18 causes to be delivered by mail according to
19 the direction on the mail, or at the place
20 at which it is directed to be delivered by
21 the person to whom it is addressed, any
22 such matter or thing;

23 “(ii) transports or causes to be trans-
24 ported any person or thing, or induces any

1 person to travel in or to be transported in,
2 interstate or foreign commerce; or

3 “(iii) uses or causes the use of any fa-
4 cility in interstate or foreign commerce;

5 “(B) the scheme or artifice affects or con-
6 stitutes an attempt to affect in any manner or
7 degree, or would if executed or concealed so af-
8 fect, interstate or foreign commerce; or

9 “(C) in the case of an offense described in
10 paragraph (2), an objective of the scheme or ar-
11 tifice is to secure the election of an official who,
12 if elected, would have some authority over the
13 administration of funds derived from an Act of
14 Congress totaling \$10,000 or more during the
15 12-month period immediately preceding or fol-
16 lowing the election or date of the offense.

17 “(b) FEDERAL GOVERNMENT.—Whoever deprives or
18 defrauds, or endeavors to deprive or to defraud, by any
19 scheme or artifice, the inhabitants of the United States
20 of the honest services of an official of the United States
21 shall be fined under this title or imprisoned for not more
22 than 10 years, or both.

23 “(c) OFFENSE BY AN OFFICIAL AGAINST AN EM-
24 PLOYEE OR OFFICIAL.—

1 “(1) CRIMINAL OFFENSE.—Whoever, being an
2 official of a State or the United States, directly or
3 indirectly, discharges, demotes, suspends, threatens,
4 harasses, or, in any manner, discriminates against
5 another official of a State or the United States, or
6 endeavors to do so, in order to carry out or to con-
7 ceal a scheme or artifice described in subsection (a)
8 or (b), shall be fined under this title or imprisoned
9 for not more than 5 years, or both.

10 “(2) CIVIL ACTION.—(A) Any official who is
11 discharged, demoted, suspended, threatened, har-
12 assed, or in any other manner discriminated against
13 because of lawful acts done by the official as a result
14 of a violation of subsection (a) or (b) or because of
15 actions by the official on behalf of himself or herself
16 or others in furtherance of a prosecution under sub-
17 section (a) or (b) (including investigation for, initi-
18 ation of, testimony for, or assistance in such a pros-
19 ecution) may, in a civil action, obtain all relief nec-
20 essary to make such individual whole, including—

21 “(i) reinstatement with the same seniority
22 status the official would have had but for the
23 violation of paragraph (1);

24 “(ii) 3 times the amount of back pay;

25 “(iii) interest on the back pay; and

1 “(iv) compensation for any special dam-
2 ages sustained as a result of the violation of
3 paragraph (1), including reasonable litigation
4 costs and reasonable attorney’s fees.

5 “(B) An individual is not eligible for relief
6 under subparagraph (A) if that individual partici-
7 pated in the violation of subsection (a) or (b) with
8 respect to which such relief is sought.

9 “(C) A civil action or proceeding authorized by
10 this paragraph shall be stayed by a court upon the
11 certification of an attorney for the Government that
12 prosecution of the action or proceeding may ad-
13 versely affect the interests of the Government in a
14 pending criminal investigation or proceeding. The at-
15 torney for the Government shall promptly notify the
16 court when the stay may be lifted without such ad-
17 verse effects.

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

19 “(1) the term ‘official’ means—

20 “(A) in the case of an official of a State—

21 “(i) any person employed by, exercis-
22 ing any authority derived from, or holding
23 any position in the government of a State,
24 including any department, independent es-
25 tablishment, commission, administration,

1 authority, board, or bureau, or a corpora-
2 tion or other legal entity established and
3 subject to control by a State for the execu-
4 tion of a program of such State;

5 “(ii) a juror;

6 “(iii) any person acting or pretending
7 to act under color of official authority; and

8 “(iv) any person who has been nomi-
9 nated, appointed, or selected to be an offi-
10 cial described in clause (i), (ii), or (iii) or
11 who has been officially informed that he or
12 she will be so nominated, appointed, or se-
13 lected; and

14 “(B) in the case of an official of the
15 United States—

16 “(i) an officer or employee or person
17 acting for or on behalf of the United
18 States, or any department, agency, or
19 branch of the United States Government in
20 any official function, under or by authority
21 of any such department, agency, or branch
22 of Government;

23 “(ii) a juror;

24 “(iii) any person acting or pretending
25 to act under color of official authority; and

1 “(iv) any person who has been nomi-
2 nated, appointed, or selected to be an offi-
3 cial described in clause (i), (ii), or (iii), or
4 has been officially informed that he or she
5 will be so nominated, appointed, or se-
6 lected;

7 “(2) the term ‘person acting or pretending to
8 act under color of official authority’ means any per-
9 son who represents that he or she controls, is an
10 agent of, or otherwise acts on behalf of an official;

11 “(3) the term ‘State’ means a State of the
12 United States, the District of Columbia, any com-
13 monwealth, territory, or possession of the United
14 States, and any political subdivision of such State,
15 District, commonwealth, territory, or possession; and

16 “(4) the term ‘uses any facility in interstate or
17 foreign commerce’ includes the intrastate use of any
18 facility that may also be used in interstate or foreign
19 commerce.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) The table of sections at the beginning of chapter 11
22 of title 18, United States Code, is amended by adding at
23 the end the following item:

 “226. Public corruption.”.

24 (2) Section 1961(1) of title 18, United States Code,
25 is amended by inserting “section 226 (relating to public

1 corruption),” after “section 224 (relating to sports brib-
2 ery),”.

3 (3) Section 2516(1)(c) of title 18, United States
4 Code, is amended by inserting “section 226 (relating to
5 public corruption),” after “section 224 (bribery in sport-
6 ing contests),”.

7 **SEC. 902. INTERSTATE COMMERCE.**

8 (a) IN GENERAL.—Section 1343 of title 18, United
9 States Code, is amended—

10 (1) by striking “transmits or causes to be
11 transmitted by means of wire, radio, or television
12 communication in interstate or foreign commerce,
13 any writings, signs, signals, pictures, or sounds” and
14 inserting “uses or causes to be used any facility in
15 interstate or foreign commerce (as defined in section
16 226(d)(5) of this title)”; and

17 (2) by inserting “or attempting to do so” after
18 “for the purpose of executing such scheme or arti-
19 fice”.

20 (b) CONFORMING AMENDMENTS.—(1) The section
21 caption for section 1343 of title 18, United States Code,
22 is amended to read as follows:

1 **“§ 1343. Fraud by use of facility in interstate com-**
2 **merce”.**

3 (2) The table of sections at the beginning of chapter
4 63 of title 18, United States Code, is amended by striking
5 the item relating to section 1343 and inserting the follow-
6 ing:

“1343. Fraud by use of facility in interstate commerce.”.

7 **SEC. 903. NARCOTICS-RELATED PUBLIC CORRUPTION.**

8 (a) IN GENERAL.—Chapter 11 of title 18, United
9 States Code, is amended by inserting after section 219 the
10 following:

11 **“§ 220. Narcotics and public corruption**

12 “(a) OFFENSE BY PUBLIC OFFICIAL.—Any public of-
13 ficial who, in a circumstance described in subsection (c),
14 directly or indirectly, corruptly demands, seeks, receives,
15 accepts, or agrees to receive or accept anything of value
16 personally or for any other person in return for—

17 “(1) being influenced in the performance or
18 nonperformance of any official act; or

19 “(2) being influenced to commit or to aid in
20 committing, or to collude in, or to allow or make op-
21 portunity for the commission of any offense against
22 the United States or any State;

23 shall be guilty of a class B felony.

24 “(b) OFFENSE BY PERSON OTHER THAN A PUBLIC
25 OFFICIAL.—Any person who, in a circumstance described

1 in subsection (c), directly or indirectly, corruptly gives, of-
2 fers, or promises anything of value to any public official,
3 or offers or promises any public official to give anything
4 of value to any other person, with the intent—

5 “(1) to influence any official act;

6 “(2) to influence the public official to commit
7 or aid in committing, or to collude in, or to allow or
8 make opportunity for the commission of any offense
9 against the United States or any State; or

10 “(3) to influence the public official to do or to
11 omit to do any act in violation of such official’s law-
12 ful duty;

13 shall be guilty of a class B felony.

14 “(c) CIRCUMSTANCES IN WHICH OFFENSE OC-
15 CURS.—The circumstances referred to in subsections (a)
16 and (b) are that the offense involves, is part of, or is in-
17 tended to further or to conceal the illegal possession, im-
18 portation, manufacture, transportation, or distribution of
19 any controlled substance or controlled substance analogue.

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

21 “(1) the terms ‘controlled substance’ and ‘con-
22 trolled substance analogue’ have the meanings given
23 those terms in section 102 of the Controlled Sub-
24 stances Act;

1 “(2) the term ‘official act’ means any decision,
2 action, or conduct regarding any question, matter,
3 proceeding, cause, suit, investigation, or prosecution
4 which may at any time be pending, or which may be
5 brought before any public official, in such official’s
6 official capacity, or in such official’s place of trust
7 or profit;

8 “(3) the term ‘public official’ means—

9 “(A) an officer or employee or person act-
10 ing for or on behalf of the United States, or
11 any department, agency, or branch of the Unit-
12 ed States Government in any official function,
13 under or by authority of any such department,
14 agency, or branch of Government;

15 “(B) a juror;

16 “(C) an officer or employee or person act-
17 ing for or on behalf of the government of any
18 State, or any political subdivision of a State, in
19 any official function, under or by the authority
20 of any such State or political subdivision; and

21 “(D) any person who has been nominated
22 or appointed to a position described in subpara-
23 graph (A), (B), or (C), or has been officially in-
24 formed that he or she will be so nominated or
25 appointed; and

1 “(4) the term ‘State’ means a State of the
2 United States, the District of Columbia, and any
3 commonwealth, territory, or possession of the United
4 States.”.

5 (b) TECHNICAL AMENDMENTS.—(1) Section 1961(1)
6 of title 18, United States Code, is amended by inserting
7 “section 220 (relating to narcotics and public corrup-
8 tion),” after “Section 201 (relating to bribery),”.

9 (2) Section 2516(1)(c) of title 18, United States
10 Code, is amended by inserting “section 220 (relating to
11 narcotics and public corruption),” after “section 201
12 (bribery of public officials and witnesses),”.

13 (c) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 11 of title 18, United States
15 Code, is amended by inserting after the item for section
16 219 the following:

 “220. Narcotics and public corruption.”.

17 **TITLE X—FUNDING**

18 **SEC. 1001. REDUCTION IN OVERHEAD COSTS INCURRED IN** 19 **FEDERALLY SPONSORED RESEARCH.**

20 (a) CBO SCORING.—The Congressional Budget Of-
21 fice estimates that the reduction in overhead payments for
22 federally funded university research required by this sec-
23 tion will produce savings of \$1,540,000,00 over 5 years
24 (\$150,000,000 for fiscal year 1994, \$310,000,000 for fis-
25 cal year 1995, \$350,000,000 for fiscal year 1996,

1 \$360,000,000 for fiscal year 1997, and \$370,000,000 for
2 fiscal year 1998).

3 (b) LIMITATION.—Notwithstanding any other law, on
4 and after the date of the enactment of this Act, each head
5 of a Federal agency making a grant to or entering into
6 a contract with, an institution of higher education for re-
7 search and development, shall reduce the overhead pay-
8 ment rate under the grant or contract to 90 percent of
9 the current level and return the amount saved to the gen-
10 eral fund of the Treasury.

11 (c) DEFINITIONS.—In this section—

12 (1) the term “institution of higher education”
13 has the meaning stated in section 1201(a) of the
14 Higher Education Act of 1965 (20 U.S.C. 1141(a));
15 and

16 (2) the term “Federal agency” means a depart-
17 ment, agency, or instrumentality of the Federal Gov-
18 ernment (including an executive agency (as defined
19 in section 105 of title 5, United States Code)).

20 **SEC. 1002. OVERHEAD EXPENSE REDUCTION.**

21 (a) CBO SCORING.—The Congressional Budget Of-
22 fice estimates that the reduction in administrative costs
23 required by this section will produce savings of
24 \$6,000,000,000 over 5 years (\$1,200,000,000 in each of
25 fiscal years 1994, 1995, 1996, 1997, and 1998).

1 (b) REDUCTION.—The overhead expenses identified
2 and reduced by the President in Executive Order 12837
3 are hereby reduced by an additional 5 percent. The reduc-
4 tion required by this section shall be taken from the total
5 of such expenses before the reduction by the President.

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