

104TH CONGRESS  
2D SESSION

# H. R. 2992

To combat crime.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 29, 1996

Mr. DOOLITTLE (for himself, Mr. SAM JOHNSON of Texas, Mr. BURTON of Indiana, Mr. DORNAN, Mr. ISTOOK, Mr. HUTCHINSON, Mr. BARTLETT of Maryland, Mr. HASTINGS of Washington, Mr. CHRISTENSEN, Mr. WELLER, Mr. CUNNINGHAM, Mrs. SEASTRAND, Mr. STOCKMAN, Mr. CREMEANS, Mr. ROHRABACHER, Mr. FROST, Mr. CRANE, Mr. HERGER, Mr. SAXTON, Mr. COOLEY, Mr. HANCOCK, Mr. EWING, Mr. HOSTETTLER, Mr. TIAHRT, Mr. BARR of Georgia, Mr. WELDON of Florida, Mrs. KELLY, and Mr. ENSIGN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Economic and Educational Opportunities, International Relations, Commerce, Resources, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To combat crime.

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

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Crime Prevention and  
5 Family Protection Act of 1996”.

1     **TITLE I—VICTIM RESTITUTION**  
2                     **ACT OF 1996”.**

3     **SEC. 101. MANDATORY RESTITUTION AND OTHER PROVI-**  
4                     **SIONS.**

5             (a) ORDER OF RESTITUTION.—Section 3663 of title  
6 18, United States Code, is amended—

7                 (1) in subsection (a)—

8                     (A) in paragraph (1)—

9                         (i) by striking “may order, in addition  
10                     to or, in the case of a misdemeanor, in lieu  
11                     of any other penalty authorized by law”  
12                     and inserting “shall order”; and

13                     (ii) by adding at the end the follow-  
14                     ing: “The requirement of this paragraph  
15                     does not affect the power of the court to  
16                     impose any other penalty authorized by  
17                     law. In the case of a misdemeanor, the  
18                     court may impose restitution in lieu of any  
19                     other penalty authorized by law.”;

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

21             “(4) In addition to ordering restitution to the victim  
22     of the offense of which a defendant is convicted, a court  
23     may order restitution to any person who, as shown by a  
24     preponderance of evidence, was harmed physically, emo-

1 tionally, or pecuniarily, by unlawful conduct of the defend-  
2 ant during—

3 “(A) the criminal episode during which the of-  
4 fense occurred; or

5 “(B) the course of a scheme, conspiracy, or pat-  
6 tern of unlawful activity related to the offense.”;

7 (2) in subsection (b)(1)(B) by striking “imprac-  
8 tical” and inserting “impracticable”;

9 (3) in subsection (b)(2) by inserting “emotional  
10 or” after “resulting in”;

11 (4) in subsection (b)—

12 (A) by striking “and” at the end of para-  
13 graph (4);

14 (B) by redesignating paragraph (5) as  
15 paragraph (6); and

16 (C) by inserting after paragraph (4) the  
17 following new paragraph:

18 “(5) in any case, reimburse the victim for lost  
19 income and necessary child care, transportation, and  
20 other expenses related to participation in the inves-  
21 tigation or prosecution of the offense or attendance  
22 at proceedings related to the offense; and”;

23 (5) in subsection (c) by striking “If the court  
24 decides to order restitution under this section, the”  
25 and inserting “The”;

1           (6) by striking subsections (d), (e), (f), (g), and  
2           (h);

3           (7) by redesignating subsection (i) as subsection  
4           (m); and

5           (8) by inserting after subsection (c) the follow-  
6           ing:

7           “(d)(1) The court shall order restitution to a victim  
8           in the full amount of the victim’s losses as determined by  
9           the court and without consideration of—

10           “(A) the economic circumstances of the of-  
11           fender; or

12           “(B) the fact that a victim has received or is  
13           entitled to receive compensation with respect to a  
14           loss from insurance or any other source.

15           “(2) Upon determination of the amount of restitution  
16           owed to each victim, the court shall specify in the restitu-  
17           tion order the manner in which and the schedule according  
18           to which the restitution is to be paid, in consideration of—

19           “(A) the financial resources and other assets of  
20           the offender;

21           “(B) projected earnings and other income of  
22           the offender; and

23           “(C) any financial obligations of the offender,  
24           including obligations to dependents.

1       “(3) A restitution order may direct the offender to  
2 make a single, lump-sum payment, partial payment at  
3 specified intervals, or such in-kind payments as may be  
4 agreeable to the victim and the offender. A restitution  
5 order shall direct the offender to give appropriate notice  
6 to victims and other persons in cases where there are mul-  
7 tiple victims or other persons who may receive restitution,  
8 and where the identity of such victims and other persons  
9 can be reasonably determined.

10       “(4) An in-kind payment described in paragraph (3)  
11 may be in the form of—

12               “(A) return of property;

13               “(B) replacement of property; or

14               “(C) services rendered to the victim or to a per-  
15 son or organization other than the victim.

16       “(e) When the court finds that more than 1 offender  
17 has contributed to the loss of a victim, the court may make  
18 each offender liable for payment of the full amount of res-  
19 titution or may apportion liability among the offenders to  
20 reflect the level of contribution and economic cir-  
21 cumstances of each offender.

22       “(f) When the court finds that more than 1 victim  
23 has sustained a loss requiring restitution by an offender,  
24 the court shall order full restitution to each victim but

1 may provide for different payment schedules to reflect the  
2 economic circumstances of each victim.

3 “(g)(1) If the victim has received or is entitled to re-  
4 ceive compensation with respect to a loss from insurance  
5 or any other source, the court shall order that restitution  
6 be paid to the person who provided or is obligated to pro-  
7 vide the compensation, but the restitution order shall pro-  
8 vide that all restitution to victims required by the order  
9 be paid to the victims before any restitution is paid to  
10 such a provider of compensation.

11 “(2) The issuance of a restitution order shall not af-  
12 fect the entitlement of a victim to receive compensation  
13 with respect to a loss from insurance or any other source  
14 until the payments actually received by the victim under  
15 the restitution order fully compensate the victim for the  
16 loss, at which time a person that has provided compensa-  
17 tion to the victim shall be entitled to receive any payments  
18 remaining to be paid under the restitution order.

19 “(3) Any amount paid to a victim under an order of  
20 restitution shall be set off against any amount later recov-  
21 ered as compensatory damages by the victim in—

22 “(A) any Federal civil proceeding; and

23 “(B) any State civil proceeding, to the extent  
24 provided by the law of the State.

25 “(h) A restitution order shall provide that—

1           “(1) all fines, penalties, costs, restitution pay-  
2           ments and other forms of transfers of money or  
3           property made pursuant to the sentence of the court  
4           shall be made by the offender to an entity des-  
5           ignated by the Director of the Administrative Office  
6           of the United States Courts for accounting and pay-  
7           ment by the entity in accordance with this sub-  
8           section;

9           “(2) the entity designated by the Director of  
10          the Administrative Office of the United States  
11          Courts shall—

12               “(A) log all transfers in a manner that  
13               tracks the offender’s obligations and the cur-  
14               rent status in meeting those obligations, unless,  
15               after efforts have been made to enforce the res-  
16               titution order and it appears that compliance  
17               cannot be obtained, the court determines that  
18               continued recordkeeping under this subpara-  
19               graph would not be useful; and

20               “(B) notify the court and the interested  
21               parties when an offender is 30 days in arrears  
22               in meeting those obligations; and

23           “(3) the offender shall advise the entity des-  
24           ignated by the Director of the Administrative Office  
25           of the United States Courts of any change in the of-

1       fender’s address during the term of the restitution  
2       order.

3       “(i) A restitution order shall constitute a lien against  
4 all property of the offender and may be recorded in any  
5 Federal or State office for the recording of liens against  
6 real or personal property.

7       “(j) Compliance with the schedule of payment and  
8 other terms of a restitution order shall be a condition of  
9 any probation, parole, or other form of release of an of-  
10 fender. If a defendant fails to comply with a restitution  
11 order, the court may revoke probation or a term of super-  
12 vised release, modify the term or conditions of probation  
13 or a term of supervised release, hold the defendant in con-  
14 tempt of court, enter a restraining order or injunction,  
15 order the sale of property of the defendant, accept a per-  
16 formance bond, or take any other action necessary to ob-  
17 tain compliance with the restitution order. In determining  
18 what action to take, the court shall consider the defend-  
19 ant’s employment status, earning ability, financial re-  
20 sources, the willfulness in failing to comply with the res-  
21 titution order, and any other circumstances that may have  
22 a bearing on the defendant’s ability to comply with the  
23 restitution order.

24       “(k) An order of restitution may be enforced—

25               “(1) by the United States—



1                   “(A) in the manner provided for the collec-  
2                   tion and payment of fines in subchapter B of  
3                   chapter 229 of this title; or

4                   “(B) in the same manner as a judgment in  
5                   a civil action; and

6                   “(2) by a victim named in the order to receive  
7                   the restitution, in the same manner as a judgment  
8                   in a civil action.

9                   “(l) A victim or the offender may petition the court  
10                  at any time to modify a restitution order as appropriate  
11                  in view of a change in the economic circumstances of the  
12                  offender.”.

13                  (b) PROCEDURE FOR ISSUING ORDER OF RESTITU-  
14                  TION.—Section 3664 of title 18, United States Code, is  
15                  amended—

16                   (1) by striking subsection (a);

17                   (2) by redesignating subsections (b), (c), (d),  
18                   and (e) as subsections (a), (b), (c), and (d);

19                   (3) by amending subsection (a), as redesignated  
20                   by paragraph (2), to read as follows:

21                   “(a) The court may order the probation service of the  
22                   court to obtain information pertaining to the amount of  
23                   loss sustained by any victim as a result of the offense,  
24                   the financial resources of the defendant, the financial  
25                   needs and earning ability of the defendant and the defend-

1 ant’s dependents, and such other factors as the court  
 2 deems appropriate. The probation service of the court  
 3 shall include the information collected in the report of  
 4 presentence investigation or in a separate report, as the  
 5 court directs.”; and

6 (4) by adding at the end thereof the following  
 7 new subsection:

8 “(e) The court may refer any issue arising in connec-  
 9 tion with a proposed order of restitution to a magistrate  
 10 or special master for proposed findings of fact and rec-  
 11 ommendations as to disposition, subject to a de novo de-  
 12 termination of the issue by the court.”.

13 **TITLE II—VIOLENT CRIMINAL**  
 14 **INCARCERATION ACT OF 1996**  
 15 **Subtitle A—Truth in Sentencing**

16 **SEC. 201. TRUTH IN SENTENCING GRANT PROGRAM.**

17 (a) IN GENERAL.—Title V of the Violent Crime Con-  
 18 trol and Law Enforcement Act of 1994 is amended to read  
 19 as follows:

20 **“TITLE V—TRUTH IN**  
 21 **SENTENCING GRANTS**

22 **“SEC. 501. AUTHORIZATION OF GRANTS.**

23 “(a) IN GENERAL.—The Attorney General is author-  
 24 ized to provide grants to eligible States and to eligible  
 25 States organized as a regional compact to build, expand,

1 and operate space in correctional facilities in order to in-  
2 crease the prison bed capacity in such facilities for the  
3 confinement of persons convicted of a serious violent fel-  
4 ony and to build, expand, and operate temporary or per-  
5 manent correctional facilities, including facilities on mili-  
6 tary bases and boot camp facilities, for the confinement  
7 of convicted nonviolent offenders and criminal aliens for  
8 the purpose of freeing suitable existing prison space for  
9 the confinement of persons convicted of a serious violent  
10 felony. Such grants may also be used to build, expand,  
11 and operate secure youth correctional facilities.

12 “(b) LIMITATION.—An eligible State or eligible  
13 States organized as a regional compact may receive either  
14 a general grant under section 502 or a truth-in-sentencing  
15 incentive grant under section 503.

16 **“SEC. 502. GENERAL GRANTS.**

17 “(a) DISTRIBUTION OF GENERAL GRANTS.—50 per-  
18 cent of the total amount of funds made available under  
19 this title for each of the fiscal years 1996 through 2001  
20 shall be made available for general eligibility grants for  
21 each State or States organized as a regional compact that  
22 meets the requirements of subsection (b).

23 “(b) GENERAL GRANTS.—In order to be eligible to  
24 receive funds under subsection (a), a State or States orga-  
25 nized as a regional compact shall submit an application

1 to the Attorney General that provides assurances that  
2 such State since 1993 has—

3 “(1) increased the percentage of convicted vio-  
4 lent offenders sentenced to prison;

5 “(2) increased the average prison time actually  
6 to be served in prison by convicted violent offenders  
7 sentenced to prison; and

8 “(3) increased the percentage of sentence to be  
9 actually served in prison by violent offenders sen-  
10 tenced to prison.

11 **“SEC. 503. TRUTH-IN-SENTENCING GRANTS.**

12 “(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—  
13 50 percent of the total amount of funds made available  
14 under this title for each of the fiscal years 1996 through  
15 2001 shall be made available for truth-in-sentencing incen-  
16 tive grants to each State or States organized as a regional  
17 compact that meet the requirements of subsection (b).

18 “(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING IN-  
19 CENTIVE GRANTS.—In order to be eligible to receive funds  
20 under subsection (a), a State or States organized as a re-  
21 gional compact shall submit an application to the Attorney  
22 General that provides assurances that each State applying  
23 has enacted laws and regulations which include—

24 “(1)(A) truth-in-sentencing laws which require  
25 persons convicted of a serious violent felony serve

1 not less than 85 percent of the sentence imposed or  
2 85 percent of the court-ordered maximum sentence  
3 for States that practice indeterminate sentencing; or

4 “(B) truth-in-sentencing laws which have been  
5 enacted, but not yet implemented, that require such  
6 State, not later than three years after such State  
7 submits an application to the Attorney General, to  
8 provide that persons convicted of a serious violent  
9 felony serve not less than 85 percent of the sentence  
10 imposed or 85 percent of the court-ordered maxi-  
11 mum sentence for States that practice indeterminate  
12 sentencing;

13 “(2) laws requiring that the sentencing or re-  
14 leasing authorities notify and allow the victims of  
15 the defendant or the family of such victims the op-  
16 portunity to be heard regarding the issue of sentenc-  
17 ing and any postconviction release; and

18 “(3) laws requiring that the releasing authority  
19 notify the victims of serious violent felons or the  
20 family of such victims and the convicting court re-  
21 garding the release of a defendant.

22 **“SEC. 504. SPECIAL RULES.**

23 “(a) **ADDITIONAL REQUIREMENTS.**—To be eligible to  
24 receive a grant under section 502 or 503, a State or States

1 organized as a regional compact shall provide an assur-  
2 ance to the Attorney General that—

3 “(1) to the extent practicable, inmate labor will  
4 be used to build and expand correctional facilities;

5 “(2) each State will involve counties and other  
6 units of local government, when appropriate, in the  
7 construction, development, expansion, modification,  
8 operation, or improvement of correctional facilities  
9 designed to ensure the incarceration of offenders,  
10 and that each State will share funds received under  
11 this title with any county or other unit of local gov-  
12 ernment that is housing State prisoners, taking into  
13 account the burden placed on such county or unit of  
14 local government in confining prisoners due to over-  
15 crowding in State prison facilities in furtherance of  
16 the purposes of this Act;

17 “(3) the State has implemented or will imple-  
18 ment, not later than 18 months after the date of the  
19 enactment of the Crime Prevention and Family Pro-  
20 tection Act of 1996, policies to determine the vet-  
21 eran status of inmates and to ensure that incarcer-  
22 ated veterans receive the veterans benefits to which  
23 they are entitled; and

24 “(4) the State has adopted procedures for the  
25 collection of reliable statistical data which compiles

1 the rate of serious violent felonies after the receipt  
2 of grant funds under section 502 or section 503 in  
3 comparison to the rate of serious violent felonies be-  
4 fore receipt of such funds and will report such sta-  
5 tistical data to the Attorney General if such data is  
6 not already provided.

7 “(b) JUVENILE JUSTICE INCENTIVE.—Beginning in  
8 fiscal year 1998, 15 percent of the funds that would other-  
9 wise be available to a State under section 502 or 503 shall  
10 be withheld from any State which does not have an eligible  
11 system of consequential sanctions for juvenile offenders.

12 “(c) INDETERMINANT SENTENCING EXCEPTION.—  
13 Notwithstanding the provisions of paragraphs (1) through  
14 (3) of section 502(b), a State shall be eligible for grants  
15 under this title, if the State, not later than the date of  
16 the enactment of this title—

17 “(1) practices indeterminant sentencing; and

18 “(2) the average times served in such State for  
19 the offenses of murder, rape, robbery, and assault  
20 exceed, by 10 percent or greater, the national aver-  
21 age of times served for such offenses.

22 “(d) AVAILABILITY OF FUNDS FOR JAIL CONSTRU-  
23 CTION.—A State may use up to 15 percent of the funds  
24 provided under this title for jail construction, if the Attor-  
25 ney General determines that the State has enacted—

1           “(1) legislation that provides for pretrial release  
2       requirements at least as restrictive as those found in  
3       section 3142 of title 18, United States Code; or

4           “(2) legislation that requires an individual  
5       charged with an offense for which a sentence of  
6       more than one year may be imposed, or charged  
7       with an offense involving violence against another  
8       person, may not be released before trial without a fi-  
9       nancial guarantee to ensure appearance before  
10      trial.”.

11       “(e) EXCEPTION.—The requirements under section  
12   503(b) shall apply, except that a State may provide that  
13   the Governor of the State may allow for earlier release  
14   of a geriatric prisoner or a prisoner whose medical condi-  
15   tion precludes the prisoner from posing a threat to the  
16   public after a public hearing in which representatives of  
17   the public and the prisoner’s victims have an opportunity  
18   to be heard regarding a proposed release.

19       “(f) FUNDS FOR JUVENILE OFFENDERS.—Notwith-  
20   standing any other provision of this title, if a State or  
21   unit of local government located in a State which other-  
22   wise meets the requirements of section 502 or 503 certifies  
23   to the Attorney General that exigent circumstances exist  
24   which require that the State expend funds to confine juve-  
25   nile offenders, the State may use funds received under this



1 title to build, expand, and operate juvenile correctional fa-  
2 cilities or pretrial detention facilities for such offenders.

3 **“SEC. 505. FORMULA FOR GRANTS.**

4 “To determine the amount of funds that each eligible  
5 State or eligible States organized as a regional compact  
6 may receive to carry out programs under section 502 or  
7 503, the Attorney General shall apply the following  
8 formula:

9 “(1) \$500,000 or 0.40 percent, whichever is  
10 greater, shall be allocated to each participating State  
11 or compact, as the case may be; and

12 “(2) of the total amount of funds remaining  
13 after the allocation under paragraph (1), there shall  
14 be allocated to each State or compact, as the case  
15 may be, an amount equal to the ratio that the num-  
16 ber of part 1 violent crimes reported by such State  
17 or States to the Federal Bureau of Investigation for  
18 the most recent calendar year for which the data is  
19 available.

20 **“SEC. 506. ACCOUNTABILITY.**

21 “(a) FISCAL REQUIREMENTS.—A State or States or-  
22 ganized as a regional compact that receives funds under  
23 this title shall use accounting, audit, and fiscal procedures  
24 that conform to guidelines which shall be prescribed by  
25 the Attorney General, including a requirement that any

1 funds used to carry out the programs under section 501(a)  
2 shall represent the best value for the State governments  
3 at the lowest possible cost and employ the best available  
4 technology.

5 “(b) REPORTING.—Each State that receives funds  
6 under this title shall submit an annual report, beginning  
7 on January 1, 1996, and each January 1 thereafter, to  
8 the Congress regarding compliance with the requirements  
9 of this title.

10 “(c) ADMINISTRATIVE PROVISIONS.—(1) The admin-  
11 istrative provisions of sections 801 and 802 of the Omni-  
12 bus Crime Control and Safe Streets Act of 1968 shall  
13 apply to the Attorney General in the same manner as such  
14 provisions apply to the officials listed in such sections.

15 “(2)(A) A State that receives funds under this title  
16 shall, in such form and manner as the Attorney General  
17 determines, and under such regulations as the Attorney  
18 General shall prescribe, require that the appropriate public  
19 authorities report promptly to the Attorney General the  
20 death of each individual who dies in custody while in a  
21 municipal or county jail, State prison, or other similar  
22 place of confinement. Each such report shall include the  
23 cause of death and all other facts relevant to the death  
24 reported, which the person so reporting shall have the duty  
25 to make a good faith effort to ascertain.

1 “(B) The Attorney General shall annually publish a  
2 report containing—

3 “(i) the number of deaths in each institution  
4 for which a report was filed during the relevant re-  
5 porting period;

6 “(ii) the cause of death and time of death for  
7 each death so reported; and

8 “(iii) such other information about the death as  
9 the Attorney General deems relevant.

10 **“SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

11 “(a) IN GENERAL.—There are authorized to be ap-  
12 propriated to carry out this title—

13 “(1) \$997,500,000 for fiscal year 1996;

14 “(2) \$1,330,000,000 for fiscal year 1997;

15 “(3) \$2,527,000,000 for fiscal year 1998;

16 “(4) \$2,660,000,000 for fiscal year 1999; and

17 “(5) \$2,753,100,000 for fiscal year 2000.

18 “(b) LIMITATIONS ON FUNDS.—

19 “(1) USES OF FUNDS.—Funds made available  
20 under this title may be used to carry out the pur-  
21 poses described in section 501(a).

22 “(2) NONSUPPLANTING REQUIREMENT.—Funds  
23 made available under this section shall not be used  
24 to supplant State funds, but shall be used to in-  
25 crease the amount of funds that would, in the ab-

1       sence of Federal funds, be made available from  
2       State sources.

3               “(3) ADMINISTRATIVE COSTS.—Not more than  
4       three percent of the funds available under this sec-  
5       tion may be used for administrative costs.

6               “(4) MATCHING FUNDS.—The Federal share of  
7       a grant received under this title may not exceed 75  
8       percent of the costs of a proposal as described in an  
9       application approved under this title.

10              “(5) CARRY OVER OF APPROPRIATIONS.—Any  
11       funds appropriated but not expended as provided by  
12       this section during any fiscal year shall remain avail-  
13       able until expended.

14              “(6) TRANSFER OF UNALLOCATED FUNDS.—  
15       After making the distribution to all eligible States  
16       required under section 503, the Attorney General  
17       may transfer as provided in this paragraph, in such  
18       amounts as may be provided in appropriations Acts,  
19       any remaining unallocated funds which have been  
20       available for more than two fiscal years, but all such  
21       funds shall be available for the purposes of this  
22       paragraph after fiscal year 2000. Funds transferred  
23       under this paragraph may be made available for ex-  
24       penses of the Immigration and Nationalization Serv-  
25       ice for investigators and for expenses of the Bureau

1 of Prisons, the Federal Bureau of Investigations and  
2 the United States Attorneys for activities and oper-  
3 ations related to the investigation, prosecution and  
4 conviction of persons accused of a serious violent fel-  
5 ony, and the incarceration of persons convicted of  
6 such offenses, including the National Institute of  
7 Justice for law enforcement technology programs.

8 **“SEC. 508. PAYMENTS TO STATES FOR INCARCERATION OF**  
9 **CRIMINAL ALIENS.**

10 “(a) RESERVATION OF FUNDS.—Notwithstanding  
11 any other provision of this title, for each of the fiscal years  
12 1996, 1997, 1998, 1999, and 2000 from amounts appro-  
13 priated under section 507, the Attorney General shall first  
14 reserve an amount which when added to amounts appro-  
15 priated to carry out section 242(j) of the Immigration and  
16 Nationality Act for such fiscal year equals \$650,000,000.

17 “(b) PAYMENTS TO ELIGIBLE STATES.—

18 “(1) Notwithstanding any other provision of  
19 this title, for each of the fiscal years 1996, 1997,  
20 1998, 1999, and 2000 from amounts reserved under  
21 subsection (a), the Attorney General shall make a  
22 payment to each State which is eligible under section  
23 242(j) of the Immigration and Nationality Act and  
24 which meets the eligibility requirements of section  
25 503(b), in such amount as is determined under sec-

1       tion 242(j) and for which payment is not made to  
2       such State for such fiscal year under such section.

3           “(2) For any fiscal year, payments made to  
4       States under paragraph (1) may not exceed the  
5       amount reserved for such fiscal year under sub-  
6       section (a).

7       “(c) USE OF UNOBLIGATED FUNDS.—For any fiscal  
8       year, amounts reserved under subsection (a) which are not  
9       obligated by the end of that fiscal year under subsection  
10      (b) shall not be available for payments under this section  
11      for any subsequent fiscal year, but shall be available, in  
12      equal amounts, to the Attorney General only for grants  
13      under sections 502 and 503.

14      “(d) REPORT TO CONGRESS.—Not later than May  
15      15, 1999, the Attorney General shall submit a report to  
16      the Congress which contains the recommendation of the  
17      Attorney General concerning the extension of the program  
18      under this section.”.

19      **“SEC. 509. DEFINITIONS.**

20      “As used in this title—

21           “(1) the term ‘indeterminate sentencing’ means  
22      a system by which—

23           “(A) the court has discretion on imposing  
24           the actual length of the sentence imposed, up to  
25           the statutory maximum; and

1           “(B) an administrative agency, generally  
2           the parole board, controls release between  
3           court-ordered minimum and maximum sen-  
4           tence;

5           “(2) the term ‘serious violent felony’ means—

6           “(A) an offense that is a felony and has as  
7           an element the use, attempted use, or threat-  
8           ened use of physical force against the person or  
9           property of another and has a maximum term  
10          of imprisonment of 10 years or more,

11          “(B) any other offense that is a felony and  
12          that, by its nature, involves a substantial risk  
13          that physical force against the person or prop-  
14          erty of another may be used in the course of  
15          committing the offense and has a maximum  
16          term of imprisonment of 10 years or more, or

17          “(C) such crimes including murder, assault  
18          with intent to commit murder, arson, armed  
19          burglary, rape, assault with intent to commit  
20          rape, kidnapping, and armed robbery;

21          “(3) the term ‘State’ means a State of the  
22          United States, the District of Columbia, or any com-  
23          monwealth, territory, or possession of the United  
24          States; and

1           “(4) the term ‘an eligible system of consequen-  
2           tial sanctions for juvenile offenders’ means that the  
3           State or States organized as a regional compact, as  
4           the case may be—

5                   “(A)(i) have established or are in the proc-  
6                   ess of establishing a system of sanctions for the  
7                   State’s juvenile justice system in which the  
8                   State bases dispositions for juveniles on a scale  
9                   of increasingly severe sanctions for the commis-  
10                  sion of a repeat delinquent act, particularly if  
11                  the subsequent delinquent act committed by  
12                  such juvenile is of similar or greater seriousness  
13                  or if a court dispositional order for a delinquent  
14                  act is violated; and

15                   “(ii) such dispositions should, to the extent  
16                   practicable, require the juvenile delinquent to  
17                   compensate victims for losses and compensate  
18                   the juvenile justice authorities for supervision  
19                   costs;

20                   “(B) impose a sanction on each juvenile  
21                   adjudicated delinquent;

22                   “(C) require that a State court concur in  
23                   allowing a juvenile to be sent to a diversionary  
24                   program in lieu of juvenile court proceedings;



1           “(D) have established and maintained an  
2           effective system that requires the prosecution of  
3           at least those juveniles who are 14 years of age  
4           and older as adults, rather than in juvenile pro-  
5           ceedings, for conduct constituting—

6                     “(i) murder or attempted murder;

7                     “(ii) robbery while armed with a dead-  
8           ly weapon;

9                     “(iii) battery while armed with a  
10          deadly weapon;

11                    “(iv) forcible rape;

12                    “(v) any other crime the State deter-  
13          mines appropriate; and

14                    “(vi) the fourth or subsequent occa-  
15          sion on which such juveniles engage in an  
16          activity for which adults could be impris-  
17          oned for a term exceeding 1 year;

18          unless, on a case-by-case basis, the transfer of  
19          such juveniles for disposition in the juvenile jus-  
20          tice system is determined under State law to be  
21          in the interest of justice;

22           “(E) require that whenever a juvenile is  
23          adjudicated in a juvenile proceeding to have en-  
24          gaged in the conduct constituting an offense de-  
25          scribed in subparagraph (D) that—

1 “(i) a record is kept relating to that  
2 adjudication which is—

3 “(I) equivalent to the record that  
4 would be kept of an adult conviction  
5 for that offense;

6 “(II) retained for a period of  
7 time that is equal to the period of  
8 time records are kept for adult convic-  
9 tions; and

10 “(III) made available to law en-  
11 forcement officials to the same extent  
12 that a record of an adult conviction  
13 would be made available;

14 “(ii) the juvenile is fingerprinted and  
15 photographed, and the fingerprints and  
16 photograph are sent to the Federal Bureau  
17 of Investigation; and

18 “(iii) the court in which the adjudica-  
19 tion takes place transmits to the Federal  
20 Bureau of Investigation the information  
21 concerning the adjudication, including the  
22 name and birth date of the juvenile, date  
23 of adjudication, and disposition;

24 “(F) where practicable and appropriate,  
25 require parents to participate in meeting the

1           dispositional requirements imposed on the juve-  
2           nile by the court;

3           “(G) have consulted with any units of local  
4           government responsible for secure youth correc-  
5           tional facilities in setting priorities for construc-  
6           tion, development, expansion and modification,  
7           operation or improvement of juvenile facilities,  
8           and to the extent practicable, ensure that the  
9           needs of entities currently administering juve-  
10          nile facilities are addressed; and

11          “(H) have in place or are putting in place  
12          systems to provide objective evaluations of State  
13          and local juvenile justice systems to determine  
14          such systems’ effectiveness in protecting the  
15          community, reducing recidivism, and ensuring  
16          compliance with dispositions.”.

17          (b) PREFERENCE IN PAYMENTS UNDER SECTION  
18          242 (j) OF IMMIGRATION AND NATIONALITY ACT.—Sec-  
19          tion 242(j)(4) of the Immigration and Nationality Act (8  
20          U.S.C. 1252(j)(4)) is amended by adding at the end the  
21          following:

22                 “(C) In carrying out paragraph (1)(A), the  
23                 Attorney General shall give preference in mak-  
24                 ing payments to States and political subdivi-  
25                 sions of States which are ineligible for pay-

1           ments under section 508 of the Violent Crime  
2           Control and Law Enforcement Act of 1994.”.

3   **SEC. 202. CONFORMING AMENDMENTS.**

4           (a) OMNIBUS CRIME CONTROL AND SAFE STREETS  
5   ACT OF 1968.—

6           (1) PART V.—Part V of title I of the Omnibus  
7   Crime Control and Safe Streets Act of 1968 is re-  
8   pealed.

9           (2) FUNDING.—(A) Section 1001(a) of the Om-  
10   nibus Crime Control and Safe Streets Act of 1968  
11   is amended by striking paragraph (20).

12           (B) Notwithstanding the provisions of subpara-  
13   graph (A), any funds that remain available to an ap-  
14   plicant under paragraph (20) of title I of the Omni-  
15   bus Crime Control and Safe Streets Act of 1968  
16   shall be used in accordance with part V of such Act  
17   as such Act was in effect on the day preceding the  
18   date of enactment of this title.

19           (b) VIOLENT CRIME CONTROL AND LAW ENFORCE-  
20   MENT ACT OF 1994.—

21           (1) REPEAL.—(A) Subtitle A of title II of the  
22   Violent Crime Control and Law Enforcement Act of  
23   1994 is repealed.

24           (B) The table of contents of the Violent Crime  
25   Control and Law Enforcement Act of 1994 is

1 amended by striking the matter relating to subtitle  
2 A of title II.

3 (2) COMPLIANCE.—Notwithstanding the provi-  
4 sions of paragraph (1), any funds that remain avail-  
5 able to an applicant under subtitle A of title II of  
6 the Violent Crime Control and Law Enforcement  
7 Act of 1994 shall be used in accordance with such  
8 subtitle as such subtitle was in effect on the day  
9 preceding the date of enactment of this title.

10 (3) TRUTH-IN-SENTENCING.—The table of con-  
11 tents of the Violent Crime Control and Law En-  
12 forcement Act of 1994 is amended by striking the  
13 matter relating to title V and inserting the following:

“TITLE V—TRUTH-IN-SENTENCING GRANTS

“Sec. 501. Authorization of grants.  
“Sec. 502. General grants.  
“Sec. 503. Truth-in-sentencing grants.  
“Sec. 504. Special rules.  
“Sec. 505. Formula for grants.  
“Sec. 506. Accountability.  
“Sec. 507. Authorization of appropriations.  
“Sec. 508. Definitions.”.

14 **Subtitle B—Stopping Abusive**  
15 **Prisoner Lawsuits**

16 **SEC. 211. EXHAUSTION REQUIREMENT.**

17 Section 7(a)(1) of the Civil Rights of Institutionalized  
18 Persons Act (42 U.S.C. 1997e) is amended—

19 (1) by striking “in any action brought” and in-  
20 serting “no action shall be brought”;

1           (2) by striking “the court shall” and all that  
 2           follows through “require exhaustion of” and insert  
 3           “until”; and

4           (3) by inserting “are exhausted” after “avail-  
 5           able”.

6 **SEC. 212. FRIVOLOUS ACTIONS.**

7           Section 7(a) of the Civil Rights of Institutionalized  
 8           Persons Act (42 U.S.C. 1997e(a)) is amended by adding  
 9           at the end the following:

10          “(3) The court shall on its own motion or on motion  
 11          of a party dismiss any action brought pursuant to section  
 12          1979 of the Revised Statutes of the United States by an  
 13          adult convicted of a crime and confined in any jail, prison,  
 14          or other correctional facility if the court is satisfied that  
 15          the action fails to state a claim upon which relief can be  
 16          granted or is frivolous or malicious.”.

17 **SEC. 213. MODIFICATION OF REQUIRED MINIMUM STAND-**  
 18 **ARDS.**

19           Section 7(b)(2) of the Civil Rights of Institutionalized  
 20           Persons Act (42 U.S.C. 1997e(b)(2)) is amended by strik-  
 21           ing subparagraph (A) and redesignating subparagraphs  
 22           (B) through (E) as subparagraphs (A) through (D), re-  
 23           spectively.

1 **SEC. 214. PROCEEDINGS IN FORMA PAUPERIS.**

2 (a) DISMISSAL.—Section 1915(d) of title 28, United  
3 States Code, is amended—

4 (1) by inserting “at any time” after “counsel  
5 and may”;

6 (2) by striking “and may” and inserting “and  
7 shall”;

8 (3) by inserting “fails to state a claim upon  
9 which relief may be granted or” after “that the ac-  
10 tion”; and

11 (4) by inserting “even if partial filing fees have  
12 been imposed by the court” before the period.

13 (b) PRISONER’S STATEMENT OF ASSETS.—Section  
14 1915 of title 28, United States Code, is amended by add-  
15 ing at the end the following:

16 “(f) If a prisoner in a correctional institution files  
17 an affidavit in accordance with subsection (a) of this sec-  
18 tion, such prisoner shall include in that affidavit a state-  
19 ment of all assets such prisoner possesses. The court shall  
20 make inquiry of the correctional institution in which the  
21 prisoner is incarcerated for information available to that  
22 institution relating to the extent of the prisoner’s assets.  
23 The court shall require full or partial payment of filing  
24 fees according to the prisoner’s ability to pay.”.

**Subtitle C—Stop Turning Out  
Prisoners**

**SEC. 221. APPROPRIATE REMEDIES FOR PRISON CONDI-  
TIONS.**

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

**“§ 3626. Appropriate remedies with respect to prison  
conditions**

“(a) REQUIREMENTS FOR RELIEF.—

“(1) LIMITATIONS ON PROSPECTIVE RELIEF.—

Prospective relief in a civil action with respect to prison conditions shall extend no further than necessary to remove the conditions that are causing the deprivation of the Federal rights of individual plaintiffs in that civil action. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the intrusiveness of the relief, the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

“(2) PRISON POPULATION REDUCTION RELIEF.—In any civil action with respect to prison conditions, the court shall not grant or approve any re-



1       lief whose purpose or effect is to reduce or limit the  
2       prison population, unless the plaintiff proves that  
3       crowding is the primary cause of the deprivation of  
4       the Federal right and no other relief will remedy  
5       that deprivation.

6       “(b) TERMINATION OF RELIEF.—

7               “(1) AUTOMATIC TERMINATION OF PROSPEC-  
8       TIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil  
9       action with respect to prison conditions, any pro-  
10      spective relief shall automatically terminate 2 years  
11      after the later of—

12               “(A) the date the court found the violation  
13      of a Federal right that was the basis for the re-  
14      lief; or

15               “(B) the date of the enactment of the Stop  
16      Turning Out Prisoners Act.

17               “(2) IMMEDIATE TERMINATION OF PROSPEC-  
18      TIVE RELIEF.—In any civil action with respect to  
19      prison conditions, a defendant or intervenor shall be  
20      entitled to the immediate termination of any pro-  
21      spective relief, if that relief was approved or granted  
22      in the absence of a finding by the court that prison  
23      conditions violated a Federal right.

24       “(c) PROCEDURE FOR MOTIONS AFFECTING PRO-  
25      SPECTIVE RELIEF.—

1           “(1) GENERALLY.—The court shall promptly  
2 rule on any motion to modify or terminate prospec-  
3 tive relief in a civil action with respect to prison con-  
4 ditions.

5           “(2) AUTOMATIC STAY.—Any prospective relief  
6 subject to a pending motion shall be automatically  
7 stayed during the period—

8               “(A) beginning on the 30th day after such  
9 motion is filed, in the case of a motion made  
10 under subsection (b); and

11               “(B) beginning on the 180th day after  
12 such motion is filed, in the case of a motion  
13 made under any other law;

14 and ending on the date the court enters a final order  
15 ruling on that motion.

16           “(d) STANDING.—Any Federal, State, or local official  
17 or unit of government—

18               “(1) whose jurisdiction or function includes the  
19 prosecution or custody of persons in a prison subject  
20 to; or

21               “(2) who otherwise is or may be affected by;  
22 any relief whose purpose or effect is to reduce or limit  
23 the prison population shall have standing to oppose the  
24 imposition or continuation in effect of that relief and may  
25 intervene in any proceeding relating to that relief. Stand-

1 ing shall be liberally conferred under this subsection so  
2 as to effectuate the remedial purposes of this section.

3 “(e) SPECIAL MASTERS.—In any civil action in a  
4 Federal court with respect to prison conditions, any spe-  
5 cial master or monitor shall be a United States magistrate  
6 and shall make proposed findings on the record on com-  
7 plicated factual issues submitted to that special master or  
8 monitor by the court, but shall have no other function.  
9 The parties may not by consent extend the function of  
10 a special master beyond that permitted under this sub-  
11 section.

12 “(f) ATTORNEY’S FEES.—No attorney’s fee under  
13 section 722 of the Revised Statutes of the United States  
14 (42 U.S.C. 1988) may be granted to a plaintiff in a civil  
15 action with respect to prison conditions except to the ex-  
16 tent such fee is—

17 “(1) directly and reasonably incurred in proving  
18 an actual violation of the plaintiff’s Federal rights;  
19 and

20 “(2) proportionally related to the extent the  
21 plaintiff obtains court ordered relief for that viola-  
22 tion.

23 “(g) DEFINITIONS.—As used in this section—

24 “(1) the term ‘prison’ means any Federal,  
25 State, or local facility that incarcerates or detains

1 juveniles or adults accused of, convicted of, sen-  
2 tenced for, or adjudicated delinquent for, violations  
3 of criminal law;

4 “(2) the term ‘relief’ means all relief in any  
5 form which may be granted or approved by the  
6 court, and includes consent decrees and settlement  
7 agreements (except a settlement agreement the  
8 breach of which is not subject to any court enforce-  
9 ment other than reinstatement of the civil proceed-  
10 ing which such agreement settled); and

11 “(3) the term ‘prospective relief’ means all re-  
12 lief other than compensatory monetary damages.”.

13 (b) APPLICATION OF AMENDMENT.—Section 3626 of  
14 title 18, United States Code, as amended by this section,  
15 shall apply with respect to all relief (as defined in such  
16 section) whether such relief was originally granted or ap-  
17 proved before, on, or after the date of the enactment of  
18 this title.

19 (c) CLERICAL AMENDMENT.—The item relating to  
20 section 3626 in the table of sections at the beginning of  
21 subchapter C of chapter 229 of title 18, United States  
22 Code, is amended by striking “crowding” and inserting  
23 “conditions”.

1     **Subtitle D—Enhancing Protection**  
2     **Against Incarcerated Criminals**

3     **SEC. 231. PRISON SECURITY.**

4         (a) IN GENERAL.—Chapter 303 of title 18, United  
5 States Code, is amended by adding at the end the follow-  
6 ing new section:

7     **“§ 4047. Strength-training of prisoners prohibited**

8         “The Bureau of Prisons shall ensure that—

9             “(1) prisoners under its jurisdiction do not en-  
10         gage in any physical activities designed to increase  
11         their fighting ability; and

12             “(2) all equipment designed for increasing the  
13         strength or fighting ability of prisoners promptly be  
14         removed from Federal correctional facilities and not  
15         be introduced into such facilities thereafter except as  
16         needed for a medically required program of physical  
17         rehabilitation approved by the Director of the Bu-  
18         reau of Prisons.”.

19         (b) CLERICAL AMENDMENT.—The table of sections  
20 at the beginning of chapter 303 of title 18, United States  
21 Code, is amended by adding at the end the following new  
22 item:

“4047. Strength-training of prisoners prohibited.”.

## 1       **Subtitle E—Prison Conditions**

### 2       **SEC. 241. PRISON CONDITIONS.**

3           (a) IN GENERAL.—The Attorney General shall by  
4 rule establish standards regarding conditions in the Fed-  
5 eral prison system that provide prisoners the least amount  
6 of amenities and personal comforts consistent with Con-  
7 stitutional requirements and good order and discipline in  
8 the Federal prison system.

9           (b) RULE OF CONSTRUCTION.—Nothing in this sec-  
10 tion shall be construed to establish or recognize any mini-  
11 mum rights or standards for prisoners.

### 12       **SEC. 242. ANNUAL REPORT.**

13           The director of the Bureau of Prisons shall submit  
14 to Congress on or before December 31 of each year, begin-  
15 ning on December 31, 1996, a report setting forth the  
16 amount spent at each Federal correctional facility under  
17 the jurisdiction of the Bureau of Prisons for each of the  
18 following items:

19                   (1) The minimal requirements necessary to  
20 maintain custody and security of prisoners.

21                   (2) Basic nutritional needs.

22                   (3) Essential medical services.

23                   (4) Amenities and programs beyond the scope  
24 of the items referred to in paragraphs (1) through  
25 (3), including but not limited to—

- 1 (A) recreational programs and facilities;  
 2 (B) vocational and educational programs;  
 3 and  
 4 (C) counseling services, together with the  
 5 rationale for spending on each category and em-  
 6 pirical data, if any, supporting such rationale.

7 **Subtitle F—Community Service**  
 8 **Projects**

9 **SEC. 251. BUREAU OF PRISONS COMMUNITY SERVICE**  
 10 **PROJECTS.**

11 (a) IN GENERAL.—Chapter 303 of title 18, United  
 12 States Code, is amended by adding at the end the follow-  
 13 ing:

14 **“§ 4048. Community service projects**

15 “(a) Subject to the limitations of subsection (b), the  
 16 Chief Executive Officer of a Federal penal or correctional  
 17 facility may, as part of an inmate work program, provide  
 18 services to private, nonprofit organizations, as defined in  
 19 section 501(c)(3) of the Internal Revenue Code of 1986,  
 20 or to a component of any State government or political  
 21 subdivision thereof. Such services shall be provided pursu-  
 22 ant to rules prescribed by the Attorney General.

23 “(b) Services provided under subsection (a)—

1 “(1) shall be used only for the benefit of the re-  
 2 cipient entity and not for the benefit of any individ-  
 3 ual or organization other than the recipient; and

4 “(2) shall not displace an employee of the recip-  
 5 ient or result in a reduction in hours, wages, or em-  
 6 ployment benefits of any employee of the recipient.”.

7 (b) CLERICAL AMENDMENT.—The table of chapters  
 8 at the beginning of chapter 303, title 18, United States  
 9 Code, is amended by adding at the end the following new  
 10 item:

“4048. Community service projects.”.

## 11 **Subtitle G—Prison Commissary** 12 **Administration**

### 13 **SEC. 261. ADMINISTRATION OF FEDERAL PRISON COM-** 14 **MISSARIES.**

15 Section 4043 of title 18, United States Code, is  
 16 amended by striking the current language and inserting  
 17 the following:

18 “(a) The Director of the Bureau of Prisons may es-  
 19 tablish, operate, and maintain commissaries in Federal  
 20 penal or correctional facilities, from and through which ar-  
 21 ticles and services may be procured, sold, rendered, or oth-  
 22 erwise provided or made available for the benefit of in-  
 23 mates confined within those facilities. Only those articles  
 24 or services authorized by the Director of the Bureau of



1 Prisons may be procured from or through prison com-  
2 missaries for the use of inmates.

3 “(b) There is established in the Treasury of the  
4 United States a revolving fund to be called the Prison  
5 Commissary Fund which shall be available to the Federal  
6 Bureau of Prisons without fiscal-year limitation to carry  
7 out the purposes, functions and powers authorized by this  
8 section. Funds currently on deposit in the ‘Commissary  
9 Funds, Federal Prisons’ account of the Treasury shall be  
10 transferred to the Prison Commissary Fund.

11 “(c) The Director of the Federal Bureau of Prisons  
12 may accept gifts or bequests of money for credit to the  
13 Fund. The Director may also accept gifts or bequests of  
14 other property, real or personal, for use or other disposi-  
15 tion by the Bureau of Prisons. A gift or bequest under  
16 this section is a gift or bequest to or for the use of the  
17 United States under the Internal Revenue Code of 1986  
18 (26 U.S.C. 1 et seq.).

19 “(d) Amounts in the Prison Commissary Fund which  
20 are not currently needed for operations shall be kept on  
21 deposit or invested in obligations of, or guaranteed by, the  
22 United States and all earnings on such investments shall  
23 be deposited in the Prison Commissary Fund.

24 “(e) There shall be deposited in the Fund, subject  
25 to withdrawal by the Federal Bureau of Prisons—

1           “(1) revenues received from the sale of articles  
2           through prison commissaries;

3           “(2) revenues received from services rendered  
4           by prison commissaries;

5           “(3) a gift or bequest of money for credit to the  
6           Fund;

7           “(4) proceeds from the sale or disposal of do-  
8           nated property, real or personal, for credit to the  
9           Fund; and

10          “(5) earnings or interest which may be derived  
11          from investments of the Fund.

12          “(f) The fund shall be available for the payment of  
13 any expenses incurred by the Federal Bureau of Prisons  
14 in establishing, operating, and maintaining prison com-  
15 missaries and the Prison Commissary Fund, including the  
16 employment of personnel, the purchase of equipment, se-  
17 curity-related or otherwise, and those expenses incurred  
18 in the provision of articles or services procured, sold, ren-  
19 dered, or otherwise provided or made available to inmates.

20          “(g) The Director of the Bureau of Prisons is author-  
21 ized to use monies from the Prison Commissary Fund for  
22 the general welfare of inmates. No inmate shall be entitled  
23 to any portion of the Fund.

1 “(h) Employees compensated by or through the Pris-  
 2 on Commissary Fund may be assigned additional duties  
 3 other than those directly related to commissary activities.

4 “(i) The provisions of sections 554 and 555 and 701  
 5 through 706 of title 5, United States Code, do not apply  
 6 to the making of any determination, decision, or order  
 7 under this section.”.

8 **SEC. 262. TECHNICAL AMENDMENT.**

9 Section 1321(b) of title 31, United States Code, is  
 10 amended by striking “Commissary Funds, Federal Pris-  
 11 ons”.

12 **TITLE III—CRIMINAL ALIEN DE-**  
 13 **PORTATION IMPROVEMENTS**  
 14 **ACT OF 1996**

15 **SEC. 301. ADDITIONAL EXPANSION OF DEFINITION OF AG-**  
 16 **GRAVATED FELONY.**

17 (a) IN GENERAL.—Section 101(a)(43) of the Immi-  
 18 gration and Nationality Act (8 U.S.C. 1101(a)(43)), as  
 19 amended by section 222 of the Immigration and National-  
 20 ity Technical Corrections Act of 1994 (Public Law 103–  
 21 416), is amended—

22 (1) in subparagraph (J), by inserting “, or an  
 23 offense described in section 1084 (if it is a second  
 24 or subsequent offense) or 1955 of that title (relating

1 to gambling offenses),” after “corrupt organiza-  
2 tions)”;

3 (2) in subparagraph (K)—

4 (A) by striking “or” at the end of clause  
5 (i),

6 (B) by redesignating clause (ii) as clause  
7 (iii), and

8 (C) by inserting after clause (i) the follow-  
9 ing new clause:

10 “(ii) is described in section 2421,  
11 2422, or 2423 of title 18, United States  
12 Code (relating to transportation for the  
13 purpose of prostitution) for commercial ad-  
14 vantage; or”;

15 (3) by amending subparagraph (N) to read as  
16 follows:

17 “(N) an offense described in paragraph  
18 (1)(A) or (2) of section 274(a) (relating to alien  
19 smuggling) for which the term of imprisonment  
20 imposed (regardless of any suspension of im-  
21 prisonment) is at least 5 years;”;

22 (4) by amending subparagraph (O) to read as  
23 follows:

24 “(O) an offense (i) which either is falsely  
25 making, forging, counterfeiting, mutilating, or

1           altering a passport or instrument in violation of  
2           section 1543 of title 18, United States Code, or  
3           is described in section 1546(a) of such title (re-  
4           lating to document fraud) and (ii) for which the  
5           term of imprisonment imposed (regardless of  
6           any suspension of such imprisonment) is at  
7           least 18 months;”

8           (5) in subparagraph (P), by striking “15 years”  
9           and inserting “5 years”, and by striking “and” at  
10          the end;

11          (6) by redesignating subparagraphs (O), (P),  
12          and (Q) as subparagraphs (P), (Q), and (U), respec-  
13          tively;

14          (7) by inserting after subparagraph (N) the fol-  
15          lowing new subparagraph:

16               “(O) an offense described in section 275(a)  
17               or 276 committed by an alien who was pre-  
18               viously deported on the basis of a conviction for  
19               an offense described in another subparagraph  
20               of this paragraph;”; and

21          (8) by inserting after subparagraph (Q), as so  
22          redesignated, the following new subparagraphs:

23               “(R) an offense relating to commercial  
24               bribery, counterfeiting, forgery, or trafficking in  
25               vehicles the identification numbers of which

1 have been altered for which a sentence of 5  
 2 years' imprisonment or more may be imposed;

3 “(S) an offense relating to obstruction of  
 4 justice, perjury or subornation of perjury, or  
 5 bribery of a witness, for which a sentence of 5  
 6 years' imprisonment or more may be imposed;

7 “(T) an offense relating to a failure to ap-  
 8 pear before a court pursuant to a court order  
 9 to answer to or dispose of a charge of a felony  
 10 for which a sentence of 2 years' imprisonment  
 11 or more may be imposed; and”.

12 (b) EFFECTIVE DATE.—The amendments made by  
 13 subsection (a) shall apply to convictions entered on or  
 14 after the date of the enactment of this title, except that  
 15 the amendment made by subsection (a)(3) shall take effect  
 16 as if included in the enactment of section 222 of the Immi-  
 17 gration and Nationality Technical Corrections Act of  
 18 1994.

19 **SEC. 302. DEPORTATION PROCEDURES FOR CERTAIN**  
 20 **CRIMINAL ALIENS WHO ARE NOT PERMA-**  
 21 **NENT RESIDENTS.**

22 (a) ADMINISTRATIVE HEARINGS.—Section 242A(b)  
 23 of the Immigration and Nationality Act (8 U.S.C.  
 24 1252a(b)), as added by section 130004(a) of the Violent

1 Crime Control and Law Enforcement Act of 1994 (Public  
2 Law 103–322), is amended—

3 (1) in paragraph (2)—

4 (A) by striking “and” at the end of sub-  
5 paragraph (A) and inserting “or”, and

6 (B) by amending subparagraph (B) to read  
7 as follows:

8 “(B) had permanent resident status on a  
9 conditional basis (as described in section 216)  
10 at the time that proceedings under this section  
11 commenced.”;

12 (2) in paragraph (3), by striking “30 calendar  
13 days” and inserting “14 calendar days”;

14 (3) in paragraph (4)(B), by striking  
15 “proceedings” and inserting “proceedings”;

16 (4) in paragraph (4)—

17 (A) by redesignating subparagraphs (D)  
18 and (E) as subparagraphs (F) and (G), respec-  
19 tively; and

20 (B) by adding after subparagraph (C) the  
21 following new subparagraphs:

22 “(D) such proceedings are conducted in, or  
23 translated for the alien into, a language the  
24 alien understands;

1           “(E) a determination is made for the  
2           record at such proceedings that the individual  
3           who appears to respond in such a proceeding is  
4           an alien subject to such an expedited proceed-  
5           ing under this section and is, in fact, the alien  
6           named in the notice for such proceeding,”; and  
7           (5) by adding at the end the following new  
8           paragraph:

9           “(5) No alien described in this section shall be  
10          eligible for any relief from deportation that the At-  
11          torney General may grant in the Attorney General’s  
12          discretion.”.

13          (b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of  
14          section 106 of the Immigration and Nationality Act (8  
15          U.S.C. 1105a), as added by section 130004(b) of the Vio-  
16          lent Crime Control and Law Enforcement Act of 1994  
17          (Public Law 103–322), is amended to read as follows:

18          “(d) Notwithstanding subsection (c), a petition for  
19          review or for habeas corpus on behalf of an alien described  
20          in section 242A(c) may only challenge whether the alien  
21          is in fact an alien described in such section, and no court  
22          shall have jurisdiction to review any other issue.”.

23          (c) PRESUMPTION OF DEPORTABILITY.—Section  
24          242A of the Immigration and Nationality Act (8 U.S.C.



1 1252a) is amended by inserting after subsection (b) the  
2 following new subsection:

3 “(c) PRESUMPTION OF DEPORTABILITY.—An alien  
4 convicted of an aggravated felony shall be conclusively pre-  
5 sumed to be deportable from the United States.”.

6 (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to all aliens against whom deporta-  
8 tion proceedings are initiated after the date of the enact-  
9 ment of this title.

10 **SEC. 303. RESTRICTING THE DEFENSE TO EXCLUSION**  
11 **BASED ON 7 YEARS PERMANENT RESIDENCE**  
12 **FOR CERTAIN CRIMINAL ALIENS.**

13 The last sentence of section 212(c) of the Immigra-  
14 tion and Nationality Act (8 U.S.C. 1182(c)) is amended  
15 by striking “has served for such felony or felonies” and  
16 all that follows through the period and inserting “has been  
17 sentenced for such felony or felonies to a term of imprison-  
18 ment of at least 5 years, if the time for appealing such  
19 conviction or sentence has expired and the sentence has  
20 become final.”.

21 **SEC. 304. LIMITATION ON COLLATERAL ATTACKS ON UN-**  
22 **DERLYING DEPORTATION ORDER.**

23 (a) IN GENERAL.—Section 276 of the Immigration  
24 and Nationality Act (8 U.S.C. 1326) is amended by add-  
25 ing at the end the following new subsection:

1       “(c) In a criminal proceeding under this section, an  
 2 alien may not challenge the validity of the deportation  
 3 order described in subsection (a)(1) or subsection (b) un-  
 4 less the alien demonstrates that—

5               “(1) the alien exhausted any administrative  
 6 remedies that may have been available to seek relief  
 7 against the order;

8               “(2) the deportation proceedings at which the  
 9 order was issued improperly deprived the alien of the  
 10 opportunity for judicial review; and

11              “(3) the entry of the order was fundamentally  
 12 unfair.”.

13       (b) EFFECTIVE DATE.—The amendment made by  
 14 subsection (a) shall apply to criminal proceedings initiated  
 15 after the date of the enactment of this title.

16 **SEC. 305. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

17       Section 130002(a) of the Violent Crime Control and  
 18 Law Enforcement Act of 1994 (Public Law 103–312) is  
 19 amended to read as follows:

20       “(a) OPERATION AND PURPOSE.—The Commissioner  
 21 of Immigration and Naturalization shall, under the au-  
 22 thority of section 242(a)(3)(A) of the Immigration and  
 23 Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a crimi-  
 24 nal alien identification system. The criminal alien identi-  
 25 fication system shall be used to assist Federal, State, and

1 local law enforcement agencies in identifying and locating  
2 aliens who may be subject to deportation by reason of  
3 their conviction of aggravated felonies.”.

4 **SEC. 306. ESTABLISHING CERTAIN ALIEN SMUGGLING-RE-**  
5 **LATED CRIMES AS RICO-PREDICATE OF-**  
6 **FENSES.**

7 Section 1961(1) of title 18, United States Code, is  
8 amended—

9 (1) by inserting “section 1028 (relating to  
10 fraud and related activity in connection with identi-  
11 fication documents) if the act indictable under sec-  
12 tion 1028 was committed for the purpose of finan-  
13 cial gain,” before “section 1029”;

14 (2) by inserting “section 1542 (relating to false  
15 statement in application and use of passport) if the  
16 act indictable under section 1542 was committed for  
17 the purpose of financial gain, section 1543 (relating  
18 to forgery or false use of passport) if the act indict-  
19 able under section 1543 was committed for the pur-  
20 pose of financial gain, section 1544 (relating to mis-  
21 use of passport) if the act indictable under section  
22 1544 was committed for the purpose of financial  
23 gain, section 1546 (relating to fraud and misuse of  
24 visas, permits, and other documents) if the act in-  
25 dictable under section 1546 was committed for the

purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),” after “section 1513 (relating to retaliating against a witness, victim, or an informant),”;

(3) by striking “or” before “(E)”; and

(4) by inserting before the period at the end the following: “, or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain”.

**SEC. 307. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.**

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

1           “(o) a felony violation of section 1028 (relating  
 2           to production of false identification documents), sec-  
 3           tion 1542 (relating to false statements in passport  
 4           applications), section 1546 (relating to fraud and  
 5           misuse of visas, permits, and other documents) of  
 6           this title or a violation of section 274, 277, or 278  
 7           of the Immigration and Nationality Act (relating to  
 8           the smuggling of aliens); or”.

9   **SEC. 308. EXPANSION OF CRITERIA FOR DEPORTATION FOR**  
 10                   **CRIMES OF MORAL TURPITUDE.**

11           (a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the  
 12   Immigration and Nationality Act (8 U.S.C.  
 13   1251(a)(2)(A)(i)(II)) is amended to read as follows:

14                                   “(II) is convicted of a crime for  
 15                                   which a sentence of one year or longer  
 16                                   may be imposed,”.

17           (b) EFFECTIVE DATE.—The amendment made by  
 18   subsection (a) shall apply to aliens against whom deporta-  
 19   tion proceedings are initiated after the date of the enact-  
 20   ment of this title.

21   **SEC. 309. PAYMENTS TO POLITICAL SUBDIVISIONS FOR**  
 22                   **COSTS OF INCARCERATING ILLEGAL ALIENS.**

23           Amounts appropriated to carry out section 501 of the  
 24   Immigration Reform and Control Act of 1986 for fiscal  
 25   year 1996 shall be available to carry out section 242(j)

1 of the Immigration and Nationality Act in that fiscal year  
2 with respect to undocumented criminal aliens incarcerated  
3 under the authority of political subdivisions of a State.

4 **SEC. 310. MISCELLANEOUS PROVISIONS.**

5 (a) USE OF ELECTRONIC AND TELEPHONIC MEDIA  
6 IN DEPORTATION HEARINGS.—The second sentence of  
7 section 242(b) of the Immigration and Nationality Act (8  
8 U.S.C. 1252(b)) is amended by inserting before the period  
9 the following: “; except that nothing in this subsection  
10 shall preclude the Attorney General from authorizing pro-  
11 ceedings by electronic or telephonic media (with the con-  
12 sent of the alien) or, where waived or agreed to by the  
13 parties, in the absence of the alien”.

14 (b) CODIFICATION.—

15 (1) Section 242(i) of such Act (8 U.S.C.  
16 1252(i)) is amended by adding at the end the follow-  
17 ing: “Nothing in this subsection shall be construed  
18 to create any substantive or procedural right or ben-  
19 efit that is legally enforceable by any party against  
20 the United States or its agencies or officers or any  
21 other person.”.

22 (2) Section 225 of the Immigration and Nation-  
23 ality Technical Corrections Act of 1994 (Public Law  
24 103–416) is amended by striking “and nothing in”  
25 and all that follows through “1252(i))”.

1           (3) The amendments made by this subsection  
2       shall take effect as if included in the enactment of  
3       the Immigration and Nationality Technical Correc-  
4       tions Act of 1994 (Public Law 103–416).

5 **SEC. 311. CONSTRUCTION OF EXPEDITED DEPORTATION**  
6 **REQUIREMENTS.**

7       No amendment made by this title shall be construed  
8       to create any substantive or procedural right or benefit  
9       that is legally enforceable by any party against the United  
10      States or its agencies or officers or any other person.

11 **SEC. 312. STUDY OF PRISONER TRANSFER TREATY WITH**  
12 **MEXICO.**

13       (a) REPORT TO CONGRESS.—Not later than 180 days  
14      after the date of the enactment of this title, the Secretary  
15      of State and the Attorney General shall submit to the Con-  
16      gress a report that describes the use and effectiveness of  
17      the Prisoner Transfer Treaty with Mexico (in this section  
18      referred to as the “Treaty”) to remove from the United  
19      States aliens who have been convicted of crimes in the  
20      United States.

21       (b) USE OF TREATY.—The report under subsection  
22      (a) shall include the following information:

23           (1) The number of aliens convicted of a crimi-  
24      nal offense in the United States since November 30,

1       1977, who would have been or are eligible for trans-  
2       fer pursuant to the Treaty.

3           (2) The number of aliens described in para-  
4       graph (1) who have been transferred pursuant to the  
5       Treaty.

6           (3) The number of aliens described in para-  
7       graph (2) who have been incarcerated in full compli-  
8       ance with the Treaty.

9           (4) The number of aliens who are incarcerated  
10      in a penal institution in the United States who are  
11      eligible for transfer pursuant to the Treaty.

12          (5) The number of aliens described in para-  
13      graph (4) who are incarcerated in State and local  
14      penal institutions.

15      (c) EFFECTIVENESS OF TREATY.—The report under  
16      subsection (a) shall include the recommendations of the  
17      Secretary of State and the Attorney General to increase  
18      the effectiveness and use of, and full compliance with, the  
19      Treaty. In considering the recommendations under this  
20      subsection, the Secretary and the Attorney General shall  
21      consult with such State and local officials in areas dis-  
22      proportionately impacted by aliens convicted of criminal  
23      offenses as the Secretary and the Attorney General con-  
24      sider appropriate. Such recommendations shall address  
25      the following areas:



1           (1) Changes in Federal laws, regulations, and  
2           policies affecting the identification, prosecution, and  
3           deportation of aliens who have committed a criminal  
4           offense in the United States.

5           (2) Changes in State and local laws, regula-  
6           tions, and policies affecting the identification, pros-  
7           ecution, and deportation of aliens who have commit-  
8           ted a criminal offense in the United States.

9           (3) Changes in the Treaty that may be nec-  
10          essary to increase the number of aliens convicted of  
11          crimes who may be transferred pursuant to the  
12          Treaty.

13          (4) Methods for preventing the unlawful re-  
14          entry into the United States of aliens who have been  
15          convicted of criminal offenses in the United States  
16          and transferred pursuant to the Treaty.

17          (5) Any recommendations of appropriate offi-  
18          cials of the Mexican Government on programs to  
19          achieve the goals of, and ensure full compliance  
20          with, the Treaty.

21          (6) An assessment of whether the recommenda-  
22          tions under this subsection require the renegotiation  
23          of the Treaty.

24          (7) The additional funds required to implement  
25          each recommendation under this subsection.

1 **SEC. 313. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING**  
2 **TO JUSTICE ALIENS WHO FLEE PROSECU-**  
3 **TION FOR CRIMES IN THE UNITED STATES.**

4 (a) ASSISTANCE TO STATES.—The Attorney General,  
5 in cooperation with the Commissioner of Immigration and  
6 Naturalization and the Secretary of State, shall designate  
7 an office within the Department of Justice to provide tech-  
8 nical and prosecutorial assistance to States and political  
9 subdivisions of States in efforts to bring to justice aliens  
10 who flee prosecution for crimes in the United States.

11 (b) REPORT TO CONGRESS.—Not later than one year  
12 after the date of the enactment of this title, the Attorney  
13 General shall compile and submit to the Congress a report  
14 which assesses the nature and extent of the problem of  
15 bringing to justice aliens who flee prosecution for crimes  
16 in the United States.

17 **SEC. 314. PRISONER TRANSFER TREATIES.**

18 (a) NEGOTIATION.—Congress advises the President  
19 to begin to negotiate and renegotiate, not later than 90  
20 days after the date of the enactment of this title, bilateral  
21 prisoner transfer treaties. The focus of such negotiations  
22 shall be to expedite the transfer of aliens unlawfully in  
23 the United States who are incarcerated in United States  
24 prisons, to ensure that a transferred prisoner serves the  
25 balance of the sentence imposed by the United States

1 courts, and to eliminate any requirement of prisoner con-  
2 sent to such a transfer.

3 (b) CERTIFICATION.—The President shall submit to  
4 the Congress, annually, a certification as to whether each  
5 prisoner transfer treaty in force is effective in returning  
6 aliens unlawfully in the United States who have committed  
7 offenses for which they are incarcerated in the United  
8 States to their country of nationality for further incarcer-  
9 ation.

10 **SEC. 315. INTERIOR REPATRIATION PROGRAM.**

11 Not later than 180 days after the date of enactment  
12 of this title, the Attorney General and the Commissioner  
13 of Immigration and Naturalization shall develop and im-  
14 plement a program in which aliens who previously have  
15 illegally entered the United States not less than 3 times  
16 and are deported or returned to a country contiguous to  
17 the United States will be returned to locations not less  
18 than 500 kilometers from that country's border with the  
19 United States.

20 **SEC. 316. DEPORTATION OF NONVIOLENT OFFENDERS**  
21 **PRIOR TO COMPLETION OF SENTENCE OF IM-**  
22 **PRISONMENT.**

23 (a) IN GENERAL.—Section 242(h) of the Immigra-  
24 tion and Nationality Act (8 U.S.C. 1252(h)) is amended  
25 to read as follows:

1       “(h)(1) Except as provided in paragraph (2), an alien  
2 sentenced to imprisonment may not be deported until such  
3 imprisonment has been terminated by the release of the  
4 alien from confinement. Parole, supervised release, proba-  
5 tion, or possibility of rearrest or further confinement in  
6 respect of the same offense shall not be a ground for defer-  
7 ral of deportation.

8       “(2) The Attorney General is authorized to deport an  
9 alien in accordance with applicable procedures under this  
10 Act prior to the completion of a sentence of imprison-  
11 ment—

12           “(A) in the case of an alien in the custody of  
13 the Attorney General, if the Attorney General deter-  
14 mines that (i) the alien is confined pursuant to a  
15 final conviction for a nonviolent offense (other than  
16 alien smuggling), and (ii) such deportation of the  
17 alien is appropriate and in the best interest of the  
18 United States; or

19           “(B) in the case of an alien in the custody of  
20 a State (or a political subdivision of a State), if the  
21 chief State official exercising authority with respect  
22 to the incarceration of the alien determines that (i)  
23 the alien is confined pursuant to a final conviction  
24 for a nonviolent offense (other than alien smug-  
25 gling), (ii) such deportation is appropriate and in

1       the best interest of the State, and (iii) submits a  
2       written request to the Attorney General that such  
3       alien be so deported.

4       “(3) Any alien deported pursuant to this subsection  
5       shall be notified of the penalties under the laws of the  
6       United States relating to the reentry of deported aliens,  
7       particularly the expanded penalties for aliens deported  
8       under paragraph (2).”.

9       (b) REENTRY OF ALIEN DEPORTED PRIOR TO COM-  
10      PLETION OF TERM OF IMPRISONMENT.—Section 276 of  
11      the Immigration and Nationality Act (8 U.S.C. 1326)  
12      amended by adding at the end the following new sub-  
13      section:

14      “(c) Any alien deported pursuant to section  
15      242(h)(2) who enters, attempts to enter, or is at any time  
16      found in, the United States (unless the Attorney General  
17      has expressly consented to such alien’s reentry) shall be  
18      incarcerated for the remainder of the sentence of impris-  
19      onment which was pending at the time of deportation  
20      without any reduction for parole or supervised release.  
21      Such alien shall be subject to such other penalties relating  
22      to the reentry of deported aliens as may be available under  
23      this section or any other provision of law.”.

1 **TITLE IV—LOCAL GOVERNMENT**  
2 **LAW ENFORCEMENT BLOCK**  
3 **GRANTS ACT OF 1996**

4 **SEC. 401. BLOCK GRANT PROGRAM.**

5 (a) IN GENERAL.—Title I of the Violent Crime Con-  
6 trol and Law Enforcement Act of 1994 is amended to read  
7 as follows:

8 **“TITLE I—LAW ENFORCEMENT**  
9 **BLOCK GRANTS**

10 **“SEC. 101. PAYMENTS TO LOCAL GOVERNMENTS.**

11 “(a) PAYMENT AND USE.—

12 “(1) PAYMENT.—The Director of the Bureau of  
13 Justice Assistance shall pay to each unit of local  
14 government which qualifies for a payment under this  
15 title an amount equal to the sum of any amounts al-  
16 located to such unit under this title for each pay-  
17 ment period. The Director shall pay such amount  
18 from amounts appropriated to carry out this title.

19 “(2) USE.—Amounts paid to a unit of local  
20 government under this section shall be used by the  
21 unit for reducing crime and improving public safety,  
22 including but not limited to, 1 or more of the follow-  
23 ing purposes:

1           “(A)(i) Hiring, training, and employing on  
2           a continuing basis new, additional law enforce-  
3           ment officers and necessary support personnel.

4           “(ii) Paying overtime to presently em-  
5           ployed law enforcement officers and necessary  
6           support personnel for the purpose of increasing  
7           the number of hours worked by such personnel.

8           “(iii) Procuring equipment, technology,  
9           and other material directly related to basic law  
10          enforcement functions.

11          “(B) Enhancing security measures—

12               “(i) in and around schools; and

13               “(ii) in and around any other facility  
14               or location which is considered by the unit  
15               of local government to have a special risk  
16               for incidents of crime.

17          “(C) Establishing crime prevention pro-  
18          grams that may, though not exclusively, involve  
19          law enforcement officials and that are intended  
20          to discourage, disrupt, or interfere with the  
21          commission of criminal activity, including  
22          neighborhood watch and citizen patrol pro-  
23          grams, sexual assault and domestic violence  
24          programs, and programs intended to prevent ju-  
25          venile crime.

1           “(D) Establishing or supporting drug  
2 courts.

3           “(E) Establishing early intervention and  
4 prevention programs for juveniles to reduce or  
5 eliminate crime.

6           “(F) Enhancing the adjudication process  
7 of cases involving violent offenders, including  
8 the adjudication process of cases involving vio-  
9 lent juvenile offenders.

10          “(G) Enhancing programs under subpart 1  
11 of part E of the Omnibus Crime Control and  
12 Safe Streets Act of 1968.

13          “(H) Establishing cooperative task forces  
14 between adjoining units of local government to  
15 work cooperatively to prevent and combat crimi-  
16 nal activity, particularly criminal activity that is  
17 exacerbated by drug or gang-related involve-  
18 ment.

19          “(I) Establishing a multijurisdictional task  
20 force, particularly in rural areas, composed of  
21 law enforcement officials representing units of  
22 local government, that works with Federal law  
23 enforcement officials to prevent and control  
24 crime.



1           “(3) DEFINITIONS.—For purposes of this sub-  
2       section—

3           “(A) the term ‘violent offender’ means a  
4       person charged with committing a part I violent  
5       crime; and

6           “(B) the term ‘drug courts’ means a pro-  
7       gram that involves—

8           “(i) continuing judicial supervision  
9       over offenders with substance abuse prob-  
10      lems who are not violent offenders; and

11          “(ii) the integrated administration of  
12      other sanctions and services, which shall  
13      include—

14          “(I) mandatory periodic testing  
15      for the use of controlled substances or  
16      other addictive substances during any  
17      period of supervised release or proba-  
18      tion for each participant;

19          “(II) substance abuse treatment  
20      for each participant;

21          “(III) probation, or other super-  
22      vised release involving the possibility  
23      of prosecution, confinement, or incar-  
24      ceration based on noncompliance with

1 program requirements or failure to  
2 show satisfactory progress; and  
3 “(IV) programmatic, offender  
4 management, and aftercare services  
5 such as relapse prevention, vocational  
6 job training, job placement, and hous-  
7 ing placement.

8 “(b) PROHIBITED USES.—Notwithstanding any other  
9 provision of this Act, a unit of local government may not  
10 expend any of the funds provided under this title to pur-  
11 chase, lease, rent, or otherwise acquire—

12 “(1) tanks or armored personnel carriers;  
13 “(2) fixed wing aircraft;  
14 “(3) limousines;  
15 “(4) real estate;  
16 “(5) yachts;  
17 “(6) consultants; or  
18 “(7) vehicles not primarily used for law enforce-  
19 ment;

20 unless the Attorney General certifies that extraordinary  
21 and exigent circumstances exist that make the use of  
22 funds for such purposes essential to the maintenance of  
23 public safety and good order in such unit of local govern-  
24 ment.

1       “(c) TIMING OF PAYMENTS.—The Director shall pay  
2 each unit of local government that has submitted an appli-  
3 cation under this title not later than—

4               “(1) 90 days after the date that the amount is  
5 available, or

6               “(2) the first day of the payment period if the  
7 unit of local government has provided the Director  
8 with the assurances required by section 103(c),  
9 whichever is later.

10       “(d) ADJUSTMENTS.—

11               “(1) IN GENERAL.—Subject to paragraph (2),  
12 the Director shall adjust a payment under this title  
13 to a unit of local government to the extent that a  
14 prior payment to the unit of local government was  
15 more or less than the amount required to be paid.

16               “(2) CONSIDERATIONS.—The Director may in-  
17 crease or decrease under this subsection a payment  
18 to a unit of local government only if the Director de-  
19 termines the need for the increase or decrease, or if  
20 the unit requests the increase or decrease, not later  
21 than 1 year after the end of the payment period for  
22 which a payment was made.

23       “(e) RESERVATION FOR ADJUSTMENT.—The Direc-  
24 tor may reserve a percentage of not more than 2 percent  
25 of the amount under this section for a payment period

1 for all units of local government in a State if the Director  
 2 considers the reserve is necessary to ensure the availability  
 3 of sufficient amounts to pay adjustments after the final  
 4 allocation of amounts among the units of local government  
 5 in the State.

6 “(f) REPAYMENT OF UNEXPENDED AMOUNTS.—

7 “(1) REPAYMENT REQUIRED.—A unit of local  
 8 government shall repay to the Director, by not later  
 9 than 27 months after receipt of funds from the Di-  
 10 rector, any amount that is—

11 “(A) paid to the unit from amounts appro-  
 12 priated under the authority of this section; and

13 “(B) not expended by the unit within 2  
 14 years after receipt of such funds from the Di-  
 15 rector.

16 “(2) PENALTY FOR FAILURE TO REPAY.—If the  
 17 amount required to be repaid is not repaid, the Di-  
 18 rector shall reduce payment in future payment peri-  
 19 ods accordingly.

20 “(3) DEPOSIT OF AMOUNTS REPAID.—Amounts  
 21 received by the Director as repayments under this  
 22 subsection shall be deposited in a designated fund  
 23 for future payments to units of local government.  
 24 Any amounts remaining in such designated fund  
 25 after 5 years following the enactment of the Crime

1 Prevention and Family Protection Act of 1996 shall  
 2 be applied to the Federal deficit or, if there is no  
 3 Federal deficit, to reducing the Federal debt.

4 “(g) NONSUPPLANTING REQUIREMENT.—Funds  
 5 made available under this title to units of local government  
 6 shall not be used to supplant State or local funds, but  
 7 shall be used to increase the amount of funds that would,  
 8 in the absence of funds made available under this title,  
 9 be made available from State or local sources.

10 “(h) MATCHING FUNDS.—The Federal share of a  
 11 grant received under this title may not exceed 90 percent  
 12 of the costs of a program or proposal funded under this  
 13 title.

14 **“SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

15 “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
 16 are authorized to be appropriated to carry out this title—

17 “(1) \$2,000,000,000 for fiscal year 1996;

18 “(2) \$2,000,000,000 for fiscal year 1997;

19 “(3) \$2,000,000,000 for fiscal year 1998;

20 “(4) \$2,000,000,000 for fiscal year 1999; and

21 “(5) \$2,000,000,000 for fiscal year 2000.

22 “(b) OVERSIGHT ACCOUNTABILITY AND ADMINIS-  
 23 TRATION.—Not more than 3 percent of the amount au-  
 24 thorized to be appropriated under subsection (a) for each  
 25 of the fiscal years 1996 through 2000 shall be available

1 to the Attorney General for studying the overall effective-  
2 ness and efficiency of the provisions of this title, and as-  
3 suring compliance with the provisions of this title and for  
4 administrative costs to carry out the purposes of this title.

5 The Attorney General shall establish and execute an over-  
6 sight plan for monitoring the activities of grant recipients.

7 Such sums are to remain available until expended.

8 “(c) TECHNOLOGY ASSISTANCE.—The Attorney Gen-  
9 eral shall reserve 1 percent in each of fiscal years 1996  
10 through 1998 of the amount authorized to be appropriated  
11 under subsection (a) for use by the National Institute of  
12 Justice in assisting local units to identify, select, develop,  
13 modernize, and purchase new technologies for use by law  
14 enforcement.

15 “(d) AVAILABILITY.—The amounts authorized to be  
16 appropriated under subsection (a) shall remain available  
17 until expended.

18 **“SEC. 103. QUALIFICATION FOR PAYMENT.**

19 “(a) IN GENERAL.—The Director shall issue regula-  
20 tions establishing procedures under which a unit of local  
21 government is required to provide notice to the Director  
22 regarding the proposed use of funds made available under  
23 this title.

1       “(b) PROGRAM REVIEW.—The Director shall estab-  
 2       lish a process for the ongoing evaluation of projects devel-  
 3       oped with funds made available under this title.

4       “(c) GENERAL REQUIREMENTS FOR QUALIFICA-  
 5       TION.—A unit of local government qualifies for a payment  
 6       under this title for a payment period only if the unit of  
 7       local government submits an application to the Director  
 8       and establishes, to the satisfaction of the Director, that—

9               “(1) the unit of local government has estab-  
 10       lished a local advisory board that—

11               “(A) includes, but is not limited to, a rep-  
 12       resentative from—

13               “(i) the local police department or  
 14       local sheriff’s department;

15               “(ii) the local prosecutor’s office;

16               “(iii) the local court system;

17               “(iv) the local public school system;

18       and

19               “(v) a local nonprofit, educational, re-  
 20       ligious, or community group active in  
 21       crime prevention or drug use prevention or  
 22       treatment;

23       “(B) has reviewed the application; and

1           “(C) is designated to make nonbinding rec-  
2           ommendations to the unit of local government  
3           for the use of funds received under this title;

4           “(2) the chief executive officer of the State has  
5           had not less than 20 days to review and comment  
6           on the application prior to submission to the Direc-  
7           tor;

8           “(3)(A) the unit of local government will estab-  
9           lish a trust fund in which the government will de-  
10          posit all payments received under this title; and

11          “(B) the unit of local government will use  
12          amounts in the trust fund (including interest) dur-  
13          ing a period not to exceed 2 years from the date the  
14          first grant payment is made to the unit of local gov-  
15          ernment;

16          “(4) the unit of local government will expend  
17          the payments received in accordance with the laws  
18          and procedures that are applicable to the expendi-  
19          ture of revenues of the unit of local government;

20          “(5) the unit of local government will use ac-  
21          counting, audit, and fiscal procedures that conform  
22          to guidelines which shall be prescribed by the Direc-  
23          tor after consultation with the Comptroller General  
24          and as applicable, amounts received under this title



1 shall be audited in compliance with the Single Audit  
2 Act of 1984;

3 “(6) after reasonable notice from the Director  
4 or the Comptroller General to the unit of local gov-  
5 ernment, the unit of local government will make  
6 available to the Director and the Comptroller Gen-  
7 eral, with the right to inspect, records that the Di-  
8 rector reasonably requires to review compliance with  
9 this title or that the Comptroller General reasonably  
10 requires to review compliance and operation;

11 “(7) a designated official of the unit of local  
12 government shall make reports the Director reason-  
13 ably requires, in addition to the annual reports re-  
14 quired under this title;

15 “(8) the unit of local government will spend the  
16 funds made available under this title only for the  
17 purposes set forth in section 101(a)(2);

18 “(9) the unit of local government will achieve a  
19 net gain in the number of law enforcement officers  
20 who perform nonadministrative public safety service  
21 if such unit uses funds received under this title to  
22 increase the number of law enforcement officers as  
23 described under subparagraph (A) of section  
24 101(a)(2);

25 “(10) the unit of local government—

1           “(A) has an adequate process to assess the  
2           impact of any enhancement of a school security  
3           measure that is undertaken under subpara-  
4           graph (B) of section 101(a)(2), or any crime  
5           prevention programs that are established under  
6           subparagraphs (C) and (E) of section  
7           101(a)(2), on the incidence of crime in the geo-  
8           graphic area where the enhancement is under-  
9           taken or the program is established;

10           “(B) will conduct such an assessment with  
11           respect to each such enhancement or program;  
12           and

13           “(C) will submit an annual written assess-  
14           ment report to the Director; and

15           “(11) the unit of local government has estab-  
16           lished procedures to give members of the Armed  
17           Forces who, on or after October 1, 1990, were or  
18           are selected for involuntary separation (as described  
19           in section 1141 of title 10, United States Code), ap-  
20           proved for separation under section 1174a or 1175  
21           of such title, or retired pursuant to the authority  
22           provided under section 4403 of the Defense Conver-  
23           sion, Reinvestment, and Transition Assistance Act of  
24           1992 (division D of Public Law 102–484; 10 U.S.C.  
25           1293 note), a suitable preference in the employment

1 of persons as additional law enforcement officers or  
2 support personnel using funds made available under  
3 this title. The nature and extent of such employment  
4 preference shall be jointly established by the Attor-  
5 ney General and the Secretary of Defense. To the  
6 extent practicable, the Director shall endeavor to in-  
7 form members who were separated between October  
8 1, 1990, and the date of the enactment of this sec-  
9 tion of their eligibility for the employment pref-  
10 erence;

11 “(d) SANCTIONS FOR NONCOMPLIANCE.—

12 “(1) IN GENERAL.—If the Director determines  
13 that a unit of local government has not complied  
14 substantially with the requirements or regulations  
15 prescribed under subsections (a) and (c), the Direc-  
16 tor shall notify the unit of local government that if  
17 the unit of local government does not take corrective  
18 action within 60 days of such notice, the Director  
19 will withhold additional payments to the unit of local  
20 government for the current and future payment peri-  
21 ods until the Director is satisfied that the unit of  
22 local government—

23 “(A) has taken the appropriate corrective  
24 action; and

1           “(B) will comply with the requirements  
2           and regulations prescribed under subsections  
3           (a) and (c).

4           “(2) NOTICE.—Before giving notice under para-  
5           graph (1), the Director shall give the chief executive  
6           officer of the unit of local government reasonable no-  
7           tice and an opportunity for comment.

8           “(e) MAINTENANCE OF EFFORT REQUIREMENT.—A  
9           unit of local government qualifies for a payment under this  
10          title for a payment period only if the unit’s expenditures  
11          on law enforcement services (as reported by the Bureau  
12          of the Census) for the fiscal year preceding the fiscal year  
13          in which the payment period occurs were not less than  
14          90 percent of the unit’s expenditures on such services for  
15          the second fiscal year preceding the fiscal year in which  
16          the payment period occurs.

17       **“SEC. 104. ALLOCATION AND DISTRIBUTION OF FUNDS.**

18           “(a) STATE SET-ASIDE.—

19           “(1) IN GENERAL.—Of the total amounts ap-  
20          propriated for this title for each payment period, the  
21          Director shall allocate for units of local government  
22          in each State an amount that bears the same ratio  
23          to such total as the average annual number of part  
24          1 violent crimes reported by such State to the Fed-  
25          eral Bureau of Investigation for the 3 most recent

1       calendar years for which such data is available,  
2       bears to the number of part 1 violent crimes re-  
3       ported by all States to the Federal Bureau of Inves-  
4       tigation for such years.

5           “(2) MINIMUM REQUIREMENT.—Each State  
6       shall receive not less than 25 percent of the total  
7       amounts appropriated under section 102 under this  
8       subsection for each payment period.

9           “(3) PROPORTIONAL REDUCTION.—If amounts  
10      available to carry out paragraph (2) for any pay-  
11      ment period are insufficient to pay in full the total  
12      payment that any State is otherwise eligible to re-  
13      ceive under paragraph (1) for such period, then the  
14      Director shall reduce payments under paragraph (1)  
15      for such payment period to the extent of such insuf-  
16      ficiency. Reductions under the preceding sentence  
17      shall be allocated among the States (other than  
18      States whose payment is determined under para-  
19      graph (2)) in the same proportions as amounts  
20      would be allocated under paragraph (1) without re-  
21      gard to paragraph (2).

22           “(b) LOCAL DISTRIBUTION.—

23           “(1) IN GENERAL.—From the amount reserved  
24      for each State under subsection (a), the Director  
25      shall allocate—

1           “(A) among reporting units of local gov-  
2           ernment the reporting units’ share of such re-  
3           served amount, and

4           “(B) among nonreporting units of local  
5           government the nonreporting units’ share of the  
6           reserved amount.

7           “(2) AMOUNTS.—

8           “(A) The reporting units’ share of the re-  
9           served amount is the amount equal to the prod-  
10          uct of such reserved amount multiplied by the  
11          percentage which the population living in re-  
12          porting units of local government in the State  
13          bears to the population of all units of local gov-  
14          ernment in the State.

15          “(B) The nonreporting units’ share of the  
16          reserved amount is the reserved amount re-  
17          duced by the reporting units’ share of the re-  
18          served amount.

19          “(3) ALLOCATION TO EACH REPORTING  
20          UNIT.—From the reporting units’ share of the re-  
21          served amount for each State under subsection (a),  
22          the Director shall allocate to each reporting unit of  
23          local government an amount which bears the same  
24          ratio to such share as the average annual number of  
25          part 1 violent crimes reported by such unit to the

1 Federal Bureau of Investigation for the 3 most re-  
2 cent calendar years for which such data is available  
3 bears to the number of part 1 violent crimes re-  
4 ported by all units of local government in the State  
5 in which the unit is located to the Federal Bureau  
6 of Investigation for such years.

7 “(4) ALLOCATION TO EACH NONREPORTING  
8 UNIT.—From the nonreporting units’ share of the  
9 reserved amount for each State under subsection  
10 (a), the Director shall allocate to each nonreporting  
11 unit of local government an amount which bears the  
12 same ratio to such share as the average number of  
13 part 1 violent crimes of like governmental units in  
14 the same population class as such unit bears to the  
15 average annual imputed number of part 1 violent  
16 crimes of all nonreporting units in the State for the  
17 3 most recent calendar years.

18 “(5) LIMITATION ON ALLOCATIONS.—A unit of  
19 local government shall not receive an allocation  
20 which exceeds 100 percent of such unit’s expendi-  
21 tures on law enforcement services as reported by the  
22 Bureau of the Census for the most recent fiscal  
23 year. Any amount in excess of 100 percent of such  
24 unit’s expenditures on law enforcement services shall  
25 be distributed proportionally among units of local

1 government whose allocation does not exceed 100  
2 percent of expenditures on law enforcement services.

3 “(6) DEFINITIONS.—For purposes of this sub-  
4 section—

5 “(A) The term ‘reporting unit of local gov-  
6 ernment’ means any unit of local government  
7 that reported part 1 violent crimes to the Fed-  
8 eral Bureau of Investigation for the 3 most re-  
9 cent calendar years for which such data is avail-  
10 able.

11 “(B) The term ‘nonreporting unit of local  
12 government’ means any unit of local govern-  
13 ment which is not a reporting unit of local gov-  
14 ernment.

15 “(C)(i) The term ‘like governmental units’  
16 means any like unit of local government as de-  
17 fined by the Secretary of Commerce for general  
18 statistical purposes, and means—

19 “(I) all counties are treated as like  
20 governmental units;

21 “(II) all cities are treated as like gov-  
22 ernmental units;

23 “(III) all townships are treated as like  
24 governmental units.



1           “(ii) Similar rules shall apply to other  
2 types of governmental units.

3           “(D) The term ‘same population class’  
4 means a like unit within the same population  
5 category as another like unit with the categories  
6 determined as follows:

7                   “(i) 0 through 9,999.

8                   “(ii) 10,000 through 49,999.

9                   “(iii) 50,000 through 149,999.

10                  “(iv) 150,000 through 299,999.

11                  “(v) 300,000 or more.

12           “(7) LOCAL GOVERNMENTS WITH ALLOCATIONS  
13 OF LESS THAN \$10,000.—If under paragraph (3) or  
14 (4) a unit of local government is allotted less than  
15 \$10,000 for the payment period, the amount allotted  
16 shall be transferred to the chief executive officer of  
17 the State who shall distribute such funds among  
18 State police departments that provide law enforce-  
19 ment services to units of local government and units  
20 of local government whose allotment is less than  
21 such amount in a manner which reduces crime and  
22 improves public safety.

23           “(8) SPECIAL RULES.—

24                   “(A) If a unit of local government in a  
25 State that has been incorporated since the date

1 of the collection of the data used by the Direc-  
2 tor in making allocations pursuant to this sec-  
3 tion, such unit shall be treated as a nonreport-  
4 ing unit of local government for purposes of  
5 this subsection.

6 “(B) If a unit of local government in the  
7 State has been annexed since the date of the  
8 collection of the data used by the Director in  
9 making allocations pursuant to this section, the  
10 Director shall pay the amount that would have  
11 been allocated to such unit of local government  
12 to the unit of local government that annexed it.

13 “(9) RESOLUTION OF DISPARATE ALLOCA-  
14 TIONS.—(A) Notwithstanding any other provision of  
15 this title, if—

16 “(i) the attorney general of a State cer-  
17 tifies that a unit of local government under the  
18 jurisdiction of the State bears more than 50  
19 percent of the costs of prosecution or incarcer-  
20 ation that arise with respect to part 1 violent  
21 crimes reported by a specified geographically  
22 constituent unit of local government, and

23 “(ii) but for this paragraph, the amount of  
24 funds allocated under this section to—

1                   “(I) any one such specified geographi-  
2                   cally constituent unit of local government  
3                   exceeds 200 percent of the amount allo-  
4                   cated to the unit of local government cer-  
5                   tified pursuant to clause (i), or

6                   “(II) more than one such specified  
7                   geographically constituent unit of local  
8                   government (excluding units of local gov-  
9                   ernment referred to subclause I and in  
10                  paragraph (7)), exceeds 400 percent of the  
11                  amount allocated to the unit of local gov-  
12                  ernment certified pursuant to clause (i)  
13                  and the attorney general of the State de-  
14                  termines that such allocation is likely to  
15                  threaten the efficient administration of jus-  
16                  tice,

17               then in order to qualify for payment under this title,  
18               the unit of local government certified pursuant to  
19               clause (i), together with any such specified geo-  
20               graphically constituent units of local government de-  
21               scribed in clause (ii), shall submit to the Director a  
22               joint application for the aggregate of funds allocated  
23               to such units of local government. Such application  
24               shall specify the amount of such funds that are to  
25               be distributed to each of the units of local govern-

1       ment and the purposes for which such funds are to  
2       be used. The units of local government involved may  
3       establish a joint local advisory board for the pur-  
4       poses of carrying out this paragraph.

5           “(B) In this paragraph, the term ‘geographi-  
6       cally constituent unit of local government’ means a  
7       unit of local government that has jurisdiction over  
8       areas located within the boundaries of an area over  
9       which a unit of local government certified pursuant  
10      to clause (i) has jurisdiction.

11      “(c) UNAVAILABILITY AND INACCURACY OF INFOR-  
12      MATION.—

13           “(1) DATA FOR STATES.—For purposes of this  
14      section, if data regarding part 1 violent crimes in  
15      any State for the 3 most recent calendar years is  
16      unavailable or substantially inaccurate, the Director  
17      shall utilize the best available comparable data re-  
18      garding the number of violent crimes for such years  
19      for such State for the purposes of allocation of any  
20      funds under this title.

21           “(2) POSSIBLE INACCURACY OF DATA FOR  
22      UNITS OF LOCAL GOVERNMENT.—In addition to the  
23      provisions of paragraph (1), if the Director believes  
24      that the reported rate of part 1 violent crimes for

1 a unit of local government is inaccurate, the Direc-  
2 tor shall—

3 “(A) investigate the methodology used by  
4 such unit to determine the accuracy of the sub-  
5 mitted data; and

6 “(B) when necessary, use the best avail-  
7 able comparable data regarding the number of  
8 violent crimes for such years for such unit of  
9 local government.

10 **“SEC. 105. UTILIZATION OF PRIVATE SECTOR.**

11 “Funds or a portion of funds allocated under this  
12 title may be utilized to contract with private, nonprofit en-  
13 tities or community-based organizations to carry out the  
14 purposes specified under section 101(a)(2).

15 **“SEC. 106. PUBLIC PARTICIPATION.**

16 “(a) IN GENERAL.—A unit of local government ex-  
17 pending payments under this title shall hold not less than  
18 1 public hearing on the proposed use of the payment from  
19 the Director in relation to its entire budget.

20 “(b) VIEWS.—At the hearing, persons shall be given  
21 an opportunity to provide written and oral views to the  
22 unit of local government authority responsible for enacting  
23 the budget and to ask questions about the entire budget  
24 and the relation of the payment from the Director to the  
25 entire budget.

1       “(c) TIME AND PLACE.—The unit of local govern-  
 2       ment shall hold the hearing at a time and place that allows  
 3       and encourages public attendance and participation.

4       **“SEC. 107. ADMINISTRATIVE PROVISIONS.**

5       “The administrative provisions of part H of the Om-  
 6       nibus Crime Control and Safe Streets Act of 1968, shall  
 7       apply to this title and for purposes of this section any ref-  
 8       erence in such provisions to title I of the Omnibus Crime  
 9       Control and Safe Streets Act of 1968 shall be deemed to  
 10      be a reference to this title.

11      **“SEC. 108. DEFINITIONS.**

12      “For the purposes of this title:

13           “(1) The term ‘unit of local government’  
 14      means—

15           “(A) a county, township, city, or political  
 16           subdivision of a county, township, or city, that  
 17           is a unit of local government as determined by  
 18           the Secretary of Commerce for general statis-  
 19           tical purposes; and

20           “(B) the District of Columbia and the rec-  
 21           ognized governing body of an Indian tribe or  
 22           Alaskan Native village that carries out substan-  
 23           tial governmental duties and powers.

1           “(2) The term ‘payment period’ means each 1-  
2           year period beginning on October 1 of any year in  
3           which a grant under this title is awarded.

4           “(3) The term ‘State’ means any State of the  
5           United States, the District of Columbia, the Com-  
6           monwealth of Puerto Rico, the Virgin Islands, Amer-  
7           ican Samoa, Guam, and the Northern Mariana Is-  
8           lands, except that American Samoa, Guam, and the  
9           Northern Mariana Islands shall be considered as 1  
10          State and that, for purposes of section 104(a), 33  
11          percent of the amounts allocated shall be allocated  
12          to American Samoa, 50 percent to Guam, and 17  
13          percent to the Northern Mariana Islands.

14          “(4) The term ‘juvenile’ means an individual  
15          who is 17 years of age or younger.

16          “(5) The term ‘part 1 violent crimes’ means  
17          murder and nonnegligent manslaughter, forcible  
18          rape, robbery, and aggravated assault as reported to  
19          the Federal Bureau of Investigation for purposes of  
20          the Uniform Crime Reports.

21          “(6) The term ‘Director’ means the Director of  
22          the Bureau of Justice Assistance.”.

23          (b) CONFORMING AMENDMENTS.—

1           (1) Part Q of the Omnibus Crime Control and  
 2       Safe Streets Act of 1968 is repealed effective on  
 3       September 30, 1996.

4           (2) Notwithstanding the provisions of para-  
 5       graph (1), any funds that remain available to an ap-  
 6       plicant under part Q of title I of the Omnibus Crime  
 7       Control and Safe Streets Act of 1968 shall be used  
 8       in accordance with such part as in effect on the day  
 9       preceding the date of the enactment of this title.

10          (3) Effective on the date of the enactment of  
 11       this title, section 1001(a) of the Omnibus Crime  
 12       Control and Safe Streets Act is amended—

13               (A) in paragraph (3), by striking “Q,”;  
 14               and

15               (B) by striking paragraph (11).

16 **SEC. 402. CONFORMING AMENDMENTS.**

17       (a) OUNCE OF PREVENTION COUNCIL.—

18           (1) IN GENERAL.—Subtitle A of title III of the  
 19       Violent Crime Control and Law Enforcement Act of  
 20       1994 is repealed.

21           (2) FUNDING.—Notwithstanding the provisions  
 22       of paragraph (1), any funds that remain available to  
 23       an applicant under subtitle A of title III of the Vio-  
 24       lent Crime Control and Law Enforcement Act of  
 25       1994 shall be used in accordance with with such



1 subtitle as in effect on the day preceding the date  
2 of enactment of this title.

3 (b) LOCAL CRIME PREVENTION BLOCK GRANT PRO-  
4 GRAM.—Subtitle B of title III of the Violent Crime Con-  
5 trol and Law Enforcement Act of 1994 is repealed.

6 (c) MODEL INTENSIVE BLOCK GRANT PROGRAMS.—  
7 Subtitle C of title III of the Violent Crime Control and  
8 Law Enforcement Act of 1994 is repealed.

9 (d) FAMILY AND COMMUNITY ENDEAVOR SCHOOLS  
10 GRANT PROGRAM.—

11 (1) IN GENERAL.—Subtitle D of title III of the  
12 Violent Crime Control and Law Enforcement Act of  
13 1994 is repealed.

14 (2) FUNDING.—Notwithstanding the provisions  
15 of paragraph (1), any funds that remain available to  
16 an applicant under subtitle D of title III of the Vio-  
17 lent Crime Control and Law Enforcement Act of  
18 1994 shall be used in accordance with such subtitle  
19 as in effect on the day preceding the date of enact-  
20 ment of this title.

21 (e) ASSISTANCE FOR DELINQUENT AND AT-RISK  
22 YOUTH.—Subtitle G of title III of the Violent Crime Con-  
23 trol and Law Enforcement Act of 1994 is repealed.

1       (f) POLICE RETIREMENT.—Subtitle H of title III of  
2 the Violent Crime Control and Law Enforcement Act of  
3 1994 is repealed.

4       (g) LOCAL PARTNERSHIP ACT.—

5           (1) SUBTITLE J.—Subtitle J of title III of the  
6 Violent Crime Control and Law Enforcement Act of  
7 1994 is repealed.

8           (2) FEDERAL PAYMENTS.—Chapter 67 of title  
9 31, United States Code is repealed.

10          (3) TABLE OF CHAPTERS.—The table of chap-  
11 ters at the beginning of subtitle V of title 31, United  
12 States Code, is amended by striking the matter re-  
13 lating to chapter 67.

14          (4) FUNDING.—Notwithstanding the provisions  
15 of paragraph (2), any funds that remain available to  
16 an applicant under chapter 67 of title 31, United  
17 States Code, shall be used in accordance with such  
18 chapter as in effect on the day preceding the date  
19 of enactment of this title.

20       (h) NATIONAL COMMUNITY ECONOMIC PARTNER-  
21 SHIP.—Subtitle K of title III of the Violent Crime Control  
22 and Law Enforcement Act of 1994 is repealed.

23       (i) URBAN RECREATION AND AT-RISK YOUTH.—

1           (1) RECREATION.—Subtitle O of title III of the  
2       Violent Crime Control and Law Enforcement Act of  
3       1994 is repealed.

4           (2) URBAN PARK AND RECREATION RECOV-  
5       ERY.—(A) Section 1004 of the Urban Park and  
6       Recreation Recovery Act of 1978 is amended—

7                   (i) by striking subsection (d); and

8                   (ii) by redesignating subsections (e)  
9       through (k) as (d) through (j), respectively.

10          (B) Section 1005 of the Urban Park and Recre-  
11       ation Recovery Act of 1978 is amended by inserting  
12       “and” at the end of paragraph (6), by striking “;  
13       and” and inserting a period at the end of paragraph  
14       (7), and by striking paragraph (8).

15          (C) Section 1007(b) of the Urban Park and  
16       Recreation Recovery Act of 1978 is amended by  
17       striking the last 2 sentences.

18          (D) Section 1013 of the Urban Park and  
19       Recreation Recovery Act of 1978 is amended by  
20       striking “(a) IN GENERAL.—” after “1013” and by  
21       striking subsection (b).

22          (j) COMMUNITY-BASED JUSTICE GRANTS FOR PROS-  
23       ECUTORS.—Subtitle Q of title III of the Violent Crime  
24       Control and Law Enforcement Act of 1994 is repealed.

1 (k) FAMILY UNITY DEMONSTRATION PROJECT.—  
 2 Subtitle S of title III of the Violent Crime Control and  
 3 Law Enforcement Act of 1994 is repealed.

4 (l) GANG RESISTANCE AND EDUCATION TRAINING.—  
 5 (1) Subtitle X of title III of the Violent Crime Control  
 6 and Law Enforcement Act of 1994 is repealed.

7 (2) Notwithstanding the provisions of subparagraph  
 8 (A), any funds that remain available to an applicant under  
 9 subtitle X of title III of the Violent Crime Control and  
 10 Law Enforcement Act of 1994 shall be used in accordance  
 11 with such subtitle as in effect on the day preceding the  
 12 date of enactment of this title.

13 (m) CLERICAL AMENDMENTS.—

14 (1) The matter relating to title I in the table  
 15 of contents of the Violent Crime Control and Law  
 16 Enforcement Act of 1994 is amended to read as fol-  
 17 lows:

“TITLE I—LAW ENFORCEMENT BLOCK GRANTS

“Sec. 101. Payments to local governments.

“Sec. 102. Authorization of appropriations.

“Sec. 103. Qualification for payment.

“Sec. 104. Allocation and distribution of funds.

“Sec. 105. Utilization of private sector.

“Sec. 106. Public participation.

“Sec. 107. Administrative provisions.

“Sec. 108. Definitions.”.

18 (2) The table of contents of the Violent Crime  
 19 Control and Law Enforcement Act of 1994 is  
 20 amended by striking the matter relating to subtitles  
 21 A, B, C, D, G, H, J, K, O, Q, S, and X of title III.

1           (3) The table of contents of the Omnibus Crime  
2           Control and Safe Streets Act of 1968 is amended by  
3           striking the matter relating to part Q of title I.

4           **TITLE V—EFFECTIVE DEATH**  
5           **PENALTY ACT OF 1996**  
6           **Subtitle A—Habeas Corpus Reform**  
7           **CHAPTER 1—POST CONVICTION PETI-**  
8           **TIONS: GENERAL HABEAS CORPUS RE-**  
9           **FORM**

10          **SEC. 501. PERIOD OF LIMITATION FOR FILING WRIT OF HA-**  
11                           **BEAS CORPUS FOLLOWING FINAL JUDGMENT**  
12                           **OF A STATE COURT.**

13          Section 2244 of title 28, United States Code, is  
14          amended by adding at the end the following:

15          “(d)(1) A one-year period of limitation shall apply to  
16          an application for a writ of habeas corpus by a person  
17          in custody pursuant to the judgment of a State court. The  
18          limitation period shall run from the latest of the following  
19          times:

20                 “(A) The time at which the judgment became  
21          final by the conclusion of direct review or the expira-  
22          tion of the time for seeking such review.

23                 “(B) The time at which the impediment to fil-  
24          ing an application created by State action in viola-  
25          tion of the Constitution or laws of the United States

1 is removed, where the applicant was prevented from  
 2 filing by such State action.

3 “(C) The time at which the Federal right as-  
 4 serted was initially recognized by the Supreme  
 5 Court, where the right has been newly recognized by  
 6 the Court and is retroactively applicable.

7 “(D) The time at which the factual predicate of  
 8 the claim or claims presented could have been dis-  
 9 covered through the exercise of reasonable diligence.

10 “(2) Time that passes during the pendency of a prop-  
 11 erly filed application for State review with respect to the  
 12 pertinent judgment or claim shall not be counted toward  
 13 any period of limitation under this subsection.”.

14 **SEC. 502. AUTHORITY OF APPELLATE JUDGES TO ISSUE**  
 15 **CERTIFICATES OF PROBABLE CAUSE FOR AP-**  
 16 **PEAL IN HABEAS CORPUS AND FEDERAL COL-**  
 17 **LATERAL RELIEF PROCEEDINGS.**

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

20 **“§ 2253. Appeal**

21 “(a) In a habeas corpus proceeding or a proceeding  
 22 under section 2255 of this title before a circuit or district  
 23 judge, the final order shall be subject to review, on appeal,  
 24 by the court of appeals for the circuit where the proceed-  
 25 ing is had.

1       “(b) There shall be no right of appeal from such an  
 2 order in a proceeding to test the validity of a warrant to  
 3 remove, to another district or place for commitment or  
 4 trial, a person charged with a criminal offense against the  
 5 United States, or to test the validity of his detention pend-  
 6 ing removal proceedings.

7       “(c) An appeal may not be taken to the court of ap-  
 8 peals from the final order in a habeas corpus proceeding  
 9 where the detention complained of arises out of process  
 10 issued by a State court, or from the final order in a pro-  
 11 ceeding under section 2255 of this title, unless a circuit  
 12 justice or judge issues a certificate of probable cause. A  
 13 certificate of probable cause may only issue if the peti-  
 14 tioner has made a substantial showing of the denial of a  
 15 Federal right. The certificate of probable cause must indi-  
 16 cate which specific issue or issues satisfy this standard.”.

17   **SEC. 503. CONFORMING AMENDMENT TO THE RULES OF AP-**  
 18                           **PELLATE PROCEDURE.**

19       Federal Rule of Appellate Procedure 22 is amended  
 20 to read as follows:

21                           **“RULE 22**

22       **“HABEAS CORPUS AND SECTION 2255 PROCEEDINGS**

23       **“(a) APPLICATION FOR AN ORIGINAL WRIT OF HA-**  
 24   **BEAS CORPUS.—**An application for a writ of habeas cor-  
 25 pus shall be made to the appropriate district court. If ap-

1 plication is made to a circuit judge, the application will  
2 ordinarily be transferred to the appropriate district court.  
3 If an application is made to or transferred to the district  
4 court and denied, renewal of the application before a cir-  
5 cuit judge is not favored; the proper remedy is by appeal  
6 to the court of appeals from the order of the district court  
7 denying the writ.

8       “(b) NECESSITY OF CERTIFICATE OF PROBABLE  
9 CAUSE FOR APPEAL.—In a habeas corpus proceeding in  
10 which the detention complained of arises out of process  
11 issued by a State court, and in a motion proceeding pursu-  
12 ant to section 2255 of title 28, United States Code, an  
13 appeal by the applicant or movant may not proceed unless  
14 a circuit judge issues a certificate of probable cause. If  
15 a request for a certificate of probable cause is addressed  
16 to the court of appeals, it shall be deemed addressed to  
17 the judges thereof and shall be considered by a circuit  
18 judge or judges as the court deems appropriate. If no ex-  
19 press request for a certificate is filed, the notice of appeal  
20 shall be deemed to constitute a request addressed to the  
21 judges of the court of appeals. If an appeal is taken by  
22 a State or the Government or its representative, a certifi-  
23 cate of probable cause is not required.”.



1 **SEC. 504. EFFECT OF PRIOR STATE CONSIDERATION.**

2 (a) EXHAUSTION OF REMEDIES.—Section 2254(b) of  
3 title 28, United States Code, is amended to read as fol-  
4 lows:

5 “(b) An application for a writ of habeas corpus in  
6 behalf of a person in custody pursuant to the judgment  
7 of a State court shall not be granted unless it appears  
8 that the applicant has exhausted the remedies available  
9 in the courts of the State, or that there is either an ab-  
10 sence of available State corrective process or the existence  
11 of circumstances rendering such process ineffective to pro-  
12 tect the rights of the applicant. An application may be  
13 denied on the merits notwithstanding the failure of the  
14 applicant to exhaust the remedies available in the courts  
15 of the State. A State shall not be deemed to have waived  
16 the exhaustion requirement or be estopped from reliance  
17 upon the requirement unless through its counsel it waives  
18 the requirement expressly.”.

19 (b) STANDARD OF DEFERENCE TO STATE JUDICIAL  
20 DECISIONS.—Section 2254 of title 28, United States  
21 Code, is amended by adding at the end the following:

22 “(g) An application for a writ of habeas corpus on  
23 behalf of a person in custody pursuant to the judgment  
24 of a State court shall not be granted with respect to any  
25 claim that was decided on the merits in State proceedings  
26 unless the adjudication of the claim—

1           “(1) resulted in a decision that was based on an  
 2       arbitrary or unreasonable interpretation of clearly  
 3       established Federal law as articulated in the deci-  
 4       sions of the Supreme Court of the United States;

5           “(2) resulted in a decision that was based on an  
 6       arbitrary or unreasonable application to the facts of  
 7       clearly established Federal law as articulated in the  
 8       decisions of the Supreme Court of the United States;  
 9       or

10          “(3) resulted in a decision that was based on an  
 11       arbitrary or unreasonable determination of the facts  
 12       in light of the evidence presented in the State pro-  
 13       ceeding.”.

14 **SEC. 505. PERIOD OF LIMITATION FOR FEDERAL PRIS-**  
 15 **ONERS FILING FOR COLLATERAL REMEDY.**

16       Section 2255 of title 28, United States Code, is  
 17       amended by striking the second paragraph and the penul-  
 18       timate paragraph thereof, and by adding at the end the  
 19       following new paragraphs:

20       “A two-year period of limitation shall apply to a mo-  
 21       tion under this section. The limitation period shall run  
 22       from the latest of the following times:

23           “(1) The time at which the judgment of convic-  
 24       tion becomes final.

1           “(2) The time at which the impediment to mak-  
 2           ing a motion created by governmental action in vio-  
 3           lation of the Constitution or laws of the United  
 4           States is removed, where the movant was prevented  
 5           from making a motion by such governmental action.

6           “(3) The time at which the right asserted was  
 7           initially recognized by the Supreme Court, where the  
 8           right has been newly recognized by the Court and is  
 9           retroactively applicable.

10          “(4) The time at which the factual predicate of  
 11          the claim or claims presented could have been dis-  
 12          covered through the exercise of reasonable dili-  
 13          gence.”.

14   **CHAPTER 2—SPECIAL PROCEDURES FOR**  
 15       **COLLATERAL PROCEEDINGS IN CAP-**  
 16       **ITAL CASES**

17   **SEC. 511. DEATH PENALTY LITIGATION PROCEDURES.**

18          (a) IN GENERAL.—Title 28, United States Code, is  
 19          amended by inserting the following new chapter after  
 20          chapter 153:

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

“Sec.

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

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

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

“2259. Scope of Federal review; district court adjudications.

“2260. Certificate of probable cause.

“2261. Application to State unitary review procedure.

“2262. Limitation periods for determining petitions.

“2263. Rule of construction.

1 **“§ 2256. Prisoners in State custody subject to capital**  
 2 **sentence; appointment of counsel; re-**  
 3 **quirement of rule of court or statute; pro-**  
 4 **cedures for appointment**

5 “(a) This chapter shall apply to cases arising under  
 6 section 2254 brought by prisoners in State custody who  
 7 are subject to a capital sentence. It shall apply only if the  
 8 provisions of subsections (b) and (c) are satisfied.

9 “(b) This chapter is applicable if a State establishes  
 10 by rule of its court of last resort or by statute a mecha-  
 11 nism for the appointment, compensation and payment of  
 12 reasonable litigation expenses of competent counsel in  
 13 State postconviction proceedings brought by indigent pris-  
 14 oners whose capital convictions and sentences have been  
 15 upheld on direct appeal to the court of last resort in the  
 16 State or have otherwise become final for State law pur-  
 17 poses. The rule of court or statute must provide standards  
 18 of competency for the appointment of such counsel.

19 “(c) Any mechanism for the appointment, compensa-  
 20 tion and reimbursement of counsel as provided in sub-  
 21 section (b) must offer counsel to all State prisoners under  
 22 capital sentence and must provide for the entry of an  
 23 order by a court of record: (1) appointing one or more

1 counsel to represent the prisoner upon a finding that the  
2 prisoner is indigent and accepted the offer or is unable  
3 competently to decide whether to accept or reject the offer;  
4 (2) finding, after a hearing if necessary, that the prisoner  
5 rejected the offer of counsel and made the decision with  
6 an understanding of its legal consequences; or (3) denying  
7 the appointment of counsel upon a finding that the pris-  
8 oner is not indigent.

9       “(d) No counsel appointed pursuant to subsections  
10 (b) and (c) to represent a State prisoner under capital  
11 sentence shall have previously represented the prisoner at  
12 trial or on direct appeal in the case for which the appoint-  
13 ment is made unless the prisoner and counsel expressly  
14 request continued representation.

15       “(e) The ineffectiveness or incompetence of counsel  
16 during State or Federal collateral postconviction proceed-  
17 ings in a capital case shall not be a ground for relief in  
18 a proceeding arising under section 2254 of this chapter.  
19 This limitation shall not preclude the appointment of dif-  
20 ferent counsel, on the court’s own motion or at the request  
21 of the prisoner, at any phase of State or Federal  
22 postconviction proceedings on the basis of the ineffective-  
23 ness or incompetence of counsel in such proceedings.

1 **“§ 2257. Mandatory stay of execution; duration; limits**  
2 **on stays of execution; successive peti-**  
3 **tions**

4 “(a) Upon the entry in the appropriate State court  
5 of record of an order under section 2256(c), a warrant  
6 or order setting an execution date for a State prisoner  
7 shall be stayed upon application to any court that would  
8 have jurisdiction over any proceedings filed under section  
9 2254. The application must recite that the State has in-  
10 voked the postconviction review procedures of this chapter  
11 and that the scheduled execution is subject to stay.

12 “(b) A stay of execution granted pursuant to sub-  
13 section (a) shall expire if—

14 “(1) a State prisoner fails to file a habeas cor-  
15 pus petition under section 2254 within the time re-  
16 quired in section 2258;

17 “(2) before a court of competent jurisdiction, in  
18 the presence of counsel and after having been ad-  
19 vised of the consequences of his decision, a State  
20 prisoner under capital sentence waives the right to  
21 pursue habeas corpus review under section 2254; or

22 “(3) a State prisoner files a habeas corpus peti-  
23 tion under section 2254 within the time required in  
24 section 2258 and fails to make a substantial showing  
25 of the denial of a Federal right or is denied relief

1 in the district court or at any subsequent stage of  
2 review.

3 “(c) On a second or later habeas corpus petition  
4 under section 2254, no Federal court shall have the au-  
5 thority to enter a stay of execution or grant relief in a  
6 capital case unless—

7 “(1) the basis for the stay and request for relief  
8 is a claim not previously presented in the State or  
9 Federal courts;

10 “(2) the failure to raise the claim is (A) the re-  
11 sult of State action in violation of the Constitution  
12 or laws of the United States; (B) the result of the  
13 Supreme Court recognition of a new Federal right  
14 that is retroactively applicable; or (C) based on a  
15 factual predicate that could not have been discovered  
16 through the exercise of reasonable diligence in time  
17 to present the claim for State or Federal  
18 postconviction review; and

19 “(3) the facts underlying the claim would be  
20 sufficient to establish by clear and convincing evi-  
21 dence that but for constitutional error, no reasonable  
22 fact finder would have found the petitioner guilty of  
23 the underlying offense.

24 “(d) Notwithstanding any other provision of law, no  
25 Federal district court or appellate judge shall have the au-

1   thority to enter a stay of execution, issue injunctive relief,  
2   or grant any equitable or other relief in a capital case on  
3   any successive habeas petition unless the court first deter-  
4   mines the petition or other action does not constitute an  
5   abuse of the writ. This determination shall be made only  
6   by the district judge or appellate panel who adjudicated  
7   the merits of the original habeas petition (or to the district  
8   judge or appellate panel to which the case may have been  
9   subsequently assigned as a result of the unavailability of  
10  the original court or judges). In the Federal courts of ap-  
11  peal, a stay may issue pursuant to the terms of this provi-  
12  sion only when a majority of the original panel or majority  
13  of the active judges determines the petition does not con-  
14  stitute an abuse of the writ.

15   **“§ 2258. Filing of habeas corpus petition; time re-**  
16                   **quirements; tolling rules**

17           “Any petition for habeas corpus relief under section  
18  2254 must be filed in the appropriate district court within  
19  one hundred and eighty days from the filing in the appro-  
20  priate State court of record of an order under section  
21  2256(c). The time requirements established by this section  
22  shall be tolled—

23                   “(1) from the date that a petition for certiorari  
24           is filed in the Supreme Court until the date of final  
25           disposition of the petition if a State prisoner files



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

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

17 “(3) during an additional period not to exceed  
18 sixty days, if (A) a motion for an extension of time  
19 is filed in the Federal district court that would have  
20 proper jurisdiction over the case upon the filing of  
21 a habeas corpus petition under section 2254; and  
22 (B) a showing of good cause is made for the failure  
23 to file the habeas corpus petition within the time pe-  
24 riod established by this section.

1 **“§ 2259. Scope of Federal review; district court adju-**  
2 **dications**

3 “(a) Whenever a State prisoner under capital sen-  
4 tence files a petition for habeas corpus relief to which this  
5 chapter applies, the district court shall only consider a  
6 claim or claims that have been raised and decided on the  
7 merits in the State courts, unless the failure to raise the  
8 claim properly is—

9 “(1) the result of State action in violation of  
10 the Constitution or laws of the United States;

11 “(2) the result of the Supreme Court recogni-  
12 tion of a new Federal right that is retroactively ap-  
13 plicable; or

14 “(3) based on a factual predicate that could not  
15 have been discovered through the exercise of reason-  
16 able diligence in time to present the claim for State  
17 or Federal postconviction review.

18 “(b) Following review subject to the constraints set  
19 forth in subsection (a) and subsections (d) and (g) of sec-  
20 tion 2254 of this title, the court shall rule on the claims  
21 properly before it.

22 **“§ 2260. Certificate of probable cause**

23 “An appeal may not be taken to the court of appeals  
24 from the final order of a district court denying relief in  
25 a habeas corpus proceeding that is subject to the provi-  
26 sions of this chapter unless a circuit justice or judge issues

1 a certificate of probable cause. A certificate of probable  
2 cause may only be issued if the petitioner has made a sub-  
3 stantial showing of the denial of a Federal right. The cer-  
4 tificate of probable cause must indicate which specific  
5 issue or issues satisfy this standard.

6 **“§ 2261. Application to State unitary review proce-**  
7 **dure**

8 “(a) For purposes of this section, a ‘unitary review’  
9 procedure means a State procedure that authorizes a per-  
10 son under sentence of death to raise, in the course of di-  
11 rect review of the judgment, such claims as could be raised  
12 on collateral attack. The provisions of this chapter shall  
13 apply, as provided in this section, in relation to a State  
14 unitary review procedure if the State establishes by rule  
15 of its court of last resort or by statute a mechanism for  
16 the appointment, compensation and payment of reasonable  
17 litigation expenses of competent counsel in the unitary re-  
18 view proceedings, including expenses relating to the litiga-  
19 tion of collateral claims in the proceedings. The rule of  
20 court or statute must provide standards of competency for  
21 the appointment of such counsel.

22 “(b) A unitary review procedure, to qualify under this  
23 section, must include an offer of counsel following trial  
24 for the purpose of representation on unitary review, and  
25 entry of an order, as provided in section 2256(c), concern-

1 ing appointment of counsel or waiver or denial of appoint-  
2 ment of counsel for that purpose. No counsel appointed  
3 to represent the prisoner in the unitary review proceedings  
4 shall have previously represented the prisoner at trial in  
5 the case for which the appointment is made unless the  
6 prisoner and counsel expressly request continued represen-  
7 tation.

8 “(c) Sections 2257, 2258, 2259, 2260, and 2262  
9 shall apply in relation to cases involving a sentence of  
10 death from any State having a unitary review procedure  
11 that qualifies under this section. References to State ‘post-  
12 conviction review’ and ‘direct review’ in those sections  
13 shall be understood as referring to unitary review under  
14 the State procedure. The references in sections 2257(a)  
15 and 2258 to ‘an order under section 2256(c)’ shall be un-  
16 derstood as referring to the post-trial order under sub-  
17 section (b) concerning representation in the unitary review  
18 proceedings, but if a transcript of the trial proceedings  
19 is unavailable at the time of the filing of such an order  
20 in the appropriate State court, then the start of the one  
21 hundred and eighty day limitation period under section  
22 2258 shall be deferred until a transcript is made available  
23 to the prisoner or his counsel.

1 **“§ 2262. Limitation periods for determining petitions**

2 “(a)(1) A Federal district court shall determine such  
3 a petition or motion within 60 days of any argument heard  
4 on an evidentiary hearing, or where no evidentiary hearing  
5 is held, within 60 days of any final argument heard in  
6 the case.

7 “(2)(A) The court of appeals shall determine any ap-  
8 peal relating to such a petition or motion within 90 days  
9 after the filing of any reply brief or within 90 days after  
10 such reply brief would be due. For purposes of this provi-  
11 sion, any reply brief shall be due within 14 days of the  
12 opposition brief.

13 “(B) The court of appeals shall decide any petition  
14 for rehearing and or request by an appropriate judge for  
15 rehearing en banc within 20 days of the filing of such a  
16 petition or request unless a responsive pleading is required  
17 in which case the court of appeals shall decide the applica-  
18 tion within 20 days of the filing of the responsive pleading.  
19 If en banc consideration is granted, the en banc court shall  
20 determine the appeal within 90 days of the decision to  
21 grant such consideration.

22 “(3) The time limitations contained in paragraphs  
23 (1) and (2) may be extended only once for 20 days, upon  
24 an express good cause finding by the court that the inter-  
25 ests of justice warrant such a one-time extension. The spe-

1 cific grounds for the good cause finding shall be set forth  
2 in writing in any extension order of the court.

3 “(b) The time limitations under subsection (a) shall  
4 apply to an initial petition or motion, and to any second  
5 or successive petition or motion. The same limitations  
6 shall also apply to the re-determination of a petition or  
7 motion or related appeal following a remand by the court  
8 of appeals or the Supreme Court for further proceedings,  
9 and in such a case the limitation period shall run from  
10 the date of the remand.

11 “(c) The time limitations under this section shall not  
12 be construed to entitle a petitioner or movant to a stay  
13 of execution, to which the petitioner or movant would oth-  
14 erwise not be entitled, for the purpose of litigating any  
15 petition, motion, or appeal.

16 “(d) The failure of a court to meet or comply with  
17 the time limitations under this section shall not be a  
18 ground for granting relief from a judgment of conviction  
19 or sentence. The State or Government may enforce the  
20 time limitations under this section by applying to the court  
21 of appeals or the Supreme Court for a writ of mandamus.

22 “(e) The Administrative Office of United States  
23 Courts shall report annually to Congress on the compli-  
24 ance by the courts with the time limits established in this  
25 section.

1       “(f) The adjudication of any petition under section  
 2 2254 of this title that is subject to this chapter, and the  
 3 adjudication of any motion under section 2255 of this title  
 4 by a person under sentence of death, shall be given prior-  
 5 ity by the district court and by the court of appeals over  
 6 all noncapital matters.

7 **“§ 2263. Rule of construction**

8       “‘This chapter shall be construed to promote the expe-  
 9 ditious conduct and conclusion of State and Federal court  
 10 review in capital cases.’”.

11       (b) CLERICAL AMENDMENT.—The table of chapters  
 12 at the beginning of part VI of title 28, United States Code,  
 13 is amended by inserting after the item relating to chapter  
 14 153 the following new item:

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

15 **CHAPTER 3—FUNDING FOR LITIGATION**  
 16 **OF FEDERAL HABEAS CORPUS PETI-**  
 17 **TIONS IN CAPITAL CASES**

18 **SEC. 521. FUNDING FOR DEATH PENALTY PROSECUTIONS.**

19       (a) IN GENERAL.—Part E of title I of the Omnibus  
 20 Crime Control and Safe Streets Act of 1968 (42 U.S.C.  
 21 3711 et seq.) is amended by adding at the end the follow-  
 22 ing new section:

1 “FUNDING FOR LITIGATION OF FEDERAL HABEAS  
2 CORPUS PETITIONS IN CAPITAL CASES

3 “SEC. 523. Notwithstanding any other provision of  
4 this subpart, the Director is authorized to provide grants  
5 to the States, from the funding allocated pursuant to sec-  
6 tion 511, for the purpose of supporting litigation pertain-  
7 ing to Federal habeas corpus petitions in capital cases.  
8 The total funding available for such grants within any fis-  
9 cal year shall be equal to the funding provided to capital  
10 resource centers, pursuant to Federal appropriation, in  
11 the same fiscal year.”.

12 (b) CLERICAL AMENDMENT.—The table of contents  
13 at the beginning of title I of the Omnibus Crime Control  
14 and Safe Streets Act of 1968 is amended by inserting  
15 after the item relating to section 522 the following new  
16 item:

“Sec. 523. Funding for litigation of Federal habeas corpus petitions in capital cases.”.

## 17 **Subtitle B—Federal Death Penalty** 18 **Procedures Reform**

### 19 **SEC. 531. FEDERAL DEATH PENALTY PROCEDURES RE-** 20 **FORM.**

21 (a) IN GENERAL.—Subsection (e) of section 3593 of  
22 title 18, United States Code, is amended by striking “shall  
23 consider” and all that follows through the end of such sub-  
24 section and inserting the following: “shall then consider



1 whether the aggravating factor or factors found to exist  
 2 outweigh any mitigating factors. The jury, or if there is  
 3 no jury, the court shall recommend a sentence of death  
 4 if it unanimously finds at least one aggravating factor and  
 5 no mitigating factor or if it finds one or more aggravating  
 6 factors which outweigh any mitigating factors. In any  
 7 other case, it shall not recommend a sentence of death.  
 8 The jury shall be instructed that it must avoid any influ-  
 9 ence of sympathy, sentiment, passion, prejudice, or other  
 10 arbitrary factors in its decision, and should make such a  
 11 recommendation as the information warrants. The jury  
 12 shall be instructed that its recommendation concerning a  
 13 sentence of death is to be based on the aggravating factor  
 14 or factors and any mitigating factors which have been  
 15 found, but that the final decision concerning the balance  
 16 of aggravating and mitigating factors is a matter for the  
 17 jury's judgment.”.

18 (b) CONFORMING AMENDMENT.—Section 3594 of  
 19 title 18, United States Code, is amended by striking “or  
 20 life imprisonment without possibility of release”.

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HR 2992 IH—2

HR 2992 IH—3

HR 2992 IH—4

HR 2992 IH—5

HR 2992 IH——6

HR 2992 IH——7

HR 2992 IH——8