

104TH CONGRESS
1ST SESSION

S. 1503

To control crime by mandatory victim restitution, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 22, 1995

Mr. HATCH (for himself, Mr. BIDEN, Mr. DOLE, Mr. NICKLES, Mr. MCCAIN, Mr. GRASSLEY, Mr. THURMOND, Mr. KYL, Mr. D'AMATO, Mr. ABRAHAM, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To control crime by mandatory victim restitution, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Victims Justice Act
5 of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—RESTITUTION

- Sec. 101. Order of restitution.

- Sec. 102. Conditions of probation.
- Sec. 103. Mandatory restitution.
- Sec. 104. Order of restitution to victims of other crimes.
- Sec. 105. Procedure for issuance and enforcement of restitution order.
- Sec. 106. Procedure.
- Sec. 107. Instruction to Sentencing Commission.
- Sec. 108. Justice Department regulations.
- Sec. 109. Special assessments on convicted persons.
- Sec. 110. Effective date.

TITLE II—MISCELLANEOUS PROVISIONS

- Sec. 201. Crime victims fund.
- Sec. 202. Victims of terrorism act.
- Sec. 203. Severability.
- Sec. 204. Study and report.

1 **TITLE I—RESTITUTION**

2 **SEC. 101. ORDER OF RESTITUTION.**

3 Section 3556 of title 18, United States Code, is
4 amended—

5 (1) by striking “may” and inserting “shall”;
6 and

7 (2) by striking “sections 3663 and 3664.” and
8 inserting “3663A, and may order restitution in ac-
9 cordance with section 3663. The procedures under
10 section 3664 shall apply to all orders of restitution
11 under this section.”.

12 **SEC. 102. CONDITIONS OF PROBATION.**

13 Section 3563 of title 18, United States Code, is
14 amended—

15 (1) in subsection (a)—

16 (A) in paragraph (3), by striking “and” at
17 the end;

1 (B) in the first paragraph (4) (relating to
2 conditions of probation for a domestic crime of
3 violence), by striking the period and inserting a
4 semicolon;

5 (C) by redesignating the second paragraph
6 (4) (relating to conditions of probation concern-
7 ing drug use and testing) as paragraph (5);

8 (D) in paragraph (5), as redesignated, by
9 striking the period at the end and inserting a
10 semicolon; and

11 (E) by inserting after paragraph (5), as re-
12 designating, the following new paragraphs:

13 “(6) that the defendant—

14 “(A) make restitution in accordance with
15 sections 2248, 2259, 2264, 2327, 3663, 3663A,
16 and 3664; and

17 “(B) pay the assessment imposed in ac-
18 cordance with section 3013; and

19 “(7) that the defendant will notify the court of
20 any material change in the defendant’s economic cir-
21 cumstances that might affect the defendant’s ability
22 to pay restitution, fines, or special assessments.”;
23 and

24 (2) in subsection (b)—

25 (A) by striking paragraph (2);

1 (B) by redesignating paragraphs (3)
 2 through (22) as paragraphs (2) through (21),
 3 respectively; and

4 (C) by amending paragraph (2), as reded-
 5 igned, to read as follows:

6 “(2) make restitution to a victim of the offense
 7 under section 3556 (but not subject to the limitation
 8 of section 3663(a) or 3663A(c)(1)(A));”.

9 **SEC. 103. MANDATORY RESTITUTION.**

10 (a) IN GENERAL.—Chapter 232 of title 18, United
 11 States Code, is amended by inserting immediately after
 12 section 3663 the following new section:

13 **“§ 3663A. Mandatory restitution to victims of certain**
 14 **crimes**

15 “(a)(1) Notwithstanding any other provision of law,
 16 when sentencing a defendant convicted of an offense de-
 17 scribed in subsection (c), the court shall order, in addition
 18 to any other penalty authorized by law, that the defendant
 19 make restitution to the victim of the offense, or, if the
 20 victim is deceased, to the victim’s estate.

21 “(2) For the purposes of this section, the term ‘vic-
 22 tim’ means a person directly and proximately harmed as
 23 a result of the commission of an offense for which restitu-
 24 tion may be ordered including, in the case of an offense
 25 that involves as an element a scheme, conspiracy, or pat-

1 tern of criminal activity, any person directly harmed by
2 the defendant's criminal conduct in the course of the
3 scheme, conspiracy, or pattern. In the case of a victim who
4 is under 18 years of age, incompetent, incapacitated, or
5 deceased, the legal guardian of the victim or representative
6 of the victim's estate, another family member, or any other
7 person appointed as suitable by the court, may assume
8 the victim's rights under this section, but in no event shall
9 the defendant be named as such representative or guard-
10 ian.

11 “(3) The court shall also order, if agreed to by the
12 parties in a plea agreement, restitution to persons other
13 than the victim of the offense.

14 “(b) The order of restitution shall require that such
15 defendant—

16 “(1) in the case of an offense resulting in dam-
17 age to or loss or destruction of property of a victim
18 of the offense—

19 “(A) return the property to the owner of
20 the property or someone designated by the
21 owner; or

22 “(B) if return of the property under sub-
23 paragraph (A) is impossible, impracticable, or
24 inadequate, pay an amount equal to—

25 “(i) the greater of—

1 “(I) the value of the property on
2 the date of the damage, loss, or de-
3 struction; or

4 “(II) the value of the property on
5 the date of sentencing, less

6 “(ii) the value (as of the date the
7 property is returned) of any part of the
8 property that is returned;

9 “(2) in the case of an offense resulting in bodily
10 injury to a victim—

11 “(A) pay an amount equal to the cost of
12 necessary medical and related professional serv-
13 ices and devices relating to physical, psy-
14 chiatric, and psychological care, including
15 nonmedical care and treatment rendered in ac-
16 cordance with a method of healing recognized
17 by the law of the place of treatment;

18 “(B) pay an amount equal to the cost of
19 necessary physical and occupational therapy
20 and rehabilitation; and

21 “(C) reimburse the victim for income lost
22 by such victim as a result of such offense;

23 “(3) in the case of an offense resulting in bodily
24 injury that results in the death of the victim, pay an

1 amount equal to the cost of necessary funeral and
2 related services; and

3 “(4) in any case, reimburse the victim for lost
4 income and necessary child care, transportation, and
5 other expenses incurred during participation in the
6 investigation or prosecution of the offense or attend-
7 ance at proceedings related to the offense.

8 “(c)(1) This section shall apply in all sentencing pro-
9 ceedings for convictions of, or plea agreements relating to
10 charges for, any offense—

11 “(A) that is—

12 “(i) a crime of violence, as defined in sec-
13 tion 16;

14 “(ii) an offense against property under this
15 title, including any offense committed by fraud
16 or deceit; or

17 “(iii) an offense described in section 1365
18 (relating to tampering with consumer products);
19 and

20 “(B) in which an identifiable victim or victims
21 has suffered a physical injury or pecuniary loss.

22 “(2) In the case of a plea agreement that does not
23 result in a conviction for an offense described in para-
24 graph (1), this section shall apply only if the plea specifi-

1 cally states that an offense listed under such paragraph
 2 gave rise to the plea agreement.

3 “(3) This section shall not apply if the court finds,
 4 from facts on the record, that—

5 “(A) the number of identifiable victims is so
 6 large as to make restitution impracticable; or

7 “(B) determining complex issues of fact related
 8 to the cause or amount of the victim’s losses would
 9 complicate or prolong the sentencing process to a de-
 10 gree that the need to provide restitution to any vic-
 11 tim is outweighed by the burden on the sentencing
 12 process.

13 “(d) An order of restitution under this section shall
 14 be issued and enforced in accordance with section 3664.”.

15 (b) CLERICAL AMENDMENT.—The analysis for chap-
 16 ter 232 of title 18, United States Code, is amended by
 17 inserting immediately after the matter relating to section
 18 3663 the following:

“3663A. Mandatory restitution to victims of certain crimes.”.

19 **SEC. 104. ORDER OF RESTITUTION TO VICTIMS OF OTHER**
 20 **CRIMES.**

21 (a) IN GENERAL.—Section 3663 of title 18, United
 22 States Code, is amended—

23 (1) in subsection (a)(1)—

24 (A) by striking “(a)(1) The court” and in-
 25 serting “(a)(1)(A) The court”;

1 (B) by inserting “, section 401, 408(a),
2 409, 416, 420, or 422(a) of the Controlled Sub-
3 stances Act (21 U.S.C. 841, 848(a), 849, 856,
4 861, 863) (but in no case shall a participant in
5 an offense under such sections be considered a
6 victim of such offense under this section),” be-
7 fore “or section 46312,”;

8 (C) by inserting “other than an offense de-
9 scribed in section 3663A(c),” after “title 49,”;

10 (D) by inserting before the period at the
11 end the following: “, or if the victim is de-
12 ceased, to the victim’s estate”;

13 (E) by adding at the end the following new
14 subparagraph:

15 “(B)(i) The court, in determining whether to order
16 restitution under this section, shall consider—

17 “(I) the amount of the loss sustained by each
18 victim as a result of the offense; and

19 “(II) the financial resources of the defendant,
20 the financial needs and earning ability of the defend-
21 ant and the defendant’s dependents, and such other
22 factors as the court deems appropriate.

23 “(ii) To the extent that the court determines that the
24 complication and prolongation of the sentencing process
25 resulting from the fashioning of an order of restitution

1 under this section outweighs the need to provide restitu-
2 tion to any victims, the court may decline to make such
3 an order.”; and

4 (F) by amending paragraph (2) to read as
5 follows:

6 “(2) For the purposes of this section, the term ‘vic-
7 tim’ means a person directly and proximately harmed as
8 a result of the commission of an offense for which restitu-
9 tion may be ordered including, in the case of an offense
10 that involves as an element a scheme, conspiracy, or pat-
11 tern of criminal activity, any person directly harmed by
12 the defendant’s criminal conduct in the course of the
13 scheme, conspiracy, or pattern. In the case of a victim who
14 is under 18 years of age, incompetent, incapacitated, or
15 deceased, the legal guardian of the victim or representative
16 of the victim’s estate, another family member, or any other
17 person appointed as suitable by the court, may assume
18 the victim’s rights under this section, but in no event shall
19 the defendant be named as such representative or guard-
20 ian.”;

21 (2) by striking subsections (c) through (i); and

22 (3) by adding at the end the following new sub-
23 sections:

24 “(c)(1) Notwithstanding any other provision of law
25 (but subject to the provisions of subsections (a)(1)(B)

1 (i)(II) and (ii), when sentencing a defendant convicted of
2 an offense described in section 401, 408(a), 409, 416,
3 420, or 422(a) of the Controlled Substances Act (21
4 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there
5 is no identifiable victim, the court may order that the de-
6 fendant make restitution in accordance with this sub-
7 section.

8 “(2)(A) An order of restitution under this subsection
9 shall be based on the amount of public harm caused by
10 the offense, as determined by the court in accordance with
11 guidelines promulgated by the United States Sentencing
12 Commission.

13 “(B) In no case shall the amount of restitution or-
14 dered under this subsection exceed the amount of the fine
15 ordered for the offense charged in the case.

16 “(3) Restitution under this subsection shall be dis-
17 tributed as follows:

18 “(A) 65 percent of the total amount of restitu-
19 tion shall be paid to the Victim Assistance Adminis-
20 tration of the State in which the crime occurred.

21 “(B) 35 percent of the total amount of restitu-
22 tion shall be paid to the State entity designated to
23 receive Federal substance abuse block grant funds.

1 “(4) The court shall not make an award under this
2 subsection if it appears likely that such award would inter-
3 fere with a forfeiture under section 981 or 982.

4 “(5) Notwithstanding section 3612(c) or any other
5 provision of law, a penalty assessment under section 3013
6 or a fine under subchapter C of chapter 227 shall take
7 precedence over an order of restitution under this sub-
8 section.

9 “(6) Requests for community restitution under this
10 subsection shall be considered in all plea agreements nego-
11 tiated by the United States.

12 “(7)(A) The United States Sentencing Commission
13 shall promulgate guidelines to assist courts in determining
14 the amount of restitution that may be ordered under this
15 subsection.

16 “(B) No restitution shall be ordered under this sub-
17 section until such time as the Sentencing Commission pro-
18 mulgates guidelines pursuant to this paragraph.

19 “(d) An order of restitution made pursuant to this
20 section shall be issued and enforced in accordance with
21 section 3664.”.

22 (b) SEXUAL ABUSE.—Section 2248 of title 18,
23 United States Code, is amended—

24 (1) in subsection (a), by inserting “or 3663A”
25 after “3663”;

1 (2) in subsection (b)—

2 (A) by amending paragraph (1) to read as
3 follows:

4 “(1) DIRECTIONS.—The order of restitution
5 under this section shall direct the defendant to pay
6 to the victim (through the appropriate court mecha-
7 nism) the full amount of the victim’s losses as deter-
8 mined by the court pursuant to paragraph (2).”;

9 (B) by amending paragraph (2) to read as
10 follows:

11 “(2) ENFORCEMENT.—An order of restitution
12 under this section shall be issued and enforced in ac-
13 cordance with section 3664 in the same manner as
14 an order under section 3663A.”;

15 (C) in paragraph (4), by striking subpara-
16 graphs (C) and (D); and

17 (D) by striking paragraphs (5) through
18 (10);

19 (3) by striking subsections (c) through (e); and

20 (4) by redesignating subsection (f) as sub-
21 section (c).

22 (c) SEXUAL EXPLOITATION AND OTHER ABUSE OF
23 CHILDREN.—Section 2259 of title 18, United States
24 Code, is amended—

1 (1) in subsection (a), by inserting “or 3663A”
2 after “3663”;

3 (2) in subsection (b)—

4 (A) by amending paragraph (1) to read as
5 follows:

6 “(1) DIRECTIONS.—The order of restitution
7 under this section shall direct the defendant to pay
8 the victim (through the appropriate court mecha-
9 nism) the full amount of the victim’s losses as deter-
10 mined by the court pursuant to paragraph (2).”;

11 (B) by amending paragraph (2) to read as
12 follows:

13 “(2) ENFORCEMENT.—An order of restitution
14 under this section shall be issued and enforced in ac-
15 cordance with section 3664 in the same manner as
16 an order under section 3663A.”;

17 (C) in paragraph (4), by striking subpara-
18 graphs (C) and (D); and

19 (D) by striking paragraphs (5) through
20 (10);

21 (3) by striking subsections (c) through (e); and

22 (4) by redesignating subsection (f) as sub-
23 section (e).

24 (d) DOMESTIC VIOLENCE.—Section 2264 of title 18,
25 United States Code, is amended—

1 (1) in subsection (a), by inserting “or 3663A”
2 after “3663”;

3 (2) in subsection (b)—

4 (A) by amending paragraph (1) to read as
5 follows:

6 “(1) DIRECTIONS.—The order of restitution
7 under this section shall direct the defendant to pay
8 the victim (through the appropriate court mecha-
9 nism) the full amount of the victim’s losses as deter-
10 mined by the court pursuant to paragraph (2).”;

11 (B) by amending paragraph (2) to read as
12 follows:

13 “(2) ENFORCEMENT.—An order of restitution
14 under this section shall be issued and enforced in ac-
15 cordance with section 3664 in the same manner as
16 an order under section 3663A.”;

17 (C) in paragraph (4), by striking subpara-
18 graphs (C) and (D); and

19 (D) by striking paragraphs (5) through
20 (10);

21 (3) by striking subsections (c) through (g); and

22 (4) by adding at the end the following new sub-
23 section (c):

24 “(c) VICTIM DEFINED.—For purposes of this section,
25 the term ‘victim’ means the individual harmed as a result

1 of a commission of a crime under this chapter, including,
2 in the case of a victim who is under 18 years of age, in-
3 competent, incapacitated, or deceased, the legal guardian
4 of the victim or representative of the victim’s estate, an-
5 other family member, or any other person appointed as
6 suitable by the court, but in no event shall the defendant
7 be named as such representative or guardian.”.

8 (e) TELEMARKETING FRAUD.—Section 2327 of title
9 18, United States Code, is amended—

10 (1) in subsection (a), by inserting “or 3663A”
11 after “3663”;

12 (2) in subsection (b)—

13 (A) by amending paragraph (1) to read as
14 follows:

15 “(1) DIRECTIONS.—The order of restitution
16 under this section shall direct the defendant to pay
17 to the victim (through the appropriate court mecha-
18 nism) the full amount of the victim’s losses as deter-
19 mined by the court pursuant to paragraph (2).”;

20 (B) by amending paragraph (2) to read as
21 follows:

22 “(2) ENFORCEMENT.—An order of restitution
23 under this section shall be issued and enforced in ac-
24 cordance with section 3664 in the same manner as
25 an order under section 3663A.”;

1 (C) in paragraph (4), by striking subpara-
2 graphs (C) and (D); and

3 (D) by striking paragraphs (5) through
4 (10);

5 (3) by striking subsections (c) through (e); and

6 (4) by redesignating subsection (f) as sub-
7 section (c).

8 **SEC. 105. PROCEDURE FOR ISSUANCE AND ENFORCEMENT**
9 **OF RESTITUTION ORDER.**

10 (a) IN GENERAL.—Section 3664 of title 18, United
11 States Code, is amended to read as follows:

12 **“§ 3664. Procedure for issuance and enforcement of**
13 **order of restitution**

14 “(a) For orders of restitution under this title, the
15 court shall order the probation service of the court to ob-
16 tain and include in its presentence report, or in a separate
17 report, as the court directs, information sufficient for the
18 court to exercise its discretion in fashioning a restitution
19 order. The report shall include, to the extent practicable,
20 a complete accounting of the losses to each victim, any
21 restitution owed pursuant to a plea agreement, and infor-
22 mation relating to the economic circumstances of each de-
23 fendant. If the number or identity of victims cannot be
24 reasonably ascertained, or other circumstances exist that

1 make this requirement clearly impracticable, the probation
2 service shall so inform the court.

3 “(b) The court shall disclose to both the defendant
4 and the attorney for the Government all portions of the
5 presentence or other report pertaining to the matters de-
6 scribed in subsection (a) of this section.

7 “(c) The provisions of this chapter, chapter 227, and
8 Rule 32(c) of the Federal Rules of Criminal Procedure
9 shall be the only rules applicable to proceedings under this
10 section.

11 “(d)(1) Within 60 days after conviction and, in any
12 event, not later than 10 days prior to sentencing—

13 “(A)(i) the attorney for the Government, after
14 consulting with all identified victims, shall promptly
15 provide the probation service of the court with a list-
16 ing of the amounts subject to restitution;

17 “(ii) the attorney for the Government shall pro-
18 vide notice to all identified victims, informing the
19 victims of the offenses of which the defendant was
20 convicted, the listing of amounts subject to restitu-
21 tion submitted to the probation service, the victim’s
22 right to submit information to the probation service
23 concerning the amount of the victim’s losses, and
24 the scheduled date, time, and place of the sentencing
25 hearing; and

1 “(iii) if any victim objects to any of the infor-
2 mation provided to the probation service relating to
3 the amount of the victim’s losses subject to restitu-
4 tion, the attorney for the Government shall advise
5 the victim that the victim may file a separate affida-
6 vit and shall provide the victim with an affidavit
7 form which may be used to do so; and

8 “(B) each defendant shall prepare and file with
9 the probation service of the court an affidavit fully
10 describing the financial resources of the defendant,
11 including a complete listing of all assets owned or
12 controlled by the defendant as of the date on which
13 the defendant was arrested, the financial needs and
14 earning ability of the defendant and the defendant’s
15 dependents, and other information the court requires
16 relating to such other factors as the court deems ap-
17 propriate.

18 “(2) After reviewing the report of the probation serv-
19 ice of the court, the court may require additional docu-
20 mentation or hear testimony. The privacy of any records
21 filed, or testimony heard, pursuant to this section shall
22 be maintained to the greatest extent possible, and such
23 records may be filed or testimony heard in camera.

24 “(3) If the victim’s losses are not ascertainable by
25 the date that is 10 days prior to sentencing as provided

1 in paragraph (1), the attorney for the Government shall
2 so inform the court, and the court shall set a date for
3 the final determination of the victim's losses, not to exceed
4 90 days after sentencing. If the victim subsequently dis-
5 covers further losses, the victim shall have 60 days after
6 discovery of those losses in which to petition the court for
7 an amended restitution order. Such order may be granted
8 only upon a showing of good cause for the failure to in-
9 clude such losses in the initial claim for restitutionary re-
10 lief.

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

16 “(e) Any dispute as to the proper amount or type
17 of restitution shall be resolved by the court by the prepon-
18 derance of the evidence. The burden of demonstrating the
19 amount of the loss sustained by a victim as a result of
20 the offense shall be on the attorney for the Government.
21 The burden of demonstrating the financial resources of
22 the defendant and the financial needs of the defendant
23 and such defendant's dependents shall be on the defend-
24 ant. The burden of demonstrating such other matters as

1 the court deems appropriate shall be upon the party des-
2 ignated by the court as justice requires.

3 “(f)(1)(A) In each order of restitution, the court shall
4 order restitution to each victim in the full amount of each
5 victim’s losses as determined by the court and without
6 consideration of the economic circumstances of the defend-
7 ant.

8 “(B) In no case shall the fact that a victim has re-
9 ceived or is entitled to receive compensation with respect
10 to a loss from insurance or any other source be considered
11 in determining the amount of restitution.

12 “(2) Upon determination of the amount of restitution
13 owed to each victim, the court shall, pursuant to section
14 3572, specify in the restitution order the manner in which
15 and the schedule according to which the restitution is to
16 be paid, in consideration of—

17 “(A) the financial resources and other assets of
18 the defendant, including whether any of these assets
19 are jointly controlled;

20 “(B) projected earnings and other income of
21 the defendant; and

22 “(C) any financial obligations of the defendant;
23 including obligations to dependents.

24 “(3)(A) A restitution order may direct the defendant
25 to make a single, lump-sum payment, partial payment at

1 specified intervals, in-kind payments, or a combination of
2 payments at specified intervals and in-kind payments.

3 “(B) A restitution order may direct the defendant to
4 make nominal periodic payments if the court finds from
5 facts on the record that the economic circumstances of the
6 defendant do not allow the payment of any amount of a
7 restitution order, and do not allow for the payment of the
8 full amount of a restitution order in the foreseeable future
9 under any reasonable schedule of payments.

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) if the victim agrees, services rendered to
15 the victim or a person or organization other than the
16 victim.

17 “(g)(1) No victim shall be required to participate in
18 any phase of a restitution order.

19 “(2) A victim may at any time assign the victim’s
20 interest in restitution payments to the Crime Victims
21 Fund in the Treasury without in any way impairing the
22 obligation of the defendant to make such payments.

23 “(h) If the court finds that more than 1 defendant
24 has contributed to the loss of a victim, the court may make
25 each defendant liable for payment of the full amount of

1 restitution or may apportion liability among the defend-
2 ants to reflect the level of contribution to the victim's loss
3 and economic circumstances of each defendant.

4 “(i) If the court finds that more than 1 victim has
5 sustained a loss requiring restitution by a defendant, the
6 court may issue an order of priority based on the type
7 and amount of each victim's loss, accounting for the eco-
8 nomic circumstances of each victim. In any case in which
9 the United States is a victim, the court shall ensure that
10 all individual victims receive full restitution before the
11 United States receives any restitution.

12 “(j)(1) If a victim has received or is entitled to receive
13 compensation with respect to a loss from insurance or any
14 other source, the court shall order that restitution shall
15 be paid to the person who provided or is obligated to pro-
16 vide the compensation, but the restitution order shall pro-
17 vide that all restitution of victims required by the order
18 be paid to the victims before any restitution is paid to
19 such a provider of compensation.

20 “(2) Any amount paid to a victim under an order of
21 restitution shall be reduced by any amount later recovered
22 as compensatory damages for the same loss by the victim
23 in—

24 “(A) any Federal civil proceeding; and

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

3 “(k) A restitution order shall provide that the defend-
4 ant shall notify the court and the Attorney General of any
5 material change in the defendant’s economic cir-
6 cumstances that might affect the defendant’s ability to
7 pay restitution. The court may also accept notification of
8 a material change in the defendant’s economic cir-
9 cumstances from the United States or from the victim.
10 The Attorney General shall certify to the court that the
11 victim or victims owed restitution by the defendant have
12 been notified of the change in circumstances. Upon receipt
13 of the notification, the court may, on its own motion, or
14 the motion of any party, including the victim, adjust the
15 payment schedule, or require immediate payment in full,
16 as the interests of justice require.

17 “(l) A conviction of a defendant for an offense involv-
18 ing the act giving rise to an order of restitution shall estop
19 the defendant from denying the essential allegations of
20 that offense in any subsequent Federal civil proceeding or
21 State civil proceeding, to the extent consistent with State
22 law, brought by the victim.

23 “(m)(1)(A)(i) An order of restitution may be enforced
24 by the United States in the manner provided for in sub-

1 chapter C of chapter 227 and subchapter B of chapter
2 229 of this title; or

3 “(ii) by all other available and reasonable means.

4 “(B) An order of restitution may also be enforced by
5 a victim named in the order to receive the restitution, in
6 the same manner as a judgment in a civil action.

7 “(2) An order of in-kind restitution in the form of
8 services shall be enforced by the probation service of the
9 court.

10 “(n) If a person obligated to provide restitution or
11 pay a fine receives substantial resources from any source,
12 including inheritance, settlement, or other judgment, dur-
13 ing a period of incarceration, such person shall be required
14 to apply the value of such resources to any restitution or
15 fine still owed.”.

16 (b) TECHNICAL AMENDMENT.—The item relating to
17 section 3664 in the analysis for chapter 232 of title 18,
18 United States Code, is amended to read as follows:

“3664. Procedure for issuance and enforcement of order of restitution.”.

19 **SEC. 106. PROCEDURE.**

20 (a) AMENDMENT OF FEDERAL RULES OF CRIMINAL
21 PROCEDURE.—Rule 32(b) of the Federal Rules of Crimi-
22 nal Procedure is amended—

23 (1) in paragraph (1), by adding at the end the
24 following: “Notwithstanding the preceding sentence,
25 a presentence investigation and report, or other re-

1 port containing information sufficient for the court
2 to enter an order of restitution, as the court directs,
3 shall be required in any case in which restitution is
4 required to be ordered.”; and

5 (2) in paragraph (4)—

6 (A) by redesignating subparagraphs (F)
7 and (G) as subparagraphs (G) and (H), respec-
8 tively; and

9 (B) by inserting after subparagraph (E),
10 the following new subparagraph:

11 “(F) in appropriate cases, information suf-
12 ficient for the court to enter an order of restitu-
13 tion;”.

14 (b) FINES.—Section 3572 of title 18, United States
15 Code, is amended—

16 (1) in subsection (b) by inserting “other than
17 the United States,” after “offense;”;

18 (2) in subsection (d)—

19 (A) in the first sentence, by striking “A
20 person sentenced to pay a fine or other mone-
21 tary penalty” and inserting “(1) A person sen-
22 tenced to pay a fine or other monetary penalty,
23 including restitution;”;

24 (B) by striking the third sentence; and

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

1 “(2) If the judgment, or, in the case of a restitution
2 order, the order, permits other than immediate payment,
3 the length of time over which scheduled payments will be
4 made shall be set by the court, but shall be the shortest
5 time in which full payment can reasonably be made.

6 “(3) A judgment for a fine which permits payments
7 in installments shall include a requirement that the de-
8 fendant will notify the court of any material change in
9 the defendant’s economic circumstances that might affect
10 the defendant’s ability to pay the fine. Upon receipt of
11 such notice the court may, on its own motion or the mo-
12 tion of any party, adjust the payment schedule, or require
13 immediate payment in full, as the interests of justice re-
14 quire.”;

15 (3) in subsection (f), by inserting “restitution”
16 after “special assessment,”;

17 (4) in subsection (h), by inserting “or payment
18 of restitution” after “A fine”; and

19 (5) in subsection (i)—

20 (A) in the first sentence, by inserting “or
21 payment of restitution” after “A fine”; and

22 (B) by amending the second sentence to
23 read as follows: “Notwithstanding any install-
24 ment schedule, when a fine or payment of res-
25 titution is in default, the entire amount of the

1 fine or restitution is due within 30 days after
2 notification of the default, subject to the provi-
3 sions of section 3613A.”.

4 (c) POSTSENTENCE ADMINISTRATION.—

5 (1) PAYMENT OF A FINE OR RESTITUTION.—

6 Section 3611 of title 18, United States Code, is
7 amended—

8 (A) by amending the heading to read as
9 follows:

10 **“§ 3611. Payment of a fine or restitution”;**

11 and

12 (B) by striking “or assessment shall pay
13 the fine or assessment” and inserting “, assess-
14 ment, or restitution, shall pay the fine, assess-
15 ment, or restitution”.

16 (2) COLLECTION.—Section 3612 of title 18,
17 United States, is amended—

18 (A) by amending the heading to read as
19 follows:

20 **“§ 3612. Collection of unpaid fine or restitution”;**

21 (B) in subsection (b)(1)—

22 (i) in the matter preceding subpara-
23 graph (A), by inserting “or restitution
24 order” after “fine”;

1 (ii) in subparagraph (C), by inserting
2 “or restitution order” after “fine”;

3 (iii) in subparagraph (E), by striking
4 “and”;

5 (iv) in subparagraph (F)—

6 (I) by inserting “or restitution
7 order” after “fine”; and

8 (II) by striking the period at the
9 end and inserting “; and”; and

10 (v) by adding at the end the following
11 new subparagraph:

12 “(G) in the case of a restitution order, in-
13 formation sufficient to identify each victim to
14 whom restitution is owed. It shall be the re-
15 sponsibility of each victim to notify the Attor-
16 ney General, or the appropriate entity of the
17 court, by means of a form to be provided by the
18 Attorney General or the court, of any change in
19 the victim’s mailing address while restitution is
20 still owed the victim. The confidentiality of any
21 information relating to a victim shall be main-
22 tained.”;

23 (C) in subsection (c)—

24 (i) in the first sentence, by inserting
25 “or restitution” after “fine”; and

1 (ii) by adding at the end the follow-
2 ing: “Any money received from a defend-
3 ant shall be disbursed so that each of the
4 following obligations is paid in full in the
5 following sequence:

6 “(1) A penalty assessment under section 3013
7 of title 18, United States Code.

8 “(2) Restitution of all victims.

9 “(3) All other fines, penalties, costs, and other
10 payments required under the sentence.”;

11 (D) in subsection (d)—

12 (i) by inserting “or restitution” after
13 “fine”; and

14 (ii) by striking “is delinquent, to in-
15 form him that the fine is delinquent” and
16 inserting “or restitution is delinquent, to
17 inform the person of the delinquency”;

18 (E) in subsection (e)—

19 (i) by inserting “or restitution” after
20 “fine”; and

21 (ii) by striking “him that the fine is
22 in default” and inserting “the person that
23 the fine or restitution is in default”;

24 (F) in subsection (f)—

1 (i) in the heading, by inserting “and
2 restitution” after “on fines”; and

3 (ii) in paragraph (1), by inserting “or
4 restitution” after “any fine”;

5 (G) in subsection (g), by inserting “or res-
6 titution” after “fine” each place it appears; and

7 (H) in subsection (i), by inserting “and
8 restitution” after “fines”.

9 (3) CIVIL REMEDIES.—Section 3613 of title 18,
10 United States Code, is amended—

11 (A) in subsection (b), by amending para-
12 graph (1) to read as follows:

13 “(1) the later of 20 years after the entry of the
14 judgment or 20 years after the release from impris-
15 onment of the person fined or ordered to pay restitu-
16 tion; or”; and

17 (B) in subsection (e), by striking “, but in
18 no event” and all that follows through the end
19 of the subsection and inserting a period.

20 (4) DEFAULT.—Chapter 229 of title 18, United
21 States Code, is amended by inserting after section
22 3613 the following new section:

23 **“§ 3613A. Effect of default**

24 “(a)(1) Upon a finding that the defendant is in de-
25 fault on a payment of a fine or restitution, the court may,

1 pursuant to section 3565, revoke probation or a term of
2 supervised release or modify the terms or conditions of
3 probation on a term of supervised release, resentence a
4 defendant pursuant to section 3614, hold the defendant
5 in contempt of court, enter a restraining order or injunc-
6 tion, order the sale of property of the defendant, accept
7 a performance bond, enter or adjust a payment schedule,
8 or take any other action necessary to obtain compliance
9 with the order of a fine or restitution.

10 “(2) In determining what action to take, the court
11 shall consider the defendant’s employment status, earning
12 ability, financial resources, the willfulness in failing to
13 comply with the restitution order, and any other cir-
14 cumstances that may have a bearing on the defendant’s
15 ability to comply with the order of a fine or restitution.

16 “(b)(1) Any hearing held pursuant to this section
17 may be conducted by a magistrate judge, subject to de
18 novo review by the court.

19 “(2) To the extent practicable, in a hearing held pur-
20 suant to this section involving a defendant who is confined
21 in any jail, prison, or other correctional facility, proceed-
22 ings in which the prisoner’s participation is required or
23 permitted shall be conducted by telephone, video con-
24 ference, or other communications technology without re-

1 moving the prisoner from the facility in which the prisoner
2 is confined.

3 “(3) Subject to the agreement of the official of the
4 Federal, State, or local unit of government with custody
5 over the prisoner, hearings may be conducted at the facil-
6 ity in which the prisoner is confined. To the extent prac-
7 ticable, the court shall allow counsel to participate by tele-
8 phone, video conference, or other communications tech-
9 nology in any hearing held at the facility.”.

10 (5) RESENTENCING.—Section 3614 of title 18,
11 United States Code, is amended—

12 (A) in the heading, by inserting “or res-
13 titution” after “fine”;

14 (B) in subsection (a), by inserting “or res-
15 titution” after “fine”; and

16 (C) by adding at the end the following new
17 subsection:

18 “(c) EFFECT OF INDIGENCY.—In no event shall a de-
19 fendant be incarcerated under this section solely on the
20 basis of inability to make payments because the defendant
21 is indigent.”.

22 (d) CONFORMING AMENDMENT.—The analysis for
23 subchapter B of chapter 229 of title 18, United States
24 Code, is amended to read as follows:

“Sec.

“3611. Payment of a fine or restitution.

“3612. Collection of an unpaid fine or restitution.

“3613. Civil remedies for collection of an unpaid fine or restitution.

“3613A. Effect of default.

“3614. Resentencing upon failure to pay a fine or restitution.

“3615. Criminal default.”.

1 **SEC. 107. INSTRUCTION TO SENTENCING COMMISSION.**

2 Pursuant to section 994 of title 28, United States
3 Code, the United States Sentencing Commission shall pro-
4 mulgate guidelines or amend existing guidelines to reflect
5 this Act and the amendments made by this Act.

6 **SEC. 108. JUSTICE DEPARTMENT REGULATIONS.**

7 Not later than 90 days after the date of enactment
8 of this Act, the Attorney General shall promulgate guide-
9 lines, or amend existing guidelines, to carry out this Act
10 and to ensure that—

11 (1) in all plea agreements negotiated by the
12 United States, consideration is given to requesting
13 that the defendant provide full restitution to all vic-
14 tims of all charges contained in the indictment or in-
15 formation, without regard to the counts to which the
16 defendant actually pleaded; and

17 (2) orders of restitution made pursuant to the
18 amendments made by this Act are enforced to the
19 fullest extent of the law.

20 **SEC. 109. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.**

21 Section 3013(a)(2) of title 18, United States Code,
22 is amended—

1 (1) in subparagraph (A), by striking “\$50” and
 2 inserting “not less than \$100”; and

3 (2) in subparagraph (B), by striking “\$200”
 4 and inserting “not less than \$400”.

5 **SEC. 110. EFFECTIVE DATE.**

6 The amendments made by this title shall be effective
 7 for sentencing proceedings in cases in which the defendant
 8 is convicted on or after the date of enactment of this Act.

9 **TITLE II—MISCELLANEOUS**
 10 **PROVISIONS**

11 **SEC. 201. CRIME VICTIMS FUND.**

12 (a) PROHIBITION OF PAYMENTS TO DELINQUENT
 13 CRIMINAL DEBTORS BY STATE CRIME VICTIM COM-
 14 PENSATION PROGRAMS.—

15 (1) IN GENERAL.—Section 1403(b) of the Vic-
 16 tims of Crime Act of 1984 (42 U.S.C. 10602(b)) is
 17 amended—

18 (A) by striking “and” at the end of para-
 19 graph (7);

20 (B) by redesignating paragraph (8) as
 21 paragraph (9); and

22 (C) by inserting after paragraph (7) the
 23 following new paragraph:

24 “(8) such program does not provide compensa-
 25 tion to any person who has been convicted of an of-

1 fense under Federal law with respect to any time pe-
2 riod during which the person is delinquent in paying
3 a fine or other monetary penalty imposed for the of-
4 fense; and”.

5 (2) APPLICATION OF AMENDMENT.—The
6 amendment made by paragraph (1) shall not be ap-
7 plied to deny victims compensation to any person
8 until the date on which the Attorney General, in
9 consultation with the Director of the Administrative
10 Office of the United States Courts, issues a written
11 determination that a cost-effective, readily available
12 criminal debt payment tracking system operated by
13 the agency responsible for the collection of criminal
14 debt has established cost-effective, readily available
15 communications links with entities that administer
16 Federal victims compensation programs that are suf-
17 ficient to ensure that victims compensation is not
18 denied to any person except as authorized by law.

19 (b) EXCLUSION FROM INCOME FOR PURPOSES OF
20 MEANS TESTS.—Section 1403 of the Victims of Crime
21 Act of 1984 (42 U.S.C. 10602) is amended by inserting
22 after subsection (b) the following new subsection:

23 “(c) EXCLUSION FROM INCOME FOR PURPOSES OF
24 MEANS TESTS.—Notwithstanding any other law, for the
25 purpose of any maximum allowed income eligibility re-

1 quirement in any Federal, State, or local government pro-
2 gram using Federal funds that provides medical or other
3 assistance (or payment or reimbursement of the cost of
4 such assistance) that becomes necessary to an applicant
5 for such assistance in full or in part because of the com-
6 mission of a crime against the applicant, as determined
7 by the Director, any amount of crime victim compensation
8 that the applicant receives through a crime victim com-
9 pensation program under this section shall not be included
10 in the income of the applicant until the total amount of
11 assistance that the applicant receives from all such pro-
12 grams is sufficient to fully compensate the applicant for
13 losses suffered as a result of the crime.”.

14 **SEC. 202. VICTIMS OF TERRORISM ACT.**

15 (a) AUTHORITY TO PROVIDE ASSISTANCE AND COM-
16 PENSATION TO VICTIMS OF TERRORISM.—The Victims of
17 Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended
18 by inserting after section 1404A the following new section:

19 **“SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS**
20 **OF TERRORISM OR MASS VIOLENCE.**

21 “(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE
22 UNITED STATES.—The Director may make supplemental
23 grants to States to provide compensation and assistance
24 to the residents of such States who, while outside the terri-
25 torial boundaries of the United States, are victims of a

1 terrorist act or mass violence and are not persons eligible
2 for compensation under title VIII of the Omnibus Diplo-
3 matic Security and Antiterrorism Act of 1986.

4 “(b) VICTIMS OF DOMESTIC TERRORISM.—The Di-
5 rector may make supplemental grants to States for eligible
6 crime victim compensation and assistance programs to
7 provide emergency relief, including crisis response efforts,
8 assistance, training, and technical assistance, for the bene-
9 fit of victims of terrorist acts or mass violence occurring
10 within the United States and may provide funding to
11 United States Attorney’s Offices for use in coordination
12 with State victims compensation and assistance efforts in
13 providing emergency relief.”.

14 (b) FUNDING OF COMPENSATION AND ASSISTANCE
15 TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND
16 CRIME.—Section 1402(d)(4) of the Victims of Crime Act
17 of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as
18 follows:

19 “(4)(A) If the sums available in the Fund are
20 sufficient to fully provide grants to the States pursu-
21 ant to section 1403(a)(1), the Director may retain
22 any portion of the Fund that was deposited during
23 a fiscal year that was in excess of 110 percent of the
24 total amount deposited in the Fund during the pre-

1 ceding fiscal year as an emergency reserve. Such re-
2 serve shall not exceed \$50,000,000.

3 “(B) The emergency reserve may be used for
4 supplemental grants under section 1404B and to
5 supplement the funds available to provide grants to
6 States for compensation and assistance in accord-
7 ance with sections 1403 and 1404 in years in which
8 supplemental grants are needed.”.

9 (c) CRIME VICTIMS FUND AMENDMENTS.—

10 (1) UNOBLIGATED FUNDS.—Section 1402 of
11 the Victims of Crime Act of 1984 (42 U.S.C. 10601)
12 is amended—

13 (A) in subsection (c), by striking “sub-
14 section” and inserting “chapter”; and

15 (B) by amending subsection (e) to read as
16 follows:

17 “(e) AMOUNTS AWARDED AND UNSPENT.—Any
18 amount awarded as part of a grant under this chapter
19 that remains unspent at the end of a fiscal year in which
20 the grant is made may be expended for the purpose for
21 which the grant is made at any time during the 2 succeed-
22 ing fiscal years, at the end of which period, any remaining
23 unobligated sums in excess of \$500,000 shall be returned
24 to the Treasury. Any remaining unobligated sums in an

1 amount less than \$500,000 shall be returned to the
2 Fund.”.

3 (2) **BASE AMOUNT.**—Section 1404(a)(5) of such
4 Act (42 U.S.C. 10603(a)(5)) is amended to read as
5 follows:

6 “(5) As used in this subsection, the term ‘base
7 amount’ means—

8 “(A) except as provided in subparagraph
9 (B), \$500,000; and

10 “(B) for the territories of the Northern
11 Mariana Islands, Guam, American Samoa, and
12 the Republic of Palau, \$200,000, with the Re-
13 public of Palau’s share governed by the Com-
14 pact of Free Association between the United
15 States and the Republic of Palau.”.

16 **SEC. 203. SEVERABILITY.**

17 If any provision of this Act, an amendment made by
18 this Act, or the application of such provision or amend-
19 ment to any person or circumstance is held to be unconsti-
20 tutional, the remainder of this Act, the amendments made
21 by this Act, and the application of the provisions of such
22 to any person or circumstance shall not be affected there-
23 by.

1 **SEC. 204. STUDY AND REPORT.**

2 (a) STUDY.—The Attorney General, in cooperation
 3 with the Director of the Administrative Office of the
 4 United States Courts, shall conduct a study of the funds
 5 paid out of the Crime Victims Fund and the impact that
 6 the amendments made by this Act have on funds available
 7 in the Crime Victims Fund, including an assessment of
 8 any reduction or increase in fines collected and deposited
 9 into the Fund directly attributable to the amendments
 10 made by this Act.

11 (b) REPORT.—The Attorney General and the Direc-
 12 tor of the Administrative Office of the United States
 13 Courts shall report interim findings to the Chairman and
 14 ranking Member of the Committees on the Judiciary of
 15 the Senate and House of Representatives 1 year after the
 16 date of enactment of this Act, and annually thereafter
 17 until issuing a final report, together with recommenda-
 18 tions, not later than 4 years after the date of enactment
 19 of this Act.

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