

104TH CONGRESS  
2D SESSION

# H. R. 3698

To reduce violent crime by juvenile offenders.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 1996

Mr. SCHUMER (by request): introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Commerce, and Ways and Means, 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 reduce violent crime by juvenile offenders.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Anti-Gang and Youth Violence Control Act of 1996”.

6 (b) **TABLE OF CONTENTS.**—

TITLE I—ENHANCED PROSECUTION OF DANGEROUS JUVENILE  
OFFENDERS

- Sec. 101. Short title.
- Sec. 102. Delinquency proceedings or criminal prosecutions in district courts.
- Sec. 103. Custody prior to appearance before judicial officer.
- Sec. 104. Technical and conforming amendments to section 5034.
- Sec. 105. Detention prior to disposition or sentencing.

- Sec. 106. Speedy trial.
- Sec. 107. Disposition; availability of increased detention, fines and supervised release for juvenile offenders.
- Sec. 108. Records of crimes committed by juvenile delinquents.
- Sec. 109. Restriction on commitment.
- Sec. 110. Technical amendments of sections 5031 and 5034.
- Sec. 111. Serious juvenile delinquency drug trafficking adjudications as armed career criminals act predicates.

TITLE II—THE STATE AND LOCAL COURT ASSISTANCE PROGRAM  
ACT

- Sec. 201. Short title.
- Sec. 202. Definitions.

Subtitle A—Juvenile Gun Courts

- Sec. 211. Grant authorization.
- Sec. 212. Uses of funds.
- Sec. 213. Applications.
- Sec. 214. Grant awards.
- Sec. 215. Limitations on grants; renewal of grants.
- Sec. 216. Federal share.
- Sec. 217. Report and evaluation.
- Sec. 218. Definition.
- Sec. 219. Authorization of appropriations.

Subtitle B—Juvenile Drug Courts

- Sec. 221. Juvenile drug courts.

Subtitle C—Flexibility in Prison Grants

- Sec. 231. Flexible prison grants for post-incarceration monitoring.

TITLE III—THE GUN-FREE CHILDREN AMENDMENTS ACT

- Sec. 301. Short title.

Subtitle A—Gun Free School Zones Amendment Act

- Sec. 311. Interstate Nexus.

Subtitle B—Enhanced Prosecution and Punishment of Armed Dangerous  
Felons

- Sec. 321. Enhanced penalties for discharging or possessing a firearm during a crime of violence or drug trafficking crime.

TITLE IV—THE KEEPING KIDS DRUG-FREE ACT

Subtitle A—Penalty Enhancements

- Sec. 411. Increased penalties for using minors to distribute drugs.
- Sec. 412. Increased penalties for distributing drugs to minors.
- Sec. 413. Increased penalty for drug trafficking in or near a school or other protected location.
- Sec. 414. Temporary authority to reschedule controlled substances to prevent imminent danger to public safety.

- Sec. 415. Increased penalties for using Federal property to grow or manufacture controlled substances.
- Sec. 416. Clarification of length of supervised release terms in controlled substance cases.
- Sec. 417. Technical correction to ensure compliance of sentencing guidelines with provisions of all Federal statutes.

Subtitle B—Methamphetamine Control Act of 1996

- Sec. 421. Short title.
- Sec. 422. Methamphetamine penalty increases.
- Sec. 423. Penalty increases for trafficking in regulated chemicals.
- Sec. 424. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.
- Sec. 425. Penalties for dangerous handling of listed chemicals.
- Sec. 426. Injunctions.
- Sec. 427. Suspension of suspicious transactions involving listed chemicals.
- Sec. 428. Diversion of certain combination drug products.
- Sec. 429. Seizure and forfeiture of regulated chemicals.
- Sec. 430. Penalties for additional unlawful act.

1 **TITLE I—ENHANCED PROSECUTION**  
 2 **OF DANGEROUS JUVENILE**  
 3 **OFFENDERS ACT**

4 **SEC. 101. SHORT TITLE.**

5 This Act may be cited as the “Enhanced Prosecution  
 6 of Dangerous Juvenile Offenders Act of 1996”.

7 **SEC. 102. DELINQUENCY PROCEEDINGS OR CRIMINAL**  
 8 **PROSECUTIONS IN DISTRICT COURTS.**

9 Section 5032 of title 18, United States Code, is  
 10 amended to read as follows:

11 **“§ 5032 Delinquency proceedings or criminal pros-**  
 12 **ecutions in district courts**

13 “(a)(1) A juvenile alleged to have committed an act  
 14 of juvenile delinquency shall not be proceeded against in  
 15 a court of the United States unless the Attorney General,  
 16 after investigation, certifies to the appropriate district

1 court of the United States that (A) the juvenile court or  
2 other appropriate court of a State does not have jurisdic-  
3 tion or declines to assume jurisdiction over the juvenile  
4 with respect to such act of alleged juvenile delinquency,  
5 or (B) the offense charged is described in subsection  
6 (b)(2) (i)–(vi), and (C) there is a substantial Federal in-  
7 terest in the case or the offense to warrant the exercise  
8 of Federal jurisdiction. The requirements of this para-  
9 graph do not apply to prosecutions pursuant to sub-  
10 sections (b) or (c) or for offenses committed within the  
11 special maritime and territorial jurisdiction of the United  
12 States for which the maximum authorized term of impris-  
13 onment does not exceed six months.

14       “(2) If the Attorney General does not so certify, such  
15 juvenile shall be surrendered to the appropriate legal au-  
16 thorities of such State. For purposes of this section, the  
17 term ‘State’ includes a State of the United States, the Dis-  
18 trict of Columbia, any commonwealth, territory, or posses-  
19 sion of the United States and, with regard to an act of  
20 juvenile delinquency that would have been a misdemeanor  
21 if committed by an adult, a federally recognized tribe.

22       “(3) If a juvenile alleged to have committed an act  
23 of juvenile delinquency is not surrendered to the authori-  
24 ties of a State pursuant to this section, any proceedings  
25 against the juvenile shall be in an appropriate district

1 court of the United States. For such purposes, the court  
2 may be convened at any time and place within the district,  
3 in chambers or otherwise. The Attorney General shall pro-  
4 ceed by information or as authorized by section 3401(g)  
5 of this title, and no criminal prosecution shall be instituted  
6 except as provided below.

7 “(b) A juvenile may be prosecuted as an adult under  
8 the Federal Rules of Criminal Procedure—

9 “(1) if the juvenile has requested in writing  
10 upon advice of counsel to be proceeded against as an  
11 adult; or

12 “(2) if the juvenile is alleged to have committed  
13 an act on or after the juvenile’s fifteenth birthday  
14 which if committed by an adult would be—

15 “(i) a crime of violence (as defined in sec-  
16 tion 3156(a)(4)) that is a felony;

17 “(ii) an offense described in section  
18 844(d), (k), or (l), 922(x), 924(b), (g), (h), (j),  
19 (k), or (l) of this title;

20 “(iii) a violation of section 922(o) that is  
21 an offense under section 924(a)(2) of this title;

22 “(iv) a violation of section 5861 of the In-  
23 ternal Revenue Code of 1986 that is an offense  
24 under section 5871 of such Code (26 U.S.C.  
25 5871);

1           “(v) a conspiracy to violate an offense de-  
2           scribed in subsections (i), (ii), (iii) or (iv); or

3           “(vi) an offense described in section 401 or  
4           408 of the Controlled Substances Act (21  
5           U.S.C. 841, 848) or a conspiracy or attempt to  
6           commit that offense which is punishable under  
7           section 406 of the Controlled Substances Act  
8           (21 U.S.C. 846), or an offense punishable  
9           under section 409 or 419 of the Controlled Sub-  
10          stances Act (21 U.S.C. 849, 860), or an offense  
11          described in section 1002, 1003, 1005, or 1009  
12          of the Controlled Substances Import and Ex-  
13          port Act (21 U.S.C. 952, 953, 955 or 959), or  
14          a conspiracy or attempt to commit that offense  
15          which is punishable under section 1013 of the  
16          Controlled Substances Import and Export Act  
17          (21 U.S.C. 963).

18          “(c) A juvenile may also be prosecuted as an adult  
19          under the Federal Rules of Criminal Procedure if the juve-  
20          nile is alleged to have committed an act on or after the  
21          juvenile’s thirteenth birthday and before the juvenile’s fif-  
22          teenth birthday which if committed by an adult would be  
23          an offense described in subsection (b)(2) (i)–(vi), upon ap-  
24          proval of the Attorney General or the Attorney General’s  
25          designee. Any such designee shall be at a level not lower

1 than a Deputy Assistant Attorney General. Such approval  
2 shall not be granted if, with respect to such a juvenile who  
3 is subject to the criminal jurisdiction of an Indian tribal  
4 government and who is alleged to have committed an act  
5 over which, if committed by an adult, there would be Fed-  
6 eral jurisdiction based solely on its commission in Indian  
7 country (as defined in section 1151), the governing body  
8 of the tribe having jurisdiction over the place in which the  
9 alleged act was committed has prior to such act not noti-  
10 fied the Attorney General in writing of its election that  
11 the provisions of this subsection shall apply.

12 “(d) A determination to approve or not to approve,  
13 or to institute or not to institute, a prosecution under sub-  
14 section (b) or (c) shall not be reviewable in any court.

15 “(e) In a prosecution under subsection (b) or (c), the  
16 juvenile may be prosecuted and convicted as an adult for  
17 any other offense which is properly joined under the Fed-  
18 eral Rules of Criminal Procedure, and may also be con-  
19 victed of a lesser included offense.”.

20 **SEC. 103. CUSTODY PRIOR TO APPEARANCE BEFORE JUDI-**  
21 **CIAL OFFICER.**

22 Section 5033 of title 18, United States Code, is  
23 amended to read as follows:

1 **“§ 5033. Custody prior to appearance before judicial**  
2 **officer**

3 “Whenever a juvenile is taken into custody, the ar-  
4 resting officer shall immediately advise such juvenile of the  
5 juvenile’s rights, in language comprehensible to a juvenile.  
6 The arresting officer shall promptly take reasonable steps  
7 to notify the juvenile’s parents, guardian, or custodian of  
8 such custody, of the rights of the juvenile, and of the na-  
9 ture of the alleged offense.

10 “The juvenile shall be taken before a judicial officer  
11 without unreasonable delay.”.

12 **SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS TO**  
13 **SECTION 5034.**

14 Section 5034 of title 18, United States Code, is  
15 amended—

16 (1) by designating the existing paragraphs as  
17 paragraphs (1), (2), and (3), respectively; and

18 (2) by inserting at the beginning of such section

19 “In a proceeding under section 5032(a)—”.

20 **SEC. 105. DETENTION PRIOR TO DISPOSITION OR SENTENC-**  
21 **ING.**

22 Section 5035 of title 18, United States Code, is  
23 amended to read as follows:

24 **“§ 5035. Detention prior to disposition**

25 “(a)(1) A juvenile 15 years of age or older proceeded  
26 against under section 5032 (b) or (c), if detained at any



1 time prior to sentencing, shall be detained in such suitable  
2 place as the Attorney General may designate. Preference  
3 shall be given to a place located within, or within a reason-  
4 able distance of, the district in which the juvenile is being  
5 prosecuted.

6       “(2) A juvenile less than 15 years of age proceeded  
7 against under section 5032 (b) or (c), if detained at any  
8 time prior to sentencing, shall be detained in a suitable  
9 juvenile facility located within, or within a reasonable dis-  
10 tance of, the district in which the juvenile is being pros-  
11 ecutied. If such a facility is not available, such a juvenile  
12 may be detained in any other suitable facility located with-  
13 in, or within a reasonable distance of, such district. If no  
14 such facility is available, such a juvenile may be detained  
15 in any other suitable place as the Attorney General may  
16 designate.

17       “(3) To the maximum extent feasible, a juvenile less  
18 than 15 years of age proceeded against under section 5032  
19 (b) or (c) shall not be detained prior to sentencing in any  
20 facility in which the juvenile has regular contact with adult  
21 persons convicted of a crime or awaiting trial on criminal  
22 charges.

23       “(b) A juvenile proceeded against under section  
24 5032(a) shall not be detained prior to disposition in any  
25 facility in which the person has regular contact with adult

1 persons convicted of a crime or awaiting trial on criminal  
2 charges.

3 “(c) Every juvenile who is detained prior to disposi-  
4 tion or sentencing shall be provided with reasonable safety  
5 and security and with adequate food, heat, light, sanitary  
6 facilities, bedding, clothing, recreation, education, and  
7 medical care, including necessary psychiatric, psycho-  
8 logical, or other care and treatment.”.

9 **SEC. 106. SPEEDY TRIAL.**

10 Section 5036 of title 18, United States Code, is  
11 amended by—

12 (1) striking “If an alleged delinquent” and in-  
13 sserting “If a juvenile proceeded against under sec-  
14 tion 5032(a)”;

15 (2) striking “thirty” and inserting “forty-five”;  
16 and

17 (3) striking “the court,” and everything that  
18 follows and inserting “the court. The periods of ex-  
19 clusion under section 3161(h) of this title shall apply  
20 to this section.”.

21 **SEC. 107. DISPOSITION; AVAILABILITY OF INCREASED DE-**  
22 **TENTION, FINES AND SUPERVISED RELEASE**  
23 **FOR JUVENILE OFFENDERS.**

24 Section 5037 of title 18, United States Code, is  
25 amended to read as follows:

**1 § 5037. Disposition**

2       “(a) In a proceeding under 5032(a), if the court finds  
3 a juvenile to be a juvenile delinquent, the court shall hold  
4 a hearing concerning the appropriate disposition of the ju-  
5 venile no later than forty court days after the finding of  
6 juvenile delinquency unless the court has ordered further  
7 study pursuant to subsection (e). A predisposition report  
8 shall be prepared by the probation officer who shall  
9 promptly provide a copy to the juvenile, the juvenile’s  
10 counsel, and the attorney for the government. Victim im-  
11 pact information shall be included in the report, and vic-  
12 tims, or in appropriate cases their official representatives,  
13 shall be provided the opportunity to make a statement to  
14 the court in person or present any information in relation  
15 to the disposition. After the dispositional hearing, and  
16 after considering any pertinent policy statements promul-  
17 gated by the Sentencing Commission pursuant to 28  
18 U.S.C. 994, the court shall enter an order of restitution  
19 pursuant to section 3556, and may suspend the findings  
20 of juvenile delinquency, place the juvenile on probation,  
21 commit the juvenile to official detention (including the  
22 possibility of a term of supervised release), and impose any  
23 fine that would be authorized if the juvenile had been tried  
24 and convicted as an adult. With respect to release or de-  
25 tention pending an appeal or a petition for a writ of certio-

1 rari after disposition, the court shall proceed pursuant to  
2 the provisions of chapter 207.

3 “(b) The term for which probation may be ordered  
4 for a juvenile found to be a juvenile delinquent may not  
5 extend beyond the maximum term that would be author-  
6 ized by section 3561(c) if the juvenile had been tried and  
7 convicted as an adult. Sections 3563, 3564, and 3565 are  
8 applicable to an order placing a juvenile on probation.

9 “(c) The term for which official detention may be or-  
10 dered for a juvenile found to be a juvenile delinquent may  
11 not extend beyond the lesser of—

12 “(1) the maximum term of imprisonment that  
13 would be authorized if the juvenile had been tried  
14 and convicted as an adult;

15 “(2) ten years; or

16 “(3) the date when the juvenile becomes twen-  
17 ty-six years old.

18 Section 3624 is applicable to an order placing a juvenile  
19 in detention.

20 “(d) The term for which supervised release may be  
21 ordered for a juvenile found to be a juvenile delinquent  
22 may not extend beyond five years. Sections 3583(c)–(i) are  
23 applicable to an order placing a juvenile on supervised re-  
24 lease.

1       “(e) If the court desires more detailed information  
2 concerning a juvenile alleged to have committed an act of  
3 juvenile delinquency or a juvenile adjudicated delinquent,  
4 it may commit the juvenile, after notice and hearing at  
5 which the juvenile is represented by counsel, to the custody  
6 of the Attorney General for observation and study by an  
7 appropriate agency or entity. Such observation and study  
8 shall be conducted on an outpatient basis, unless the court  
9 determines that inpatient observation and study are nec-  
10 essary to obtain the desired information. In the case of  
11 an alleged juvenile delinquent, inpatient study may be or-  
12 dered only with the consent of the juvenile and the juve-  
13 nile’s attorney. The agency or entity shall make a complete  
14 study of the alleged or adjudicated delinquent to ascertain  
15 the juvenile’s personal traits, capabilities, background,  
16 previous delinquency or criminal experience, mental or  
17 physical defect, and any other relevant factors. The Attor-  
18 ney General shall submit to the court and the attorneys  
19 for the juvenile and the government the results of the  
20 study within thirty days after the commitment of the juve-  
21 nile, unless the court grants additional time. Time spent  
22 in custody under this subsection shall be excluded for pur-  
23 poses of section 5036.

24       “(f) With respect to any juvenile prosecuted and con-  
25 victed as an adult under section 5032(c), the court may,

1 pursuant to guidelines promulgated by the United States  
2 Sentencing Commission under section 994 of title 28, de-  
3 termine to treat the conviction as an adjudication of delin-  
4 quency and impose any disposition authorized under this  
5 section. The United States Sentencing Commission shall  
6 promulgate such guidelines as soon as practicable and not  
7 later than one year from the date of enactment of this  
8 Act.”.

9 **SEC. 108. RECORDS OF CRIMES COMMITTED BY JUVENILE**  
10 **DELINQUENTS.**

11 (a) Section 5038 of title 18, United States Code, is  
12 amended—

13 (1) in subsection (a), by amending the introduc-  
14 tory language before the colon to read as follows:

15 “Throughout and upon completion of the juvenile de-  
16 linquency proceeding pursuant to section 5032(a), the  
17 court records of the original proceeding shall be safe-  
18 guarded from disclosure to unauthorized persons. The  
19 records shall be released to the extent necessary to meet  
20 the following circumstances”;

21 (2) in subsection (a), by adding in paragraph  
22 (3) before the semicolon “or analysis requested by  
23 the Attorney General”;

24 (3) in subsection (a), by amending paragraph  
25 (6) to read as follows:

1           “(6) communications with any victim of such  
2 juvenile delinquency, or in appropriate cases with  
3 the official representative of the victim, in order to  
4 apprise such victim or representative of the status or  
5 disposition of the proceeding or in order to effec-  
6 tuate any other provision of law or to assist in a vic-  
7 tim’s, or the victim’s official representative’s, allocu-  
8 tion at disposition.”; and

9           (4) by striking subsections (d) and (f), by re-  
10 designating subsection (e) as subsection (d), by in-  
11 sserting “pursuant to section 5032(b) or (c)” after  
12 “adult” in subsection (d) as so redesignated, and by  
13 adding at the end new subsections (e) and (f) as fol-  
14 lows:

15           “(e) Whenever a juvenile has been adjudicated delin-  
16 quent for an act that if committed by an adult would be  
17 a felony or for a violation of section 922(x), the juvenile  
18 shall be fingerprinted and photographed, and the finger-  
19 prints and photograph shall be sent to the Federal Bureau  
20 of Investigation. The court shall also transmit to the Fed-  
21 eral Bureau of Investigation the information concerning  
22 the adjudication, including name, date of adjudication,  
23 court, offenses, and sentence, along with the notation that  
24 the matter was a juvenile adjudication. The fingerprints,  
25 photograph, and other records and information relating to

1 a juvenile described in this subsection, or to a juvenile who  
2 is prosecuted as an adult pursuant to section 5032(b) or  
3 (c), shall be made available in the manner applicable to  
4 adult defendants.

5 “(f) In addition to any other authorization under this  
6 section for the reporting, retention, disclosure, or avail-  
7 ability of records or information, if the law of the State  
8 in which a Federal juvenile delinquency proceeding takes  
9 place permits or requires the reporting, retention, dislo-  
10 sure, or availability of records or information relating to  
11 a juvenile or to a juvenile delinquency proceeding or adju-  
12 dication in certain circumstances, then such reporting, re-  
13 tention, disclosure, or availability is permitted under this  
14 section whenever the same circumstances exist.”.

15 **SEC. 109. RESTRICTION ON COMMITMENT.**

16 Section 5039 of title 18, United States Code, is  
17 amended to read as follows:

18 **“§ 5039. Commitment**

19 “(a) The Attorney General shall not cause any juve-  
20 nile less than 21 years of age adjudicated delinquent under  
21 section 5032(a) to be placed or retained in an adult jail  
22 or correctional facility in which the juvenile has regular  
23 contact with adults incarcerated because they have been  
24 convicted of a crime or are awaiting trial on criminal



1 charges, except for placement in a community-based facil-  
2 ity.

3 “(b) Every juvenile adjudicated delinquent who has  
4 been committed shall be provided with reasonable safety  
5 and security and with adequate food, heat, light, sanitary  
6 facilities, bedding, clothing, recreation, counseling, edu-  
7 cation, training, and medical care including necessary psy-  
8 chiatric, psychological, or other care and treatment.”.

9 **SEC. 110. TECHNICAL AMENDMENTS OF SECTIONS 5031 AND**  
10 **5034.**

11 (a) Sections 5031 and 5034 of title 18, United States  
12 Code, are each amended by striking “his” each place it  
13 appears and inserting “the juvenile’s”.

14 (b) Section 5034 of title 18, United States Code, is  
15 amended by striking “magistrate” each place it appears  
16 and inserting “judicial officer”.

17 **SEC. 111. SERIOUS JUVENILE DELINQUENCY DRUG TRAF-**  
18 **FICKING ADJUDICATIONS AS ARMED CAREER**  
19 **CRIMINAL ACT PREDICATES.**

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

22 (1) by striking “or” at the end of clause (i);

23 (2) by inserting “or” at the end of clause (ii);

24 and

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

1           “(iii) any act of juvenile delinquency  
2           that if committed by an adult would be a  
3           serious drug offense described in this para-  
4           graph;”.

5 **TITLE II—THE STATE AND**  
6 **LOCAL COURT ASSISTANCE**  
7 **PROGRAM ACT**

8 **SEC. 201. SHORT TITLE.**

9           This title may be cited as the “State and Local  
10 Courts Assistance Program Act of 1996.”

11 **SEC. 202. DEFINITIONS.**

12           Unless otherwise provided, for purposes of this title—

13           (1) the term “juvenile” has the meaning given  
14           such term under State law; and

15           (2) the term “State” means any State of the  
16           United States, the District of Columbia, the Com-  
17           monwealth of Puerto Rico, the Virgin Islands, Amer-  
18           ican Samoa, Guam, and the Northern Mariana Is-  
19           lands.

20 **Subtitle A—Juvenile Gun Courts**

21 **SEC. 211. GRANT AUTHORIZATION.**

22           (a) The Attorney General may provide grants to  
23 States, State courts, local courts, units of local govern-  
24 ment, and Indian tribes, and Alaskan Native Villages for  
25 court-based juvenile justice programs that target young

1 firearm offenders through the establishment of juvenile  
2 gun courts.

3 (b) CONTINUED AVAILABILITY OF GRANT FUNDS.—

4 Amounts made available under this part shall remain  
5 available until expended.

6 **SEC. 212. USES OF FUNDS.**

7 Grants made by the Attorney General under this sec-  
8 tion shall be used to fund programs that—

9 (1) establish juvenile gun courts for adjudica-  
10 tion and prosecution of juvenile firearm offenders;

11 (2) grant prosecutorial discretion to try, in a  
12 gun court, cases involving the illegal possession, use,  
13 transfer, or threatened use of a firearm by a juve-  
14 nile;

15 (3) require prosecutors to transfer such cases to  
16 the gun court calendar no later than 30 days after  
17 arraignment;

18 (4) require that gun court trials commence not  
19 later than 60 days after transfer to the gun court;

20 (5) allow prosecution of appropriately aged of-  
21 fenders as adults or juveniles in accordance with  
22 State law;

23 (6) facilitate innovative and individualized sen-  
24 tencing (such as incarceration, house arrest, victim

1 impact classes, electronic monitoring, restitution,  
2 and gang prevention programs);

3 (7) provide services in furtherance of paragraph  
4 (6);

5 (8) limit grounds for continuances and grant  
6 continuances only for the shortest practicable time;  
7 and

8 (9) allow transfer of a case or an offender out  
9 of the gun court by agreement of the parties, subject  
10 to court approval.

11 **SEC. 213. APPLICATIONS.**

12 (a) **ELIGIBILITY.**—In order to be eligible to receive  
13 a grant under this subtitle, the chief executive or chief  
14 justice of a State or the chief executive or chief judge of  
15 a unit of local government or Indian tribe shall submit  
16 an application to the Attorney General in such form and  
17 containing such information as the Attorney General may  
18 reasonably require.

19 (b) **REQUIREMENTS.**—Each application shall in-  
20 clude—

21 (1) a request for funds for the purposes de-  
22 scribed in section 212;

23 (2) a description of the communities to be  
24 served by the grant, including the nature of juvenile

1 crime, juvenile violence, and juvenile firearm use and  
2 possession in such communities;

3 (3) assurances that Federal funds received  
4 under this subtitle shall be used to supplement, not  
5 supplant, non-Federal funds that would otherwise be  
6 available for activities funded under this section;

7 (4) statistical information in such form and  
8 containing such information as the Attorney General  
9 may require; and

10 (5) any additional information the Attorney  
11 General may reasonably require.

12 (c) IMPLEMENTATION PLAN.—Each applicant shall  
13 include a comprehensive implementation plan that con-  
14 tains—

15 (1) a description of the applicant jurisdiction’s  
16 juvenile crime and juvenile violence problem, includ-  
17 ing gang crime, and juvenile firearm use and posses-  
18 sion;

19 (2) an action plan outlining how the applicant  
20 will achieve the purposes described in section 212;

21 (3) a description of any resources available in  
22 the community to implement the plan; and

23 (4) a description of the applicant’s plan for  
24 evaluating the performance of the gun court.

1 **SEC. 214. GRANT AWARDS.**

2 (a) GRANT-MAKING CONSIDERATIONS.—The Attor-  
3 ney General shall consider the following in awarding  
4 grants under this subtitle:

5 (1) Demonstrated need and evidence of the abil-  
6 ity to provide the services described in the plan re-  
7 quired under section 213.

8 (2) To the extent practicable, achievement of an  
9 equitable geographic distribution of grant awards.

10 (3) An allotment of .5 percent of the total  
11 amount appropriated each fiscal year for each State  
12 that meets the requirements under this subtitle.

13 **SEC. 215. LIMITATIONS ON GRANTS; RENEWAL OF GRANTS.**

14 (a) ADMINISTRATIVE COST LIMITATION.—The Attor-  
15 ney General and any grant recipient may each use not  
16 more than 5 percent of the funds available under this sub-  
17 title for administrative purposes, technical assistance, re-  
18 search and evaluation.

19 (b) RENEWAL OF GRANTS.—A grant under this sub-  
20 title may be renewed for not more than 2 additional years  
21 after the first fiscal year during which the recipient re-  
22 ceives its initial grant under this subtitle, subject to the  
23 availability of funds, if—

24 (1) the Attorney General determines that the  
25 funds made available to the recipient during the pre-

1       vious years were used in a manner required under  
2       an approved application; and

3               (2) the Attorney General determines that an  
4       additional grant is necessary to implement the com-  
5       prehensive plan required by section 213.

6       **SEC. 216. FEDERAL SHARE.**

7       (a) IN GENERAL.—The Federal share of a grant  
8       made under this subtitle may not exceed 90 percent of  
9       the total costs of the program described in the application  
10      submitted under section 213 for the fiscal year for which  
11      the program receives assistance under this subtitle.

12      (b) WAIVER.—The Attorney General may waive, in  
13      whole or in part, the requirement of a matching contribu-  
14      tion under subsection (a).

15      (c) IN-KIND CONTRIBUTIONS.—In-kind contributions  
16      may constitute any portion of the non-Federal share of  
17      a grant under this subtitle.

18      **SEC. 217. REPORT AND EVALUATION.**

19      (a) REPORT TO THE ATTORNEY GENERAL.—States,  
20      State courts, local courts, Indian tribes, or units of local  
21      government that receive funds under this subtitle during  
22      a fiscal year shall submit to the Attorney General not later  
23      than March 1 of each year beginning in 1998, a report  
24      that describes progress achieved in carrying out the plan  
25      described under section 213.

1 (b) EVALUATION AND REPORT TO CONGRESS.—The  
2 Attorney General shall submit to the Congress an evalua-  
3 tion and report by October 1 of each year beginning in  
4 1998, that contains a detailed statement regarding grant  
5 awards, activities of grant recipients, a compilation of sta-  
6 tistical information submitted by applicants, and an eval-  
7 uation of programs established under this subtitle.

8 (c) DOCUMENTS AND INFORMATION.—Grant recipi-  
9 ents shall provide the Attorney General with all relevant  
10 documents and information that the Attorney General  
11 deems necessary to conduct an evaluation of the effective-  
12 ness of programs funded under this subtitle.

13 (d) CRITERIA.—In assessing the effectiveness of the  
14 programs established and operated pursuant to this sub-  
15 title, the Attorney General shall consider, at a mini-  
16 mum—

17 (1) the number of youths tried in gun court ses-  
18 sions;

19 (2) recidivism rates of offenders tried in gun  
20 court sessions;

21 (3) changes in the amount of gun and gang re-  
22 lated crime in the jurisdiction of the grantee;

23 (4) the quantity of firearms and ammunition  
24 recovered in gun court cases, and



1           (5) the costs of the program to the criminal jus-  
2           tice system.

3 **SEC. 218. DEFINITION.**

4           For purposes of this subtitle, the term “firearm of-  
5 fender” means any individual charged with an offense in-  
6 volving the illegal possession, use, transfer, or threatened  
7 use of a firearm.

8 **SEC. 219. AUTHORIZATION OF APPROPRIATIONS.**

9           There are authorized to be appropriated, from the  
10 Violent Crime Reduction Trust Fund, such sums as may  
11 be necessary to carry out this subtitle.

12 **Subtitle B—Juvenile Drug Courts**

13 **SEC. 221. JUVENILE DRUG COURTS.**

14           Title I of the Omnibus Crime Control and Safe  
15 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amend-  
16 ed—

17           (1) by redesignating part Y as part Z;

18           (2) by redesignating section 2501 as 2601; and

19           (3) by inserting after part X the following new  
20 part:

21 **“PART Y—JUVENILE DRUG COURTS**

22 **“SEC. 2501. GRANT AUTHORITY.**

23           “(a) APPROPRIATE DRUG COURT PROGRAMS.—The  
24 Attorney General may make grants to States, State

1 courts, local courts, units of local government, and Indian  
2 tribes to establish programs that—

3 “(1) involve continuous early judicial super-  
4 vision over juvenile offenders, other than violent ju-  
5 venile offenders as defined in section 227 of the  
6 Youth Development and Juvenile Crime Prevention  
7 Act of 1996, with substance abuse, or substance  
8 abuse-related, problems; and

9 “(2) integrate administration of other sanctions  
10 and services, which include—

11 “(A) mandatory periodic testing for the  
12 use of controlled substances or other addictive  
13 substances during any period of supervised re-  
14 lease or probation for each participant;

15 “(B) substance abuse treatment for each  
16 participant;

17 “(C) diversion, probation, or other super-  
18 vised release involving the possibility of prosecu-  
19 tion, confinement, or incarceration based on  
20 noncompliance with program requirements or  
21 failure to show satisfactory progress;

22 “(D) programmatic, offender management,  
23 and aftercare services such as relapse preven-  
24 tion, health care, education, vocational training,  
25 job placement, housing placement, and child

1 care or other family support service for each  
2 participant who requires such services;

3 “(E) payment by the offender of treatment  
4 costs, to the extent practicable, such as costs  
5 for urinalysis or counseling; and

6 “(F) payment by the offender of restitu-  
7 tion, to the extent practicable, to either a victim  
8 of the offender’s offense or to a restitution or  
9 similar victim support fund.

10 “(b) USE OF FUNDS FOR NECESSARY SUPPORT PRO-  
11 GRAMS.—Grant recipients may use Federal grant funds  
12 received under this subtitle to pay treatment, counseling,  
13 and other related and necessary expenses not covered by  
14 other Federal, State, Indian tribal, and local sources of  
15 funding that would otherwise be available.

16 “(c) CONTINUED AVAILABILITY OF GRANT FUNDS.—  
17 Amounts made available under this part shall remain  
18 available until expended.

19 **“SEC. 2502. PROHIBITION OF PARTICIPATION BY VIOLENT**  
20 **OFFENDERS.**

21 “The Attorney General shall issue regulations and  
22 guidelines to ensure that the programs authorized in this  
23 part do not permit participation by violent offenders.

1 **“SEC. 2503. DEFINITION.**

2 “For purposes of this part, the term ‘violent offense’  
3 means an offense during the course of which—

4 “(1) the individual carried, possessed, or used a  
5 firearm or dangerous weapon;

6 “(2) the death of or serious bodily injury of an-  
7 other person occurred as a direct result of the com-  
8 mission of such offense; or

9 “(3) the individual used force against the per-  
10 son of another.

11 **“SEC. 2504. ADMINISTRATION.**

12 “(a) REGULATORY AUTHORITY.—The Attorney Gen-  
13 eral shall issue any regulations and guidelines necessary  
14 to carry out this part.

15 “(b) APPLICATIONS.—In addition to any other re-  
16 quirements that may be specified by the Attorney General,  
17 an application for a grant under this part shall—

18 “(1) include a long-term strategy and detailed  
19 implementation plan;

20 “(2) explain the applicant’s inability to fund the  
21 program adequately without Federal assistance;

22 “(3) certify that the Federal support provided  
23 will be used to supplement, and not supplant, State,  
24 Indian tribal, and local sources of funding that  
25 would otherwise be available;

1           “(4) identify related governmental or commu-  
2           nity initiatives which complement or will be coordi-  
3           nated with the proposal;

4           “(5) certify that there has been appropriate  
5           consultation with all affected agencies and that there  
6           will be appropriate coordination with all affected  
7           agencies in the implementation of the program;

8           “(6) certify that participating offenders will be  
9           supervised by one or more designated judges with re-  
10          sponsibility for the drug court program;

11          “(7) specify plans for obtaining necessary sup-  
12          port and continuing the proposed program following  
13          the conclusion of Federal support; and

14          “(8) describe the methodology that will be used  
15          in evaluating the program.

16 **“SEC. 2505. APPLICATIONS.**

17          “To request funds under this part, the chief executive  
18          or the chief justice of a State, or the chief executive or  
19          chief judge of a unit of local government or Indian tribe  
20          shall submit an application to the Attorney General in  
21          such form and containing such information as the Attor-  
22          ney General may reasonably require.

23 **“SEC. 2506. FEDERAL SHARE.**

24          “(a) IN GENERAL.—The Federal share of a grant  
25          made under this part may not exceed 90 percent of the

1 total costs of the program described in the application sub-  
2 mitted under section 2505 for the fiscal year for which  
3 the program receives assistance under this part.

4 “(b) WAIVER.—The Attorney General may waive, in  
5 whole or in part, the requirement of a matching contribu-  
6 tion under subsection (a).

7 “(c) IN-KIND CONTRIBUTIONS.—In-kind contribu-  
8 tions may constitute a portion of the non-Federal share  
9 of a grant under this part.

10 **“SEC. 2507. GEOGRAPHIC DISTRIBUTION.**

11 “The Attorney General shall ensure that, to the ex-  
12 tent practicable, an equitable geographic distribution of  
13 grant awards is made.

14 **“SEC. 2508. REPORT.**

15 “A State, Indian tribe, or unit of local government  
16 that receives funds under this part during a fiscal year  
17 shall submit to the Attorney General, in March of the year  
18 following receipt of a grant under this part, a report re-  
19 garding the effectiveness of programs established pursu-  
20 ant to this part.

21 **“SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVAL-  
22 UATION.**

23 “(a) TECHNICAL ASSISTANCE AND TRAINING.—The  
24 Attorney General may provide technical assistance and  
25 training in furtherance of the purposes of this part.

1       “(b) **EVALUATIONS.**—In addition to any evaluation  
2 requirements that may be prescribed for grantees, the At-  
3 torney General may carry out or make arrangements for  
4 evaluations of programs that receive support under this  
5 part.

6       “(c) **ADMINISTRATION.**—The technical assistance,  
7 training, and evaluations authorized by this section may  
8 be carried out directly by the Attorney General, in collabo-  
9 ration with the Secretary of Health and Human Services,  
10 or through grants, contracts, or other cooperative arrange-  
11 ments with other entities.

12 **“SEC. 2510. UNAWARDED FUNDS.**

13       “The Attorney General may reallocate any grant  
14 funds that are not awarded for juvenile drug courts under  
15 this part for use for other juvenile delinquency and crime  
16 prevention initiatives.

17 **“SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.**

18       “There are authorized to be appropriated, from the  
19 Violent Crime Reduction Trust Fund, such sums as may  
20 be necessary to carry out this part.”.

## 1     **Subtitle C—Flexibility in Prison** 2                                   **Grants**

### 3     **SEC. 231. FLEXIBLE PRISON GRANTS FOR POST-INCARCER-** 4                                   **ATION MONITORING.**

5             Subtitle A of title II of the Violent Crime Control  
6 and Law Enforcement Act of 1994 is amended as follows:

7                     (1) in section 20102(a)—

8                             (A) by striking “and” at the end of para-  
9 graph (2);

10                            (B) by striking the period in paragraph (3)  
11 and inserting “; and”; and

12                            (C) by adding at the end a new paragraph  
13 as follows:

14                            “(4) to provide and support post-release transi-  
15 tion, supervision, and monitoring, including drug  
16 testing.”;

17                            (2) in section 20108(b)(3)(B), by striking “and  
18 sentencing reforms” and inserting “, sentencing re-  
19 forms, and other reforms”; and

20                            (3) in section 20109, by amending subsection  
21 (b) to read as follows:

22                            “(b) GRANTS TO INDIAN TRIBES.—From the  
23 amounts reserved under subsection (a), the Attorney Gen-  
24 eral may make grants to Indian tribes for the purposes  
25 of—





1 **Subtitle B—Enhanced Prosecution**  
2 **and Punishment of Armed Dan-**  
3 **gerous Felons**

4 **SEC. 321. ENHANCED PENALTIES FOR DISCHARGING OR**  
5 **POSSESSING A FIREARM DURING A CRIME OF**  
6 **VIOLENCE OR DRUG TRAFFICKING CRIME.**

7 (a) Sections 924(c)(1) and 929(a)(1) of title 18,  
8 United States Code, are each amended by striking “uses  
9 or carries a firearm” and inserting “possesses a firearm”.

10 (b) Section 924(c)(1) of title 18, United States Code,  
11 is further amended by inserting “or if the firearm is dis-  
12 charged or is used to cause serious bodily injury (as de-  
13 fined in section 1365 of this title),” before “to imprison-  
14 ment for ten years”.

15 **TITLE IV—THE KEEPING KIDS**  
16 **DRUG-FREE ACT**

17 **Subtitle A—Penalty Enhancements**

18 **SEC. 411. INCREASED PENALTIES FOR USING MINORS TO**  
19 **DISTRIBUTE DRUGS.**

20 Section 420 of the Controlled Substances Act (21  
21 U.S.C. 861) is amended—

22 (1) in subsection (b) by striking “one year” and  
23 inserting “three years”;

24 (2) in subsection (c) by striking “one year” and  
25 inserting “five years”; and

1           (3) by amending subsection (e) to read as fol-  
2       lows:

3       “(e) PROBATION PROHIBITED.—In the case of any  
4 sentence imposed under this section, probation shall not  
5 be granted.”.

6 **SEC. 412. INCREASED PENALTIES FOR DISTRIBUTING**  
7 **DRUGS TO MINORS.**

8       Section 418 of the Controlled Substances Act (21  
9 U.S.C. 859) is amended—

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

12           (2) in subsection (b) by striking “one year” and  
13       inserting “five years”.

14 **SEC. 413. INCREASED PENALTY FOR DRUG TRAFFICKING IN**  
15 **OR NEAR A SCHOOL OR OTHER PROTECTED**  
16 **LOCATION.**

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

19           (1) in subsection (a) by striking “one year” and  
20       inserting “three years”; and

21           (2) in subsection (b) by striking “three years”  
22       each time it appears and inserting “five years”.

1 **SEC. 414. SCHEDULING OF CERTAIN CONTROLLED SUB-**  
2 **STANCES PRESENTING IMMINENT DANGER**  
3 **TO PUBLIC SAFETY.**

4 (a) RESCHEDULING OF ROHYPNOL.—Notwithstand-  
5 ing sections 201 and 202 of the Controlled Substances Act  
6 (21 U.S.C. 811 and 812) respecting the scheduling of con-  
7 trolled substances, the Attorney General is authorized to,  
8 by order, transfer flunitrazepam from schedule IV of such  
9 Act to schedule II of such Act.

10 (b) TEMPORARY AUTHORITY TO SCHEDULE OR RE-  
11 SCHEDULE SUBSTANCES.—Section 201(h) of the Con-  
12 trolled Substances Act (21 U.S.C. 811)(h)) is amended—

13 (1) in paragraph (1) by striking “if the sub-  
14 stance is not listed in any other schedule in section  
15 812 of this title or”, by inserting “or II” after  
16 “schedule I” each time it appears and by inserting  
17 “or the rescheduling of a previously scheduled sub-  
18 stance” after “the scheduling of a substance”;

19 (2) in paragraph (2) by inserting “or reschedul-  
20 ing” after “scheduling” each time it appears.

21 **SEC. 415. INCREASED PENALTIES FOR USING FEDERAL**  
22 **PROPERTY TO GROW OR MANUFACTURE**  
23 **CONTROLLED SUBSTANCES.**

24 (a) Section 401(b)(5) of the Controlled Substances  
25 Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

1           “(5) Any person who violates subsection (a) of  
2 this section by cultivating or manufacturing a con-  
3 trolled substance on any property in whole or in part  
4 owned by or leased to the United States or any de-  
5 partment or agency thereof shall be subject to twice  
6 the maximum punishment otherwise authorized for  
7 the offense.”.

8           (b) The United States Sentencing Commission shall  
9 amend the sentencing guidelines pursuant to 28 U.S.C.  
10 994 to insure that violations of section 401(b)(5) of the  
11 Controlled Substances Act are punished substantially  
12 more severely than if the violation had not occurred on  
13 Federal property.

14 **SEC. 416. CLARIFICATION OF LENGTH OF SUPERVISED RE-**  
15 **LEASE TERMS IN CONTROLLED SUBSTANCE**  
16 **CASES.**

17           Sections 401(b)(1) (A), (B), (C), and (D) of the Con-  
18 trolled Substances Act (21 U.S.C. 841(b)(1) (A), (B), (C),  
19 and (D)) are each amended by striking “Any sentence”  
20 and inserting “Notwithstanding section 3583 of title 18,  
21 any sentence”.

1 **SEC. 417. TECHNICAL CORRECTION TO ENSURE COMPLI-**  
2 **ANCE OF SENTENCING GUIDELINES WITH**  
3 **PROVISIONS OF ALL FEDERAL STATUTES.**

4 Section 994(a) of title 18, United States Code, is  
5 amended by striking “consistent with all pertinent provi-  
6 sions of this title and title 18, United States Code,” and  
7 inserting “consistent with all pertinent provisions of any  
8 Federal statute”.

9 **Subtitle B—Methamphetamine**  
10 **Control Act of 1996**

11 **SEC. 421. SHORT TITLE.**

12 This Act may be cited as the “Methamphetamine  
13 Control Act of 1996”.

14 **SEC. 422. METHAMPHETAMINE PENALTY INCREASES.**

15 (a) Section 401(b)(1)(A)(viii) of the Controlled Sub-  
16 stances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by  
17 striking “100 grams or more of methamphetamine,” and  
18 inserting “50 grams or more of methamphetamine,” and  
19 by striking “1 kilogram or more of a substance containing  
20 a detectable amount of methamphetamine” and inserting  
21 “500 grams or more of a mixture or substance containing  
22 a detectable amount of methamphetamine”.

23 (b) Section 401(b)(1)(B)(viii) of the Controlled Sub-  
24 stances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by  
25 striking “10 grams or more of methamphetamine,” and  
26 inserting “5 grams or more of methamphetamine,” and

1 by striking “100 grams or more of a substance containing  
2 a detectable amount of methamphetamine” and inserting  
3 “50 grams or more of a mixture or substance containing  
4 a detectable amount of methamphetamine”.

5 (c) Section 1010(b)(1)(H) of the Controlled Sub-  
6 stances Import and Export Act (21 U.S.C. 960(b)(1)(H))  
7 is amended by striking “100 grams or more of meth-  
8 amphetamine,” and inserting “50 grams or more of meth-  
9 amphetamine,” and by striking “1 kilogram or more of  
10 a mixture or substance containing a detectable amount of  
11 methamphetamine” and inserting “500 grams or more of  
12 a mixture or substance containing a detectable amount of  
13 methamphetamine”.

14 (d) Section 1010(b)(2)(H) of the Controlled Sub-  
15 stances Import and Export Act (21 U.S.C. 960(b)(2)(H))  
16 is amended by striking “10 grams or more of meth-  
17 amphetamine,” and inserting “5 grams or more of meth-  
18 amphetamine,” and by striking “100 grams or more of  
19 a mixture or substance containing a detectable amount of  
20 methamphetamine” and inserting “50 grams or more of  
21 a mixture or substance containing a detectable amount of  
22 methamphetamine”.

1 **SEC. 423. PENALTY INCREASES FOR TRAFFICKING IN REG-**  
2 **ULATED CHEMICALS.**

3 (a) Section 401(d) of the Controlled Substances Act  
4 (21 U.S.C. 841(d)) is amended by striking the period and  
5 inserting the following: “or, with respect to a violation of  
6 paragraph (1) or (2) of this subsection involving a list I  
7 chemical, where the government proves the quantity of  
8 controlled substance that could reasonably have been man-  
9 ufactured in a clandestine setting using the quantity of  
10 list I chemicals possessed or distributed, the penalty cor-  
11 responding to the quantity of controlled substance that  
12 could have been produced under section 401(b) of the Con-  
13 trolled Substances Act (21 U.S.C. 841(b)).”.

14 (b) Section 1010(d) of the Controlled Substance Im-  
15 port and Export Act (21 U.S.C. 960(d)) is amended by  
16 striking the period and inserting the following: “, or, with  
17 respect to an importation violation of paragraph (1) or  
18 (3) of this subsection involving a list I chemical, where  
19 the government proves the quantity of controlled sub-  
20 stance that could reasonably have been manufactured in  
21 a clandestine setting using the quantity of list I chemicals  
22 imported, the penalty corresponding to the quantity of  
23 controlled substance that could have been produced under  
24 subchapter I of this chapter.”.



1 **SEC. 424. PENALTIES FOR MANUFACTURE OF LISTED**  
2 **CHEMICALS OUTSIDE THE UNITED STATES**  
3 **WITH INTENT TO IMPORT THEM INTO THE**  
4 **UNITED STATES.**

5 (a) Section 1009(a) of the Controlled Substances Im-  
6 port and Export Act (21 U.S.C. 959(a)) is amended—

7 (1) by inserting “or listed chemical” after  
8 “schedule I or II”; and

9 (2) by inserting “or chemical” after “sub-  
10 stance” in subparagraphs (1) and (2).

11 (b) Section 1010(d) of the Controlled Substances Im-  
12 port and Export Act (21 U.S.C. 960(d)) is amended—

13 (1) by deleting “or” at the end of paragraph  
14 (5);

15 (2) by inserting “or” at the end of paragraph  
16 (6); and

17 (3) by adding a new paragraph (7) as follows:

18 “(7) manufactures, possesses with intent to dis-  
19 tribute, or distributes a listed chemical in violation  
20 of section 959 of this title;”.

21 **SEC. 425. PENALTIES FOR DANGEROUS HANDLING OF LIST-**  
22 **ED CHEMICALS.**

23 (a) The Controlled Substances Act is amended by  
24 adding at the end of Part D the following new section:

1 **“§ 864. Dangerous handling of listed chemicals**

2       “(a) OFFENSE.—It is unlawful for a person to gen-  
3 erate, transport, treat, store, dispose of, use, possess, dis-  
4 tribute, import or export a listed chemical, or the waste  
5 from the use of such chemical, in the manufacture or at-  
6 tempted manufacture of a controlled substance, or with  
7 the knowledge or intent that such listed chemical will be  
8 used in the illegal manufacture of a controlled substance,  
9 including but not limited to the clandestine laboratory set-  
10 ting—

11               “(1) in violation of—

12                       “(A) section 3008(d) or (e) of the Solid  
13 Waste Disposal Act (42 U.S.C. 6928(d) or (e)  
14 (relating to handling hazardous waste in a man-  
15 ner inconsistent with Federal or applicable state  
16 law);

17                       “(B) section 103(b) of the Comprehensive  
18 Environmental Response, Compensation and Li-  
19 ability Act (42 U.S.C. 9603(b)) (relating to fail-  
20 ure to notify as to the release of a reportable  
21 quantity of a hazardous substance);

22                       “(C) Sections 301(a), 307(d), 309(c) (2)  
23 or (3), or 311(b)(3) of the Federal Water Pollu-  
24 tion Act (33 U.S.C. 1311(a), 1317(d), 1319(c)  
25 (2) or (3), or 1321(b)(3) (relating to the unlaw-  
26 ful discharge of pollutants or hazardous sub-

1 stances; operation of a source in violation of a  
2 pretreatment standard); or

3 “(D) 49 U.S.C. 5124 (violations of laws  
4 and regulations enforced by the Department of  
5 Transportation with respect to the transpor-  
6 tation of hazardous material); or

7 “(2) in any manner posing an imminent danger  
8 to the health and safety of another person, including  
9 any federal, state or local law enforcement official  
10 lawfully present at the site.

11 “(b) PENALTIES.—(1) A person who violates this sec-  
12 tion shall be fined under title 18, United States Code, and  
13 shall be sentenced to the greater of:

14 “(A) imprisonment for not less than two nor  
15 more than four years;

16 “(B) imprisonment for not less than five nor  
17 more than fifteen years, and up to twice the fine  
18 that could be imposed under subparagraph (A), if  
19 the offense involves a violation of section 3008(e) of  
20 the Solid Waste Disposal Act (42 U.S.C. 6928(e) or  
21 section 309 (c)(2) of the Federal Water Pollution  
22 Act (33 U.S.C. 1319 (c)(3));

23 “(C) imprisonment for not less than ten nor  
24 more than fifteen years, and up to twice the fine  
25 that could be imposed under subparagraph (A), if

1 serious bodily injury or death results from the of-  
2 fense; or

3 “(D) twice the penalty otherwise applicable  
4 under subparagraph (A), (B), or (C), if the defend-  
5 ant committed the offense after a prior conviction  
6 for an offense under this section or for a felony drug  
7 offense.

8 “(2) Notwithstanding any other provision of law, a  
9 term of imprisonment imposed under this section shall not  
10 run concurrently with any other term of imprisonment, in-  
11 cluding that imposed for the manufacture or attempted  
12 manufacture of controlled substances for which listed  
13 chemicals were used in violation of this section.

14 “(3) This section is not intended to preclude prosecu-  
15 tion under the provisions of law cited herein, or under any  
16 other law.”.

17 (b) The table of sections for Part D of the Controlled  
18 Substances Act is amended by adding at the end the fol-  
19 lowing:

“864. Dangerous handling of listed chemicals.

“(a) Offense.

“(b) Penalties.”.

20 **SEC. 426. INJUNCTIONS.**

21 Section 403 of the Controlled Substances Act (21  
22 U.S.C. 843) is amended by adding at the end a new sub-  
23 section (f), as follows:

24 “(f) INJUNCTIONS.—

1           “(1) In addition to any penalty provided in this  
2 section, the Attorney General is authorized to com-  
3 mence a civil action for appropriate relief, including  
4 a permanent or temporary injunction, where there is  
5 a reasonable basis to believe that a violation of this  
6 section or section 842 of this subtitle is occurring or  
7 will occur. Any action under this subsection may be  
8 brought in the district court of the United States for  
9 the district in which the defendant is located or re-  
10 sides or is doing business, and such court shall have  
11 jurisdiction to restrain such violation.

12           “(2) The court shall proceed as soon as prac-  
13 ticable to the hearing and determination of such an  
14 action. An action under this subsection is governed  
15 by the Federal Rules of Civil Procedure except that,  
16 if an indictment has been returned against the re-  
17 spondent, discovery is governed by the Federal Rules  
18 of Criminal Procedure.”.

19 **SEC. 427. SUSPENSION OF SUSPICIOUS TRANSACTIONS IN-**  
20 **VOLVING LISTED CHEMICALS.**

21 Section 310 of the Controlled Substances Act (21  
22 U.S.C.830) is amended—

23           (1) by striking the penultimate sentence of  
24 paragraph (b)(1);

1           (2) by redesignating subsection (c) as sub-  
2           section (d); and

3           (3) by inserting a new subsection (c), as fol-  
4           lows:

5           “(c) SUSPENSION OF SUSPICIOUS TRANSACTIONS.—

6           “(1) If the Attorney General furnishes to a reg-  
7           ulated person the name or other identifying char-  
8           acteristic of a person suspected of handling listed  
9           chemicals in an unlawful manner, then before com-  
10          pleting a transaction with the identified person the  
11          regulated person shall notify the Attorney General of  
12          the transaction in the time and manner directed by  
13          the Attorney General.

14          “(2) The Attorney General may order the sus-  
15          pension of any transaction involving a listed chemi-  
16          cal, where there is a reasonable basis to believe that  
17          the transaction will facilitate the unlawful manufac-  
18          ture of a listed chemical or controlled substance.  
19          From and after the time when the Attorney General  
20          provides written notice of the order to the regulated  
21          person (including the legal and factual basis for the  
22          order), the regulated person shall not carry out the  
23          transaction.

24          “(3) Upon written request to the Attorney Gen-  
25          eral, a regulated person to whom an order applies

1 under paragraph (2) is entitled to an agency hear-  
2 ing, on the record, in accordance with subchapter II  
3 of chapter 5 of title 5, United States Code. The  
4 hearing shall be held on an expedited basis and not  
5 later than 45 days after the request is made, except  
6 that the hearing may be held at a later time, if so  
7 requested by the regulated person.”.

8 **SEC. 428. DIVERSION OF CERTAIN COMBINATION DRUG**  
9 **PRODUCTS.**

10 (a) Section 102(39)(A) of the Controlled Substances  
11 Act (21 U.S.C. 802(39)(A)) is amended in subclause  
12 (iv)(I)(aa) by—

13 (1) striking from “as” through the semicolon at  
14 the end; and

15 (2) inserting “, pseudoephedrine or its salts, op-  
16 tical isomers, or salts of optical isomers, or phenyl-  
17 propanolamine or its salts, optical isomers, or salts  
18 of optical isomers unless otherwise provided by regu-  
19 lation of the Attorney General issued pursuant to  
20 section 204(e) of this title;”.

21 (b) Section 204 of the Controlled Substances Act (21  
22 U.S.C. 814) is amended by adding at the end the following  
23 new subsection:

24 “(e) The Attorney General may by regulation rein-  
25 state the exemption with respect to a particular ephedrine,

1 pseudoephedrine or phenylpropanolamine drug product if  
2 the Attorney General determines that the drug product is  
3 manufactured and distributed in a manner that prevents  
4 diversion. In making this determination the Attorney Gen-  
5 eral shall consider the factors listed in subsection (d)(2)  
6 of this section. Any regulation issued pursuant to this sub-  
7 section may be amended or revoked based on the factors  
8 listed in subsection (d)(4) of this section.

9 **SEC. 429. SEIZURE AND FORFEITURE OF REGULATED**  
10 **CHEMICALS.**

11 (a) Section 404 of the Controlled Substances Act (21  
12 U.S.C. 844) is amended—

13 (1) in subsection (a)—

14 (A) by inserting the following after “of this  
15 chapter” in the first sentence: “or to possess  
16 any list I chemical obtained pursuant to or  
17 under authority of a registration issued to that  
18 person under section 303 of this title or section  
19 1008 of title III if that registration has been  
20 revoked or suspended, if that registration has  
21 expired or if the registrant has ceased to do  
22 business in the manner contemplated by his  
23 registration”; and

24 (B) by inserting “or chemical” after “drug  
25 or narcotic” wherever that phrase appears; and



1 (2) in subsection (c)—

2 (A) by inserting “or chemical” after “drug  
3 or narcotic”; and

4 (B) by inserting “or which is a listed  
5 chemical or a chemical controlled under state  
6 law” after “this subchapter”.

7 (b) Section 511(a) of the Controlled Substances Act  
8 (21 U.S.C. 881(a)) is amended—

9 (1) in paragraph (2) by inserting “or listed  
10 chemical” after “controlled substance”;

11 (2) in paragraph (6) by inserting “or listed  
12 chemical” after “controlled substance”; and

13 (3) in paragraph (9) by striking “a felony pro-  
14 vision of”.

15 (c) Section 607 of the Tariff Act of 1930 (19 U.S.C.  
16 1607) is amended by—

17 (1) in paragraph (a)(3), inserting “or listed  
18 chemical” after “controlled substance”; and

19 (2) by amending paragraph (b) to read as fol-  
20 lows:

21 “(b) As used in this section, the terms ‘controlled  
22 substance’ and ‘listed chemical’ have the meaning given  
23 these terms in section 102 of the Controlled Substances  
24 Act (21 U.S.C. 802).”.

1 **SEC. 430. PENALTIES FOR ADDITIONAL UNLAWFUL ACT.**

2 (a) Section 402(a) of the Controlled Substances Act  
3 (21 U.S.C. 842(a)) is amended by—

4 (1) in paragraph (9) striking “or” after the  
5 semicolon;

6 (2) in paragraph (10) by striking the period  
7 and inserting “; or”; and

8 (3) adding a new paragraph (11), as follows:

9 “(11) to sell or otherwise distribute a labora-  
10 tory supply to a person who uses or attempts to use  
11 the laboratory supply to manufacture a controlled  
12 substance or listed chemical in violation of this sub-  
13 chapter or subchapter II of this chapter, without ex-  
14 ercising reasonable care to assure that the labora-  
15 tory supply will not be used for an illicit purpose;  
16 provided, that the person or firm has been notified  
17 by the Attorney General, or otherwise had actual  
18 knowledge, that within the previous two years, a lab-  
19 oratory supply sold or otherwise distributed by the  
20 person has been found at a clandestine laboratory  
21 for the unlawful production of a controlled substance  
22 or listed chemical, or has been found in the posses-  
23 sion of a person who intends to use or furnish the  
24 laboratory supply to such a clandestine laboratory.  
25 As used in this paragraph, the term ‘laboratory sup-  
26 ply’ means a listed chemical or substance on a spe-

1        cial surveillance list published by the Attorney Gen-  
2        eral, which list contains chemicals, products, mate-  
3        rials, or equipment used in the manufacture of con-  
4        trolled substances and listed chemicals.”.

5        (b) Section 402(c) of the Controlled Substances Act  
6        (21 U.S.C. 842(c)) is amended by adding a new subpara-  
7        graph (2)(C), as follows:

8                    “(C) In addition to the penalties set forth  
9                    elsewhere in this subchapter or subchapter II of  
10                   this chapter, any person who violates paragraph  
11                   (11) of subsection (a) of this section shall, with  
12                   respect to any such violation, be subject to a  
13                   civil penalty of not more than \$100,000 if the  
14                   violator is an individual, and not more than  
15                   \$250,000 if the violator is other than an indi-  
16                   vidual, but shall not be subject to criminal pen-  
17                   alties for such act under this section.”.

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