

Calendar No. 437

104TH CONGRESS
2^D Session

H. R. 1533

AN ACT

To amend title 18, United States Code, to increase the penalty for escaping from a Federal prison.

JUNE 13, 1996

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 1995

Received; read twice and referred to the Committee on the Judiciary

JUNE 13, 1996

Reported by Mr. HATCH, with an amendment

[Insert the part printed in italic]

AN ACT

To amend title 18, United States Code, to increase the penalty for escaping from a Federal prison.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 751(a) of title 18, United States Code, is
4 amended by striking “five” and inserting “10”.

5 **SEC. 2. SHORT TITLE.**

6 *This Act may be cited as the “Sexual Offender Track-*
7 *ing and Identification Act of 1996”.*

1 **SEC. 3. OFFENDER REGISTRATION.**

2 (a) *ESTABLISHMENT OF FBI DATABASE.*—*Subtitle A*
3 *of title XVII of the Violent Crime Control and Law Enforce-*
4 *ment Act of 1994 (42 U.S.C. 14071) is amended by adding*
5 *at the end the following new section:*

6 **“SEC. 170102. FBI DATABASE.**

7 “(a) *DEFINITIONS.*—*For purposes of this section—*

8 “(1) *the term ‘FBI’ means the Federal Bureau of*
9 *Investigation;*

10 “(2) *the terms ‘criminal offense against a victim*
11 *who is a minor’, ‘sexually violent offense’, ‘sexually*
12 *violent predator’, ‘mental abnormality’, and ‘preda-*
13 *tory’ have the same meanings as in section*
14 *170101(a)(3); and*

15 “(3) *the term ‘minimally sufficient sexual of-*
16 *fender registration program’ means any State sexual*
17 *offender registration program that—*

18 “(A) *requires the registration of each of-*
19 *fender who is convicted of an offense described in*
20 *subparagraph (A) or (B) of section 170101(a)(1);*

21 “(B) *requires that all information gathered*
22 *under such program be transmitted to the FBI*
23 *in accordance with subsection (g) of this section;*

24 “(C) *meets the requirements for verification*
25 *under section 170101(b)(3); and*

1 “(D) requires that each person who is re-
2 quired to register under subparagraph (A) shall
3 do so for a period of not less than 10 years be-
4 ginning on the date that such person was re-
5 leased from prison or placed on parole, super-
6 vised release, or probation.

7 “(b) *ESTABLISHMENT.*—The Attorney General shall es-
8 tablish a national database at the Federal Bureau of Inves-
9 tigation to track the whereabouts and movement of—

10 “(1) each person who has been convicted of a
11 criminal offense against a victim who is a minor;

12 “(2) each person who has been convicted of a sex-
13 ually violent offense; and

14 “(3) each person who is a sexually violent preda-
15 tor.

16 “(c) *REGISTRATION REQUIREMENT.*—Each person de-
17 scribed in subsection (b) who resides in a State that has
18 not established a minimally sufficient sexual offender reg-
19 istration program shall register a current address, finger-
20 prints of that person, and a current photograph of that per-
21 son with the FBI for inclusion in the database established
22 under subsection (b) for the time period specified under sub-
23 section (d).

24 “(d) *LENGTH OF REGISTRATION.*—A person described
25 in subsection (b) who is required to register under sub-

1 *section (c) shall, except during ensuing periods of incarcer-*
2 *ation, continue to comply with this section—*

3 *“(1) until 10 years after the date on which the*
4 *person was released from prison or placed on parole,*
5 *supervised release, or probation; or*

6 *“(2) for the life of the person, if that person—*

7 *“(A) has 2 or more convictions for an of-*
8 *fense described in subsection (b);*

9 *“(B) has been convicted of aggravated sex-*
10 *ual abuse, as defined in section 2241 of title 18,*
11 *United States Code, or in a comparable provi-*
12 *sion of State law; or*

13 *“(C) has been determined to be a sexually*
14 *violent predator.*

15 *“(e) VERIFICATION.—*

16 *“(1) PERSONS CONVICTED OF AN OFFENSE*
17 *AGAINST A MINOR OR A SEXUALLY VIOLENT OF-*
18 *FENSE.—In the case of a person required to register*
19 *under subsection (c), the FBI shall, during the period*
20 *in which the person is required to register under sub-*
21 *section (d), verify the person’s address in accordance*
22 *with guidelines that shall be promulgated by the At-*
23 *torney General. Such guidelines shall ensure that ad-*
24 *dress verification is accomplished with respect to these*

1 *individuals and shall require the submission of fin-*
2 *gerprints and photographs of the individual.*

3 “(2) *SEXUALLY VIOLENT PREDATORS.*—Para-
4 *graph (1) shall apply to a person described in sub-*
5 *section (b)(3), except that such person must verify the*
6 *registration once every 90 days after the date of the*
7 *initial release or commencement of parole of that per-*
8 *son.*

9 “(f) *COMMUNITY NOTIFICATION.*—

10 “(1) *IN GENERAL.*—Subject to paragraph (2), the
11 *FBI may release relevant information concerning a*
12 *person required to register under subsection (c) that*
13 *is necessary to protect the public.*

14 “(2) *IDENTITY OF VICTIM.*—In no case shall the
15 *FBI release the identity of any victim of an offense*
16 *that requires registration by the offender with the*
17 *FBI.*

18 “(g) *NOTIFICATION OF FBI OF CHANGES IN RESI-*
19 *DENCE.*—

20 “(1) *ESTABLISHMENT OF NEW RESIDENCE.*—For
21 *purposes of this section, a person shall be deemed to*
22 *have established a new residence during any period in*
23 *which that person resides for not less than 10 days.*

24 “(2) *PERSONS REQUIRED TO REGISTER WITH*
25 *THE FBI.*—Each establishment of a new residence, in-

1 *cluding the initial establishment of a residence imme-*
2 *diately following release from prison, or placement on*
3 *parole, supervised release, or probation, by a person*
4 *required to register under subsection (c) shall be re-*
5 *ported to the FBI not later than 10 days after that*
6 *person establishes a new residence.*

7 “(3) *INDIVIDUAL REGISTRATION REQUIRE-*
8 *MENT.—A person required to register under sub-*
9 *section (c) or under a minimally sufficient offender*
10 *registration program, including a program estab-*
11 *lished under section 170101, who changes address to*
12 *a State other than the State in which the person re-*
13 *sided at the time of the immediately preceding reg-*
14 *istration shall, not later than 10 days after that per-*
15 *son establishes a new residence, register a current ad-*
16 *dress, fingerprints, and a photograph of that person,*
17 *for inclusion in the appropriate database, with—*

18 “(A) *the FBI; and*

19 “(B) *the State in which the new residence*
20 *is established.*

21 “(4) *STATE REGISTRATION REQUIREMENT.—Any*
22 *time any State agency in a State with a minimally*
23 *sufficient sexual offender registration program, in-*
24 *cluding a program established under section 170101,*
25 *is notified of a change of address by a person required*

1 to register under such program within or outside of
2 such State, the State shall notify—

3 “(A) the law enforcement officials of the ju-
4 risdiction to which, and the jurisdiction from
5 which, the person has relocated; and

6 “(B) the FBI.

7 “(5) VERIFICATION.—

8 “(A) NOTIFICATION OF LOCAL LAW EN-
9 FORCEMENT OFFICIALS.—The FBI shall ensure
10 that State and local law enforcement officials of
11 the jurisdiction from which, and the State and
12 local law enforcement officials of the jurisdiction
13 to which, a person required to register under
14 subsection (c) relocates are notified of the new
15 residence of such person.

16 “(B) NOTIFICATION OF FBI.—A State agen-
17 cy receiving notification under this subsection
18 shall notify the FBI of the new residence of the
19 offender.

20 “(C) VERIFICATION.—

21 “(i) STATE AGENCIES.—If a State
22 agency cannot verify the address of or locate
23 a person required to register with a mini-
24 mally sufficient sexual offender registration
25 program, including a program established

1 under section 170101, the State shall imme-
2 diately notify the FBI.

3 “(ii) FBI.—If the FBI cannot verify
4 the address of or locate a person required to
5 register under subsection (c) or if the FBI
6 receives notification from a State under
7 clause (I), the FBI shall ensure that, either
8 the State or the FBI shall—

9 “(I) classify the person as being
10 in violation of the registration require-
11 ments of the national database; and

12 “(II) add the name of the person
13 to the National Crime Information
14 Center Wanted Person File and create
15 a wanted persons record, provided that
16 an arrest warrant which meets the re-
17 quirements for entry into the file is is-
18 sued in connection with the violation.

19 “(h) FINGERPRINTS.—

20 “(1) IN GENERAL.—

21 “(A) FBI REGISTRATION.—For each person
22 required to register under subsection (c), finger-
23 prints shall be obtained and verified by the FBI
24 or a local law enforcement official pursuant to
25 regulations issued by the Attorney General.

1 “(B) *STATE REGISTRATION SYSTEMS.*—*In a*
2 *State that has a minimally sufficient sexual of-*
3 *fender registration program, including a pro-*
4 *gram established under section 170101, finger-*
5 *prints required to be registered with the FBI*
6 *under this section shall be obtained and verified*
7 *in accordance with State requirements. The*
8 *State agency responsible for registration shall*
9 *ensure that the fingerprints and all other infor-*
10 *mation required to be registered is registered*
11 *with the FBI.*

12 “(i) *PENALTY.*—*A person required to register under*
13 *paragraph (1), (2), or (3) of subsection (g) who knowingly*
14 *fails to comply with this section shall—*

15 “(1) *in the case of a first offense—*

16 “(A) *if the person has been convicted of 1*
17 *offense described in subsection (b), be fined not*
18 *more than \$100,000; or*

19 “(B) *if the person has been convicted of*
20 *more than 1 offense described in subsection (b),*
21 *be imprisoned for up to 1 year and fined not*
22 *more than \$100,000; or*

23 “(2) *in the case of a second or subsequent offense,*
24 *be imprisoned for up to 10 years and fined not more*
25 *than \$100,000.*

1 “(j) *RELEASE OF INFORMATION.*—*The information*
2 *collected by the FBI under this section shall be disclosed*
3 *by the FBI—*

4 “(1) *to Federal, State, and local criminal justice*
5 *agencies for—*

6 “(A) *law enforcement purposes; and*

7 “(B) *community notification in accordance*
8 *with section 170101(d)(3); and*

9 “(2) *to Federal, State, and local governmental*
10 *agencies responsible for conducting employment-relat-*
11 *ed background checks under section 3 of the National*
12 *Child Protection Act of 1993 (42 U.S.C. 5119a).”.*

13 “(k) *NOTIFICATION UPON RELEASE.*—*Any state not*
14 *having established a program described in 170102(a)(3)*
15 *must—*

16 “(1) *upon release from prison, or placement on*
17 *parole, supervised release, or probation, notify each*
18 *offender who is convicted of an offense described in*
19 *subparagraph (A) or (B) of section 170101(a)(1) of*
20 *their duty to register with the FBI; and*

21 “(2) *notify the FBI of the release of each offender*
22 *who is convicted of an offense described in subpara-*
23 *graph (A) or (B) of section 170101(a)(1).”.*

1 **SEC. 4. DURATION OF STATE REGISTRATION REQUIRE-**
2 **MENT.**

3 *Section 170101(b)(6) of the Violent Crime Control and*
4 *Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is*
5 *amended to read as follows:*

6 “(6) *LENGTH OF REGISTRATION.*—*A person re-*
7 *quired to register under subsection (a)(1) shall con-*
8 *tinue to comply with this section, except during ensu-*
9 *ing periods of incarceration, until—*

10 “(A) *10 years have elapsed since the person*
11 *was released from prison or placed on parole, su-*
12 *pervised release, or probation; or*

13 “(B) *for the life of that person if that per-*
14 *son—*

15 “(i) *has 1 or more prior convictions for*
16 *an offense described in subsection (a)(1)(A);*
17 *or*

18 “(ii) *has been convicted of an aggra-*
19 *vated offense described in subsection*
20 *(a)(1)(A); or*

21 “(iii) *has been determined to be a sexu-*
22 *ally violent predator pursuant to subsection*
23 *(a)(2).”.*

24 **SEC. 5. STATE BOARDS.**

25 *Section 170101(a)(2) of the Violent Crime Control and*
26 *Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is*

1 *amended by inserting before the period at the end the follow-*
2 *ing: “, victim rights advocates, and representatives from*
3 *law enforcement agencies”.*

4 **SEC. 6. FINGERPRINTS.**

5 *Section 170101 of the Violent Crime Control and Law*
6 *Enforcement Act of 1994 (42 U.S.C. 14071) is amended by*
7 *adding at the end the following new subsection:*

8 *“(g) FINGERPRINTS.—Each requirement to register*
9 *under this section shall be deemed to also require the sub-*
10 *mission of fingerprints of the person required to register,*
11 *obtained in accordance with regulations prescribed by the*
12 *Attorney General under section 170102(h).”.*

13 **SEC. 7. VERIFICATION.**

14 *Section 170101(b)(3)(A)(iii) of the Violent Crime Con-*
15 *trol and Law Enforcement Act of 1994 (42 U.S.C.*
16 *14071(b)(3)(A)(iii)) is amended by adding at the end the*
17 *following: “The person shall include with the verification*
18 *form, fingerprints and a photograph of that person.”.*

19 **SEC. 8. REGISTRATION INFORMATION.**

20 *Section 170101(b)(2) of the Violent Crime Control and*
21 *Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is*
22 *amended to read as follows:*

23 *“(2) TRANSFER OF INFORMATION TO STATE AND*
24 *THE FBI.—The officer, or in the case of a person*
25 *placed on probation, the court, shall, within 3 days*

1 *after receipt of information described in paragraph*
2 *(1), forward it to a designated State law enforcement*
3 *agency. The State law enforcement agency shall im-*
4 *mediately enter the information into the appropriate*
5 *State law enforcement record system and notify the*
6 *appropriate law enforcement agency having jurisdic-*
7 *tion where the person expects to reside. The State law*
8 *enforcement agency shall also immediately transmit*
9 *all information described in paragraph (1) to the*
10 *Federal Bureau of Investigation for inclusion in the*
11 *FBI database described in section 170102.”.*

12 **SEC. 9. IMMUNITY FOR GOOD FAITH CONDUCT.**

13 *State and Federal law enforcement agencies, employees*
14 *of State and Federal law enforcement agencies, and State*
15 *and Federal officials shall be immune from liability for*
16 *good faith conduct under section 170102.*

17 **SEC. 10. REGULATIONS.**

18 *Not later than 1 year after the date of enactment of*
19 *this Act, the Attorney General shall issue regulations to*
20 *carry out this Act and the amendments made by this Act.*

21 **SEC. 11. EFFECTIVE DATE.**

22 *(a) IN GENERAL.—This Act and the amendments*
23 *made by this Act shall become effective 1 year after the date*
24 *of enactment of this Act.*

1 (b) *COMPLIANCE BY STATES.*—*Each State shall imple-*
2 *ment the amendments made by sections 3, 4, 5, 6, and 7*
3 *of this Act not later than 3 years after the date of enactment*
4 *of this Act, except that the Attorney General may grant an*
5 *additional 2 years to a State that is making good faith*
6 *efforts to implement such amendments.*

7 **SEC. 12. SEVERABILITY.**

8 *If any provision of this Act, an amendment made by*
9 *this Act, or the application of such provision or amendment*
10 *to any person or circumstance is held to be unconstitu-*
11 *tional, the remainder of this Act, the amendments made by*
12 *this Act, and the application of the provisions of such to*
13 *any person or circumstance shall not be affected thereby.*

14 **SEC. 13. COMPUTER CRIME.**

15 *Section 1030 of title 18, United States Code, is amend-*
16 *ed—*

17 (1) *in subsection (a)—*

18 (A) *in paragraph (1)—*

19 (i) *by striking “knowingly accesses”*
20 *and inserting “having knowingly accessed”;*

21 (ii) *by striking “exceeds” and inserting*
22 *“exceeding”;*

23 (iii) *by striking “obtains information”*
24 *and inserting “having obtained informa-*
25 *tion”;*

1 (iv) by striking “the intent or”;

2 (v) by striking “is to be used” and in-
3 serting “could be used”; and

4 (vi) by inserting before the semicolon
5 at the end the following: “willfully commu-
6 nicates, delivers, transmits, or causes to be
7 communicated, delivered, or transmitted, or
8 attempts to communicate, deliver, transmit
9 or cause to be communicated, delivered, or
10 transmitted the same to any person not en-
11 titled to receive it, or willfully retains the
12 same and fails to deliver it to the officer or
13 employee of the United States entitled to re-
14 ceive it”;

15 (B) in paragraph (2)—

16 (i) by striking “obtains information”
17 and inserting “obtains—
18 “(A) information”; and

19 (ii) by adding at the end the following
20 new subparagraphs:

21 “(B) information from any department or
22 agency of the United States; or

23 “(C) information from any protected com-
24 puter if the conduct involved an interstate or for-
25 eign communication;”;

1 (C) in paragraph (3)—

2 (i) by inserting “nonpublic” before
3 “computer of a department or agency”;

4 (ii) by striking “adversely”; and

5 (iii) by striking “the use of the Govern-
6 ment’s operation of such computer” and in-
7 serting “that use by or for the Government
8 of the United States”;

9 (D) in paragraph (4)—

10 (i) by striking “Federal interest” and
11 inserting “protected”; and

12 (ii) by inserting before the semicolon
13 the following: “and the value of such use is
14 not more than \$5,000 in any 1-year pe-
15 riod”;

16 (E) by striking paragraph (5) and inserting
17 the following:

18 “(5)(A) knowingly causes the transmission of a
19 program, information, code, or command, and as a
20 result of such conduct, intentionally causes damage
21 without authorization, to a protected computer;

22 “(B) intentionally accesses a protected computer
23 without authorization, and as a result of such con-
24 duct, recklessly causes damage; or

1 “(C) intentionally accesses a protected computer
2 without authorization, and as a result of such con-
3 duct, causes damage;” and

4 (F) by inserting after paragraph (6) the fol-
5 lowing new paragraph:

6 “(7) with intent to extort from any person, firm,
7 association, educational institution, financial institu-
8 tion, government entity, or other legal entity, any
9 money or other thing of value, transmits in interstate
10 or foreign commerce any communication containing
11 any threat to cause damage to a protected computer;”;

12 (2) in subsection (c)—

13 (A) in paragraph (1), by striking “such
14 subsection” each place that term appears and in-
15 serting “this section”;

16 (B) in paragraph (2)—

17 (i) in subparagraph (A)—

18 (I) by inserting “, (a)(5)(C),”
19 after “(a)(3)” and

20 (II) by striking “such subsection”
21 and inserting “this section”;

22 (ii) by redesignating subparagraph (B)
23 as subparagraph (C);

24 (iii) by inserting immediately after
25 subparagraph (A) the following:

1 “(B) a fine under this title or imprison-
2 ment for not more than 5 years, or both, in the
3 case of an offense under subsection (a)(2), if—

4 “(i) the offense was committed for pur-
5 poses of commercial advantage or private fi-
6 nancial gain;

7 “(ii) the offense was committed in fur-
8 therance of any criminal or tortious act in
9 violation of the Constitution or laws of the
10 United States or of any State; or

11 “(iii) the value of the information ob-
12 tained exceeds \$5,000;” and

13 (iv) in subparagraph (C) (as redesign-
14 ated)—

15 (I) by striking “such subsection”
16 and inserting “this section”; and

17 (II) by adding “and” at the end;

18 (C) in paragraph (3)—

19 (i) in subparagraph (A)—

20 (I) by striking “(a)(4) or
21 (a)(5)(A)” and inserting “(a)(4),
22 (a)(5)(A), (a)(5)(B), or (a)(7)”; and

23 (II) by striking “such subsection”
24 and inserting “this section”; and

25 (ii) in subparagraph (B)—

1 (I) by striking “(a)(4) or (a)(5)”

2 and inserting “(a)(4), (a)(5)(A),

3 (a)(5)(B), (a)(5)(C), or (a)(7)”; and

4 (II) by striking “such subsection”

5 and inserting “this section”; and

6 (D) by striking paragraph (4);

7 (3) in subsection (d), by inserting “subsections

8 (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6)

9 of” before “this section.”;

10 (4) in subsection (e)—

11 (A) in paragraph (2)—

12 (i) by striking “Federal interest” and

13 inserting “protected”;

14 (ii) in subparagraph (A), by striking

15 “the use of the financial institution’s oper-

16 ation or the Government’s operation of such

17 computer” and inserting “that use by or for

18 the financial institution or the Govern-

19 ment”; and

20 (iii) by striking subparagraph (B) and

21 inserting the following:

22 “(B) which is used in interstate or foreign

23 commerce or communication;”;

24 (B) in paragraph (6), by striking “and” at

25 the end;

1 (C) in paragraph (7), by striking the period
2 at the end and inserting “; and”; and

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

5 “(8) the term ‘damage’ means any impairment
6 to the integrity or availability of data, a program, a
7 system, or information, that—

8 “(A) causes loss aggregating at least \$5,000
9 in value during any 1-year period to one or
10 more individuals;

11 “(B) modifies or impairs, or potentially
12 modifies or impairs, the medical examination,
13 diagnosis, treatment, or care of one or more in-
14 dividuals;

15 “(C) causes physical injury to any person;
16 or

17 “(D) threatens public health or safety; and

18 “(9) the term ‘government entity’ includes the
19 Government of the United States, any State or politi-
20 cal subdivision of the United States, any foreign
21 country, and any state, province, municipality, or
22 other political subdivision of a foreign country.”; and

23 (5) in subsection (g)—

24 (A) by striking “, other than a violation of
25 subsection (a)(5)(B),”; and

1 (B) by striking “of any subsection other
2 than subsection (a)(5)(A)(ii)(II)(bb) or
3 (a)(5)(B)(ii)(II)(bb)” and inserting “involving
4 damage as defined in subsection (e)(8)(A)”.

5 **SEC. 14. CHILD PROTECTION ACT AMENDMENTS.**

6 Section 3(e) of the National Child Protection Act of
7 1993 (42 U.S.C. 5119a(e)) is amended to read as follows:

8 “(e) FEES.—

9 “(1) IN GENERAL.—The fees collected by the au-
10 thorized State agencies and the Federal Bureau of In-
11 vestigation, respectively, may not exceed—

12 “(A) \$5, or 50 percent of the actual cost,
13 whichever is greater, of the background check
14 conducted with fingerprints in relation to a
15 background check conducted pursuant to a State
16 requirement adopted after September 1, 1996,
17 with respect to a volunteer provider; and

18 “(B) \$18, or the actual cost, whichever is
19 less, of the background check conducted with fin-
20 gerprints, plus any surcharge charged pursuant
21 to paragraph (2) in relation to a background
22 check conducted pursuant to a State requirement
23 adopted after September 1, 1996, with respect to
24 a nonvolunteer provider.

1 “(2) *USER FEE SURCHARGE.*—*In the case of a*
2 *background check conducted pursuant to a State re-*
3 *quirement adopted after September 1, 1996, with re-*
4 *spect to a nonvolunteer provider, a special user fee*
5 *surcharge for the background check may be collected*
6 *by the authorized State agencies and the Federal Bu-*
7 *reau of Investigation, in an amount equal to not*
8 *more than 75 percent of the fee charged pursuant to*
9 *paragraph (1)(B).”.*